Five Squares of Toilet Paper

One can expect that while incarcerated, there will be many struggles and hardships. Our prison system is supposed to be a place where justice is served, but shouldn't the living conditions, opportunities and care of those individuals in its custody *reflect* such justice? With so many cases of abuse, racism and other human rights violations, is living in an American prison under conditions where warehousing, not rehabilitation, is the norm in fact *living* in a place that would elicit respect and confidence in our justice system?

What should our response be when this supposed “justice” includes systematic inadequate medical health care services, subsequently leading to chronic illnesses that are more profitable for private health care companies than preventing them? What is the take away when the for-profit company ‘Corizon Health Inc.' in charge of providing medical care for all state prisoners, by Missouri law (RSMo 217.230), mandated to be "equivalent to community standard", refuses to effectively diagnose and treat those who are suffering from serious and life-threatening diseases?

Elvin is African American, approaching middle age and serving multiple life sentences. Ten years of incarceration is about as long as a healthy person can withstand. It is only a matter of time before an enforced sedentary lifestyle, boredom, permanent toxic stress and a poor diet of cheap carbohydrates causes severe illness. In Elvin's case, the ensuing controversy about his health status got him relegated to administrative segregation, which only exacerbated his chronic medical condition.

Elvin, who has a family history of rectal cancer, began experiencing severe abdominal pain and rectal bleeding in March 2015. He was subsequently treated for a stomach ulcer without adequate testing and diagnosis. Despite his worsening symptoms and his request for additional tests and treatment, he was not diagnosed as Stage III-B colon cancer until November 2015. It took nine months of unnecessary delays and Elvin's health in serious decline before he was finally rolled into the operating room in May of 2016.

Elvin's logs detailing his pre- and post-operative experiences provide insight into a pattern of abuse and indifference by correctional staff and less than compassionate care and oversight by specific members of the nursing staff responsible for attending to his needs. These individuals and their function are clearly indicated in his logs and correspondence. They can be verified through video footage and other corroborating records, although the Missouri Department of Corrections routinely refuses to disclose the former.

What lies at the center of Elvin's experience are the serious consequences of the initial misdiagnosis by a physician who no longer works for Corizon Health Inc. During the many months, it took to finally treat his condition adequately, his cancer continued to flourish into an advanced third stage. What is most bewildering and troubling is Elvin's deliberately ignored high risk for cancer, especially given his documented family history of colon/rectal cancer. The following is an excerpt taken from a Missouri CURE interview in Nov. 2016:

> *Q: How long have you been incarcerated, and how often did you receive annual physical check-ups or other exams in the years prior to the diagnosis?*
> *A: "I've been incarcerated since June 2011 at SECC. I received a physical or check-up like twice in those five and a half years. There was no blood or lab work that I can remember."*
> *Q: Does colon/rectal cancer run in your family? If so, was medical informed about this?*
> *A: “My grandfather and granddad died from colon cancer. Yes, medical was made aware of my family medical condition.”*
> *Q: When were you diagnosed with rectal cancer? Had the cancer already*

progressed to stage three at the time?
A: "I was diagnosed with rectal cancer August 21, 2015. Prior to this, I was diagnosed with having a bleeding ulcer by Dr. Epollito. I was prescribed Prilosec and antacids. Tests revealed I never had a bleeding ulcer. The rectal cancer was staged on Nov. 2015; that's when I found out."
Q: Which diagnostic exams (stool sample, lab-work, colonoscopy, MRI, CT scan etc....) did you receive?
A: "In March 2015 a stool sample was taken. I tested positive for blood in my stool. A colonoscopy was requested July 28, 2015, after I complained that conditions were getting worse. I declared a medical emergency and was turned away by medical staff."

