

No. _____

In The
Supreme Court of the United States

David A. Bardes – Petitioner

vs.

John Magera, et. al. – Respondents

On Petition for a Writ of Certiorari to

United States Court of Appeals

For the Fourth Circuit

Petition for a Writ of Certiorari

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i.

Questions Presented

Is the severe and prolonged hypothermic near-death torture of a United States citizen by sworn civil servants unconstitutional? Is the jailing of an indigent because they are indigent unconstitutional? Can a state violate a citizen's Constitutional Rights with impunity?

List of Parties

David Andrew Bardes, a citizen of the State of North Carolina,
as Petitioner,

John M. MAGERA, individually, and in his official capacity as State's Attorney for South Carolina Department of Social Services; The State of South Carolina; Charleston County, vis-à-vis the County Council of Charleston; McRoy Canterbury, Jr., Admin., Charleston County; James A. Cannon, Jr., individually, and in his official capacity as Sheriff of Charleston County, South Carolina; The County of Charleston, South Carolina; Jerry Boyle and/of Correct Care Solutions, LLC; The Hon. R. Wright Turbeville, individually, and his official capacity as a Family Court Judge of The State of South Carolina; The Hon. Jocelyn B. Cate, individually, and in her official capacity as a Family Court Judge of The State of South Carolina; The Hon. Paul W. Garfinkel, individually, and in his official capacity as a Family Court Judge of The State of South Carolina; Julie J. Armstrong, individually, and in her official capacity as Clerk of the Courts for the Charleston Judicial Center; Wishart Norris Henninger & Pittman, P.A.; and, Wade Harrison, Esq., individually, and in his official capacity as officer within any court of law,

as Respondents.

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<u>Farmer v. Brennan</u> , 511 U.S. 825, 832, 114 S.Ct. 1970, 1976, 128 L.Ed.2d 811 (1994).	10.
<u>Bradley v. Puckett</u> , 157 F.3d 1022, 1025 (5th Cir.1998).	10.
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<u>Bienvenu v. Beauregard Parish Police Jury</u> , 705 F.2d 1457, 1460 (5th Cir.1983)	10.
<u>McCray v. Burrell</u> , 516 F.2d 357, 365-68 (4th Cir.1975)	10.
<u>Jackson v. Duckworth</u> , 955 F.2d 21	10.
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<u>Wilson v. Seiter</u> , ___ U.S. ___, 111 S. Ct. 2321, 115 L.Ed.2d 271 (1991)	11.

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McGill v. Duckworth, 11.
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No. 92-7247 (1994).

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209 U.S. 123 (1908).

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88 F3d 341 (5th Cir. 1996).

Maybury v. Madison, 17.
5 U.S. (2 Cranch) 137, 180 (1803).

Cooper v. Aaron, 19.
358 U.S. 1, 78 S. Ct. 1401 (1958).

In Re Sawyer, 19.
124 U.S. 200 (188).

U.S. v. Will, 19.
449 U.S. 200, 216, 101 S. Ct. 471,
66 L. Ed. 2d 392, 406 (1980).

Cohens v. Virginia, 19.
19 U.S. (6 Wheat) 264, 404 5 L. Ed 257 (1821).

Scheuer v. Rhodes, 22.
416 U.S. 232, 94 S. Ct. 1683, 1687 (1974).

South Carolina Statutes

SC SECTION 24-5-300, 9.
SC SECTION 24-5-10.

Opinions Below

Supreme Court Approved *Pro Se* Form Follows:

IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix B to the petition and is

reported at _____; or,

has been designated for publication but is not yet reported; or,

is unpublished.

The opinion of the United States district court appears at Appendix A to the petition and is

reported at _____; or,

has been designated for publication but is not yet reported; or,

is unpublished.

For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

reported at _____; or,

has been designated for publication but is not yet reported; or,

is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

reported at _____; or,

has been designated for publication but is not yet reported; or,

is unpublished.

Jurisdiction

The date on which the United States Court of Appeals decided my case was December 3, 2010.

