

**U.S. District Court
Southern District of Florida (Miami)
CIVIL DOCKET FOR CASE #: 1:11-cv-20965-PAS**

Martin v. Secretary of Florida Department of Corrections et al
Assigned to: Judge Patricia A. Seitz
Referred to: Magistrate Judge Patrick A. White
Cause: 42:1983 State Prisoner Civil Rights

Date Filed: 03/21/2011
Jury Demand: Defendant
Nature of Suit: 550 Prisoner: Civil Rights
Jurisdiction: Federal Question

Plaintiff

Perry Keith Martin
Prisoner ID: 747017

represented by **Perry Keith Martin**
747017
Dade Correctional Institution
19000 SW 377th Street
Florida City, FL 33034
PRO SE

V.

Defendant

**Secretary of Florida Department of
Corrections**
Walter McNeal

Defendant

Dade Correctional Institution
William Churchwell, Warden

Defendant

Schweinsburg
*Correctional Officer, Major, at Big Pine
Key Road Prison*

Defendant

Birge
*Correctional Officer, Lieutenant, at Big
Pine Key Road Prison*

Defendant

Kirk
*Correctional Officer, Sergeant, at Big
Pine Key Road Prison*

represented by **Monica Galindo Stinson**
Office of Attorney General
110 S.E. 6th Street
10th Floor
Fort Lauderdale, FL 33301
954-712-4684
Fax: 954-712-4700
Email: Monica.Stinson@myfloridalegal.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Curtis Dewares
*Nurse Practitioner at Dade Correctional
Institution*

represented by **Monica Galindo Stinson**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Julio Poveda
 Chief Health Officer at Dade
 Correctional Institution

represented by **Monica Galindo Stinson**
 (See above for address)
 LEAD ATTORNEY
 ATTORNEY TO BE NOTICED

Defendant

Warden William Churchwell
 Northwest Florida Reception Center

represented by **Monica Galindo Stinson**
 (See above for address)
 LEAD ATTORNEY
 ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
03/21/2011	<u>1</u>	COMPLAINT against Birge, Dade Correctional Institution, Curtis Dewares, Kirk, Julio Poveda, Schweinsburg, Secretary of Florida Department of Corrections. Filing fee \$ 350.00 (NO FEE PAID), filed by Perry Keith Martin. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D and E, # <u>5</u> Exhibit F, # <u>6</u> Exhibit G, # <u>7</u> Exhibit H, # <u>8</u> Exhibit I, # <u>9</u> Exhibit J, # <u>10</u> Exhibit)(ar2) (Entered: 03/21/2011)
03/21/2011	2	Judge Assignment to Judge Patricia A. Seitz (ar2) (Entered: 03/21/2011)
03/21/2011	3	Clerks Notice of Magistrate Judge Assignment to Magistrate Judge Patrick A. White. Pursuant to Administrative Order 2003-19 for a ruling on all pre-trial, non-dispositive matters and for a Report and Recommendation on any dispositive matters. (ar2) (Entered: 03/21/2011)
03/28/2011	<u>4</u>	ORDER REQUIRING PAYMENT OF FILING FEE OR MOTION TO PROCEED IFP WITH DETAILED FINANCIAL AFFIDAVIT. Due on or before April 18, 2011. Signed by Magistrate Judge Patrick A. White on 3/25/2011. (Attachments: # <u>1</u> Affidavit IFP) (tw) (Entered: 03/28/2011)
03/28/2011	<u>5</u>	ORDER OF INSTRUCTIONS TO PRO SE CIVIL RIGHTS LITIGANTS. Signed by Magistrate Judge Patrick A. White on 3/25/2011. (tw) (Entered: 03/28/2011)
04/13/2011	<u>6</u>	NOTICE of Change of Address (System Updated) by Perry Keith Martin (ots) (Entered: 04/14/2011)
04/27/2011	<u>7</u>	RESPONSE to <u>5</u> Order of Instructions to Pro Se Litigant by Perry Keith Martin. (ots) (Entered: 04/27/2011)
04/29/2011	<u>8</u>	RESPONSE to <u>4</u> Order by Perry Keith Martin. (Attachments: # <u>1</u> Affidavit, # <u>2</u> Appendix)(ots) (Entered: 05/02/2011)
05/03/2011	<u>9</u>	ORDER REQUIRING PAYMENT OF FILING FEE OR FILING OF MOTION TO PROCEED IFP WITH DETAILED AFFIDAVIT. Filing Fee due by 5/31/2011. Motions due by 5/31/2011.. Signed by Magistrate Judge Patrick A. White on 5/3/2011. (Attachments: # <u>1</u> Affidavit IFP) (tw) (Entered: 05/03/2011)
05/04/2011	<u>10</u>	MOTION for Leave to Proceed in forma pauperis by Perry Keith Martin. (ots) (Entered: 05/05/2011)
05/17/2011	<u>11</u>	NOTICE of Change of Address by Perry Keith Martin. System updated 5/17/2011. (yha) (Entered: 05/17/2011)
05/18/2011	<u>12</u>	MOTION/Application to Proceed Without Payment or Fees and Affidavit by Perry Keith Martin. (yha) (Entered: 05/18/2011)
05/19/2011	13	ORDER denying <u>10</u> Motion for Leave to Proceed in forma pauperis without prejudice. A separate order will be entered granting IFP and establishing a debt.. Signed by Magistrate Judge Patrick A. White on 5/19/2011. (cz) (Entered: 05/19/2011)
05/20/2011	<u>14</u>	ORDER PERMITTING PLAINTIFF TO PROCEED WITHOUT PREPAYMENT OF FILING FEE BUT ESTABLISHING DEBT TO CLERK OF \$350.00 and Granting <u>12</u> Motion for Leave to Proceed in forma pauperis. Signed by Magistrate Judge Patrick A. White on 5/19/2011. (tw) (Entered: 05/20/2011)

07/12/2011	<u>15</u>	STATUS REPORT by Perry Keith Martin (yha) (Entered: 07/12/2011)
07/12/2011	<u>16</u>	STRICKEN AMENDED COMPLAINT against Birge, Dade Correctional Institution, Curtis Dewares, Kirk, Julio Poveda, Schweinsburg, Secretary of Florida Department of Corrections, filed by Perry Keith Martin.(yha) Modified on 8/19/2011 (ots). (Entered: 07/12/2011)
07/14/2011	<u>17</u>	REPORT AND RECOMMENDATIONS on 42 USC 1983 case. Striking as duplicative <u>16</u> Amended Complaint filed by Perry Keith Martin, <u>1</u> Complaint, filed by Perry Keith Martin. Recommending 1. The case shall proceed against defendants Churchwell, Kirk, Dewares and Poveda for delay and inadequate medical treatment in their individual capacity. 2. Claims against McNeil, Schweinsbug, and Birge shall be dismissed for failure to state a claim against them pursuant to 28 U.S.C. 1915(e)(2)(B)(ii). 3. Claims brought under the ADA (American Disability Act) should be dismissed for failure to state a claim. 4. The operative complaint is (DE#1), and its supplement (DE#15). Objections to RR due by 8/1/2011. Signed by Magistrate Judge Patrick A. White on 7/14/2011. (tw) (Entered: 07/14/2011)
07/28/2011	<u>18</u>	NOTICE of Change of Address by Perry Keith Martin. System Updated (yha) (Entered: 07/28/2011)
07/29/2011	<u>19</u>	ORDER RE SERVICE OF PROCESS REQUIRING PERSONAL SERVICE UPON AN INDIVIDUAL. The United States Marshal shall serve a copy of the complaint and appropriate summons upon: William Churchwell, Warden, Dade Correctional Institution, 19000 S.W. 377th Street, Florida City, FL 33034-6499; Sgt. Kirk, Correctional Officer, Big Pine Key Road Prison #429, 450 Key Deer Boulevard, Big Pine Key, FL 33043-4900; Curtis Dewares, Nurse, Dade Correctional Institution, 19000 S.W. 377th Street, Florida City, FL 33034-6499 and Julio Poveda, M.D. Chief Health Officer, Dade Correctional Institution, 19000 S.W. 377th Street, Florida City, FL 33034-6499. Signed by Magistrate Judge Patrick A. White on 7/28/2011. (tw) (Entered: 07/29/2011)
08/02/2011	<u>20</u>	Summons Issued as to Dade Correctional Institution/William Churchwell. (br) (Entered: 08/02/2011)
08/02/2011	<u>21</u>	Summons Issued as to Curtis Dewares. (br) (Entered: 08/02/2011)
08/02/2011	<u>22</u>	Summons Issued as to Kirk. (br) (Entered: 08/02/2011)
08/02/2011	<u>23</u>	Summons Issued as to Julio Poveda. (br) (Entered: 08/02/2011)
08/02/2011	<u>24</u>	Clerks Notice of Receipt of Partial Filing Fee received on 8/2/2011 in the amount of \$ 10.00, receipt number FLS100022903 (jua) (Entered: 08/02/2011)
08/10/2011	<u>25</u>	SUMMONS (Affidavit) Returned Executed on <u>16</u> Amended Complaint Curtis Dewares served on 8/8/2011, answer due 8/29/2011. (yha) (Entered: 08/10/2011)
08/10/2011	<u>26</u>	SUMMONS (Affidavit) Returned Executed on <u>16</u> Amended Complaint Julio Poveda served on 8/8/2011, answer due 8/29/2011. (yha) (Entered: 08/10/2011)
08/19/2011	<u>27</u>	ORDER adopting Report and Recommendations re <u>17</u> Report and Recommendations and Striking <u>16</u> Amended Complaint filed by Perry Keith Martin. Signed by Judge Patricia A. Seitz on 8/19/2011. (ots) (Entered: 08/19/2011)
08/23/2011	<u>28</u>	MOTION for Extension of Time Responsive Pleading by Curtis Dewares, Julio Poveda. Responses due by 9/9/2011 (Stinson, Monica) (Entered: 08/23/2011)
08/24/2011	<u>29</u>	ORDER granting <u>28</u> Motion for Extension of Time to respond to complaint to on or before 9/9/11.. Signed by Magistrate Judge Patrick A. White on 8/24/2011. (cz) (Entered: 08/24/2011)
08/25/2011		Set/Reset Answer Due Deadline: Curtis Dewares response due 9/9/2011; Julio Poveda response due 9/9/2011. (ls)(per DE #29) (Entered: 08/25/2011)
08/25/2011	<u>30</u>	SUMMONS (Affidavit) Returned Executed on <u>1</u> Complaint, Kirk served on 8/22/2011, answer due 9/12/2011. (yha) (Entered: 08/25/2011)

