

UNITED STATE DISTRICT COURT  
NORTHERN DISTRICT OF FLORIDA  
PENSACOLA DIVISION

JOHN W. JEFFRIES,

Plaintiff,

CASE NO.: 3:06cv344/MCR/MD

vs.

JAMES EDWARD SULLIVAN, et al

Defendants.

**DEFENDANT ADAMS' SPECIAL REPORT FILED IN RESPONSE TO PLAINTIFF'S  
AMENDED COMPLAINT**

Defendant, Annie Adams, pursuant to the Court's Order on January 17, 2007. (Doc. 17), and pursuant to Fed. R. Civ. P. 56 and Local Rule 56.1, submits to the Court her Special Report, and states as follows:

**SUMMARY OF PLAINTIFF'S CLAIMS**

Plaintiff, *pro se* inmate, filed the present civil rights complaint pursuant to 42 U.S.C. §1983, alleging that Annie Adams, R.M.A., along with other defendants, was deliberately indifferent to his serious medical needs in violation of the Fourteenth Amendment's due process clause. As it relates to this Defendant, Plaintiff contends that Annie Adams deliberately denied medical care and treatment to Plaintiff. See Amended Complaint (Doc. 9). Plaintiff claims he suffered a medical emergency on January 19, 2004 when he woke during the night with shortness of breath and chest pain. *Id.* The Plaintiff called a medical emergency to which Stephanie Clark, E.M.T. and Annie Adams, R.M.A responded. Statement of Fact ¶ 2.

Where the evidence demonstrates that there is no genuine issue of material fact and that the moving party is entitled to judgment in their favor as a matter of law, summary judgment is appropriate. *See* Fed. R. Civ. P. 56 (c). The moving party can demonstrate that no genuine issue of material fact exists by filing affidavits which prove the absence of evidence which would support Plaintiff's claims. *See id.* To avoid an entry of summary judgment, the opposing party cannot rely simply upon the pleadings, but must then file its own opposing affidavits or documents which demonstrate that a genuine issue of material fact does exist. *See* Fed. R. Civ. P. 56(e).

To state a claim under § 1983 for failure to provide adequate medical care in violation of a prison's rights, a plaintiff must allege facts which demonstrate a "deliberate indifference to serious medical needs of prisoners." *See Estelle v. Gamble*, 429 U.S. 97, 104 (1976). Convicted prisoners' rights are protected by the Eighth Amendment's prohibition of cruel and unusual punishment, but a pre-trial detainee's rights are protected under the due process clause of the Fourteenth Amendment, although the test is the same. *Davis v. Hall*, 992 F.2d 151, 152(8th Cir. 1993). A differing of medical opinion will not give rise to a cause of action for violation of the Fourteenth Amendment. *See Waldrop v. Evans*, 871 F.2d 1030, 1033 (11th Cir. 1989) (citing *Bowring v. Godwin*, 551 F.2d 44, 48 (4th Cir.1977)). The Supreme Court distinguished between an inadvertent failure to provide medical treatment and deliberate indifference, stating that "a complaint that a physician has been negligent in diagnosing or treating a medical condition does not state a valid claim for medical mistreatment ...." *Estelle* at 104. "It is obduracy and wantonness, not inadvertence or error in good faith, that characterize the conduct prohibited...." *Wilson v. Seiter*, 501 U.S. 294, 299 (1991) (emphasis in original).

Defendant Adams is a Registered Medical Assistant (R.M.A.), and graduated from a medical assistants program at Capps Medical Institute in Pensacola, Florida in 2001. *See* Affidavit of Annie Adams attached to PHS' Statement of Facts Exhibit E (Doc. 52-6). Defendant Adams' job duties with PHS consisted of drawing blood, administering medications, and noting orders. *Id.* Medical Assistants are not trained to diagnose.

Plaintiff alleges that his diagnosis of pneumothorax on January 19, 2004 was as a result of a beating he received from Deputy Sheriffs Dix and Sullivan at the time of his arrest on January 1, 2004. Plaintiff contends that as a result of physical injury at the hands of Dix and Sullivan he suffered a pneumothorax, or collapsed lung, some nineteen days later. (Doc. 9). He began experiencing shortness of breath and pain which woke him from his sleep in the early morning hours of January 19, 2004. *Id.* Plaintiff also alleges that he announced he was having a medical emergency and members of Prison Health Services (PHS) staff responded. *Id.* Two members of the medical staff came to Plaintiff's cell to assess him. Statement of Facts ¶ 5. These Defendants are identified in Plaintiff's complaint as Jane Does #1 and #2. In the medical records, these Jane Does are identified as Stephanie Clark, E.M.T. and Annie Adams, R.M.A. Statement of Facts ¶ 2. Plaintiff alleges that Adams and Clark performed an inadequate medical evaluation and were deliberately indifferent to his serious medical need. Inmate Jeffries was ultimately diagnosed with a pneumothorax and transported to Sacred Heart Hospital for emergent care and treatment. (Doc. 9).