The jurisdiction of this court is invoked under 28 U.S.C. Section 1254(1).

Constitutional Provisions Involved

- Amendment One: “, and to petition the Government for a redress of grievances.”
- Amendment Four: “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.”
- Amendment Five: “nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.”
- Amendment Seven: “In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.”
- Amendment Eight: “Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.”
- Amendment Fourteen: “No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”

Statement of the Case

In March 2004, South Carolina falsely accused me of child support arrears. I proved to South Carolina that I was not in arrears. The state prosecuted me for arrears anyway. Due to draconian type child support enforcement abuses initiated against me, I lost my business, my income, my good name and reputation, and my mental health and I was innocent. I lost everything, became depressed, and I threatened to sue South Carolina for my injuries. South Carolina reacted by investigating me, putting me on trial three times and then threw me into their jail, and immediately tortured me for three days in the jail's built-in hypothermic torture chamber. I suffered deep, prolonged, painful, and severe hypothermic torture. They lowered my body temperature to *88 degrees* which was more than sufficient to kill. For two of the days I was in a coma, and barely alive. Blood and oxygen were cut off to my brain for an unknown period and I suffered permanent brain damage. When I was finally removed from the torture chamber, the guards beat me bloody because I did not know my name and could not stand on my own, but they finally took me to the jail's hospital in a wheelchair. The third-party medical provider in the jail refused to provide medical care and instead signed a legal waiver protecting their corporation from suit. I languished in pain for a week in the jail's hospital. It took my family 78 days to negotiate my release but not without a jailhouse agreement that I not sue anyone and that I leave the State of South Carolina. They threatened to jail me again if I step foot back into the state.

In 2008 I filed a *Pro Se* lawsuit against named defendants for the destruction of my business, my property, the illegal jailing, and the torture. No lawyer would take my case as the torture part scared them all away due to the US torture of alleged terrorists which had not yet been vetted in the courts. Some claimed that my case would end up as their last. The federal district court dismissed all of my defendants and I don't understand why, as no one explains the lengthily opinions. I appealed to the Fourth Circuit Court of Appeals. The Fourth Circuit stated that they found no errors in the lower court. I have suffered permanent brain damage, great injury, and gross Constitutional violations and I now plead to the US Supreme Court. All I can do is tell my story over and over again in the hopes someone will listen. I am hoping for a remedy, somewhere. I believe that I have a Constitutional right to a remedy for the wrongs suffered.

My case has national importance as other inmates are being subjected to cold cell hypothermic torture and many have died and will continue to die if not deemed

unconstitutional. Further there are 2,000 broke, indigent, disabled, and mentally ill parents illegally languishing in South Carolina jails for child support claims. The parents are jailed illegally and without benefit of counsel, a trial, or a jury.

My case is exactly the same as the current *Turner v. Price*, 691 S.E.2d 470 (S.C. 2010), vacated ___ Supreme Court ___, 2010 WL 2629709 (U.S. Nov. 1, 2010) case which is currently before this court. Mr. Turner is a South Carolina indigent father who was jailed on child support claims without the aid of a court appointed attorney. I was also a South Carolina indigent father who was jailed on child support claims without the aid of a court appointed attorney. My case advances the cause as not only did I ask for an attorney, I also asked to be placed on trial with the Constitutional right to a jury, and with the presumption of innocence. Both Turner and I are asking the same question.

Torture Details

To start off, jails are kept on the cold side – almost all jails are cold. Jails are kept cold for two reasons, first jails are designed to be uncomfortable; the concept of jail is predicated on the concept that you won't like it there. Jail's want you to spread the word among your friends that they won't like it there either. The colder it is the less inmates are likely to cause disturbances, like rioting. (**See Appendix C – Why are jails so cold?**) Here I asked a guard why The Sheriff Cannon Detention Center is kept cold.