After his cancer surgery, Elvin had to work and function during his daily life along with the burden of a colostomy bag, attached to his body through an open port. This system is essentially an exterior rectum and requires strict adherence to post-operative instructions in order to avoid infection of the surgical site and the risk of biohazards from leaky or unmaintained bags. Elvin's condition required him to change his bags *eight to fourteen times a day.* It was while in this state that he first wrote to Missouri CURE:

"This is a plea for help. There is a continuous Eight Amendment US. Const. Violation of 'Cruel and Unusual Punishment' and deliberate indifference to my serious medical needs. I have been placed in inhumane conditions due to gross negligence and retaliation by medical staff and correctional officers.

I am an adenocarcinoma stage three-cancer patient with a colostomy bag. I had surgery at Missouri Baptist Hospital on May 19, 2016. On August 19, 2016, I was informed by my oncologist that a new cancer mass was found and I will need more chemo in the next three weeks. She also discovered around my stoma area (small opening in the side) that it was bleeding and inflamed. I am currently in segregation for rule violations for not working in food service with a colostomy bag and for refusing housing."

Many a reader may think 'rule violations' that routinely lead to placement in administrative segregation are based on indisputable facts of a prisoner's disobedience or 'Creating a Disturbance', but, more often than not, the reality is not only much more complex but leaves a prisoner with little to no recourse against arbitrary treatment and deliberate indifference. The case at hand initially involved the Sergeant and another officer in charge of food service who, according to Elvin, sent him back to his housing unit "twice", because they agreed it is "unsanitary" to work in the kitchen with a colostomy bag that requires frequent changing. Whereas Corizon nurse practitioner Nina Hill – well known to Missouri CURE from prior African-American prisoners' complaints – not only deliberately disregarded Elvin's post-operative needs by refusing to provide prescribed pain medication, but "authorized the caseworker to draft him for food service", despite Elvin's bleeding, inflamed and hurting stoma area, as well as the pending port placement for another round of chemotherapy.

Elvin was subsequently interviewed by the Administrative Segregation Adjustment Board Committee Chair, the Mental Health Superintendent, and three committee members, including a lieutenant who stifled Elvin's attempts to explain himself several times. Elvin wrote, "Lieutenant Jesse told me in a threatening manner: 'I promise you, when you get out of this segregation you will never be able to work nowhere *but* food service'". All of this was videotaped, but not made accessible to the prisoner nor for public scrutiny.

It is noteworthy and unprecedented that Warden Jason Lewis considered it necessary to respond to Missouri CURE's complaints that had been sent to then MODOC Deputy Director Dormire. What

he wrote was less surprising, and even less so what remained unmentioned.

> "On July 19th, 2016 Offender was assigned to work Food Service. He refused for medical reasons. Reporting officers contacted medical personnel and were told the offender was cleared for full duty and eligible to work food service. The offender was issued a Conduct Violation for Failure to Comply with An Order. Due to his behavior, he was subsequently removed from the Incentive Wing in housing unit 6. He reported directly to a custody supervisor stating he was refusing to live in Housing Unit 5 and to place him in Housing Unit 1, Administrative Segregation. The custody supervisor tried to counsel Mr. [*Elvin*] and resolve his issue. Offender refused all attempts to resolve his concern. He was issued a conduct violation for Creating a Disturbance."

Elvin maintains that after his refusal to work in food service with a colostomy bag and rejecting the subsequent and unwarranted debasement of his privileged housing status, he was forced to live in unhygienic conditions. In his log entries from July, 2016 to August 2016, Elvin describes these conditions in detail, such as being forced to sleep on a top bunk for weeks despite having a medical 'lay-in' for a bottom bunk, being forced to sleep on the floor, denied a mattress while in a suicide cell, and being denied necessary hygiene items for his leaking colostomy bag and to clean himself. Such deliberate indifference and medical negligence are serious ADA Violations.

Elvin stated that while awaiting placement in a suicide cell, corrections officers chained him to a bench for several hours without the ability to change or care for his colostomy bag and stoma area. Elvin also alleges that later when pressing the emergency button in his cell because his bag began leaking, he was denied medical attention and cleaning supplies. He also stated that the emergency call button was cut off so he could not call for an emergency.

