

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

Jason Kokinda,  
Plaintiff,

:

CIVIL ACTION

:

vs.

:

Case No. 2:16-cv-01303

Pennsylvania Department of Corrections,  
et al.  
Defendant(s),

:

**STATEMENT OF MATERIAL FACTS IN SUPPORT OF MOTION FOR  
SUMMARY JUDGMENT**

A. While there may be an epic narrative of facts that are *material* to the extent of damages, the threshold of proof in a “Motion for Summary Judgment” is established by lack of meaningful controversy regarding these essential elements:

1. Mr. Kokinda has proven that he has the most serious type of IgE soy allergy. Which was easily proven with a simple skin-prick test. (See Notarized Timberlane Allergy technical notes, Appendix (hereinafter App.) Pgs. 4-8).

2. The skin-prick IgE histamine reaction test is the most verifiable and certain allergy test, with the most firmly established scientific acceptance.
3. IgE allergic reactions are the type of reactions that may lead to fatal anaphylaxis. Mr. Kokinda was prescribed an epi-pen, which is used to save the lives of people suffering deadly anaphylactic shock.
4. Timberlane Allergy specialist, Dr. Lazarovich, noted that Mr. Kokinda suffers from myalgia symptoms and severe diarrhea, and that this fits the criteria for such a rare soy allergy.
5. Dr. Lazarovich's technical notes reasonably infer affirmations that soy causes Mr. Kokinda to suffer from acute respiratory problems, asthmatic reactions, which could potentially become fatal; as evinced by his prescription of epi-pen.
6. The Mayo clinic's online website independently confirms that these symptoms expressly fit the symptoms of a soy allergy. (See App., Pgs. 160-165).
7. The IgG wide-spectrum (and IgE general antibody level) **blood test** performed by Dr. Gardner is **immaterial** to ultimate allergy

diagnosis. Dr. Gardner admits that it is typically used to narrow down suspect allergens, and is worthless when the patient has been avoiding a known food allergen for years. Timberlane Allergy agreed. (See App. Pgs. 001-2.

8. Dr. Garder notes that the high level of Eosinophils indicates that Mr. Kokinda is more prone to allergic reactions in general. (See App. Pgs. 3).
9. Dr. Jin spoke for a few minutes with Mr. Kokinda on September 10<sup>th</sup>, September 30<sup>th</sup>, and December 1<sup>st</sup>, 2014, and simply told Mr. Kokinda to impossibly avoid soy. (See ECF 111-1 pgs. 141, 166-168, App. pgs. 17-21, 87)
10. Mr. Kokinda expressly made Dr. Jin aware of the impossibility of avoiding soy. He had the Exhibit-B Weston Price lawsuit article to demonstrate that the prison diet was likely loaded with soy. (See Appendix, pgs. 17-21, 89-91).
11. After admitting that Sci-Fayette Medical lied about soy in hamburger, the Defendants similarly evade full admission that the prison diet contains large volumes of Soy concentrates, Textured

Vegetable Protein (TVP, aka: Soy), and Soy Flour; and the extent of soy content in the sauces, gravies, baked goods, and meat substitutes and fillers. The Defendants have *themselves* cited many lawsuits nationwide against prisons for high soy-content like that documented in the Illinois prisons. (See ECF 122, pgs. 2-4, App., Exhibit-F, pg. 28, Exhibit-2B, pgs. 35-85, and pg. 92)

12. Mr. Kokinda was reliant on commissary diet that was high in sodium and preservatives, junk food: Oreo cookies, Ramen soups, Velveeta Cheesy Rice, Snicker's bars, chips, pop tarts, and other unhealthy garbage. (See App. Pgs. 166-180, Exhibit-J, App., Pgs. 95-102, JPay receipts proving hundreds of dollars of month being spent for what could only be commissary diet).
13. Mr. Kokinda catalogued all of his severe allergy symptoms in an allergy questionnaire that Dr. Jin had him fill out. (It is immaterial at this point that Dr. Jin also crossed out parts he didn't like). (See App., Exhibit-G, Pgs. 30-32)
14. Despite Mr. Kokinda's persistent attempts to see Dr. Jin that he may do as he said and order the diet, Mr. Kokinda was inexplicably never

seen again. (See App., Exhibit-A, Pgs. 14-16, and Exhibit-G, Pgs. 30-32, Exhibit-I Pgs. 33-34, and ECF 112 Pg. 8, ¶24., last sentence).