Secondly, jails are kept cold to cut down on airborne germs. With so many bodies heaped on top of each other, no one wants to spread germs. The air conditioning systems in jail are constantly running, by law, as inmates are guaranteed ten cubic feet of fresh air each minute. The circulating air is cooled down to 55 degrees to remove the humidity and airborne germs, then it is heated up before being returned to the cells, or it is supposed to be heated up. The problem with the system is that Sheriff Cannon does not keep the heat on even in cold weather. The Sheriff sells thermal underwear on the jail's commissary. The guards wear their winter jackets inside, and South Carolina law requires jails to provide two blankets to inmates in the winter months, so even the legislators know jails are cold. Before going to jail, I had no idea that jails were cold.

When I was going through the booking process in jail, I refused to sign documents placed before me and I smiled for my mug shot, but I don't think that was the reason they locked me into the hypothermic chamber, cold cell 1613, for three days.

According to the jail's log, I was locked in cold cell 1613 at 6:40pm on Monday, April 3rd, 2006. Cell 1613 is smaller than the other cells and it has oversized air conditioning vents – two of them high up on the wall. When I felt the cold blowing air tussle my hair I asked for my jacket. The sheriff admits I asked for my jacket and was denied. I was very cold and I had no insulation. Cell 1613 is *specifically designed* to be colder than other cells – the vents are 230% larger than vents of cells that are much larger. Cell 1613 is specifically a “cold cell.” The air conditioning was blowing 55 degree air and there was no heat. In the deposition of the mug shot lady, Tomincina Dyer, testified that the booking guards do wear their winter coats inside when it is cold. The only way I would know that they wear their winter coats inside was by direct observation. At the time of my torture it was 57 degrees outside and the air conditioning was on full blast, blowing 55 degrees air inside. It was bone chilling cold.

What is a cold cell? A cold cell is a jail cell where the cold overtakes whatever clothes or blankets you may have. You have no choice but to shiver to try to keep your body warm. If the shivering persists, your body temperature reduces. Cold cells kill inmates:

In 2009, California authorities accidentally left an inmate in a cold holding cell overnight. Due to excessive air conditioning, Elisha McCoy was found the next morning with a core body temperature of 93 degrees. After several days of intensive care, Mr. McCoy survived. In 2006 a not so fortunate Willie Daniels, who was on psychiatric watch in the jails hospital, died from severe hypothermia. Guards had removed Mr. Daniels blanket as is customary on suicide watch. Guard's thought the inmate was sleeping when in reality, Mr. Daniels core body temperature dipped to 79 degrees. He died under their close supervision. In January 2003, guards at the Columbia South Carolina jail, found inmate Bobby Mott comatose in his cell. His body temperature was 95 degrees. Inmate Bobby Mott had been placed in a cold cell. Mr. Mott expired a week later in the hospital of complications due to hypothermia as a result of excessive air conditioning... The Case of Charles Platcher, Illinois: Mr. Platcher was discovered one morning unconscious in his cell. When they got him to the hospital his core body temperature was 84 degrees. Mr. Platcher died of severe hypothermia in the jails air-conditioned cold cell... The Case of Gul Rahman: Mr. Rahman, a suspect in Afghanistan, was confined to the CIA prison "Salt Pit" a notorious dark prison in 2002. Jailers found Mr. Rahman dead in his cell. Mr. Rahman died from hypothermia the night before. The death sent shock waves through the intelligence community and changed US policy forever.

I am asking the US Supreme Court to declare cold cells unconstitutional as citizens have the right to stay alive. In 2009, President Obama outlawed cold cell torture as it had been an approved torture technique used by the United States. Many detainees died from hypothermia due to excessive air conditioning.

For the first six hours in Sheriff Cannon's built-in cold cell I was shivering violently. My whole body shook. As my core body temperature was reduced, the pain intensified and came in waves. Around midnight my shivering stopped – I had entered hypothermic shock as my body gave up trying to keep my body warm. A guard came into the cell and I told him to tell the nurse that I had gone into hypothermic shock. He said, "I will do no such thing until you comply!" His words fell on me in slow motion and I had no ability to comprehend what he wanted. He left and locked the door behind him (**See Exhibit D: Torture Chamber Pictures.**)

At that point I knew I was going to die. There was no stopping my body temperature's free fall. My body was cooled to *88 degrees*. It was a matter of time. I was frozen in the fetal position and I lost use of my limbs. The pain felt like thousands of daggers stabbing me all over. I felt like cold meat, like a *corpse*. I wept because I could not say goodbye to my children. I was forced to resolve my own death. Three hours later I died a conscious death – I had slipped into hypothermic coma, a death like condition that occurs before bodily death. My body *shut* itself down. Eventually you die from heart failure or brain death. I had been effectively executed.

