

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA

(Richmond Division)

CONRAD BURKE,	)	
	)	
Plaintiff,	)	
v.	)	CA. #3:20-cv-120-DJN
	)	
GEO SECURE SERVICES, LLC	)	
t/a GEO CORRECTIONS & DETENTION, LLC	)	
	)	
JAMES BEALE	)	
	)	
Serve: Secretary of the Commonwealth	)	
Service of Process Department	)	
P.O. Box 2452	)	
Richmond, VA 23218-2452	)	
	)	
JAYNA SMITH	)	
Lawrenceville Correctional Center	)	
1607 Planters Road	)	
Lawrenceville, VA 23868,	)	
	)	
and	)	
	)	
JOHNNETTE CLEATON	)	
Health Services Quality Improvement Unit	)	
Virginia Department of Corrections	)	
6900 Atmore Drive	)	
Richmond, VA 23225,	)	
	)	
Defendants.	)	

AMENDED COMPLAINT

Preliminary and Jurisdictional Statement

1. Mr. Burke was an inmate at Lawrenceville Correctional Center (“LCC”) in April 2018 when a temporary filling fell out of one of his back teeth, causing him increasingly severe pain. When he presented himself to the LCC medical staff to address this condition, he was informed

that LCC could not provide any dentist at all, let alone an on-site full-time dentist required by its contract with the Virginia Department of Corrections (“VDOC”). Nor did LCC have an on-site full-time doctor acting as medical director, as required by its VDOC contract. Reflecting the resulting disarray in the provision of health care at LCC, over the course of the half year that Mr. Burke remained at LCC, he never received a replacement filling and suffered ongoing and severe pain as a result. By the time he finally secured treatment after being transferred to Pocahontas Correctional Center in October 2018, his tooth was too damaged to be filled or otherwise repaired and had to be extracted. Mr. Burke now seeks damages from the for-profit correctional corporation running LLC, its warden, its health services administrator, and from an employee of VDOC’s Health Services Quality Improvement Unit who purportedly investigated repeated complaints that LCC was not providing dental care to Mr. Burke and falsely reported that everything was fine. Having repeatedly grieved and administratively appealed the denial of dental care, Mr. Burke has exhausted his administrative remedies. This court has jurisdiction over Mr. Burke’s constitutional claims pursuant to 28 U.S.C. §1331. The court has supplemental jurisdiction over his state tort claims under 28 U.S.C. §1367, as they arise out of the same nucleus of operative facts as his constitutional claims.

#### Parties

2. Conrad Burke is an inmate in the custody of VDOC. At all relevant times he was an inmate at LCC.

3. Defendants Geo Secure Services, LLC, sometimes trading as Geo Corrections & Detention LLC, is a private company with headquarters in Boca Raton, Florida, referred to herein as “Geo.”<sup>1</sup> Geo runs prisons for profit. At all relevant times, Geo was under contract with VDOC to operate and manage LCC, provide trained staffing, and ensure adequate and appropriate medical and dental care to inmates confined there. In its correctional work on behalf of VDOC, Geo engaged in state action, such that its actions were under color of state law.

4. At all relevant times, defendant James Beale was an employee and agent of Geo serving as the warden at LCC. In that capacity, he held a non-delegable duty to ensure that inmates confined to his facility were not deprived of medical or dental care needed to treat serious medical or dental problems. He was also charged to ensure that medical care at his facility was under the control of an on-site medical doctor acting as medical director, and that a full-time on-site dentist was available to treat prison inmates. Warden Beale was also responsible to investigate, or cause the investigation of, complaints of inadequate medical or dental care to inmates that came to his attention, and to take necessary steps to assure that such situations be addressed promptly and appropriately within applicable standards. In his correctional work on behalf of Geo and VDOC, defendant Beale engaged in state action, such that his actions were under color of state law. He is sued in his individual capacity for damages.

5. Defendant Jayna Smith was at all relevant times an employee and agent of Geo serving as the ranking nurse at LCC. Geo’s contract with VDOC required that “A full-time

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<sup>1</sup>A search on the Virginia State Corporation Commission website for the registered agent of Geo Corrections and Detention LLC leads to an entry for the registered agent for Geo Secure Services, LLC, which appears to be the formal name of the Geo entity at issue. *See*, <https://cis.scc.virginia.gov/EntitySearch/BusinessInformation?businessId=680898&source=FromEntityResult&isSeries=False>.

physician shall be the medical director.” However, during at least Mr. Burke’s presence at LCC, Geo did not provide a full-time physician serving as medical director. Rather, at all relevant times the duties of the medical director, if carried out at all, were carried out by defendant Smith as so-called “medical administrator.”<sup>2</sup> As acting “medical administrator,” she was responsible for ensuring the availability of doctors, dentists and other medical professionals needed to treat the serious medical and dental needs of inmates within standards imposed by the constitution and tort law, and to ensure the availability of necessary supplies and equipment to that end. She was also responsible for properly investigating complaints of inadequate medical care for LCC inmates that came to her attention, and for taking necessary steps to assure that such situations be addressed promptly and appropriately. In her correctional work on behalf of Geo and VDOC, defendant Smith engaged in state action, such that her actions were under color of state law. She is sued in his individual capacity for damages.

6. Defendant Johnnette Cleaton is an employee of VDOC’s Health Services Quality Improvement Unit. At all relevant times she was responsible for investigating complaints of inadequate care at state correctional facilities in Virginia, including LCC, and in a position to take effective steps to ameliorate substandard conditions. She was trained and aware that VDOC holds a non-delegable duty to ensure adequate medical and dental staff, equipment and supplies at all its prisons, including those contracted to for-profit companies to operate. On at least two occasions, defendant Cleaton was presented with reliable complaints that Mr. Burke was being denied necessary dental care and that this condition was causing him serious and ongoing pain.

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<sup>2</sup>Discovery will reveal whether defendant Smith exceeded the scope of her permissible practice in connection with her duties substituting for an M.D. medical director, thereby engaging in nursing malpractice.

On both occasions she failed to investigate these complaints properly, responding with *pro forma* letters from a standard rejection template, grossly insufficient to the needs of the moment. In one case, defendant Cleaton purported to rely on the assessment of a supposed “Dr. Ezekiel” at LCC – a doctor who had not worked at LCC and had never seen Mr. Burke. She did nothing to ensure LCC was providing Mr. Burke with appropriate care. She is sued in her individual capacity, for her actions taken under color of state law on behalf of Geo and VDOC.

#### Statement of Facts

7. In January 2018, while housed at Sussex I prison, Mr. Burke was seen for dental treatment, including receipt of a temporary filling in one of his lower back teeth. He was advised that he would receive a permanent filling soon thereafter.

8. Mr. Burke’s temporary filling fell out not long after being put in place. Notwithstanding his complaints of pain resulting from the missing filling, he was advised on January 24, 2018 that his pain “did not meet the definition of an emergency.” Exhibit 1. He received no emergency care.

9. By March, Mr. Burke had still not received any follow-up dental care. He contacted counsel for assistance.

10. In March, 2018, counsel asked an assistant attorney general (“AAG”) who worked on VDOC cases to look into the matter. Mr. Burke was promptly seen by the Sussex I institutional dentist. The dentist provided him with another temporary rather than a permanent filling, advising that a permanent filling would be installed as soon as possible thereafter.

11. Before any permanent filling was provided, Mr. Burke was transferred from Sussex I to LCC.

12. In April, 2018, not long after his arrival at LCC, the temporary filling in Mr. Burke's tooth fell out.

13. On April 22, 2018, Mr. Burke filed an emergency grievance explaining that a filling had fallen out of his tooth and that it was causing him severe pain. Exhibit 2.