15. Mr. Kokinda had made Dr. Jin expressly aware of how his reliance on commissary diet, in attempts to avoid soy, was increasing his blood pressure and inducing acute hypertension attacks (that could plausibly lead to stroke, heart attack, or other long-term damage to cardiovascular system and health). (See App., Pgs. 12-13, 33-34).
16. The records confirm that Mr. Kokinda had wrote to Irma Vihlidal about his situation (expressly making her culpable), and that Dr. Jin said to go ahead and sue him, apparently because he thinks he is above the law. (See App., Pg. 21).
17. The records confirm that Mr. Kokinda was suffering from chronic hypertension, with a noted intolerance to medications.
18. On February 1<sup>st</sup>, 2013, Mr. Kokinda was prescribed a thirty-day supply of Motrin 400mg for severe headaches that later were understood to be symptom of escalating hypertension. (ECF 111-1, Pg. 174)

19. When Mr. Kokinda exhausted his supply of Motrin 400mg, he was forced to return to Medical once again on May 1, 2013. Mr. Kokinda's dizziness was noted; also, his increased ingestion of salt (from heavier reliance on commissary diet, with receipt of special order quarterly package he had relied on in place of soy-based prison diet). (ECF 111-1, Pg. 173)
20. Mr. Kokinda had a BP of 142/98, which Michelle Howard-Diggs compared to a 2010 BP of 128/94. Michelle Howard-Diggs gave Mr. Kokinda one Lisinopril 5mg tablet to take for the night, until a prescription order could be filled the following day. (ECF 111-1, Pg. Pg. 173)
21. On May 7, 2013, Mr. Kokinda was seen by LPN, Donald Geary with a BP of 144/90. Mr. Kokinda expressed his intolerance to the medication "that Lisinopril was causing his limbs to fall asleep, and that he felt like he could not breathe, and that he was traumatized that he was going to die from it." (ECF 111-1, Pg. 173)
22. On May 8, 2013, Mr. Kokinda's intolerance to Lisinopril was noted by Michelle Howard-Diggs, who prescribed him with Norvasc 5mg

as his only modern alternative. Mr. Kokinda's BP had now escalated to 180/102. (ECF 111-1, Pg. 172)

23. Mr. Kokinda originally felt a calming effect from Norvasc and short-term relief. However, after continued use of Norvasc he began to feel unbearably dizzy, nauseous, and lethargic. Even at these levels his blood pressure was still high, and was causing more long-term harm from predicted muscular atrophy due to inability to exercise at all. (ECF 111-1, Pg. 171).

24. On May 22, 2013, the BP was also high at 138/86, despite taking medications. Healthy blood pressure is required to be at about 120/80. Guidelines recognize what was previously termed "borderline hypertension" as hypertension. There is no more borderline! (ECF 111-1, Pg. 171).

25. On June 10, 2013, due to severe intolerance to even the latest BP medications with the cleanest side-effect profiles, Mr. Kokinda's was forced to refuse further administration of the Norvasc and to pursue alternative methods of lowering his blood pressure. (ECF 111-1, Pg. 170)