> *"When I told Officer Kid, who was doing security check that I had a medical condition dealing with my colostomy and that I was out of toilet paper, he said, 'You will get toilet paper when they give it to you' and left. I had to use writing paper and pieces of mesh bandage to clean my colostomy bag. That same day, Caseworker Holisten approached my door. I explained my medical condition and showed him that my boxers and T-shirt were soiled with feces. Caseworker Holisten said, 'I do not want to see that' and left.* ***The only way I could get any help was to declare a suicide watch****.*
> *At approximately 11:42am I was placed on the bench awaiting the suicide cell. At 12:55pm a nurse assessed me and saw my leaking colostomy bag.*
> *At 1:42 pm I was escorted to cell 2-B117. I was not given anything to clean my soiled body. I was not given a shower, or any soap, or anything to clean my soiled body. I was given five squares of toilet paper every two hours. The leaking colostomy bag was left in the cell for two days. I had to put it in a brown bag they gave me for lunch. I had to eat in those biohazard conditions."*

Elvin's log provides some insight into how deliberate indifference plays out in solitary confinement when a prisoner's health and livelihood depends entirely upon the mercy and professionalism of the nursing staff and corrections officers:

> 8/2/16 @ 8:38am: "My colostomy bag began to leak. I spoke to T. Parker. The Nurse told Officer T. Parker to take me to medical. I explained to Lt. Jesse May that I had supplies in my property to stop the leaking. Lt. Jesse May said 'he didn't give a f*ck what the doctor gave me at the hospital.' I was escorted to Medical. Nurse Sue asked what I was doing there. Parker mentioned my

leaky colostomy bag. Nurse Tosha yelled from the nursing station she didn't have time for me. I was sent back to segregation with a leaky colostomy bag.

@ 9:50am I was given 2 alcohol wipes, 2 protective wipes, flange, and bag. I had to use the socks I had on to clean up with. I was not given a biohazard bags to discard the waste. I had to throw the soiled boxers, shirt, and socks in the corner. I asked T. Parker to call Hazmat, to no avail.

8/3/16: I awoke feeling ill with a bad headache and body aches. I repeatedly pushed the emergency button. I got no response. I missed all three meals.

8/4/16: A Hazmat porter came at 1:43pm and I was moved to 2B102. Officers were told about my bottom bunk/bottom tier lay-in but I was given top bunk for two weeks. Note: Joseph V. 82 was my cellmate.

On 8/5/16: I made a *Health Service Request* lay-in for extra toilet paper. At approximately 1:20pm I spoke to Caseworker Mrs. Young that I had a medical emergency: My bag was leaking since 5:50am, and that nobody on the 1st shift tended to my serious medical needs. I asked Mrs. Young for help but she walked away.

On 8/9/16: I Told Nurse Larry I needed colostomy supplies. Nurse Sue said my supplies would be brought to me. I never received the supplies.

On 8/10/16 @ 7:15pm: Again, I had a leaking colostomy bag. 9:12am Sgt. Proffer came to my cell door. I tried to explain my condition. Sgt. said medical is busy and left.

Since my 5/19/16 surgery, I've been denied stoma paste, adhesive wipes, and soap to clean around my stoma area. I was only given one flange, 1 bag, and 2 barrier wipes by LPN Lizenbee.

On 8/18/16: I saw oncologist Dr. Hopkins in Jefferson City and was sent back with prep wipes and stoma paste. LPN Lizenbee said the lay-in says I am not allowed to use the stoma paste.

On 8/29/16: I had surgery at Missouri Delta Hospital. They put a port in my chest for extensive chemotherapy. I was placed overnight in the infirmary. Care provider Nina Hill sent me back to 2 house segregation. It is unkempt and filthy. I can catch an infection and it's all over. I'm in fear for my life."