14. At the time Mr. Burke first requested dental care at LCC, and continuing for the following half year while he remained at LCC, Geo was under contract with VDOC, to "provide ... dental services in accordance with A[merican] C[orrectional] A[ssociation] standards, Virginia regulations and federal and state law....," including specifically "24 hour a day, 7 day a week emergency ... dental ... care." Geo was obliged by its contract to have "not less than one on-site full-time dentist and suitable on-site dental support personnel." Geo was also required by contract to have a full-time physician serving as "medical director" of the facility. These specifications were set forth in a part of the contract entitled "Litigation Sensitive Policies and Procedures."

15. In reply to his April 22, 2018 grievance, Mr. Burke was informed: "There's no dentist on staff @ present time. However, the search for one is ongoing." Exhibit 2.

16. On April 23, 2018, Mr. Burke filed a second emergency grievance form seeking prompt dental treatment for extreme pain. Exhibit 3.

17. In reply to his second grievance, Mr. Burke was informed: "Unfortunately, we do not have a dentist at the present time." Exhibit 3.

18. As a for-profit enterprise, what Geo did not spend on inmate care contributed to its profit as a commercial venture. Not paying to have a dentist on staff, or otherwise readily available, was financially beneficial to the company, however detrimental to its inmates.

19. Mr. Burke filed a complaint on April 23, 2018 setting forth the same request for dental services as before. Exhibit 4. The reply to this complaint, dated two weeks later, confirmed that “at this time we don’t have a dentist.” He was informed that until a dentist had been located, “pain management” would have to suffice. Exhibit 4.

20. On May 3, 2018, counsel’s nurse/paralegal wrote to the AAG who had looked into Mr. Burke’s case in March, asking her to ensure that:

Mr. Burke see[] a dentist within the week maximum, even if that means taking him to see a provider offsite. Moreover, the entire medical staff must be put on notice that delaying urgent medical or dental treatment because a specialist is not on staff is unacceptable, both from a medical and a legal perspective.

Exhibit 5.

21. On May 10, 2018, Mr. Burke filed a grievance complaining of the denial of the dental care he required. Exhibit 6 at 1. Mr. Burke’s grievance was not accepted for intake, by reason of “emergency grievance receipt” (*sic*). Exhibit 6 at 2.

22. Mr. Burke appealed the denial of intake to the Regional Ombudsman. Exhibit 7. The appeal was denied without explanation and without right of further appeal. Exhibit 6 at 2.

23. In the meanwhile, having received no response to his nurse/paralegal’s May 3 letter, on May 11, 2018, Mr. Burke’s counsel wrote to the same AAG, as follows:

I request your immediate attention to the case of Conrad Burke, who has been left with a missing filling, excruciating pain, and a woefully viable Eighth Amendment claim against a variety of VDOC personnel, including those who initially told him that there

was no dentist available to treat him, and now, at another facility,<sup>3</sup> those who continue to deny him a dentist to replace the temporary filling he received earlier.

It is (a) your cooperation and, to a lesser extent, that of the VDOC personnel who took some steps to address this abysmal situation, and (b) the press of other work, that have for the time being precluded my filing a lawsuit for him. WHAT'S W[R]ONG WITH THESE PEOPLE???? DO THEY NOT KNOW WHAT A TOOTH[]ACHE IS?

I will do what is necessary to sue them if Burke has not seen a dentist and been properly treated by COB Wednesday. If he is seen Thursday morning I will sue them for damages anyway. Truly, this is outrageous.

Exhibit 8 (emphasis in original).

24. Members of Mr. Burke's family members also contacted VDOC to complain about the denial of dental care to Mr. Burke. This complaint was purportedly investigated by defendant Cleaton of VDOC's Health Services Quality Improvement Unit.

25. On or about May 18, 2018, Mr. Burke received a letter from defendant Cleaton to the effect that she had conducted an investigation and determined that Mr. Burke was "being treated appropriately based on policy, per Dr. Ezekiel." Exhibit 9.

26. There never was a Dr. Ezekiel at LCC, nor had any Dr. Ezekiel ever seen Mr. Burke.

27. On information and belief, defendant Smith's letter to Mr. Burke was a fill-in-the-blank *pro forma* template designed to reject inmate claims of inadequate health care regardless of merit.

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<sup>3</sup>This was in error; everything of consequence here happened at the same facility: LCC.



28. On or about May 21, 2018 Mr. Burke was seen by Nurse Walker in LCC's medical unit. Nurse Walker's examination confirmed that Mr. Burke's filling was missing, that he was experiencing some swelling, and was complaining of pain. She noted that a referral to the dental department was required, and referred Mr. Burke's dental complaint to the doctor for review. Exhibit 10.

29. Nurse Walker's findings notwithstanding, on or about May 21, 2018, defendant Smith reported to the AAG handling the matter that Mr. Burke "has not been making any complaints of pain or needed dental treatment." Exhibit 11 at 3. This was false and defendant Smith knew it. She provided this false information knowing that the AAG was attempting to resolve a complaint from Mr. Burke's counsel that Mr. Burke was not receiving necessary medical care at LCC, in a misguided, unprofessional and unlawful effort to shield her employer Geo from blame and liability for withholding necessary treatment.

30. The AAG forwarded defendant Smith's information to counsel, not knowing that it was false. Exhibit 11 at 3. Counsel responded: "One of our clients is lying to us," *id.* at 2, followed by "Please tell the nurse that the damages to be sought against her company will be proportional to the passage of time that Conrad went without a dentist." *Id.* at 1.

31. On May 23, 2018, Mr. Burke's lawyer wrote to defendant Beale, as follows:

I represent Conrad Burke, an inmate of your facility. He has been denied necessary dental work for weeks on end, on the representation that your facility did not have a dentist on board. I have communicated about this case at length, for a period of weeks, with the Virginia Attorney General's Office. I understand that at long last a dentist has been procured for your inmates who need dental work, and that the dentist will start work next week. I write with the request that Mr. Burke be advanced to the top of the list of persons who will be seen by the dentist. If there are other emergencies, I recommend that you get a second dentist. What is

at issue at this point is no longer whether your company will be sued but how much money will end up being at issue given the never-ending delays in the provision of dental care to this inmate, if not others as well.

*See*, Exhibit 12.<sup>4</sup>

32. Defendant Beale did not respond to counsel's letter. Mr. Burke was not seen on an expedited basis.

33. Mr. Burke was finally seen by a dentist at LCC on July 9, 2018. The dentist confirmed once again that Mr. Burke's filling had fallen out. The dentist did not repair the tooth at this visit, however, explaining that the prison did not have the necessary equipment and supplies for him to perform the appropriate procedure.

34. The dentist on July 9, 2018 prescribed antibiotics for Mr. Burke and recommended that he be "rescheduled ASAP." Exhibit 13.

35. Mr. Burke did not receive the antibiotics he had been prescribed, nor was he seen for a follow-up dentist's appointment until October, following his transfer out of LLC.

36. On July 20, 2018, Mr. Burke grieved not having received the antibiotics prescribed for him. Exhibit 14. The response was that his grievance "does not meet the definition for an emergency." He was told that he had been scheduled to see the dentist.

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<sup>4</sup>Counsel also wrote to the AAG as follows: "These []for profit "health-care" providers are a catastrophe. Y'all should get rid of them, as they will ensnare your department – which remains constitutionally responsible for the provision of adequate health care – in litigation and bad PR. Conrad has no idea when he will be seen by the dentist. \*\*\* Let me ask you please to advise the providers to put Conrad first on the dentist's list. This will minimize their damages...." Exhibit 11 at 1.