08/25/2011	<u>31</u>	NOTICE by Perry Keith Martin. Plaintiff's Address has been corrected. (yha) (Entered: 08/26/2011)
09/09/2011	<u>32</u>	<i>Defendants'</i> ANSWER and Affirmative Defenses to Complaint with Jury Demand by Curtis Dewares, Kirk, Julio Poveda.(Stinson, Monica) (Entered: 09/09/2011)
09/19/2011	<u>33</u>	MOTION for Extension of Time to File Reply as to <u>32</u> Defendants' ANSWER and Affirmative Defenses to Complaint with Jury Demand by Perry Keith Martin. (ar2) (Entered: 09/20/2011)
09/21/2011	34	ORDER granting in part and denying in part <u>33</u> Motion for Extension of Time to File Response/Reply re <u>33</u> MOTION for Extension of Time to File Response/Reply as to <u>32</u> Answer to Complaint Responses due by 10/14/2011. Signed by Magistrate Judge Patrick A. White on 9/21/2011. (cz) (Entered: 09/21/2011)
09/29/2011	<u>35</u>	<i>Defendant Churchwell's</i> ANSWER and Affirmative Defenses to Complaint with Jury Demand by William Churchwell.(Stinson, Monica) (Entered: 09/29/2011)
10/06/2011	<u>36</u>	SCHEDULING ORDER: Amended Pleadings due by 1/17/2012. Discovery due by 1/3/2012. Joinder of Parties due by 1/17/2012. Motions due by 3/6/2012.. Signed by Magistrate Judge Patrick A. White on 10/5/2011. (tw) (Entered: 10/06/2011)
10/14/2011	<u>37</u>	Defendant's MOTION to Take Deposition from Inmate Perry Martin by William Churchwell, Curtis Dewares, Kirk, Julio Poveda. (Stinson, Monica) (Entered: 10/14/2011)
10/14/2011	<u>38</u>	NOTICE by William Churchwell, Curtis Dewares, Kirk, Julio Poveda re <u>37</u> Defendant's MOTION to Take Deposition from Inmate Perry Martin <i>Notice of Filing Proposed Order</i> (Stinson, Monica) (Entered: 10/14/2011)
10/19/2011	39	ORDER granting <u>37</u> Motion to Take Deposition from Plaintiff Perry Martin. This is an unrepresented plaintiff and the defendants shall govern themselves accordingly.. Signed by Magistrate Judge Patrick A. White on 10/19/2011. (cz) (Entered: 10/19/2011)
10/24/2011	<u>40</u>	REPLY to <u>32</u> Defendants' ANSWER and Affirmative Defenses to Complaint with Jury Demand, <u>35</u> Defendant Churchwell's ANSWER and Affirmative Defenses to Complaint with Jury Demand by Perry Keith Martin. (jua) (Entered: 10/25/2011)
10/24/2011	<u>41</u>	OBJECTION to <u>37</u> Defendant's MOTION to Take Deposition from Inmate Perry Martin filed by Perry Keith Martin. Replies due by 11/3/2011. (jua) (Entered: 10/25/2011)
10/26/2011	42	*Endorsed Order The pro-se plaintiff has objected to being deposed without an attorney. The plaintiff has filed this lawsuit and it is his responsibility to make himself available for deposition. Failure to show up for deposition shall result in sanctions and possible dismissal of this case. The plaintiff seeks appointment of counsel which is denied.. Signed by Magistrate Judge Patrick A. White on 10/26/2011. (cz) (Entered: 10/26/2011)
10/26/2011	<u>43</u>	FIRST MOTION/Request for Production of Documents by Perry Keith Martin. (ar2) (Entered: 10/26/2011)
10/26/2011	<u>44</u>	SECOND MOTION/Request for Production of Documents by Perry Keith Martin. (ar2) (Entered: 10/26/2011)
10/26/2011	45	ORDER dismissing <u>43</u> Motion to Produce, this is not a motion but a discovery request and should be sent directly to the parties.. Signed by Magistrate Judge Patrick A. White on 10/26/2011. (cz) (Entered: 10/26/2011)
10/26/2011	<u>46</u>	NOTICE of Filing Plaintiffs Third Request for Production of Documents Re. Letter written by the Director of Regional HealthCare by Perry Keith Martin (ar2) (Entered: 10/26/2011)
10/26/2011	<u>47</u>	AFFIDAVIT/Declaration Re. <u>15</u> Status Report, and <u>1</u> Complaint, signed by : Perry Keith Martin. by Perry Keith Martin (ar2) (Entered: 10/26/2011)

10/27/2011	48	ORDER denying <u>44</u> Motion to Produce for the reasons stated in the Court's prior Order.. Signed by Magistrate Judge Patrick A. White on 10/27/2011. (cz) (Entered: 10/27/2011)
11/08/2011	<u>49</u>	MOTION to Amend <u>16</u> Amended Complaint Pursuant to Both Fed. R. Civ. Proc. (15) (A) and Pursuant to Article (1) Section (9) of the Florida Constitution, by adding additional Defendants by Perry Keith Martin. Responses due by 11/25/2011 (ar2) (Entered: 11/09/2011)
11/08/2011	50	REPLY to <u>35</u> Defendant Churchwell's ANSWER and Affirmative Defenses to Complaint with Jury Demand by Perry Keith Martin. (See Image at Docket Entry <u>49</u>) (ar2) (Entered: 11/09/2011)
11/28/2011	<u>51</u>	MOTION to Strike or Dismiss Kirk Sargent from <u>1</u> Complaint, by Perry Keith Martin. Responses due by 12/15/2011 (jua) (Entered: 11/28/2011)
11/29/2011	52	ORDER denying <u>49</u> Motion to Amend/Correct, this is not a proper motion to amend, the plaintiff is seeking to strike defendants' Answer which is denied ; granting <u>51</u> Motion to Dismiss Defendant Kirk Sargent from the complaint.. Signed by Magistrate Judge Patrick A. White on 11/29/2011. (cz) (Entered: 11/29/2011)
12/06/2011	<u>53</u>	MOTION for Order Compelling <i>Discovery</i> by Perry Keith Martin. Responses due by 12/23/2011 (ar2) (Entered: 12/06/2011)
12/07/2011	54	ORDER deferring ruling on <u>53</u> Motion to Compel, defendants shall reply to this motion.. Signed by Magistrate Judge Patrick A. White on 12/7/2011. (cz) (Entered: 12/07/2011)
12/21/2011	<u>55</u>	Defendant's MOTION for Extension of Time to File Response/Reply as to <u>53</u> MOTION to Compel <i>Discovery</i> , 54 Order on Motion to Compel by William Churchwell, Curtis Dewares, Julio Poveda. (Attachments: # <u>1</u> Text of Proposed Order)(Stinson, Monica) (Entered: 12/21/2011)
12/22/2011	56	ORDER granting <u>55</u> Motion for Extension of Time to File Response/Reply re <u>55</u> Defendant's MOTION for Extension of Time to File Response/Reply as to <u>53</u> MOTION to Compel <i>Discovery</i> , 54 Order on Motion to Compel Responses due by 1/6/2012. Signed by Magistrate Judge Patrick A. White on 12/22/2011. (cz) (Entered: 12/22/2011)
01/05/2012	<u>57</u>	RESPONSE to Motion re <u>53</u> MOTION to Compel <i>Discovery</i> filed by William Churchwell, Curtis Dewares, Julio Poveda. Replies due by 1/17/2012. (Attachments: # <u>1</u> Exhibit)(Stinson, Monica) (Entered: 01/05/2012)
01/09/2012	58	ORDER granting in part and denying in part <u>53</u> Motion to Compel, if the plaintiff is unable to pay for copying costs and cannot arrange a debt with his place of incarceration then the defendants shall make a copy available for the plaintiff to view.. Signed by Magistrate Judge Patrick A. White on 1/9/2012. (cz) (Entered: 01/09/2012)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA, MIAMI-DADE DIVISION

