

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

KEVIN JOHNSON,

Plaintiff,

v.

VIRGINIA DEPARTMENT OF
CORRECTIONS, DIRECTOR CHADWICK
S. DOTSON, in his official capacity, *et al.*,

Defendants.

Civ. Case No. 3:24-cv-00080
The Honorable Henry E. Hudson

DECLARATION OF DAVID P. MILZMAN, MD, FACEP

1. My name is Dave Milzman, MD. I am a practicing emergency physician and trauma /critical care specialist currently practicing in the intensive care unit at the Maryland Shock Trauma Center in in Baltimore, Maryland, considered by many as the preeminent shock trauma center in the nation. I have practiced clinical medicine in addition to serving as Professor and formerly Associate Dean in both teaching and research capacities for the past 30 years in the Washington, DC/Baltimore, Maryland areas.

2. I have been affiliated with multiple teaching hospitals in the area. Most recently, I serve as Professor of Emergency Medicine at University of Maryland School of Medicine and as Attending EM and Intensivist, as well as Research Faculty. In addition to Maryland Shock Trauma, I currently work clinically at University of Maryland Hospital in Baltimore.

3. I also serve in the U.S. Army Reserves, Army Professional Medical Corp (APMC) as well as on the teaching faculty at the Uniformed Services University of Health

Sciences in Bethesda, MD. Among other deployments, I volunteered for the 338th UAMTF in March to support a FEMA/Uniform Services initiative, caring for COVID patients at the Javits Center in New York, NY during the height of the pandemic. Thereafter, I volunteered to join the Army Mission to support local, overwhelmed medical staff in South Texas where there were insufficient Intensive Care Physicians, and I have been deployed here in Corpus Christi since July 26, 2020 now serving with the 7454th UAMTF. Additionally, I have volunteered for over 10 years for the U.S. Indian Health Services and served as a senior consultant in North and South Dakota as well as at New Mexico IHS Hospitals.

4. I am a full professor on the Clinician Scholar tract, on the teaching faculty or was previously on the teaching faculty, at University of Maryland School of Medicine, Georgetown University School of Medicine, GW University School of Medicine, and the Uniformed Services University of the Health Sciences (Bethesda, MD).

5. From 1990 until 2018, I had served as Professor of Emergency Medicine at Georgetown University School of Medicine and Associate Dean and finished my 30 years serving as Associate Dean of Informatics and Clinical Research. I also served as Professor in the Department of Biology at Georgetown University, as well as Director, Brain Injury Center Departments of EM and Trauma Washington Hospital Center. For the past nearly 5 years to present, I am a Trauma Attending at Maryland Shock Trauma Center and Professor of Surgery and Emergency Medicine at U Maryland School of Medicine. I care for more than 4,500 trauma patients annually working 2,400 hours annually.

6. I have had an active clinical practice in Emergency Medicine, now intensive care following ED admission, for more than 30 years since completing my residency training in Emergency Medicine and Fellowship in Trauma and Critical Care Medicine.

7. I hold a number of national positions in the following medical associations and societies: American College of Emergency Physicians, Society for Academic Emergency Medicine, Society of Critical Care Medicine, American Association for the Surgery of Trauma, Canadian Association for Sports and Exercise Medicine, American College of Sports Medicine, and the American Medical Society for Sports Medicine.

8. I have mentored nearly 500 medical students into Emergency Medicine as well as over 350 undergraduate students into medical school. I have published more than 100 research papers and an additional 20 books and book chapters. I have also published over 170 research abstracts, with over 200 invited research presentations or invited professorial lectures at other universities. At Georgetown University and Georgetown University School of Medicine, I have taught more than eight different classes over the past 25 years, giving nearly 600 lectures in that time period.

9. I have also been a valuable public servant volunteering for many positions for the District of Columbia government including terms as Commissioner of the D.C. Superior Court Judicial Tenure and Disability Commission and Chair of the Mayor's Advisory Committee on Emergency Health and Medical Services (a position that I held for five mayors over 25 years). I have also chaired two mayors' health care transition teams and testified before D.C. City Council as an invited expert more than 20 times in the past 25 years. I have also testified twice to Congressional Committees (U.S. House) and once to the U.S. Senate Sub-Committee on Crime as an invited expert.

10. Of special relevance to this matter, I have many decades of caring for complicated patients with feeding and supplemental nutrition issues. I probably decide on feeding plans for more than 30 patients in the Intensive Care Unit and other hospitalized patients every other

week. I am thoroughly familiar with re-feeding issues. I have treated numerous patients who must undertake to eat after a material abstinence, caused by, for example, a gunshot wound to the stomach and related surgery as well as pre-operative fasting in preparation for surgery.