37. Mr. Burke did not see a dentist again while at LCC.

38. By letter written July 24, 2018, defendant Cleaton informed Mr. Burke a second time that having reviewed his counsel's complaint and received information from Warden Beale, she found that the care received by Mr. Burke was appropriate and that no violation of policy or procedure had occurred. Exhibit 15. This was false and baseless

39. At all relevant times over the course of almost half a year:

- \* All defendants were aware from Mr. Burke, his family, and his lawyer, that he suffered from a serious dental problem causing him ongoing exquisite pain,
- \* All defendants except defendant Cleaton were perfectly aware, and defendant Cleaton knew, or with deliberate indifference closed her eyes to the fact, that for months on end, LLC was in default of its obligations to have a dentist and dental services available to inmates as needed,
- \* All defendants were aware of their obligations under long-settled law, as well as under their obligations as correctional and healthcare professionals – and in the case of Geo, under contract as well – that they had to provide Mr. Burke with timely and effective care to meet his serious dental needs;
- \* All defendants washed their hands of Mr. Burke and his problems and failed to provide him, or to cause him to be provided, with necessary and appropriate care,

40. In September 2018 Mr. Burke was transferred from LCC to Pocahontas Correctional Center, a public facility run by VDOC. On or about October 18, 2018 he was seen

by a dentist there for “toothache with swelling in lower left side.” The examination revealed deep caries and apical radiolucent lesion in tooth #18, with tenderness on palpitation. The diagnoses was acute periapical periodontitis of the tooth, with extraction required. Exhibit 16. The tooth was pulled and Mr. Burke prescribed a course of antibiotics for one week. Exhibits 16-17.

41. Defendants’ actions set forth above were knowing, wanton, willful, and in callous disregard of Mr. Burke’s dire circumstances, of his legal entitlement to necessary care, and of their own known obligations under long settled law and professional standards to provide that care. Defendants elected to mind Geo’s expenses and bottom line rather than their inmates’ needs. By their actions and inaction in question, defendants displayed deliberate indifference to Mr. Burke’s serious dental needs, thereby causing him ongoing severe pain for almost half a year and ultimately the loss of a tooth – all so as to permit Geo to make more money by not spending it on dental services at LCC.

#### Causes of Action

##### Count I

#### Liability of Geo For Unconstitutional Policy, Practice or Usage

42. As operator of a for profit prison for VDOC operating under color of state law, Geo owed a duty to its inmates to provide them with constitutionally sufficient medical care, without regard to its margin of profit as a commercial venture. Geo’s failed provision of necessary dental care to Mr. Burke over almost half a year set forth above was, with deliberate indifference, expressly and falsely defended by all defendants as being in compliance with

applicable policy and procedures. This failure reflected a policy, practice or usage of Geo not to arrange for the ready provision of dental care to inmates, in derogation of Geo's obligations under color of law, and in derogation of Mr. Burke's rights under the Eighth Amendment of the United States Constitution.

## Count II

### Liability of Warden Beale for Cruel and Unusual Punishment

43. Defendant Beale's actions and inaction set forth above evinced his deliberate indifference to Mr. Burke's severe and ongoing pain, knowingly causing and permitting Mr. Burke to be denied necessary dental care for months on end, all in service of his employer's bottom line. In so doing, with deliberate indifference defendant Beale violated Mr. Burke's rights under the Eighth Amendment of the United States Constitution.

## Count III

### Liability of Medical Administrator Smith for Cruel and Unusual Punishment

44. Defendant Medical Administrator Smith's actions and inactions set forth above evinced her deliberate indifference to Mr. Burke's severe and ongoing pain, knowingly causing and permitting Mr. Burke to be denied necessary dental care for over almost half a year, all in service of her employer's bottom line. Her knowingly providing false information regarding Mr. Burke's dental condition in response to formal inquiry, as set forth in ¶¶27-29, justified VDOC in not taking otherwise required ameliorative action to ensure that Mr. Burke was receiving the dental care to which he was entitled. In so doing, Medical Administrator Smith violated

Mr. Burke's rights under the Eighth Amendment of the United States Constitution.<sup>5</sup>

#### Count IV

##### Liability of Defendant Cleaton for Cruel and Unusual Punishment

43. Defendant Cleaton's actions and inaction set forth above in ¶¶6, 25 and 38 evinced her deliberate indifference to Mr. Burke's duly and responsibly reported severe and ongoing pain and dental crisis. Washing her hands of her professional, legal, and constitutional obligations as an agent of VDOC's Health Services Quality Improvement Unit, she knowingly caused and permitted Mr. Burke to be denied necessary dental care for five months, even after receiving credible information to that effect and having the means to correct the problem. In so doing, defendant Cleaton violated Mr. Burke's rights under the Eighth Amendment of the United States Constitution.

#### Count V

##### Gross Negligence of Geo

45. As operator of a prison housing human beings, Geo owed a duty to its inmates to provide them with at least minimally sufficient medical and dental care. The failed provision of necessary dental care to Mr. Burke almost half a year set forth above reflected Geo's policy, practice or usage not to provide care regardless of need if this was too expensive or too inconvenient, thereby amounting to gross corporate negligence in the discharge of GEO's duty of care to the inmates remanded to its custody.

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<sup>5</sup>See n.2 at 4, *supra*, re possible malpractice claims against defendant Smith.

Count VI

Gross Negligence of Warden Beale

46. As warden of a prison housing human beings, defendant Beale owed a duty to its inmates to see that they were provided with at least minimally sufficient medical and dental care. Defendant Beale failed to do so for months on end, despite being on notice from Mr. Burke, his family and his lawyers of his dire need for immediate dental relief. He thereby manifested gross negligence in the discharge of his duty of care owed to Mr. Burke.

Count VII

Gross Negligence of Medical Administrator Smith

47. As medical administrator of a prison housing human beings, defendant Smith owed a duty to its inmates to see that they were provided with at least minimally sufficient medical and dental care. Defendant Smith failed to do so for almost half a year, despite being on notice from Mr. Burke, his family and his lawyers of his dire need for immediate dental relief. She thereby manifested gross negligence in the discharge of her duty of care owed to Mr. Burke.

Count VIII

Gross Negligence of Defendant Cleaton

48. As an employee of VDOCs's Health Services Quality Improvement Unit responsible for investigating and acting on complaints of inadequate care at Virginia correctional facilities, defendant Cleaton owed a duty to VDOC inmates to see that they were provided with at least minimally sufficient medical and dental care. Defendant Cleaton failed to do so for almost half a

year, despite being on repeated notice from Mr. Burke, his family and his lawyers of Mr. Burke's dire need for immediate dental relief. She thereby manifested gross negligence in the discharge of her duty of care owed to Mr. Burke.

Count X

*Respondeat Superior* Liability of Geo

49. Geo is liable under *respondeat superior* for the gross negligence committed by its employees and agents Beale and Smith set forth above.

\*

Wherefore, Mr. Burke seeks an order awarding him:

- \* actual damages against all defendants appropriate to the proof at trial,
- \* punitive damages against all defendants appropriate to the proof at trial,
- \* an award of reasonable attorney fees and costs,
- \* an injunction barring defendants from denying necessary medical and dental care to Mr. Burke, particularly in the event he is sent back to a prison run by Geo, and
- \* such further relief as is just.