26. Mr. Kokinda's Tri-Annual exam suspiciously does not note his blood pressure, despite the current hypertension issues. (ECF 111-1, Pg. 170)
27. On February 22, 2014, Mr. Kokinda's BP is noted for the first time in the records at 158/96. (See ECF 111-1, Pg. 164). There are no further blood pressure checks noted in any records up to day of discharge. (ECF 111-1, Scroll from Pg. 164-161).
28. On December 14, 2014, Mr. Kokinda had written Dr. Jin a Request Slip concerning Dr. Jin's *deliberate indifference* to Mr. Kokinda's ongoing hypertension symptoms from refusal to provide soy-free diet and reliance on commissary diet. The Request Slip also addresses Dr. Jin's refusals to see Mr. Kokinda again to order the diet, and his attempts to fabricate "medical negligence" loopholes by having Mr. Kokinda fill out forms without effective relief. (See App., Exhibit-A, pgs. 12-13, Exhibit-I, pgs. 33-34)
29. This was immediately following a polite attempt to have Dr. Jin see him, and exhaustive efforts of submitting more Sick Calls Slips and attempts to have other staff (like Deputy Zainer and Ms. Mankey) coordinate an appointment. (See App., Exhibit-A, pg. 16)

30. Mr. Kokinda had **expressly** noted his reliance on commissary diet in the Allergy Questionnaire, and the problems it was creating with hypertension. (See App., Exhibit-A, pgs. 12-13, and Exhibit-G, Pgs. 30-32)
31. The Defendants admit that on September 3, 2014, Mr. Kokinda was transferred to SCI-Greene from SCI-Fayette with the medical diagnoses of: hypertension and seasonal allergies. Furthermore, with notice that he is allergic to Haldol, Risperdal, and Soy. (ECF 111-1, Pg. 168)
32. At this time, the nurse, Nedra Grego, admittedly did nothing at all to see to it that Mr. Kokinda was provided with the necessary soy-free diet, despite being expressly notified by Mr. Kokinda of his soy allergy and need to immediately be accommodated. (See ECF133, ¶1.)
33. At the time of injuries, the DOC had a policy that was limited to vague non-standard therapeutic diets (anything prescribed by the doctor) and standard therapeutic diets (lactose intolerance, heart healthy, and various soft food diets for people who can't chew food).

34. The DOC has recently created special rules for allergy diets, which appear to mandate that the doctor order a RAST test to confirm allergies. (See App., Exhibit-P, Pgs. 130 ¶4., 131 ¶5.) (This is perceived by the use of the word “shall,” that is typically used in law to establish a mandate and duty of care).
35. The Defendants do not express that Correct Care Solutions had any special internal policies for allergies in the prison that supplemented the former vague DOC policy.
36. A treatise on allergy policies nationwide by a well-respected professor of criminology, supports the conclusion that the failure to provide allergy-free diets is due to widespread policy inadequacy. (See App., Exhibit-D, pgs. 156-159).
37. The author, Professor Jamie Longazel, confirmed to Mr. Kokinda in private emails that he made Freedom of Information Act requests for allergy policies from all fifty states, regarding state prisons, about three years ago. He received about thirty-something responses. The article represents his analysis, as something within the scope of similar research he is focused on.

## SWORN CERTIFICATION

I, Jason Kokinda, certify under penalty of perjury that the facts set forth in the foregoing documents are true and correct to the best of my personal knowledge and belief.

Date: April 22<sup>nd</sup>, 2018 /s/ Jason Kokinda 308

Authorized Representative

## PROOF OF SERVICE

Date: April 22<sup>nd</sup>, 2018

I, Jason Kokinda, hereby certify under penalty of perjury that this day I am serving the foregoing documents in the manner listed below, which service satisfies the civil rules of procedure applicable to a civil rights action under 42 U.S.C.S. §§ 1983, 1985(3), and 1986.

Service by Online/ECF Mail to all of the following parties:

Plaintiff has rarely served filings on the Office of the Attorney General, since they began extorting him and criminalizing his filings in 2015. Because the criminalization of filings, implicates Fifth Amendment Rights; plaintiff is not able to seek appropriate redress in the Courts on this issue. The OAG attempts to fabricate evidence through discussion of malicious claims, as if they have merit. Seeking qualified language on words in filings to pursue irrational legal theories. The indelible record of corruption is their ultimate undoing.

Date: April 22<sup>nd</sup>, 2018

/s/ Jason Kokinda 308

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