Perry Keith Martin,
Plaintiff

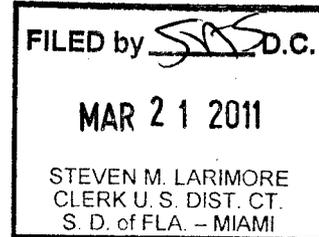
v.

Walter McNeal, Secretary of
The Florida Department of Corrections,
William Churchwell, Warden at
Dade Correctional Institution,
Schweinsburg, Correctional Officer #3
Major, at Big Pine Key Road Prison,
Birge, Correctional Officer #2
Lieutenant at, at Big Pine Key Road Prison,
Kirk Sergeant, Correctional Officer #1
At Big Pine Key Road Prison,
Curtis Dewares, Nurse Practitioner at
Dade Correctional Institution,
Julio Poveda, Chief Health Officer, at
Dade Correctional Institution, ET. AL,
Sued in their individual and official capacity.
Defendant(s)

cat/div 550/1983 / Miami Dade
Case # _____
Judge _____ Mag _____
Motn lfp No Fee pd \$ No
Receipt # _____

Case. No.

11-20965-Civ-SEITZ/WHITE



CIVIL RIGHTS COMPLAINT UNDER 42 U. S.C. § 1983
AND JURY TRIAL DEMANDED

This is a civil rights action filed by Perry Keith Martin, a State Prisoner for damages and injunctive relief under 42 U.S.C. § 1983, for Medical Malpractice / Medical Negligence and denied proper medical treatment. Also alleging violation of Plaintiff's 8th Amendment Constitutional Rights, and alleges deliberate indifference, and States the following:

JURISDICTION

1. The Courts have Jurisdiction over the Plaintiffs' Claims of Violation of Federal Constitutional Rights under 42 U.S.C. § 1331(a) and 1343

PARTIES

2. The Plaintiff, Perry Keith Martin, (Martin) at all material times is incarcerated at Dade Correctional Institution (D.C.I.), in Florida City, Florida.

3. Defendant, Walter McNeal, (McNeal) whom is the overseer of the Florida Department of Corrections and is responsible for the professional care and protection of all prisoners incarcerated in the State of Florida Prisons. At all material time has acted under Color of State Law and is sued in his individual and official capacity.

4. Defendant, William Churchwell, (Churchwell), whom is an employee Under the Policy and Procedure of the Florida Department of Corrections and is responsible for the professional care and custody of Prisoners housed at Dade Correctional Institution. At all material times, has acted Under Color of State Law and is sued in his individual and official capacity.

5. Defendant, Schweinsburg, (Schweinsburg) whom is an employee Under the Policy and Procedure of the Florida Department of Corrections and is responsible for the professional care and custody of prisoners housed at Big Pine Key Road Prison. At all material times, has acted under color of state law and is sued in his individual and official capacity.

6. Defendant, Birge, (Birge), whom is an employee Under the Policy and Procedure of the Florida Department of Corrections and is responsible for the

professional care and custody of prisoners housed at Big Pine Key Road Prison. At all material times, has acted Under Color of State Law and is sued in his individual and official capacity.

7. Defendant, Kirk Sergeant, (Sergeant), whom is an employee Under the Policy and Procedure of the Florida Department of Corrections and is responsible for the supervision, care, custody and control of prisoners housed at Big Pine Key Road Prison. At all material times, has acted under color of state law and is sued in his individual and official capacity.

8. Defendant, Curtis Dewares, (Dewares), whom is an employee Under the Policy and Procedure and under contract with the Florida Department of Corrections and is responsible for providing proper medical care and treatment of Prisoners housed at Dade Correctional Institution. At all material times, has acted under color of state law and is sued in his individual and official capacity.

9. Defendant, Julio Poveda, (Poveda), whom is an employee Under the Policy and Procedure and under contract with the Florida Department of Corrections and is responsible for providing proper medical care and treatment of prisoners housed at Dade Correctional Institution. At all material times, has acted under color of state law and is sued in his individual and official capacity.

10. Plaintiff as an inmate residing in a State Prison Facility is Under the Lawful Care, Custody, and Control of the Florida Department of Corrections and its employees.

11. The Defendants' have acted and continues to act out Under Color of State Law at all time relevant to this complaint

FACTS

12. Perry Keith Martin, (Martin) is a inmate incarcerated in the Florida Department of Corrections presently housed at Dade Correctional Institution. (“D.C.I.”)

13. On Tuesday November 16th, 2010. The Plaintiff was injured during his assigned work detail. I immediately reported my injury to William Sing of Key West Housing Authority, as our work crew was on Key West Housing Authority Property on Kennedy Drive Key West. William Sing notified Defendant Kirk Sergeant, Department of Corrections Work Crew Supervisor, who took Plaintiff to Key West Hospital Emergency Room on College Drive in Key West.

14. The Plaintiff was interviewed and admitted by admissions Lynnette Bembenek at 9:19 a.m. I was triaged at 9:23 a.m. and his Chief Complaint was “jaw not aligning right”. Plaintiff’s vitals were taken along with his weight, 148 lbs. by Registered Nurse Kathy Oconnell, who also administered a 60mg shot of Toradol for the pain. The attending Physician was Dr. Kris M. Bly and the Physicians Assistant was Steven Tersheshee. Martin was ordered to be given an MRI-CAT Scan and it was done at 10:42 a.m. by Radiologist Matthew Dixon.

15. The MRI-Cat Scan revealed an “acute mandibular fracture.” One fracture involving the left mandibular ramus essentially traversing across the base of the left mandibular condyle. As well as another fracture traversing the right mandibular body, just anterior to the right mandibular molars. See: ‘Exhibit’ “A”

16. Plaintiff alleges that Defendant Kirk Sergeant, was present in the control room with the Radiologist when these procedures were done. The medical professionals from Lower Key Medical Center. Registered Nurse Kathy Oconnell,

Doctor Kris M. Bly, Physicians Assistant Steven Tersheshee, Radiologist Matthew Dixon were all in agreement with Martin's prescribed treatment and discussed with Kirk Sergeant, who advised Big Pine Key Road Prison Major Schweinsburg as well as Administrative Lt. *Birge*.

17. The Administration at Big Pine Key Road Prison advised Kirk Sergeant to have Plaintiff discharged along with all Medical Files as well as CD Rom of MRI pending transfer back to Big Pine Key Road Prison pending transfer back to Dade Correctional.

18. Plaintiff alleges that when Defendant Sergeant advised the medical staff at Key West Hospital his orders. Martin told the Nurse Kathy Oconnell, "I will never receive proper medical care at Dade Correctional." It is upon my information and belief, the reason the medical staff both verbally as well as written upon emergency room records special instructions, to be seen **TODAY** by Maxillofacial Surgeon Specialist for jaw repair, as the medical records of the November 16th 2010 visit clearly reflect. See: Exhibit "B"

19. Plaintiff was discharged from the hospital and transported back to Big Pine Key at 1:10 p.m. arriving at or about 2:40 p.m. Martin saw Major Schweinsburg as well as Lt. Birge who never even acknowledged Martin's injury nor inquired as to Marin's well being. Plaintiff was taken to the dormitory where Officer Evanowski was inventorying his property. Once completed, Martin was loaded into the van and transferred back to Dade Correctional Institution where he arrived on or about 5:20 p.m. on November 16th, 2010.