I was left in that death-like condition for two more days, with no food, water, bedding or blankets. Each time the guards changed shifts, the new supervisor made the decision to continue my torture and not let me out. I had been locked into the cell on Monday. I was not rescued until Wednesday. During my torture my body temperature dropped to at least a low of *88 degrees*. How long and to what degree oxygen and blood was *cut off* to my brain we do not know. I have suffered permanent brain damage and profound psychological damage.

I was brought back to life on Wednesday April 5th, at 3:30am. I was on the floor of the cold cell and a sheriff's deputy had been performing CPR to resuscitate me. I remember his hand around my neck as if he were feeling for a pulse. The other deputy said, "Shit we have to get him out of here." They kept asking me, "Who are you, what is your name?" I said I did not know. They came back and told me my name was "David Bardes." It did not register. They carried me out of the cold cell and to an older part of the jail, laid me on a mat, and covered me with a blanket. At 6:00am the new guards changed shifts. Apparently the guards had been calling my name over the loud speaker, but I did not know my name more or less able move my limbs. I was awoken by the new guards dragging me down the hallway by the mattress pad.

They stopped dragging me when other guards surrounded me. I posed a problem for the guards. I did not know my name, I was deep inside the jail in street clothes, I had no ID band, and they did not have a mug shot; they were not quite sure who I was and neither did I. The guards yelled, "Get up, stand up!" The guards began to beat me. They kicked me with their steel tipped boots about the head, arms, legs and torso. I remember blood spattering about my face.

Once the guards knew something was wrong they got a wheelchair. One guard reached under my arms and hoisted me into the air and said, "Stand up." I heard a female guard yell, "Illa tazor yo ass, and see whoz gets in dat chair!" The big guy put me in the wheelchair and strapped me in. They took me to the jail's hospital on the fourth floor. When I got to the infirmary the guards striped off my street clothes until I was naked, then wrapped me in a suicide gown and dropped me on the floor of the suicide watch room. I apparently told them I was almost dead and they wrongly assumed I was suicidal. I would have accepted death over the pain. Another inmate on the floor of the suicide watch room said, "Dude, you don't look too good, what happened to you?" The inmate put toilet paper over the gash on my eye to stop the bleeding.

Around 4:00pm that afternoon on Wednesday, April 5th, the nurses took my vital signs. My temperature was *88 degrees*, as evidenced by the medical records the sheriff gave me (See **Appendix E – Vital Signs April 5th, 2006**) I had been removed from the cold cell and was warming up quickly but I was still severely hypothermic. More hypothermia victims die from the warming up phase and complications as they do from the cold. The male nurse panicked and wanted to get me to the emergency room. The nurse said, "Stay right here, I'll get the help you need." He ran down the hallway.

A few minutes later a nurse returned and wanted me to sign a form. I could not see the form without my glasses. I did not sign the form. I feared more harm if I signed the form; I was all alone, scared, and in great pain. A few minutes later another nurse came back and begged me to sign the form. It ends up their form was a questionnaire. It was no time for a questionnaire. The nurse said, "You'll be sorry." They dropped me back onto the floor of the suicide watch room to wither in my pain and agony. As evidenced by the medical records, I was placed on a 15-minute watch cycle. Every 15 minutes they peered into the room to see if I was still alive.