Respectfully submitted,

CONRAD BURKE,

By counsel



Dated: March 5, 2020

Counsel for Plaintiff:

//s// Victor M. Glasberg  
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Bernadette E. Valdellon, *pro hac vice* pending  
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BurkeConrad\Pleadings\AmendedComplaint

Certificate of Service

I, Victor M. Glasberg, hereby certify that on this 5<sup>th</sup> day of March 2020, I electronically filed the foregoing Amended Complaint with the clerk of the court, and served copies via email as indicated below:

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//s// Victor M. Glasberg  
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Counsel for Plaintiff



VIRGINIA DEPARTMENT OF CORRECTIONS  
Emergency Grievance

Ch. J. Perchett 11:26 AM

Revised 6/24/13; Effective Date: July 1, 2013  
Operating Procedure 866.1 Attachment 3

### Emergency Grievance

Log # **124111**

Emergency Grievances are provided for offender reporting and expedited staff responses to allegations that an offender is subject to a substantial risk of imminent sexual abuse and to situations or conditions which may subject the offender to immediate risk of serious personal injury or irreparable harm.

Offender Last Name BURKE First CONRAD Number 1201550 Facility S.I.S.P. Building-Cell/Bed 2B.02 Bottom

### PART A- OFFENDER CLAIM

What is the emergency? I have a tooth infection and experiencing  
excruciating, unbearable pains. I'm also having  
head pain along my temple when ever the tooth  
hurts. I need a Antibiotic to treat infection  
and something for pain. I already take Tylenol  
not helping for these toothpains Thank you  
01/24/18 8:42 A.M. [Signature] # 1201550  
Date/Time Offender Signature and Number

### PART B- STAFF RESPONSE

(This part is to be completed and returned to the offender within eight (8) hours.)

☒ Your grievance does not meet the definition for an emergency. Reason/s:  
Your condition does not meet the definition of an emergency  
however you will be apt on sick call this week

☐ Your grievance has been determined to be an emergency and the following action has been taken:

1/24/18 2:40 PM [Signature] Dr. Wells  
Date/Time Respondent Signature Name/Title Printed

☐ PREA - Alleged incident of sexual abuse or sexual harassment; Shift Commander, Facility Unit Head or Administrative Duty Officer, and facility PREA Compliance Manager notified

Alleged sexual abuse or sexual harassment ☐ Will be referred for Investigation

Determination by: \_\_\_\_\_

Signature

Name/Title Printed

Distribution: Original Grievance returned to Offender, Copy forwarded to Institutional Ombudsman/Grievance Coordinator





VIRGINIA  
DEPARTMENT OF CORRECTIONS

Emergency Grievance 866\_F4\_4-16

Emergency Grievance

Log # 137220

Emergency Grievances are provided for offender reporting and expedited staff responses to allegations that an offender is subject to a substantial risk of imminent sexual abuse and to situations or conditions which may subject the offender to immediate risk of serious personal injury or irreparable harm.

Offender Last Name BURKE First CONRAD Number 1201550 Facility LVCC Building-Cell/Bed 72-116

PART A- OFFENDER CLAIM

What is the emergency? I have a filing that's come out of tooth and I'm suffering with unbearable excruciating pain in my tooth and possible and likely infected blood causing pain. I need to be treated by Dentist SOON! applicable to prevent infected blood from traveling to brain. Thank you  
Date/Time 04-22-18 105 Offender Signature and Number Mr. COB #1201550

PART B- STAFF RESPONSE

(This part is to be completed and returned to the offender within eight (8) hours.)

- ☒ Your grievance does not meet the definition for an emergency. Action Taken/Recommended:
- ☐ Submit Informal Complaint ☐ Evaluated by Medical: Date Seen \_\_\_\_\_
- ☐ Submit Sick Call Request ☐ Send an Offender Request To: \_\_\_\_\_
- ☐ Submit Request to Dental ☐ Other (Provide detailed explanation below)
- There is no dentist on staff @ present time however the search for one is ongoing
- ☐ Your grievance has been determined to be an emergency and the following action has been taken:
- ☐ Sent to Hospital: Date Transported \_\_\_\_\_ ☐ Other (Provide detailed explanation below)

Date/Time 4/22/18 1800 Respondent Signature [Signature] Name/Title Printed [Name]

☐ PREA Alleged incident of sexual abuse or sexual harassment; Shift Commander, Facility Unit Head or Administrative Duty Officer, and facility PREA Compliance Manager notified

Alleged sexual abuse or sexual harassment ☐ Will be referred for Investigation

Determination by: \_\_\_\_\_

Signature \_\_\_\_\_ Name/Title Printed \_\_\_\_\_ Date/Time \_\_\_\_\_

Distribution: Original Grievance returned to Offender. Copy forwarded to Institutional Ombudsman/Grievance Coordinator







VIRGINIA  
DEPARTMENT OF CORRECTIONS

Emergency Grievance 866\_F4\_4-16

Emergency Grievance Log # 137217

Emergency Grievances are provided for offender reporting and expedited staff responses to allegations that an offender is subject to a substantial risk of imminent sexual abuse and to situations or conditions which may subject the offender to immediate risk of serious personal injury or irreparable harm.

Burke Conrad 1201550 LVCC 72-116  
Offender Last Name First Number Facility Building-Cell/Bed

PART A- OFFENDER CLAIM

What is the emergency? This is my subsequent Emergency Grievance lodged in reference to an unbearable, excruciating toothache pain. Emergency Gr. # 137220 was lodged on the 22nd day of April year of our Lord 2018 and never returned or no Dental Service was provided. I'm needing to be seen A.S.A.P. by a Dentist to treat this pain/ possible infection. This makes the 2nd day and deliberate indifference has been shown to my serious Dental needs.  
04/23/18 Date/Time 7:45 pm Mn # 1201550  
Offender Signature and Number

PART B- STAFF RESPONSE

(This part is to be completed and returned to the offender within eight (8) hours.)

☐ Your grievance does not meet the definition for an emergency. Action Taken/Recommended:  
☐ Submit Informal Complaint ☐ Evaluated by Medical: Date Seen \_\_\_\_\_  
☐ Submit Sick Call Request ☐ Send an Offender Request To: \_\_\_\_\_  
☐ Submit Request to Dental ☐ Other (Provide detailed explanation below) \_\_\_\_\_  
Unfortunately we do not have a dentist in staff at present time.

☐ Your grievance has been determined to be an emergency and the following action has been taken:  
☐ Sent to Hospital: Date Transported \_\_\_\_\_ ☐ Other (Provide detailed explanation below) \_\_\_\_\_

4/23/18 Date/Time 2:20 pm [Signature] Respondent Signature D Conrad Name/Title Printed

☐ PREA - Alleged incident of sexual abuse or sexual harassment; Shift Commander, Facility Unit Head or Administrative Duty Officer, and facility PREA Compliance Manager notified  
Alleged sexual abuse or sexual harassment ☐ Will be referred for Investigation

Determination by: \_\_\_\_\_  
Signature Name/Title Printed Date

EXHIBIT

3



VIRGINIA  
DEPARTMENT OF CORRECTIONS

Informal Complaint 866\_F3\_4-17

**Informal Complaint**

**INSTRUCTIONS FOR FILING:** Briefly write your issue in the space provided on the Informal Complaint form, preferably in ink. Only one issue per Informal Complaint. Place your complaint in the designated area at your facility. A receipt is issued within 2 working days from the date received if the informal complaint is not returned during intake. If no response is received within 15 calendar days, you may proceed in filing a regular grievance. You may utilize your receipt as evidence of your attempt to resolve your complaint.

An Informal Complaint is not required for an alleged incident of sexual abuse.