20. Plaintiff alleges that nursing staff admitted him to the infirmary at Dade and his vitals were monitored and there was no apparent pre-planning of receiving him with a tangible plan of treatment.

21. Plaintiff alleges that on November 17th, 2010 he was told by Nurse Practitioner Curtis Dewares that he had viewed Martin's emergency room Cat Scan/MRI and that Plaintiff would be seen by D.D.S. Arosemena. Dentist Arosemena saw Martin and examined him at or about 9:30 a.m. on November 17th 2010.

22. D.D.S. Arosemena had Plaintiff sign a consultation request for "REDUCTION and FIXATION: of manibular fracture which could not be done at Dade Correctional Institution.

23. Plaintiff alleges that on November 18th 2010, Martin was taken down to visitation/administration building by Officer Pujols where Martin was placed in four point restraints in front of 30 or so young adults as part of the 5000 Role Models Program," this institution participates in.

24. Defendant, Churchwell, along with Mrs. M. Lott was present as Plaintiff was prepared for transport to South Florida Reception Center Dental Department. Inmates involved in the 5000 Role Model Program advised the young adults in attendance "Martin had been injured at work almost 3 days ago in Key West. And to look at what Martin must endure just to receive medical attention."

25. "Plaintiff was then transported to South Florida Reception Center to see Senior Dentist M.E. Viota. D.D.S. Viota took a Facial X-ray which confirmed the Radiologist Matthew Dixons findings on November 16th, 2010. Senior Dentist Viota prescribed treatment. "See Oral Surgeon Specialist": Martin was transported back to Dade Infirmary.

26. On November 19th, 2010, Plaintiff alleges as a result of Nurse Practitioner Curtis Dewares reviewing the notes of the November 18th, 2010 visit

with D.D.S. Viota, it was decided by all staff involved (See: Response letter attached dated January 5th 2011, Exhibit C.) That Martin be released back into open population pending surgery.

27. Plaintiff protested openly to Captain Motley as well as Curtis Dewares as to the sheer impossibility of Martin defending himself from further serious injury. Plaintiff also protested to Defendant Dewares writing him a "Mechanical Dental Diet" As Martin asked Defendant Dewares how was he supposed to chew food.

28. Captain Motley as well as Defendant Dewares both stated that they did not agree with it, but Motley stated, "The big dogs ordered it." This exchange was witnessed by Inmate Brian Cameron, Medical Orderly.

29. Plaintiff alleges that on November 19th 2010, on or about 5:30 p.m. Martin was released back into open population with a double fracture mandibular, with a Mechanical Dental Diet, low-bunk, and no recreation, pass issued by Defendant Dewares. Martin was placed in A2-148-L with no footlocker to store his property in. Further increasing the possibility or odds of confrontation ~~due~~ to predatory prisoners theft of his property which he also pointed out to Captain Motley.

30. On Saturday November 20th 2010. Plaintiff wrote a letter to Regional 4 Director, Ms. Villacorta pleading with her to please help Martin in assuring him adequate medical care. Ms. Villacorta never responded to the letter, but forwarded the letter to Defendant Poveda, who responded on January 5th 2011. (See attached Villacorta letter). Exhibit "C"

31. Plaintiff alleges after being released back into open population with a double fracture jaw. The ensure Martin had initially been given along with antibiotics stopped on November 24th 2010. Martin would go to the institute dining hall for his “Special Mechanical Dental Diet” But could only consume very soft food, it was impossible to chew green beans. Plaintiff survived by eating lots of soup broth from the institution canteen.

32. Plaintiff alleges that on November 29th, 2010, he met Defendant Poveda for the first time. It is upon Martin’s information and belief as medical records reflect Poveda was made aware of Martin’s serious medical need on November 17th, 2010. As Defendant Poveda filled out medical chart marked 11B in front of Martin. Poveda also wrote 3 medical health passes (See: Attached Exhibit “D”

33. As Plaintiff attempted to explain to Defendant Poveda of the developing infection in the right side mandibular fracture area, Poveda kept writing and then dated all passes for November 19th, 2010, pre-dating the passes. When Martin attempted to explain to Poveda that he had just falsified medical documents, Defendant just ignored Martin and continued to falsify the documents and let Plaintiff out of Poveda’s office door telling Martin to “have a nice day”. See: Exhibit “E”

34. Plaintiff alleges that on December 1st, 2010, he had to declare a medical emergency due to the sudden extreme swelling and un-bearable and excruciating pain and pressure in the right side mandibular break area.

35. Plaintiff was cuffed and escorted to medical as it was after dark, Martin was seen by a Nurse named Meyer, who administered an icepack to the swollen right side mandibular break area and offered Ibuprofen for pain.

36. Plaintiff asked Nurse Meyer about the pain medication prescribed at Key West Hospital. Nurse Meyer responded that it should be “filled any day now” and for Martin to “watch for the medication window call-out” Nurse Meyer then wrote Martin a pass to see Defendant Poveda the following day. Martin used the ice pack as long as he could and left medical to be escorted back to A-Dorm. (See: Exhibit “F”.)

37. On December 2nd, 2010, Plaintiff went to medical, Officer Joseph was at her post, and Martin sat in medical from 9:10 a.m. until 2:40 p.m. never seeing Defendant Poveda.

38. On December 3rd, 2010, 17 days after injury, Plaintiff was four point restrained and transported to Nova South Eastern Universities maxillofacial /mandible unit in Broward County by Officers Shelby and S. Buchanan. The Oral Surgeon Specialist wanted to know what the delay was in Martin being seen by him as Plaintiff’s jaw had obviously started the healing process. The medical records obtained by Martin exhibit under recommendations(1) full liquid-soft diet in 2 weeks (2) warm compresses to face please note where it states consultants report under it states, “No procedures may be performed **WITHOUT PRIOR APPROVAL** by the Regional Health Services Director, Department of Corrections.”

39. Plaintiff visit 17 days later to the prescribed Oral surgeon Specialist clearly indicates that Martin should have never been put on a mechanical dental diet and Martin should have never been given ice for the Hematoma that had developed over the right side mandible break area. Plaintiff was transported back to Dade Correctional Institution.

40. On December 14th, 2010, Plaintiff declared a Dental Emergency as the ongoing infection in the right mandibular break area was really bad. D.D.S. Arosemena prescribed, "Amoxicillin 500mg tabs" after examining Martin (See: Exhibit "G"). It was also arranged by D.D.S. Arosemena to be taken once again to see the Nova South Eastern Oral Surgeon Specialist as Plaintiff explained and demonstrated to D.D.S. Arosemena how Martin's jaw "flexes" when Martin attempts to chew food.

41. Plaintiff's Molars in the rear of Martin's jaw actually crash into each other as the still unhealed misaligned jaw flexes under load of food. Martin explained that he has shooting pain in both break areas and to date December 14th, 2010, Martin has lost 16 lbs. due to the fracture jaw. Plaintiff's teeth in the front of his mouth do not touch and Martin cannot even bite his own lip any more because of the now permanent jaw misalignment.

42. On December 23rd, 2010, Plaintiff was placed on the callout for "Institutional Classification Team" callout for job assignment. Martin reported and was assigned "Security Orderly," Martin explained that he had been issued a light duty, limited activity pass by Defendant Poveda on November 29th, 2010.

43. The Classification Team assured Plaintiff there would be no heavy lifting, Martin explained the on going issues with medical to no avail. (See: Exhibit "H")

44. Plaintiff alleges that over 50 days now Martin transported to Broward General Hospital's 3rd floor where he saw the still nameless contracted Oral Surgeon Specialist. The Specialist examined Martin, and explained that he was going to have to re-fracture Martin's jaw and wire it (Mouth) shut.

45. The Surgeon then exited the room, was gone 10 minutes or so, then returned, taking Plaintiff to do a Facial X-Ray just like the one performed on November 18th, 2010 at S.F.R.C., The Surgeon Specialist then returned Martin to the dentist chair put up the X-Ray for all to See and it's not as bad as it looks Mr. Martin.

46. Plaintiff asked the Surgeon, why his jaw still flexes like it does, and Martin ask him what the purpose of all these Facial x-Rays was when Martin had an MRI done on November 16th, 2010. This Surgeon Specialist stated that there was never a copy of the MRI in any file he has seen.