The following day, on April 6th, my body temperature had risen to 97 degrees. Once the medical staff knew I was no longer hypothermic, they all signed a "refusal form". The medical staff was protecting their legal interest by claiming that I had

some how turned down medical care. I was not capable of turning down anything. Five people signed the refusal form; the head nurse signed it twice she was so worried. A guard even signed it; they really wanted legal protection. (See **Appendix F – The Medical Refusal Form**)

After six days on suicide watch when I could stand and walk on my own I was released. I spent one night in a hospital bed then was transferred to the “Medical Observation Unit” where I remained for my entire incarceration period. It took my family 78 days to negotiate my release, but not without the signing of a jailhouse agreement that I would not sue anyone and that I would *leave* the state of South Carolina forever.

The Constitutional Deprivations of my Torture

I am claiming my Eighth Amendment rights of protections from Cruel and Unusual Punishment on two events, the torture itself and the subsequent denial of medical care. Sheriff Cannon and the County of Charleston are responsible for events that transpire inside their jail, especially when they almost killed me in their built in torture chamber with known torture techniques, and the medical provider in jail, “Correct Care Solutions, LLC,” (CCS) is responsible by contract for the medical care denial.

Eighth Amendment Violations by the Sheriff and the County of Charleston

The district court dismissed Sheriff Cannon from my lawsuit and I can’t tell you why. I claim that the sheriff is responsible for the temperature of his jail and he is responsible for a specially designed cold cell and its use by guards that administer known torture techniques on their captives. Not only is the sheriff responsible, so is the County of Charleston, which was dismissed from the lawsuit as well. South Carolina law states:

SC SECTION 24-5-300, (3) "Responsible authority" means the sheriff, county administrator, mayor, city manager, or other appropriate official who has legal responsibility for the management of a local detention facility within a particular jurisdiction.

SC SECTION 24-5-10. Sheriff as custodian of jail; sheriff's liability for appointed jailer; receiving prisoners. The sheriff shall have custody of the jail in his county and, if he appoint a jailer to keep it, the sheriff shall be liable for such jailer and the sheriff or jailer shall receive and safely keep in prison any person delivered or committed to either of them, according to law.

Keeping parts of the jail below the minimum threshold needed to *stay alive* and my near death torture violates my Constitutional Right against Cruel and Unusual Punishment. The Eighth Amendment's prohibition against cruel and unusual punishment requires prison officials to provide "humane conditions of confinement," ensuring that "inmates receive adequate food, clothing, shelter, and medical care" *Farmer v. Brennan*, 511 U.S. 825, 832, 114 S.Ct. 1970, 1976, 128 L.Ed.2d 811 (1994). Being able to maintain core body temperatures needed to sustain life is certainly part of the "humane" requirement. They locked me in a cold cell that would not support life.

The Supreme Court has held that an inmate must satisfy two requirements to demonstrate that a prison official has violated the Eighth Amendment. "First, the deprivation alleged must be, objectively, 'sufficiently serious'; a prison official's act or omission must result in the denial of 'the minimal civilized measure of life's necessities.'" Second, "a prison official must have a 'sufficiently culpable state of mind.'" In prison conditions cases, that state of mind is one of deliberate indifference to inmate health or safety.. "To establish deliberate indifference . . ., the prisoner must show that the defendants (1) were aware of facts from which an inference of an excessive risk to the prisoner's health or safety could be drawn and (2) that they actually drew an inference that such potential for harm existed." *Bradley v. Puckett*, 157 F.3d 1022, 1025 (5th Cir.1998).

"Prisoners have a right to protection from extreme cold." *Dixon v. Godinez*, 114 F.3d 640, 642 (7th Cir.1997); see *Murphy v. Walker*, 51 F.3d 714, 721 (7th Cir.1995) (noting that a pretrial detainee has a right to adequate heat and shelter); *Beck v. Lynaugh*, 842 F.2d 759, 761 (5th Cir.1988) (holding that a prisoner's allegations of exposure to the elements during winter months stated a cause of action under the Eighth Amendment); see also *Bienvenu v. Beauregard Parish Police Jury*, 705 F.2d 1457, 1460 (5th Cir.1983) (per curiam).