MAY 18 2018

MR. CONRAD BURKE 1201550

Offender Name

Offender Number

72-116 Ombudsman Unit

Housing Assignment Eastern Region

Geo Group Inc.

Individuals Involved in Incident

04/23/18 APPROX 12:30p

Date/ Time of Incident

- ☐ Unit Manager/Supervisor  
☐ Personal Property  
☐ Medical Administrator

- ☐ Food Service  
☐ Commissary  
☒ Other (Please Specify):

- ☐ Institutional Program Manager  
☐ Mailroom

Briefly explain the nature of your complaint (be specific):

On the 22<sup>nd</sup> day of April year of our Lord 2018 I Lodged EG# 137220  
in regards to a filing that's come out my tooth and I'm  
suffering in unbearable, excruciating pain. However my  
EG# 137220 wasn't returned nor was I seen by any  
medical staff for treatment for this unbearable  
toothache. NOTE: I can submit to voice layered or polygraph  
test to clarify this issue.

Offender Signature

04/23/18

Offenders - Do Not Write Below This Line

Date Received: 4-25-18

Tracking # LVCC18101167

Response Due: 5-9-18

Assigned to: HSA Smith

Action Taken/Response:

Please note at this time we don't have a dentist.  
You will be called to medical for evaluation, and  
pain management will be offered. However please submit  
a request to dental so that we can add you  
to the list. Once the dentist come he will  
schedule you at that time.

J. Smith, RN

Respondent Signature

J. Smith, RN

Printed Name and Title

5/7/18

Date

**WITHDRAWAL OF INFORMAL COMPLAINT:**

I wish to voluntarily withdraw this Informal Complaint. I understand that by withdrawing this Informal Complaint, I will not receive a response nor will I be able to file any other Informal Complaint or Grievance on this issue.

Offender Signature: \_\_\_\_\_

Staff Witness Signature: \_\_\_\_\_

Date: \_\_\_\_\_

LVCC GRIEVANCE DEPARTMENT

Revision Date 08/17





**Victor M. Glasberg**

---

**From:** Cora  
**Sent:** Thursday, May 3, 2018 7:15 PM  
**To:** 'moshea@oag.state.va.us'  
**Subject:** Conrad Burke  
**Attachments:** Emergency Grievance - Burke,Conrad2018-0422.PDF

Dear Ms. O'Shea,

Thank you for looking into the matter of Conrad Burke, the inmate at Sussex I State Prison who was being denied care for a severe toothache. Mr. Burke advises us he was given a temporary filling, which did help to alleviate the pain at the time.

Presumably, the intent was to replace the temporary filling with a more permanent solution in a timely manner. Unfortunately, Mr. Burke was transferred to Lawrenceville Correctional Center before further dental work could be completed. Subsequently, his temporary filling fell out, resulting in excruciating pain.

Mr. Burke made several requests to see a dentist to no avail. Finally, he filed an emergency grievance explaining the situation and the fact that he was suffering "unbearable, excruciating pain" and his concern that an infection might be developing. He asked, simply, to see a dentist. The reply he received from staff—the signature is difficult to read, but the signatory appears to be a registered nurse—is as follows: "There's no dentist on staff @ present time however the search for one is ongoing." I'm attaching a copy of the emergency grievance and response.

Vic Glasberg advises me that you will easily recognize that this response to an inmate's painful and potentially dangerous dental condition represents an appalling violation of his eighth amendment rights. We ask that you please ensure Mr. Burke sees a dentist within the week maximum, even if that means taking him to see a provider offsite. Moreover, the entire medical staff must be put on notice that delaying urgent medical or dental treatment because a specialist is not on staff is unacceptable, both from a medical and a legal perspective.

Thank you for your attention in this matter.

Sincerely,

Cora C. Martin, RN, BSN  
Nurse Paralegal  
Victor M. Glasberg & Associates  
121 S. Columbus Street  
Alexandria, VA 22314  
703-684-1100 / fax: 703-684-1104  
[www.robinhoodesq.com](http://www.robinhoodesq.com)





VIRGINIA  
DEPARTMENT OF CORRECTIONS

Regular Grievance 866\_F1\_4-17

## REGULAR GRIEVANCE

Log Number: \_\_\_\_\_

BURKE, CONRAD	1201SSO	72-116	72-116
Last Name, First	Number	Building	Cell/Bed Number
Individuals Involved in Incident Geo Group INC.	05/10/18 date gr. filed Date of incident 04/22/18		

WHAT IS YOUR COMPLAINT? (Provide information from the informal process: Attach Informal Complaint response or other documentation of informal process.)

IN reference to INF-01167 on 04/22/18 I  
Lodged E.G. #137220 in regards to a filing that has come  
out my tooth and I'm suffering in unbearable,  
excruciating, pains. I WASNT AND haven't been  
seen by no medical/dental professional  
as date below.

RECEIVED

MAY 18 2019

Ombudsman Unit  
Eastern Region

What action do you want taken? Compensation / Dental Care

Grievant's Signature: M. C. B.

Date: 05/10/18

Warden/Superintendent's Office: \_\_\_\_\_

Date Received: \_\_\_\_\_

EXHIBIT

tabbies

6

MAY 14 2018

Revision Date: 4/28/17

GRIEVANCE DEPT



Conrad Burke #1201550  
L. V. C. C.  
1607 Planters Rd.  
Lawrenceville, VA. 23868

RECEIVED

MAY 18 2018

Ombudsman Unit  
Eastern Region

05-15-18

I am writing respectfully to  
appeal the intake decision  
for the enclosed grievance  
and states as follows:

(A) The Institutional ombudsman states  
as follows that I needed to  
provide E.G.# receipt I said  
that the receipt was lost.  
Therefore its information I  
can't provide and furthermore  
its information already in  
grievance office.

Therefore I ask that this  
grievance be logged b/c I  
don't have the grievance  
receipt

Thank you



CC DocMail @ va.doc.virginia.gov  
File





VIRGINIA  
DEPARTMENT OF CORRECTIONS

Regular Grievance 866\_FI\_4-17

**INSTRUCTIONS FOR FILING:** You are required per Operating Procedure 866.1 *Offender Grievance Procedure* to attempt to resolve your complaint in good faith prior to filing a regular grievance. You must submit your grievance within 30 days from the date of occurrence or discovery of incident. Only one issue per grievance will be addressed. Write your issue only in the space provided on the grievance form, preferably in ink. Regular grievances are submitted through the institutional mail to the facility Grievance Office and a receipt issued within 2 working days from received date if the grievance is not returned during intake.