11. My opinions are based upon my knowledge, education, training and experience, as well as on the medical records, deposition testimony, pertinent medical literature and other evidence in this case. The opinions expressed herein are to a reasonable degree of medical probability/certainty.

12. I am not being paid in connection with this matter. In my view, this has become an acute situation that requires immediate and conscientious effort by knowledgeable persons. I was asked for my input and feel that it is my responsibility as a physician to provide it.

13. I have reviewed Mr. Johnson's VADOC medical records and VCU medical records furnished by VADOC in this litigation.

14. According to medical records, Kevin "Rashid" Johnson is 52-year-old African-American man who has been diagnosed and treated for prostate cancer, chronic high blood pressure, lipidemia (an excess of fats in the blood that increases the risk of heart attack and stroke), edema (the build-up of fluids, in Mr. Johnson's case in his legs, which may be caused by congestive heart failure, kidney disease, venous insufficiency, or liver disease), and various heart conditions.

15. The medical records indicate that on December 26, 2023, Mr. Johnson commenced a hunger strike at Red Onion State Prison ("Red Onion"). (The prison did not note the commencement of the strike until Mr. Johnson declined his ninth food tray.)

16. Mr. Johnson asserts that he was denied water during his hunger strike while at Red Onion. The Virginia Department of Corrections has contended otherwise. However, in

contrast to detailed records kept at Powhatan Medical Unit, I understand that no such records have been provided by Red Onion, where Mr. Johnson's complaints of being denied water arose and from which he was hospitalized multiple times for dehydration.

17. Denial of water greatly complicates/exacerbates the risks in this matter. The body basically craves hydration much earlier than food. Denial of fluid, or even limiting fluid intake, the simplest element being water, resets the brain-hydration centers and has early impacts on health and mental functioning. Days with limited or full denial of fluid intake have immediate risks for injury to a person's kidneys and deficiently affect sleep cycle and ability to normally function.

18. The body does an outstanding job of attempting to compensate for inadequate fluid intake; the brain can adjust to a persons' normalization of hydration status (i.e., the body really lets you know when you need water and when you do not). With regard specifically to Mr. Johnson, he chose to refrain from eating; however, to further deny his free access to fluids is especially hurtful and dangerous to his health. Mr. Johnson's apparent fear to return to the setting of purported water denial is certainly understandable. Avoiding this locale, at a minimum during Mr. Johnson's re-eating period, discussed below, will likely aid materially in Mr. Johnson's recovery.

19. During his recent hospitalization as in-patient at VCU Medical Center, it was determined from testing that he is not capable of ingesting large volumes of fluids or solid food in large quantities. When the body is denied access to fluid for periods, it seeks to replenish in larger quantities. This fact is important for Mr. Johnson, because his thirst is increased and his body tells him to drink more, which unfortunately exacerbates his symptoms and makes him more likely to vomit and not tolerate fluids. It is for this reason that he must have free access to

fluids.

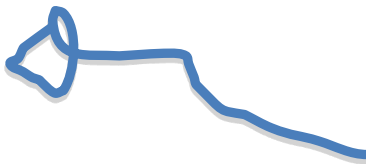
20. Re-feeding efforts for Mr. Johnson will also prove challenging for the same reasons. During his inpatient stay at VCU Hospital, feeding proved extremely challenging for Mr. Johnson. The fact that this important bodily function was difficult in a hospital setting indicates that it will be even more difficult anywhere else. It will be important to allow him the opportunity to eat smaller, more frequent meals, at his own pace or he will face further problems with obtaining proper diet. I highly recommend that he have a nutrition assessment on a regular basis to prevent his body organs from dysfunction and his chronic-illness-like high blood pressure and possible diabetes from worsening.

21. Re-feeding is also rendered more difficult in stressful situations, such as when Mr. Johnson is being closely monitored by guards. Stress induces increased salivation and makes difficult swallowing worse. Research has shown that reducing stress in patients who are having difficulty eating improves their ability to swallow. It would be beneficial to any efforts to re-feed if Mr. Johnson is afforded the ability to do so in a calm and less stressful environment.

22. The foregoing circumstances place him at risk of imminent harm.

I swear under penalty of perjury pursuant to 28 U.S.C §1746 that the foregoing statements are true and correct.

Signed,



David Milzman, M.D. FACEP

February, 22, 2024