47. The contracted Oral Surgeon Specialist freely answered all questions, but as the written record reflects, would not do the same as his file entry for that January 12th, 2011 visit indicates, Officer Bennett was present during Plaintiff's conversation and will verify, all claims this Specialist states in writing that "No Surgery Needed." Martin's jaw flexes when pressure is applied, Martin's jaw alignment is not right. (See: Exhibit "I")

48. Plaintiff was returned to medical at Dade C.I. to confer with D.D.S. Arosemena, who knows Martin's jaw is misaligned as a result of X-Rays done for routine cleaning in October of 2010. Dr. Arosemena explained to Martin that he had 3 options, grinding of the molars to manipulate Martin's bite to allow the gap to close in the front. (2) Braces or Corrective Surgery.

49. Plaintiff alleges that it is noted that in the initial filing of emergency 303 grievances on November 24th, 2010. Log # 1011-463-140 received in Assistant Warden's Office on November 29th, 2010, it is stamped, signed and dated December 6th, 2010 by both Defendants Julio Poveda C.H.O. Dade Correctional as

well as Warden William Churchwell stamped denied citing Martin's prescribed special diet, slow eating pass, and Martin's pain medication was renewed.

50. The Plaintiff alleges that he never received anything but Motrin or Ibuprofen from the medicine window. Please note Exhibit "J" as proof Dade does in fact falsify documents to cover-up constitutionally substandard medical care also note grievance Log #1012-463-031 received Assistant Warden's Office December 2nd, 2010, denied December 15th, 2010, citing "human error" in Poveda falsifying medical passes.

51. The Plaintiff alleges that at all times relevant hereto and in all their actions described herein, all Defendant(s) were acting Under Color of State Law.

52. Plaintiff alleges that there is brazen and wholesale discrimination and unjust denial of proper medical treatment and medical attention on behalf of Chief Health Officer Julio Poveda, Nurse Practitioner Curtis Dewares, as well as Churchwell, Schweinsburg, Birge , routinely ignore, obvious forms of improper conduct, and for the most part, ongoing in the deliberately attempting to cover-up a serious injury and denying Plaintiff professional medical treatment that caused developing infection in the right side of Martin's jaw, and causes his jaw to be permanently misaligned. This constitutes a Violation of the 8th Amendment of the State and Federal Constitutions.

53. Plaintiff alleges that the Defendant(s) who are in charge, C.H.O. Julio Poveda, N.P. Curtis Dewares, Warden: William Churchwell, C.O. Major: Schweinsburg, Lieutenant: Birge , Sergeant: Kirk Sergeant, all despite their knowledge of Plaintiff's serious medical injury, deliberately ignored his mandibular fracture jaw condition described herein. Hence, it has infringed upon the Constitutional Rights of Plaintiff.

54.Plaintiff alleges that every possible means has been sought to correct the aforementioned situation and now Plaintiff seeks monetary and declaratory judgments.

55.Martin filed and fully exhausted all Administrative Grievances available to him at Dade Correctional Institution and to the Secretary of the Florida Department of Corrections in Tallahassee, Florida. Please (See: Attached Exhibits and Legal Documents herein.)

56.Martin, suffered injuries in the form of Permanent Misalignment, infection in the right mandibular break area, molar teeth crash into each other in the act of eating which cause him mental and emotional damages as well as causes him stress from continually being denied proper medical treatment.

IV.
STATEMENT OF CLAIMS FOR RELIEF
FIRST CAUSE OF ACTION

57.Defendant(s) Poveda, Dewares, Churchwell, Schweinsburg, Birge, and Sergeant all have violated Plaintiff's 8th Amendment Rights when they acted with malicious intention to deprive Plaintiff of his Constitutional Rights under the deliberate indifference standards when they deliberately denied Martin proper medical treatment which causes him permanent misalignment to his jaw and infection.

58.Defendant(s) Poveda, Dewares, Churchwell, Schweinsburg, Birge, and Sergeant all have Violated Plaintiff's 8th Amendment Rights as regards to health that does threaten his mental and physical well being.

**EIGHT AMENDMENT-DELIBERATE
INDIFFERENCE SECOND CAUSE OF ACTION**

59. Defendant(s) Poveda, Dewares, Churchwell, Schweinsburg, Birge, and Sergeant, all have Violated Plaintiff's rights as described throughout this complaint by discriminating against Martin by denying him proper medical treatment without cause or justification.

60. Defendant(s) Poveda, Dewares, Churchwell, Schweinsburg, Birge, and Sergeant all have Violated Plaintiff's rights as equal protection of the law in regards as to being deliberately denied Plaintiff proper medical treatment by not performing surgery on his mandibular fracture condition. Which causes him permanent misalignment and infection in break area Defendant(s) Poveda, Dewares, Churchwell, Schweinsburg, Birge, and Sergeant all have Violated Plaintiff's rights to fair and impartial treatment concerning the Department of Corrections Rules and Regulations with Respect to providing proper medical treatment of his mandibular fracture jaw, without cause.....

**THIRD CAUSE OF ACTION
VIOLATION OF TITLE II OF THE AMERICANS
WITH DISABILITIES ACT OF 1990
[42 U. S.C. § 12132]**

61. Paragraphs 1 through 61 are incorporated by reference as if set forth fully herein, and alleges:

- A. That Plaintiff is a qualified individual with a disability
- B. That Plaintiff was discriminated against by all Defendant(s) Poveda, Dewares, Churchwell, Schweinsburg, Birge, and Sergeant.
- C. Plaintiff has a physical impairment that substantially limits one or more major life activities, which in (chewing) eating, pain free sleep.

- D. The Plaintiff has a record of impairment and has been regarded as having such a impairment.
- E. By reason of such disability, permanent misalignment, and infection in break area, in Violation of Title II of the A.D.A.

RELIEF SOUGHT

WHEREFORE: Plaintiff, Perry Keith Martin, requests the following relief jointly/and or severally against each Defendant(s):

- A. Compensatory damages of \$50, 000.00
- B. Punitive damages of \$100, 000.00
- C. Reasonable Attorney Fees and Court Cost
- D. Nominal damages
- E. A Trial by Jury on all issues so triable
- F. Any other relief the Court deems appropriate

I Declare Under Penalty of Perjury that the foregoing is true and correct. Signed this 14th day of March 2011.

Perry Keith Martin # 747017
✓ Perry Keith Martin DC#747017
Dade Correctional Institution
1900 S.W. 377th Street A2122-Upper
Florida City, Florida 33034

① PERRY Keith Martin - 747017
Dade Correctional Institution
19000 S.W. 377th street
Florida City, Florida
33034



EXHIBIT A

Exhibit A

Report: PAB120
 11/16/2010 23:20:09
 Requested By: WEBUSER

Radiology Results
 LOWER KEYS MEDICAL CENTER

Coid: 846
 Page: 1

DC# 747017

RADIOLOGY TEST INFORMATION

Type/source: RAD CT MAXILLOFACIAL W/	Order#: 103798271	Account: 5064759
Medical Record Number: 0010101464	DOB: 05/27/1959	Gender: MALE
Status: F 17:36	Order Date: 11/16/2010	Patient Name: MARTIN, PERRY
Result Date/Time: 11/16/2010	Order Time: 10:42	Admit Date: 11/16/2010

PHYSICIANS Dictating: DIXON, MATHEW

Signature: DIXON, MATHEW

RESULT TEXT

MOUTH INJURY (MILD)

, Transportation: STRETCHER, Reason: pt struck in side of

MOUTH INJURY (MILD)

Procedure Acknowledge Date: 11/16/2010 10:54:00

CT OF THE FACIAL BONES, 11/16/10

CLINICAL HISTORY: Trauma.

There is evidence for nondisplaced fracture at the left mandibular ramus that virtually extends across the base of the left mandibular condyle. This does not appear to extend to the alveolar canal. A separate fracture through the right mandibular body, just anterior to the remaining right mandibular molars. No other fractures are visible. Small mucous retention cysts or polyps in the bilateral maxillary sinuses are seen. The remaining paranasal sinuses have expected appearance. Mastoid air cells are well pneumatized. Mild rightward nasal septal deviation is present. Right concha bullosa is seen. A high density focus measuring 3 mm is seen anterior to the right globe that is most compatible with a foreign body. Tiny calcification or similar density toward the upper orbit is seen anterior to the globe as well superiorly. Soft tissue swelling is seen that is most notable anterior to the right aspect of the mandibular body. The temporomandibular joints appear well aligned.

IMPRESSION:

1. FRACTURE INVOLVING THE LEFT MANDIBULAR RAMUS ESSENTIALLY TRAVERSING ACROSS THE BASE OF THE LEFT MANDIBULAR CONDYLE.
2. NONDISPLACED FRACTURE AS WELL TRAVERSING THE RIGHT MANDIBULAR BODY AS DISCUSSED.
3. SOFT TISSUE SWELLING PRIMARILY LOCATED IN THE MANDIBULAR REGIONS.

