DOCKET NO. CV 21-5000911-S	:	SUPERIOR COURT
PRINCE JONES	:	JUDICIAL DISTRICT OF TOLLAND
V.	:	
COMMISSIONER OF CORRECTION	:	NOVEMBER 15, 2022

MEMORANDUM OF DECISION

The petitioner, Prince Jones, brings this petition for a writ of habeas corpus alleging that his eighth amendment rights are being violated by the Department of Correction's (DOC) continued failure to treat his medical needs properly. Specifically, he alleges that he is not being properly diagnosed and he seeks an MRI or a CAT scan, appropriate pain medication and transfer to a facility where he can engage in physical therapy. Having considered the evidence and the arguments of the parties, the court determines that the claims are not proven. Thus, the petition is denied.

Jones filed an amended petition for a writ of habeas corpus on September 1, 2022. The respondent's return, filed on October 19, 2022, denies Jones's claims and asserts that he has received adequate medical care while incarcerated. The matter was tried to this court on November 9, 2022. Jones submitted copies of his medical records into evidence; the respondent also submitted copies of relevant medical records into evidence. Jones testified on his own behalf. The respondent presented the testimony of Dr. Cary Freston.

I. FACTS

Prior to 2019, Jones had no issues with pain in his back and leg. He was then transferred to MacDougall CI and he started having problems due to the mattress he was sleeping on. At MacDougall CI, he started feeling numbness and pain in his leg. He realized he couldn't get out

of bed; the pain was so excruciating that he couldn't move for thirty minutes. In 2019, he couldn't get out of his bed and had to be helped by his cellmate. Staff had to get a wheelchair to assist him. He went to medical in 2019, when a doctor informed him that he had sciatic nerve damage. Sciatica is a common condition in America, with about forty percent of adults experiencing. It is radiating pain from the back or buttocks to the legs. A diagnosis of sciatica is based on clinical findings.

He was sent to UCONN medical center for physical therapy. The recommendation from UCONN was to receive physical therapy, a mattress more suitable for his weight and condition, a pillow, medication and to participate in a wellness program. Jones has only been prescribed a muscle relaxer, Motrin and Bengay.

Since 2019, Jones has received x-rays three times. The x-ray was recommended to see if there was a suggestion of a disc disease that was connected to his pain, such as arthritis or if the disc space was narrowed. The results were unremarkable, but Jones continued to complain about significant pain. In September 2020, he was offered a steroid injection in the spine. According to him, he was not alerted to this ahead of time, was not provided any information about the side-effects, had significant concerns about whether it was necessary and what impact it would have on him and thus, decided to decline the steroid shot at that time. He signed the form that indicated he was being transported to UConn for radiology intervention and an ESI but testified that he does not know what ESI is and assumed it was for an MRI. ESI stands for epidural steroid injection. The ESI was recommended to attempt to decrease pain by injecting a steroid into the area of inflammation. Jones has also refused Mobic, a specialty type NSAID anti-inflammatory medication that would have been a "great treatment" for Jones' pain. He is currently not taking any medication and took Motrin two months ago.

An October 2020 sick call encounter notes that he was able to perform daily activities and did not have any uncontrolled bowel movements that indicates he did not have any severe nerve damage that impacted those functions. This examination assesses his complaint as "lumbago of the right sciatica." The examination also concluded that there was no medical indication of an MRI at that time. For an MRI to be clinically indicated, there would need to be red flag symptoms like motor deficits, bowel and bladder problems, reproducible locations of pain. Here, given the normal examinations and no other indications, an MRI is not warranted or appropriate. The examiner during the October 2020 sick call also noted that Jones did not want to take NSAIDS or muscle relaxants. Ibuprofen was also discontinued because he was apprehensive of medication management. A note for the physical therapist prepared in advance of a September 22, 2021, appointment indicates that due to his hypertension, NSAID medications are not being prescribed.

Jones also underwent x-rays in May 2021 which revealed sclerosis on the right side next to the sciatic nerve. This is outside of the spine. Thus, this is peripheral sciatica, not central sciatica, i.e., it does not involve the spine. This is the source of Jones' pain and negates the need for the MRI since it does not involve the spine. As a result of this x-ray finding, Jones underwent follow-up lab tests to determine if certain rheumatologic diseases like Rheumatoid arthritis and spondylopathy were present. These diseases were ruled out and thus, the clinical diagnosis correlated to inflammation and sciatica. Anti-inflammatories and a steroidal injection in the SI joint are the ways to treat his peripheral sciatica.