**INTAKE:** Grievances should be accepted for logging unless returned for the following reason(s):

<input type="checkbox"/>	Non-Grievable. This issue has been defined as non-grievable in accordance with Operating Procedure 866.1. <input type="checkbox"/> Disciplinary Procedure. You may appeal hearing decisions, penalties, and/or procedural errors under the provisions in Operating Procedure 861.1, <i>Offender Discipline</i> . <input type="checkbox"/> Matters beyond the control of the Department of Corrections
<input type="checkbox"/>	Does not affect you personally (This issue did not cause you personal loss or harm)
<input type="checkbox"/>	Limited. You have been limited by the Warden/Superintendent
<input type="checkbox"/>	More than one issue – resubmit with only one issue
<input type="checkbox"/>	Expired Filing Period. Grievances are to be filed within 30 calendar days from date of occurrence/incident, or discovery of the occurrence/incident except in instances: 1) beyond the offender's control or, 2) where a more restrictive time frame has been established in Operating Procedures to prevent loss of remedy or the issue from becoming moot.
<input type="checkbox"/>	Repetitive. This issue has been grieved previously in Grievance #
<input type="checkbox"/>	Inquiry on behalf of other offenders.
<input type="checkbox"/>	Group Complaints or Petitions. Grievances are to be submitted by individuals.
<input type="checkbox"/>	Vulgar/Insolent or Threatening Language. YOU MAY BE CHARGED IN ACCORDANCE WITH OPERATING PROCEDURE 861.1 <i>OFFENDER DISCIPLINE</i>
<input type="checkbox"/>	Photocopy/Carbon Copy. You must submit the original grievance for responses and appeals.
<input type="checkbox"/>	Grievances Filed Regarding Another Institution. This grievance is being returned to you for you to submit to:
<input type="checkbox"/>	Informal Procedure. You have not used the informal process to <u>resolve</u> your complaint
<input type="checkbox"/>	Request for services
<input checked="" type="checkbox"/>	Insufficient Information (Not to include Medical). You need to provide the following information to the Grievance Office within 5 days before the grievance can be processed: <u>Emergency grievance receipt</u>
<input type="checkbox"/>	The issue in the grievance is different from the issue in the informal complaint

Institutional Ombudsman/Grievance Coordinator: C. Jones Date: 5-14-18

If you disagree with this decision, you have 5 calendar days from date of receipt to submit to the Regional Ombudsman for a review of the intake decision. The Regional Ombudsman's decision is final.

Regional Review of Intake (within 5 working days of receipt)

<input checked="" type="checkbox"/>	The intake decision is being upheld in accordance with Operating Procedure 866.1 <i>Offender Grievance Procedure</i> .
<input type="checkbox"/>	The intake decision is being returned to you because the 5 day time limit for review has been exceeded.
<input type="checkbox"/>	The grievance meets the criteria for intake and is being returned to the Warden/Superintendent for logging.

Regional Ombudsman: K. Cooby Date: 5/18/18

**WITHDRAWAL OF GRIEVANCE:** I wish to voluntarily withdraw this grievance. I understand that by withdrawing this grievance, there will be no further action on this issue nor will I be able to file any other grievance in the future on this issue.

Offender Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Staff Witness: \_\_\_\_\_ Date: \_\_\_\_\_

**Victor M. Glasberg**

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**From:** Victor M. Glasberg  
**Sent:** Friday, May 11, 2018 3:40 PM  
**To:** O'Shea, Margaret A.  
**Cc:** Cora  
**Subject:** Conrad Burke

Margaret,

I request your immediate attention to the case of Conrad Burke, who has been left with a missing filling, excruciating pain, and a woefully viable Eighth Amendment claim against a variety of VDOC personnel, including those who initially told him that there was no dentist available to treat him, and now, at another facility, those who continue to deny him a dentist to replace the temporary filling he received earlier.

It is (a) your cooperation and, to a lesser extent, that of the VDOC personnel who took some steps to address this abysmal situation, and (b) the press of other work, that have for the time being precluded my filing a lawsuit for him. WHAT'S WONG WITH THESE PEOPLE????? DO THEY NOT KNOW WHAT A TOOTHJACHE IS?

I will do what is necessary to sue them if Burke has not seen a dentist and been properly treated by COB Wednesday. If he is seen Thursday morning I will sue them for damages anyway. Truly, this is outrageous.

Thank you, and have a nice weekend.

Vic

Victor M. Glasberg & Associates  
121 S. Columbus Street  
Alexandria, VA 22314  
703.684.1100  
Fax: 684.1104  
vmg@robinhoodesq.com  
www.robinhoodesq.com







# COMMONWEALTH of VIRGINIA

HAROLD W. CLARKE  
DIRECTOR

*Department of Corrections*

P. O. BOX 26963  
RICHMOND, VIRGINIA 23261  
(804) 674-3000

May 17, 2018

Conrad Burke 1201550  
Lawrenceville Correctional Center  
1607 Planters Road  
Lawrenceville, VA 23868

Dear Mr. Burke,

Health Services received an inquiry from your family member related to your medical care on May 09, 2018. The following complaint of not being treated for bleeding of the gums has been reviewed.

Based on the information provided and upon further investigation we have determined that you are being treated appropriately based on policy, per Dr. Ezekiel.

**If you have any further issues, please resubmit a sick call request for further evaluation of your medical needs and treatment plan.** You are encouraged to follow the recommendations of the health care staff as well. There is no violation of policy/procedure regarding this issue. No further action is needed from this level.

With kind regards,

A handwritten signature in black ink, appearing to read "Heal".

Virginia Department of Corrections  
Health Services Quality Improvement Unit



2007

## Nursing Evaluation Tool:

## Dental Complaint

Facility: <u>LYCC</u>			
Inmate Name: <u>Burke</u>	<u>Conrad</u>		
Inmate Number: <u>1201550</u>	First	MI	LI
Date of Report: <u>5</u> / <u>21</u> / <u>2018</u>	Time Seen: <u>1731</u> AM / PM Circle One		

Complaint: Chief Complaint(s): Filling fell outOnset: 4-20-18History: Here today because he has a back bottom filling that has fell out and he has been having pain. Stated he has used oral gel and that did not help  
(Continue on back if necessary) ☐ Check Here if additional notes on back

Is the problem: ☐ New ☐ Chronic Problem related to: ☐ Recent trauma ☒ Recent dental work ☐ Other: \_\_\_\_\_  
 Injury sustained in altercation with custody staff, or other inmate: ☒ NO ☐ YES (Requires notification of correctional staff)  
 Dental Pain: Right: ☐ Upper Back ☐ Upper Front ☐ Lower Back Left: ☐ Upper Back ☐ Upper Front ☒ Lower Back  
☐ Lower Front  
 Type of Pain: ☒ Aching ☐ Throbbing ☐ Dull ☒ Sharp ☐ Constant ☐ Intermittent  
 Sensitive to Hot or Cold: ☐ No ☐ Hot ☒ Cold ☐ Sensitive to both Hot & Cold Pain Scale: (1-10) \_\_\_\_\_  
 Associated Symptoms: ☐ Sinus problems ☐ Difficulty chewing ☐ Earache ☒ Sore throat ☐ Other: \_\_\_\_\_

Observation: Vital Signs: T: 97 P: 103 RR: 18 B/P: 135 / 82 wt 167.5 lbs

Visual evidence of tooth decay/fracture ☒ No ☐ Yes Visible external swelling ☒ No ☐ Yes  
 Visual evidence of missing filling ☐ No ☒ Yes Swelling/redness/pus surrounding affected tooth: ☐ No ☒ Yes  
 Pain upon opening jaw widely ☐ No ☒ Yes Evidence of trauma/injury to jaw/face ☒ No ☐ Yes

☐ Additional Examination: Lower left side, bottom back tooth missing filling. There is minimal swelling. Offered tylenol and motrin but refused due to liver condition  
 (Continue on back if necessary) ☐ Check Here if continued on back

Intervention: (Referral Status)

☐ Referral Not Required☐ Referral Required due to the following: (Check all that apply)

- ☐ Fever ☐ Evidence of pus collection or swelling  
☐ Earache/sore throat/sinus problems ☒ Recent dental surgery/procedure  
☐ Pain upon opening mouth widely ☐ Significant injury/trauma to jaw ☐ Recurrent Complaint (More than 2 visits)  
☐ Other: \_\_\_\_\_  
 (Describe)

Comment: You should contact a physician and/or a nursing supervisor if you have any concerns about the status of the patient or are unsure of the appropriate care to be given.