On August 27, 2016, while still in segregation, Elvin's situation escalated as he was physically assaulted by correctional officers Hoskins and McSpadden, an assault he claims is backed up by video evidence and for which he was not allowed to present witnesses. "The tape would show I was falling to the ground and these officers began to use excessive force against me. I was snatched from the ground and thrown into a window face first. This was done twice. I was yelling and in great pain. These offices knew my conditions. To justify what they did I was given a conduct violation 19.1 "creating a disturbance". According to Elvin, one of the correctional officers had been involved in another physical altercation with an African American prisoner after someone was assaulted a month prior. Elvin asserts, "This inmate is still in segregation because of the alleged assault."

Missouri CURE is in possession of a handwritten witness statement: "On 8.27.16 *[Elvin]* came to my room showing great signs of being in pain. Repeatedly I tried to get him some medical attention, only the guards weren't interested in hearing of his complaints. Here it is several hours

later and still no assistance! I, *[witness name]* hereby verify that the above is a statement of facts. I will testify in court if called upon to do so!"

In response to the above-cited letter to Missouri CURE, Warden Jason Lewis's made the following conclusions:

> "A review of [*name and DOC#*] assignment to segregation shows he was appropriately placed according to Medical Lay-Ins – both lower bunk and lower floor cell. He also had running water in his cell 24 hours/day and appropriate access to regular showers. He also had access to allowable medical supplies. The offender was on suicide watch on 8/1/16 and would not have been allowed a mattress in the assigned suicide cell, which is protocol.
> After reviewing these allegations, interviewing staff and checking available records I find no wrongdoing on the part of my staff. We were advised by medical and offender was assigned appropriately. All staff were measured in actions and attempted to verbally resolve his concerns according to our policies and procedures." The letter has no signature.

MODOC Contract Monitor Anita Clarke (RN) responded to Missouri CURE's complaint as follows:

> "I have completed a review of Mr. *[name]*'s situation and find that at the time Mr. *[name]* had no medical restrictions disqualifying him from working in Food Services. Documentation indicates the upper-level provider believed there was no medical reason for Mr. *[name]* not to work. Mr. *[name]* voluntarily refused to work in Food Services due to personal beliefs related to the area being unsanitary due to his having a colostomy bag. This should not be an issue because the colostomy bag should not be exposed and should remain covered underneath his clothing. Having a colostomy bag does not prohibit an individual from performing in work-related duties."

On September 14, 2016, Elvin was transferred from S.E.C.C to Jefferson City Correctional Center. He reports that since his transfer, his medical care has improved and he was released from administrative segregation. He has written numerous letters seeking justice and support regarding his negligent medical treatment/post-operative care and abuse at S.E.C.C, including to Amy Roderick, the Inspector General, Jason Lewis, the warden at the time at Southeast Correctional Center, as well as then MODOC Director George Lombardi. He has never received a response.

Numerous alarm bells are found in the way Elvin's grievances were dealt with. All of these are clearly supported by documents, witness corroboration, and his detailed logs. Elvin's story calls into question the validity and accuracy of Corizon's recordkeeping, which is totally unsupervised. It also speaks to the institutional practice of blindly following whatever is being recorded as appropriate and adequate. Most detrimental, however, is the interplay of both forces as it inevitably leads to damage to a prisoner's health, conflicts with prison staff, and subsequent inhumane and completely unnecessary suffering in segregation.

How then, in light of Elvin's unacknowledged grievances (and so many other cases), is it possible to have confidence that the Department of Corrections is actually fulfilling its declared mandate of "correcting" and "rehabilitating" these human beings?

Epilogue:
In February 2019 the Missouri House of Representatives approved of an addition to the Missouri

Revised Statutes that would make it next to impossible for a prisoner to prove his/her side of the story. It reads:

RSMo 610.021. *Except to the extent that disclosure is otherwise required by law a public governmental body is authorized to close meetings, records and votes, to the extent they relate to the following:*
(25) Records of the department of corrections that relate to the following:
(a) Video recordings of the interior or exterior of a correctional center;
(b) Audio recordings and transcripts of telephone conversations of offenders confined in a correctional center; (…)
(e) Operations of a correctional center, to the extent that disclosure would impair the department's ability to protect the safety and security of offenders, employees, visitors, and real property.