Exhibit A Paragraph # 15



Report:PAB120
11/16/2010 23:20:09
Requested By: WEBUSER

Radiology Results
LOWER KEYS MEDICAL CENTER

Coid: 846
Page:2

RADIOLOGY TEST INFORMATION

Type/source: RAD CT MAXILLOFACIAL W/CONTRAST	Order#: 103798271	Account: 5064759
Medical Record Number: 0010101464	DOB: 05/27/1959	Gender: MALE
Status: F	Order Date: 11/16/2010	Patient Name: MARTIN, PERRY
Result Date/Time: 11/16/2010 17:36	Order Time: 10:42	Admit Date: 11/16/2010

PHYSICIANS Dictating: DIXON, MATHEW

Signature: DIXON, MATHEW

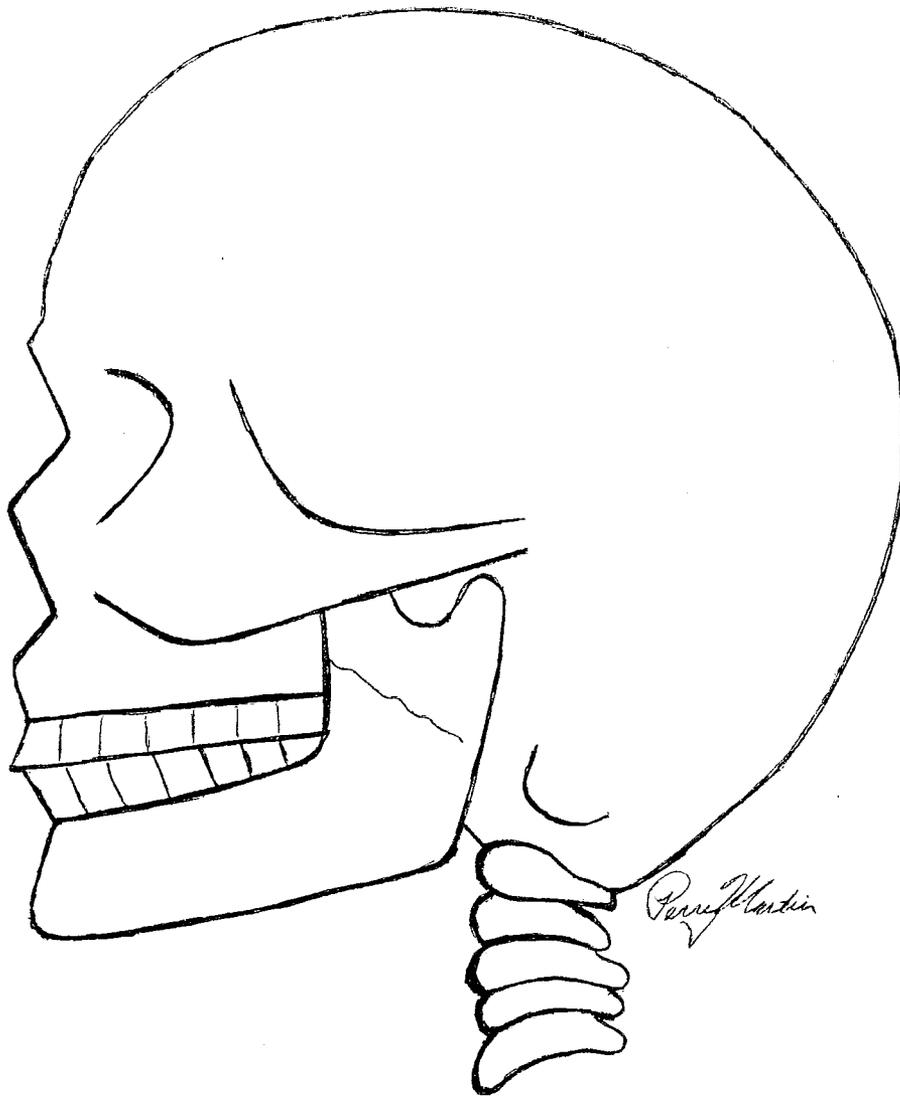
RESULT TEXT

4. 3 MM FOREIGN BODY ANTERIOR TO THE MID PORTION OF THE RIGHT GLOBE AND TINY LINEAR CALCIFICATION OR FOREIGN BODY MORE SUPERIORLY AT THE ANTERIOR RIGHT ORBIT/ANTERIOR GLOBE REGION AS WELL.

DD: 11/16/2010 00:00	Dictated By: DIXON, MATHEW
DT: 11/16/2010 11:34 DLW	Signed By: DIXON, MATHEW

DIXON MATHEW
Dictated By
DIXON MATHEW
Reviewed & Signed

Exhibit A Paragraph # 15



left impact side **Acute mandibular fracture**
 nondisplaced fracture at the left mandibular ramus that virtually
 extends across the base of the left mandibular condyle. This
 does not appear to extend to the alveolar canal. Impression:
 fracture involving the left mandibular ramus essentially
 Traversing across the base of the left mandibular condyle

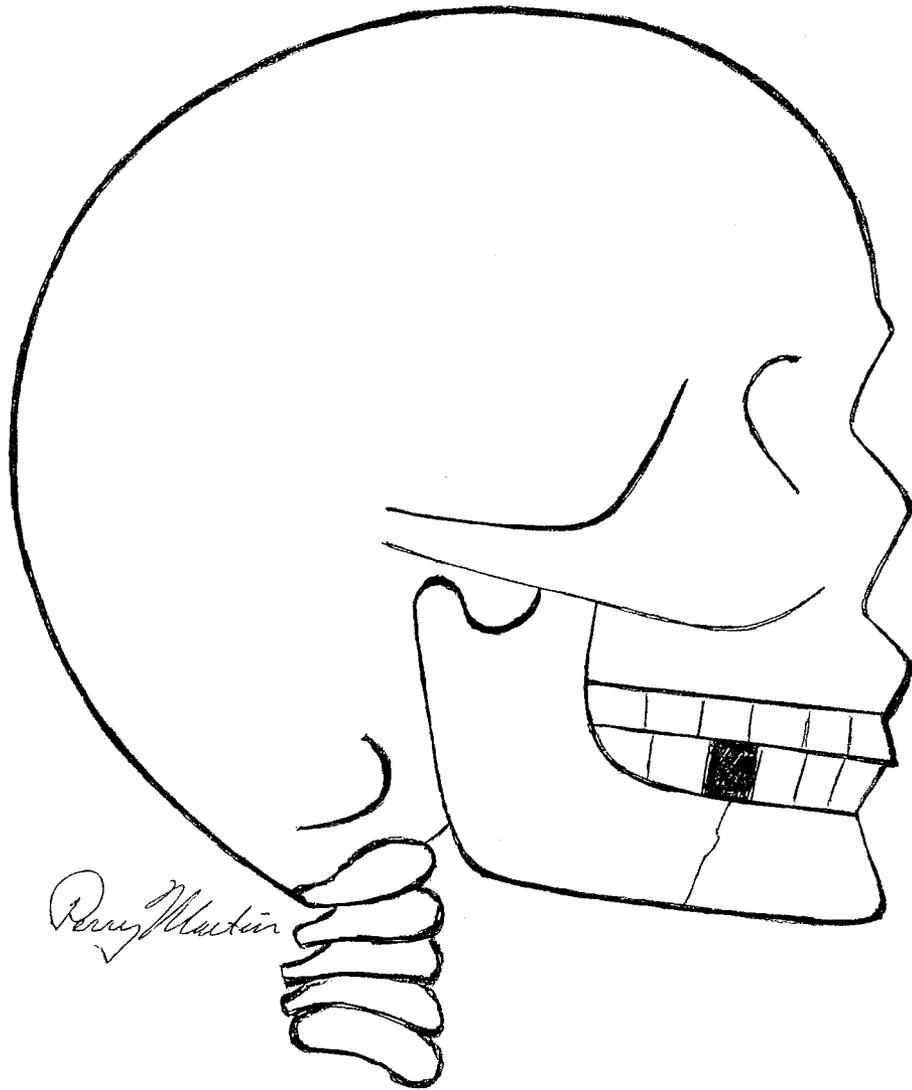
Soft tissue swelling Primarily located in the mandibular
 Regions