Check All That Apply:

- ☒ For tooth pain; instruct patient to avoid hot/cold food; to chew on the opposite side of the tooth pain and to do salt water gargles PRN  
☒ Warm rinses PRN (Note: **DO NOT** apply warm compress to outside of face for dental abscess)  
☐ Cold Compress PRN for minor trauma  
☒ Instructions to return if condition worsens.  
☒ Education: The patient demonstrates an understanding of the nature of their medical condition and instructions regarding what they should do as well as appropriate follow-up. ☒ YES ☐ NO (If NO then schedule patient for appropriate follow-up visits)  
☒ Other: Return to MSC PRN  
 (Describe)

☐ OTC Medications given ☐ NO ☐ YES (If Yes List): \_\_\_\_\_Referral: ☐ NO ☒ YES (If Yes, Whom/Where): Dental Department MD: \_\_\_\_\_Referral Type: ☐ Routine ☐ Urgent ☐ Emergent (if emergent who was contacted?): \_\_\_\_\_ Time \_\_\_\_\_

S. WALKER, LPN

Lx S. Walker  
 Nurse Signature  
 Print to: 8. 12. 2018 for review



2008

**Victor M. Glasberg**

---

**From:** Victor M. Glasberg  
**Sent:** Wednesday, May 23, 2018 9:49 AM  
**To:** O'Shea, Margaret A. <MOShea@oag.state.va.us>  
**Cc:** Cora <CMartin@robinhoodesq.com>  
**Subject:** RE: Conrad Burke

Margaret,

I spoke with Conrad. He was offered only Tylenol for his pain. He has lesions on his liver and has been directed never to take Tylenol. This should be in his medical chart. He so advised the nurse who saw him. She apparently did not communicate his reasons to you, thus giving rise to the inference, suggested by your email below, that Conrad was exaggerating his pain or being uncooperative. I will address that in the lawsuit. These for-profit "health-care" providers are a catastrophe. Y'all should get rid of them, as they will ensnare your department -- which remains constitutionally responsible for the provision of adequate health care -- in litigation and bad PR.

Conrad has no idea when he will be seen by the dentist. I told him that I expected it would be in several days, as the health-care provider has, now, apparently deigned to identify a dentist. Let me ask you please to advise the providers to put Conrad first on the dentist's list. This will minimize their damages and facilitate the resolution of the forthcoming litigation, which will not be filed until Conrad's dental work is properly finalized.

Can you kindly confirm the name and complete contact information for the Lawrenceville health-care provider.

Thank you.

Vic

Victor M. Glasberg & Associates  
121 S. Columbus Street  
Alexandria, VA 22314  
703.684.1100  
Fax: 684.1104  
[vmg@robinhoodesq.com](mailto:vmg@robinhoodesq.com)  
[www.robinhoodesq.com](http://www.robinhoodesq.com)

**From:** Victor M. Glasberg  
**Sent:** Tuesday, May 22, 2018 3:37 PM  
**To:** 'O'Shea, Margaret A.' <MOShea@oag.state.va.us>  
**Cc:** Cora <CMartin@robinhoodesq.com>  
**Subject:** RE: Conrad Burke

Thanks, Margaret.

I find the information on Conrad Burke's refusal of pain meds to be bizarre and hard to believe. Please tell the nurse that the damages to be sought against her company will be proportional to the passage of time that Conrad went without a dentist. SO limiting them is in their hands. Please also ask her to confirm to you as soon as Conrad has an appointment, when he goes to his appointment, and what the result of that appointment is. Alternatively -- better,



yet -- please give me her name and email address, as well as the contact information for the, um, health care provider at the prison, and I will inquire myself.

Vic

Victor M. Glasberg & Associates  
121 S. Columbus Street  
Alexandria, VA 22314  
703.684.1100  
Fax: 684.1104  
[vmg@robinhoodesq.com](mailto:vmg@robinhoodesq.com)  
[www.robinhoodesq.com](http://www.robinhoodesq.com)

**From:** O'Shea, Margaret A. <[MOShea@oag.state.va.us](mailto:MOShea@oag.state.va.us)>  
**Sent:** Tuesday, May 22, 2018 3:05 PM  
**To:** Victor M. Glasberg <[VMG@robinhoodesq.com](mailto:VMG@robinhoodesq.com)>  
**Subject:** RE: Conrad Burke

To follow up, the nurse at Lawrenceville said that Mr. Burke was again evaluated by a nurse yesterday evening, and he was offered pain medication, which he refused. Mr. Burke will be scheduled for a visit with the dentist, who, as noted, will begin seeing patients next week. I have asked her to confirm a date for that appointment.

**Margaret A. O'Shea**  
**Assistant Attorney General**  
**Office of the Attorney General**  
202 North 9th Street  
Richmond, Virginia 23219  
(804) 225-2206 Office  
[MOShea@oag.state.va.us](mailto:MOShea@oag.state.va.us)  
<http://www.ag.virginia.gov>



**From:** Victor M. Glasberg [<mailto:VMG@robinhoodesq.com>]  
**Sent:** Monday, May 21, 2018 4:38 PM  
**To:** O'Shea, Margaret A.  
**Subject:** RE: Conrad Burke

Thank you for getting back to me.

One of our clients is lying to us.

Can you imagine.

Vic

Alexandria, VA 22314  
703.684.1100  
Fax: 684.1104  
[vmg@robinhoodesq.com](mailto:vmg@robinhoodesq.com)  
[www.robinhoodesq.com](http://www.robinhoodesq.com)

**From:** O'Shea, Margaret A. <[MOShea@oag.state.va.us](mailto:MOShea@oag.state.va.us)>  
**Sent:** Monday, May 21, 2018 4:34 PM  
**To:** Victor M. Glasberg <[VMG@robinhoodesq.com](mailto:VMG@robinhoodesq.com)>  
**Subject:** RE: Conrad Burke

Vic –

To follow up, I have spoken with a supervising nurse at Lawrenceville, and she informed me that she has personally seen Mr. Burke several times over the past three weeks (including today), and he has not been making any complaints of pain or needed dental treatment.

However, she is calling him back down to the medical department tonight just to make sure he is fine – At her request, I forwarded to her the previously-filed emergency grievance, so that she would have it in hand when she was talking to him.

She said she would be back with me by mid-day tomorrow to update me as to Mr. Burke's status.

Also, she told me that the facility has just finished hiring a new dentist, who is scheduled to start next week.

I will be back in touch tomorrow to let you know whether Mr. Burke is still requesting to be seen by a dentist, and if so, when his appointment has been scheduled.

Thanks -

**Margaret A. O'Shea**  
**Assistant Attorney General**  
**Office of the Attorney General**  
202 North 9th Street  
Richmond, Virginia 23219  
(804) 225-2206 Office  
[MOShea@oag.state.va.us](mailto:MOShea@oag.state.va.us)  
<http://www.ag.virginia.gov>



**From:** Victor M. Glasberg [<mailto:VMG@robinhoodesq.com>]  
**Sent:** Monday, May 21, 2018 12:19 PM  
**To:** O'Shea, Margaret A.  
**Subject:** Conrad Burke

Margaret --



**Victor M. Glasberg & Associates ATTORNEYS**

121 South Columbus Street Alexandria VA 22314 telephone: (703) 684-1100 fax: (703) 684-1104  
www.robinhoodesq.com

Victor M. Glasberg  
vmg@robinhoodesq.com

Maxwelle C. Sokol  
msokol@robinhoodesq.com

*Of Counsel*

Stephen G. Cochran  
Bruce A. Fredrickson

May 23, 2018

234,848,9522  
By fax to ~~434,848,0232~~

James Beale, Warden  
Lawrenceville Correctional Center  
1607 Planters Road  
Lawrenceville, VA 23868

Dear Warden Beale:

I represent Conrad Burke, an inmate of your facility. He has been denied necessary dental work for weeks on end, on the representation that your facility did not have a dentist on board. I have communicated about this case at length, for a period of weeks, with the Virginia Attorney General's Office. I understand that at long last a dentist has been procured for your inmates who need dental work, and that the dentist will start work next week. I write with the request that Mr. Burke be advanced to the top of the list of persons who will be seen by the dentist. If there are other emergencies, I recommend that you get a second dentist.