Finally, another sick call encounter in April 2022 revealed lower back pain, but with no paresthesias, which are sensory abnormalities like loss of sensation or discomfort, and no

radiculopathy which is related to the radicular nerve route coming down the spine and going down an extremity. This also confirmed no need for an MRI.

II. DISCUSSION

Prison officials will be found to have violated the eighth amendment to the United States constitution if, by virtue of their deliberate indifference to an inmate's serious medical needs, they refuse to provide care or treatment to that inmate. Estelle v. Gamble, 429 U.S. 97, 97 S. Ct. 285, 50 L. Ed. 2d 251 (1976); Faraday v. Commissioner of Correction, 288 Conn. 326, 328, 952 A.2d 764 (2008). Thus, in order to succeed on his claim, Jones must prove deliberate indifference to his serious medical needs. Estelle v. Gamble, supra, 429 U.S. 104.

A. Deliberate Indifference

The standard of deliberate indifference has both subjective and objective components. First, the deprivation alleged must be, objectively, "sufficiently serious." Farmer v. Brennan, 511 U.S. 825, 834, 114 S. Ct. 1970, 128 L. Ed. 2d 811 (1994); Wilson v. Seiter, 501 U.S. 294, 298, 111 S. Ct. 2321, 115 L. Ed. 2d 271 (1991); Hathaway v. Coughlin, 37 F.3d 63, 66 (2d Cir.1994), cert. denied sub nom. Foote v. Hathaway, 513 U.S. 1154, 115 S. Ct. 1108, 130 L. Ed. 2d 1074 (1995); Faraday v. Commissioner of Correction, supra, 288 Conn. 338. With respect to the objective component of the deliberate indifference standard, the term "sufficiently serious" has been described as "a condition of urgency, one that may produce death, degeneration, or extreme pain." (Internal quotation marks omitted.) Hathaway v. Coughlin, 99 F.3d 550, 553 (2d Cir. 1996); Archer v. Dutcher, 733 F.2d 14, 16–17 (2d Cir.1984) ("extreme pain"); Todaro v. Ward, 565 F.2d 48, 52 (2d Cir.1977) ("physical torture and lingering death"). The types of conditions which have been held to meet the constitutional standard of serious medical need include a brain tumor, Neitzke v. Williams, 490 U.S. 319, 109 S. Ct. 1827, 104 L. Ed. 2d 338

(1989); broken pins in a hip, Hathaway v. Coughlin, 841 F.2d 48 (2d Cir.1988); premature return to prison after surgery, Kelsey v. Ewing, 652 F.2d 4 (8th Cir.1981); diabetes requiring special diet, Johnson v. Harris, 479 F. Supp. 333 (S.D.N.Y.1979); a bleeding ulcer, Massey v. Hutto, 545 F.2d 45 (8th Cir.1976); and loss of an ear, Williams v. Vincent, 508 F.2d 541 (2d Cir.1974) (claim stated against a doctor who threw away a prisoner's ear and stitched up the stump).

Second, the government official must act with a sufficiently culpable state of mind. Wilson v. Seiter, supra, 501 U.S. 297; Faraday v. Commissioner of Correction, supra, 288 Conn. 338. In a case such as this, a "sufficiently culpable state of mind" is "one of deliberate indifference to inmate health or safety." (Citations omitted; internal quotation marks omitted.) Farmer v. Brennan, supra, 511 U.S. 834. "An official acts with the requisite deliberate indifference when that official knows of and disregards an excessive risk to inmate health or safety; the official must both be aware of facts from which the inference could be drawn that a substantial risk of serious harm exists, and he must also draw the inference." Faraday v. Commissioner of Correction, supra, 338; see also Farmer v. Brennan, supra, 837. Thus, "an official's failure to alleviate a significant risk that he should have perceived but did not [does not violate the eighth amendment]." (Internal quotation marks omitted.) Faraday v. Commissioner of Correction, supra, 338, quoting Farmer v. Brennan, supra, 838.

Accordingly, to establish a claim of deliberate indifference in violation of the eighth amendment, Jones must prove that DOC's actions constituted "more than ordinary lack of due care for the prisoner's interests or safety." Faraday v. Commissioner of Correction, supra, 288 Conn. 338-39, quoting Whitley v. Albers, 475 U.S. 312, 319, 106 S. Ct. 1078, 89 L. Ed. 2d 251 (1986). "Deliberate indifference is a stringent standard of fault requiring proof of a state of mind

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