Lower Keys Medical Center
 5900 College Road, Key West, FL 33040
 305-294-5531

Patient # 5064759 MRN: 0010101464 11/16/2010

12:54 PM

Exhibit A Paragraph # 15



Rightside, old extraction area. Acute mandibular fracture
A separate fracture through the right mandibular body, just
Anterior to the remaining right mandibular molars. Impression =

nondisplaced fracture as well traversing the right mandibular body
As discussed. Instructions: 11-16-2010 12:49pm Patient to follow
up to dade county correctional facility for further work up and evaluation with
maxillofacial Surgeon for Jaw fracture need to be evaluated and seen
today by Specialist for Jaw repair. Soft diet, Clear liquids, no solid
foods, no straw, return to Emergency room ASAP if worsening of
symptoms. ED Course and treatment 11-16-2010 12:52pm Case discussed with
Dr Bly, Kris M Per Correctional Officer (Kirk Sergeant) Arrangements
have been made for transfer to facility Dade Correctional Institution for
further work up and higher level of care

Exhibit A Paragraph # 15

EXHIBIT B

Exhibit B

Lower Keys Medical Center
5900 College Road, Key West, FL 33040
305-294-5531

Patient: MARTIN, PERRY DOB: 5/27/1959 Patient #: 5064759 MRN: 0010101464 Date In: 11/16/2010

CHIEF COMPLAINT/HISTORY OF PRESENT ILLNESS: ST2 11/16/2010 10:22

MARTIN, PERRY is a 51 year old M that presented to the Emergency Department at 09:19 by AMB-
PD . The patient was triaged at 09:23 with the following vital signs: T: 98.6 PO , P: 90 Regular , R: 16
Unlabored , BP: 145/089 , SPO2: 98 Amt:RA , Pain: 8 Mouth . The patient's primary care physician is
NO DOCTOR OR NON-STAFF .

Chief Complaint -- MOUTH INJURY (MILD)

Exam Time: 10:22.

History obtained from: patient.

History limited by: N/A.

PT STRUCK IN SIDE OF FACE WITH BOARD STATES OCCURE THSI AM STATES FEEL
LIKE JAW NOT ALIGNING RIGHT

Symptoms are present now.

BLUNT TRAUMA

Symptoms located in the face.

REVIEW OF SYSTEMS: ST2 11/16/2010 12:42

Constitutional: negative chills, negative fever.

Cardiovascular: negative chest pain.

Respiratory: negative shortness of breath.

Gastrointestinal: negative abdominal Pain, negative vomiting, negative nausea, negative diarrhea.

Neurological: positive headache.

Integument: , WARM DRY .

ENT: positive facial pain.

PAST MEDICAL AND SURGICAL HISTORY: ST2 11/16/2010 12:43

Past Medical History: positive tb, positive tonsilectomy.

Reproductive History: LMP: na, .

Tetanus Status: over 5 yea.

Past Medical and Surgical histories reviewed.

FAMILY AND SOCIAL HISTORIES, ALLERGIES AND MEDS: ST2 11/16/2010 12:43

Allergies: nkda

Medications: none

Family History has been reviewed and is not pertinent. Social History: Living Situation: inmate
(incarcerated).

Exhibit B Paragraph # 18

(10)

Lower Keys Medical Center
5900 College Road, Key West, FL 33040
305-294-5531

Patient: MARTIN, PERRY DOB: 5/27/1959 Patient #: 5064759 MRN: 0010101464 Date In: 11/16/2010

PHYSICAL EXAMINATION: ST2 11/16/2010 12:43

General: WD, well nourished and in NAD. Nursing documentation reviewed. Vital signs noted. Pulse Oximetry results noted. Patient appears well nourished.

HEENT: Head/Face: , PAIN ECCHYMOSES ABRASION TO LEFT SIDE OF FACE

Neck: No C-Spine tenderness to palpation. No significant musculature spasm or paracervical tenderness. Full range of motion without pain.

Respiratory: Respiratory effort is unlabored. Lung Sounds: clear bilaterally.

Cardiovascular: Heart rate is normal. Rhythm is regular.

Musculoskeletal/Extremity: No significant traumatic injuries or tenderness. Full range of motion all joints.

Skin: , ABRASION TO LEFT SIDE OF FACE

Neurologic: Mental Status: awake and alert, intact.

DIAGNOSTIC TEST RESULTS: ST2 11/16/2010 12:44

Radiology:

Computerized Tomography Scan: Brain -- No acute disease. CT Scan of: MAXILLOFACIAL FRACTURE INVOLVING LEFT MANDIBULAR RAMUS TRANNSVERSING ACCROSS BASE OF LEFT MANDIBULAR CONDYLE NON DISPLACED FX RIGHT MANDIBULAR BODY AS WELL INCIDENTLA FINDING OF 3 MM FOREIGN BODY RIGHT GLOD PT STATES RETAINED GLASS FROM MVA YEARS AGO.

ED COURSE AND TREATMENT: ST2 11/16/2010 12:52

Treatment & Reevaluation: CASE DISCUSSED WITH DR BLY PER CORRECTIONAL OFFICER ARRANGEMENTS HAVE BEEN MADE FOR TRANFER TO FACILITY DADE CORRECTIONAL INSTITUTION FOR FURTHER WORK UP AND HIGHER LEVEL OF CARE

CONSULTATION & CRITICAL THINKING: ST2 11/16/2010 12:51

Note: Case discussed with Dr. BLY, KRIS M who agrees with assessment and current management.

CLINICAL IMPRESSION: ST2 11/16/2010 12:47

- 1. Acute mandibular fracture

DISPOSITION: ST2 11/16/2010 12:48

Disposition: Patient discharged to JAIL.

Condition: Stable.

Disposition date/time: 11/16/2010 12:48.

Discussed care with patient. Explained findings, diagnosis, and need for follow-up care.

INSTRUCTIONS: ST2 11/16/2010 12:49

Patient has received printed discharge instructions. Discharge plans discussed with patient who verbalizes understanding and willingness to comply. Prescription(s) written for: Ultram 50 mg: by

Exhibit B Paragraph #18

(11)

Lower Keys Medical Center
5900 College Road, Key West, FL 33040
305-294-5531

Patient: MARTIN, PERRY DOB: 5/27/1959 Patient #: 5064759 MRN: 0010101464 Date In: 11/16/2010

mouth every 4 (four) - 6 (six) hours; quantity: 20 (twenty).

Patient agrees to follow up with MOODY, JANICE. Instructed to obtain follow up care in one day.

Patient agrees to return to Emergency Department immediately if symptoms worsen or fail to improve.

PT TO FOLLOW UP TO DADE COUNY CORRECTIONAL FACILITY FOR FURTHER WORK

UP AND EVALUATION WITH MAXILLOFACIAL SURGEON FOR JAW FRACTURE NEED

TO BE EVALUATED AND SEEN today BY SPECIALIST FOR JAW REPAIR SOFT DIET

CLEAR LIQUIDS NO SOLID FOODS NO STRAW RETURN TO ER ASAP IF WORSENING OF

SYMPTOMS

PHYSICIAN ORDERS

(1) Head w/o contrast [ST2] ordered at 11/16/2010 10:42

(1) Maxilofacial/Mandible [ST2] ordered at 11/16/2010 10:42

(1) IM Toradol 60 mg [ST2] ordered at 11/16/2010 11:52 [by: KOC, Transcribed]

(1) IM Tet Tox Adult [ST2] ordered at 11/16/2010 12:14 [by: PSS, Transcribed]

(1) ED round activities: [ST2] ordered at 11/16/2010 12:32 [by: JFR, Verbal]

STEVEN TERSHESHEE PA All text in this document clearly marked by ST2 has been authored and legally signed by use of electronic device. 11/16/2010 12:54

KRIS M BLY D~~A~~ This document is legally signed by use of electronic device. 11/16/2010 13:46

Exhibit B Paragraph # 18

EXHIBIT C

Exhibit C

State of Florida
Department of Corrections
Dade Correctional Institution

Memo to: Martin, Perry
From: Julio Poveda M.D.
Date: January 5, 2011
Subject: Letter regarding not receiving adequate medical care

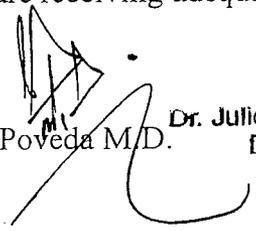
This letter is to inform you that your letter was received and forwarded to me for a response.

Upon your return from the dental clinic at SFRC on 11/18/10; the doctor's notes were reviewed by the nurse on duty. On 11/19/10 a phone call with Dr. Viota regarding your follow up care was done by the provider and it was decided by Dr. Viota that you were medically cleared to return to the regular population while waiting for surgery. Therefore, you were discharged from the infirmary.