What is at issue at this point is no longer whether your company will be sued, but how much money will end up being at issue given the never-ending delays in the provision of dental care to this inmate, if not others as well.

Thank you for your attention to this matter.

Sincerely,

  
Victor M. Glasberg

cc: Conrad Burke  
Margaret O'Shea, Esq.

EXHIBIT

12

tabbles

Burke, Conrad

DATE/TIME FACILITY		
7/9/18	WCC	<p>Patient present to clinic per request of Warden Bole to see patient Burke. Patient complain of pain in Q3 Clinical #17 #18. Filling were done at Sussex I</p> <p>February and March 2018.</p> <p>Rx Amoxicillin 500-16/<sup>stat</sup> bid 7days</p> <p>Ibuprofen 400/100mg/<sup>bid</sup> bid 6 pain</p> <p>Rx: Paradox</p> <p>Brotene</p> <p>Sensodyne</p> <p>rescheduled ASAP</p>

VIRGINIA  
DEPARTMENT OF CORRECTIONS

Emergency Grievance 866 F4 4-16

## Emergency Grievance

Log # 137558

Emergency Grievances are provided for offender reporting and expedited staff responses to allegations that an offender is subject to a substantial risk of imminent sexual abuse and to situations or conditions which may subject the offender to immediate risk of serious personal injury or irreparable harm.

Offender Last Name BURKE First CONRAD Number 1201550 Facility LUCC Building-Cell/Bed 72-116

## PART A- OFFENDER CLAIM

What is the emergency? I have not received the antibiotics that was ordered by Dental on 07-09-18.

07-20-18 9:50 AM m CEB # 1201550  
Date/Time Offender Signature and Number

## PART B- STAFF RESPONSE

(This part is to be completed and returned to the offender within eight (8) hours.)

☒ Your grievance does not meet the definition for an emergency. Action Taken/Recommended:

☐ Submit Informal Complaint☐ Evaluated by Medical: Date Seen \_\_\_\_\_☐ Submit Sick Call Request☐ Send an Offender Request To: \_\_\_\_\_☐ Submit Request to Dental☐ Other (Provide detailed explanation below) \_\_\_\_\_

you have been scheduled to see dental

☐ Your grievance has been determined to be an emergency and the following action has been taken:

☐ Sent to Hospital: Date Transported \_\_\_\_\_☐ Other (Provide detailed explanation below) \_\_\_\_\_

7/20/18 1230 PM  
Date/Time

T. Lammert, Jr.  
Respondent Signature

T. Jarratt, TA  
Name/Title Printed

☐ PREA - Alleged incident of sexual abuse or sexual harassment; Shift Commander, Facility Unit Head or Administrative Duty Officer, and facility PREA Compliance Manager notified

Alleged sexual abuse or sexual harassment ☐ Will be referred for Investigation

Determination by: \_\_\_\_\_

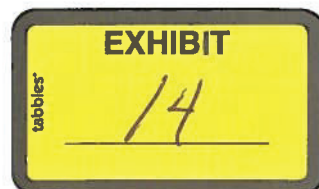
Signature

Name/Title Printed

Date/Time

Distribution: Original Grievance returned to Offender

by forwarded to Institutional Ombudsman/Grievance Coordinator



2013



# COMMONWEALTH of VIRGINIA

HAROLD W. CLARKE  
DIRECTOR

*Department of Corrections*

P. O. BOX 26863  
RICHMOND, VIRGINIA 23261  
(804) 674-3000

July 24, 2018

Conrad Burke 1201550  
Lawrenceville Correctional Center  
1607 Planters Road  
Lawrenceville, VA 23868

Dear Mr. Burke,

Health Services received an inquiry from your Lawyer regarding your medical care on July 9, 2018. The following complaint of being unable to see a Dentist has been reviewed.

Based on the information provided and upon further investigation we have determined that you were evaluated on July 10 for your dental needs, per Warden Beale.

**If you have any medical issues, please resubmit a sick call request for further evaluation of your medical needs and treatment plan.** You are encouraged to follow the recommendations of the health care staff as well. There is no violation of policy/procedure regarding this issue. No further action is needed from this level.

With kind regards,

A handwritten signature in black ink, appearing to read "H. Clarke".

Virginia Department of Corrections  
Health Services Quality Improvement Unit





Effective Date: October 1, 2010  
Operating Procedure 720.6 Attachment 3

## LE/TIME FACILITY

## TREATMENT

## Alert

**SIGNATURE & TITLE**

NEIL D. DEMAREE, DDS



VIRGINIA  
DEPARTMENT OF CORRECTIONS

Consent for Oral Surgery and Special Dental Procedures  
720\_F31\_7-13

Consent for Oral Surgery and Special Dental Procedures

I, (Offender Name) Burke, Conrad (Offender Number) 1201550  
currently assigned to (Facility) PSOC

Knowing that I require the Dental, Surgical or Special Procedure as follows (describe in layman's terms):  
Extraction of (upper) #18 & 19 Molar

I do hereby authorize H. Demaree and anyone that he/she has designated as his/her assistants to perform and to carry out such a procedure. If any unforeseen condition should arise in the course of the procedure calling, in his/her judgment, for procedures in addition to, or different from, the one now contemplated, I further request and authorize him/her to do whatever he/she deems advisable.

The risks involved in the above described procedure include but are not limited to:

- A. Post-operative discomfort, swelling, bruising and/or bleeding. Post-operative restricted mouth opening. Injury to corner of the mouth.
- B. Post-operative infection, dry socket, injury to adjacent teeth/fillings, bone splinters, sharp ridges, fractures to jaw.
- C. Decision to leave root pieces in the jaw/ maxillary sinus when its removal requires extensive surgery or would endanger adjacent structures.
- D. Opening into the maxillary sinus which may require additional medications and/or surgical procedures.
- E. Injury to nerve resulting in numbness or tingling of the lip, tongue, gums, etc. that may be temporary or permanent.
- F. Allergic reaction to drugs administered.

The nature and purpose of the procedure, possible alternatives methods of treatment, the risk involved and the possibility of complications have been fully explained to me.

I consent to the administration of such anesthetics and other medications as may be considered necessary or advisable with the exception of \_\_\_\_\_. The nature and purpose of the anesthetic and the risks involved and the possibility of complications have been explained to me.

I consent to the disposal of, or retention by, the authorities of the Department of Corrections of any tissue, or other material which may be removed during the procedure.

I acknowledge that no guarantees or assurances have been made to me as to the results that may be obtained.

I have read or had explained to me this consent form and I fully understand the above procedure and the risk.

Hepatitis B and C/HIV Testing: According to Virginia law, any patient to whose body fluids a health care worker has been exposed, will be deemed to have consented to Hepatitis B and C/HIV testing.

Offender Signature [Signature] Number 1201550 Date 10-17-18  
Witness Signature [Signature] Date 10/17/18