**I. THE PLEADINGS AND EVIDENCE FAIL TO ESTABLISH THAT PLAINTIFF WAS DENIED CARE AND TREATMENT FOR A SERIOUS MEDICAL NEED.**

The Plaintiff cannot demonstrate that Annie Adams subjectively exhibited deliberate indifference to Plaintiff's serious medical needs. In addition to the objective requirement that

there must be some serious medical need, Plaintiff must demonstrate that Defendant had the subjective intent to unnecessarily and wantonly inflict pain on Plaintiff by denying him treatment. *See Farmer v. Brennan*, 511 U.S. 825, 834 (U.S. Wis. 1994). It is axiomatic that a claim for medical malpractice does not equate to a violation of constitutional rights. *See Estelle v. Gamble*, 429 U.S. at 104. “Deliberate indifference has three components: (1) subjective knowledge of a risk of serious harm; (2) disregard of that risk; (3) by conduct that is more than mere negligence.” *McElligott v. Foley*, 182 F.3d 1248, 1255 (11th Cir. 1999.) “The official must both be aware of facts from which the inference could be drawn that a substantial risk of serious harm exists, and he must also draw the inference.” *Farmer*, 511 U.S. at 837.

The court in *McElligott* defined deliberate indifference as above and held in that case that summary judgment for the defendants should be reversed since there were adequate facts in the record to support a jury finding of deliberate indifference on the part of the treating physician and nurse. 182 F.3d 1248 at 1256. The Plaintiff in that case, however, was repeatedly denied care and treatment over a six month period despite his repeated requests to be seen, complaints of unrelenting pain, and his ultimate diagnosis of terminal cancer. *Id.*

In the present case, Defendant Adams assisted Defendant Clark during the emergency medical call where Clark noted that Inmate Jeffries was short of breath and complained of chest pain. *See* Affidavit of Annie Adams ¶10 (Doc. 52-6). Defendants Clark and Adams assessed Inmate Jeffries and transported him to the nurses’ station for further evaluation and treatment. Statement of Facts ¶ 8. Jeffries was able to walk to the nurses’ station of his own volition. Affidavit of Annie Adams ¶12 (Doc. 52-6). Defendants Clark and Adams attempted to evaluate Inmate Jeffries with an EKG and consulted with Elaine Gregory, RN regarding the inmate’s

condition. Statement of Facts at ¶¶ 9 and 10. Nurse Gregory instructed Defendant Adams to administer Mylanta to Inmate Jeffries. Id at ¶ 10. Once Inmate Jeffries received the Mylanta, he expressed some relief and he went to sit in Defendant Clark's office to await transport back to his cell. Id. at ¶ 12. Adams recalls that at no time did Jeffries appear to be experiencing a life threatening emergency and all of her interactions with him were conducted in a professional manner. Affidavit of Annie Adams at ¶¶ 16 and 18 (Doc. 52-6). Neither the affidavits nor the records affirm the notion that Annie Adams ever assessed Plaintiff with an emergency or life threatening condition and then refused to provide care and treatment for the injury.

Furthermore, Defendant Adams' actions do not evince the subjective intent to unnecessarily and wantonly inflict pain upon Plaintiff as a requisite for a § 1983 claim for failure to care and treatment for serious medical need. Defendant Adams assisted Defendant Clark while she assessed Inmate Jeffries and evaluated his medical needs. Defendant Adams consulted with Nurse Gregory as per PHS policy and administered Mylanta to the Plaintiff as instructed by Nurse Gregory. It was only when the Plaintiff expressed some relief from his symptoms that Defendant Clark arranged for the Plaintiff to be transported back to his cell. Defendant Adams had no further involvement in Plaintiff's care. Statement of Facts ¶ 14. Defendant Adams' actions are inconsistent with any subjective intent to inflict unnecessary pain and suffering upon Plaintiff.

### **CONCLUSION**

Based on the arguments above, Defendant Adams requests the Court grant dismissal of Plaintiff's claim in the event that it decides to transform the instant Special Report into a Motion for Summary Judgment.

/s/ Jeannette M. Andrews

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing has been furnished by U.S. Mail to John W. Jeffries, *pro se*, Q13522, Tarpon Springs Work Release Camp, 566 Brady Road, Room A1114, Tarpon Springs, FL 34689, and by **electronic filing** to Leonard J. Dietzen, III, Esq., Rumberger, Kirk & Caldwell, P.A., 215 South Monroe Street, Suite 130, Post Office Box 10507 (32302-0507), Tallahassee, Florida 32301, Timothy M. Warner, Esq., Post Office Box 1820, Panama City, Florida 32402, this 27<sup>th</sup> day of August, 2007.

/s/ Jeannette M. Andrews