You have an upcoming appointment to see a medical provider, and you are also scheduled for surgery soon.

If you are experiencing discomfort and need immediate medical assistance; please access sick call or you may declare a medical emergency.

You are receiving adequate medical care.


Julio Poveda M.D. Dr. Julio Poveda, CHO
Dade C.I.

**CONFIDENTIAL HEALTH RECORD/CARE INFORMATION
INTENDED FOR THE ADDRESSEE ONLY. UNAUTHORIZED
RELEASE OR DISCLOSURE MAY VIOLATE STATE AND
FEDERAL LAWS.**

Exhibit C Paragraph # 26

Response letter

NOV 29 2010

Mr. Villacorta,

11-20-2010

I am writing you in hopes that you can help me receive Proper Medical Care. Main I was injured during my work assignment in Key West. I was housed in Big Pine Key. I was working on Key West Housing Authority property, Tuesday November 16th as part of my job assignment to remove a dead Palm tree, during removing the blading a 2x4 I was trying to remove dislodged itself and struck me in the lower left jaw area causing two fractures in my jaw. I immediately reported the incident to William Sing, Housing work supervisor, I was taken immediately to Key West Hospital at approx 9am on the 16th and admitted to the Emergency room where I was examined and given an MRI. The MRI confirmed I have two fractures to my jaw. The on duty Nurse recommended I be sent to an Oral Surgeon in Miami Hospital. My work Sgt called the administration at Big Pine Key and was instructed to have Key West Hospital release me and I also got my medical file and a "CD Rom" of the MRI. I was transported back to Dade and arrived there at 5pm the 16th and I was taken to the medical ward and stayed there until Thursday the 18th, where I was transported to SFRC for a facial X-Ray, after the X-Ray I was transported back to Dade medical and stay until the 19th, at 5pm Friday I was released from Medical and placed in open population while awaiting corrective surgery. Main, I understand I am fully responsible for and rules, I am not complaining about anyone or anything at Big Pine, as this was an accident and not a negligent situation. I don't understand Dade placing me in open population pending corrective surgery, I respectfully request that you assure me proper medical treatment for my work related injury, I am in a lot of pain and worry the longer this takes the more damage ~~is~~ caused by this injury, thank you for your time and trouble.

Respectfully
 Perry Klutznick

EXHIBIT D & E

Exhibit D & E

FLORIDA DEPARTMENT OF CORRECTIONS
Chronological Record of Health Care

Allergies:

DATE/TIME

10/29/10 JN - Pre-D - 1/2 2 (1) brand name
3/1/11 M is st He's scheduled to have a physical
treatment done "soon"

He's mental + physically fine
No unrec marks - No active Sx

1. Lab done today - results are not available yet.
2. CBC info

3. show return plan till 1/15/11 at this time - Day 700 done
4. Mechanical Dist - till 1/15/11 Day 700 done
ETA scheduled tomorrow!

Will do medical clearance - see Lab, ETA done (by 24-48 hours)

Inmate Name: M. Penn
DC#: 147017 Race/Sex: W/M
Date of Birth: 01-27-59
Institution: DADECI

Dr. JUNG / CHO
Date C.I.

S- Subjective Data
O- Objective Data
A- Assessment of S and O Data
P- Plan
E- Education

**FLORIDA DEPARTMENT OF CORRECTIONS
HEALTH SLIP/PASS**

The below-named inmate is authorized for:

- Bed rest lay-in From _____ To _____
- Low/bottom bunk From 11/29/10 To 11/30/10
- No shave From _____ To _____
- Restricted activity From 11/29/10 To 11/30/10
- Restrictions: low activity
- Other: _____ From _____ To _____

Inmate: Richard Lewis
 DC# 101014 R/S 101014
 Date of Birth 01/19/66
 Institution _____
 Authorized CHO Dr. Julio Poveda
Dade C.I.
 (Initial & Name Stamp)
 Date: 11/29/10

Health Slip/Pass
DC4-701D (2/96) White/Medical Yellow/Security Pink/Inmate

FLORIDA DEPARTMENT OF CORRECTIONS
DIET PRESCRIPTION/ORDER

DATE: 11/29/10

PHYSICIANS ARE TO PLACE A CHECK MARK AND SIGN INITIALS BESIDE THE APPROPRIATE DIET:

DIETS:	
Clear Liquid Diet _____	*1600 Calorie Regulated Diet _____
Cold Liquid Diet _____	
Full Liquid Diet _____	*2200 Calorie Regulated Diet _____
Puree Diet _____	
Mechanical Dental Diet _____	*2800 Calorie Regulated Diet _____
Low Residue Diet _____	3600 Calorie Regulated Diet (w/ 3 meals and 3 snacks) _____
Fat Intolerance Diet _____	4000 Calorie Regulated Diet (w/ 3 meals and 3 snacks) _____
CSU (Suicide Precaution) Diet _____	Prenatal Diet _____
Predialysis Diet (60-65 gm PRO, 2.0-3.0 gm Na+, 3.0-3.2 gm K) _____	Dialysis Diet (95-105 gm PRO, 2.0-3.0 gm Na+, 3.0-3.2 gm K) _____

*These diets contain <300 mg of Cholesterol and <2300 mg of sodium.

PATIENT TO STAY ON PRESCRIBED DIET FROM 11/29/10 TO 11/30/10

OBSERVATIONS _____

DOCTOR OR CLINICAL ASSOCIATE: Dr. Julio Poveda, CHO
 (Signature and Stamp)

Inmate Name _____
 DC# 101014 R/S 101014
 Date of Birth 01/19/66
 Institution _____

Paragraph #33 Exhibit E

Both of these passes were written by Dr Poveda on 11-29-2010 in front of Plaintiff as He filled out DC4-701 Medical chart (marked 11-B and Exhibit D) Chronological Record of Health Care Records. Plaintiff wrote and fully exhausted the administrative Grievance process, and it is upon my information and Belief that Dr Poveda Pre dated These two passes as well as the third Pass he wrote on 11-29-2010 which was lost to Medical when turned in by me the following day 11-30-2010. Administration here at Dade denied Plaintiff's Grievance citing "Human Error." It is upon Plaintiff information and Belief, along with Exhibit marked J the "interoffice Memorandum" signed and Stamped by Poveda 3 days after he left for Vacation, when in fact Curtis Dewares was acting "Chief Health officer" here at Dade proof that Dade deliberately attempting to cover up substandard medical care and denying Plaintiff treatment for Plaintiff's Serious Medical need when in fact Plaintiff at this point in time had developed an infection in the right Mandibular fracture Area.

FLORIDA DEPARTMENT OF CORRECTIONS
Chronological Record of Health Care

Allergies: NKA

DATE/TIME

11/17/10/0730 (S) Pt states a board hit me in the jaw yesterday while I was working out. I was in Key West so they took me to Key West Hosp. I have some minor pain but I am an addict so I don't want a narcotic. Whatever they gave me here took the pain away. I have a FX but they say my jaw is in alignment.

Non-displaced →
PKW

(C) Elder w/m seated ↑ 45° in bed in N/A/D. ATOX3 & Neuro deficit.

HSCU: SOB FROM

H&M: See diagram ↓ RT Mandible 1-2 Edema

LT ↑ mandible 2-3 Edema. Limited ROM

? loose dentition RT side ↑, old dried blood (scab) is visible

CV: S12 AN & HUM

LUNGS: CTA B/LAT

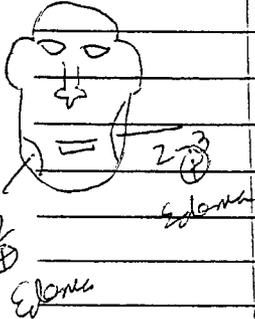
ABD: SOB & abdominal

EXT: MAE FROM

(A) S/P FX LEFT MANDIBULAR RAMUS ESSENTIALLY TRANSVERSING THE LEFT MANDIBULAR CONDYLE BASE

(P) Start Dental referral this AM. Will discuss situation with dentist CHO and attempt to expedite continuity of care.

(E) Reportable s/s x 2's
Anxiety precautions
Availability of pain meds
Keep h/c ↑ 45°



R. RUEL RN
DADE CI

11/17/10

0800
noted

W. W. /
C. Wares
ARNP/FNP
Date CI

Inmate Name MARTIN PEREZ
DC# 747017 Race/Sex W/M
Date of Birth 05/27/59
Institution DADE CI

S- Subjective Data
O- Objective Data
A- Assessment of S and O Data
P- Plan
E- Education

Defendants Dewares & Poveda made aware of Santos medical need (Paragraph #32.)