McCray v. Burrell, 516 F.2d 357, 365-68 (4th Cir.1975) (finding Eighth Amendment violation where inmate was solitarily confined for forty-six hours in a cold cell with no clothing or blankets, no running water or personal hygiene items, and a toilet consisting of an excrement-encrusted hole in the floor).

"Federal court should not have granted summary judgment to prison officials on inmate's suit claiming "subhuman conditions" of confinement, given inmate's detailed affidavit alleging the presence of filth, rodents, inadequate heating, undrinkable water containing black worms that turned into small black flies, etc." *Jackson v. Duckworth*, 955 F.2d 21 The subjective component of unconstitutional

"punishment" is the intent with which the acts or practices constituting the alleged punishment are inflicted. The minimum intent required is "actual knowledge of impending harm easily preventable." *Duckworth v. Franzen*, 780 F.2d 645, 653 (7th Cir.1985) (emphasis added); see *Wilson v. Seiter*, ___ U.S. ___, 111 S. Ct. 2321, 115 L.Ed.2d 271 (1991); *McGill v. Duckworth*, 944 F.2d 344 (7th Cir.1991). A failure of prison officials to act in such circumstances suggests that the officials actually want the prisoner to suffer the harm. If the harm is remote rather than immediate, or the officials don't know about it or can't do anything about it, the subjective component is not established and the suit fails (7th Cir. 1992).

In my case, I should have been booked into the jail, issued my blanket and then assigned to a cell that night, but instead I was locked in a cold cell for three days; with the *intent* to punish me with the cold, until I complied, with what we don't know. My cold cell punishment was to be continued until I performed some act or complied with some order, of which we don't know to this day. At midnight when I told the guard to tell the nurse that my body was going to die shortly and he said, "I will do no such thing until you comply;" my punishment turned murderous.

Farmer v. Brennan, Warden, et al. No. 92-7247 (1994). In *Farmer*, the plaintiff was a prisoner and was the subject of extreme abuse. The Supreme Court ruled:

1. A prison official may be held liable under the Eighth Amendment for acting with "deliberate indifference" to inmate health or safety only if he knows that inmates face a substantial risk of serious harm and disregards that risk by failing to take reasonable measures to abate it. Pp. 5-21.

(a) Prison officials have a duty under the Eighth Amendment to provide humane conditions of confinement. They must ensure that inmates receive adequate food, clothing, shelter, and medical care, and must protect prisoners from violence at the hands of other prisoners. However, a constitutional violation occurs only where the deprivation alleged is, objectively, "sufficiently serious," *Wilson v. Seiter*, 501 U.S. 294, 298, and the official has acted with "deliberate indifference" to inmate health or safety. Pp. 5-7.

On review of the case by the Supreme Court, the Court was called upon to define the term "deliberate indifference." In so doing, the Court made reference to the subjective component of the inquiry:

We hold . . . that a prison official cannot be found liable under the Eighth Amendment for denying an inmate humane conditions of confinement unless the 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. . . “circumstances” constitutes actual culpability, i.e. they wanted an inmate to suffer under sub-human conditions. Here the “intent” and “mind set” frame my deprivations.

Deliberate indifference has three components: (1) subjective knowledge of a risk of serious harm; (2) disregard of that risk; (3) by conduct that is more than mere negligence. Since deliberate indifference is basically an evil intent, I can prove this using circumstantial evidence: the act itself can prove the mental state. That is, if the act itself is so dangerous or evil, the court can infer that the person doing the act intended to harm the person.

1) In my case the sheriff admitted that I asked for my jacket; I told them I was cold and they had no interest in stopping the cold. I asked for my coat, and was denied, three times; they purposely wanted me to endure the cold. The cell was 55 degrees and all I had on was a thin cotton shirt and khaki pants. There was no blanket or insulation from the cold.

2) At midnight my violent shivering stopped and I told the guard to tell the nurse that I was in hypothermic shock. The guard replied, “I will do no such thing until you comply.” This constitutes deliberate indifference as I told them my body was in the process of *dying*, that it was not going to be *alive* much longer and they were more than indifferent, it was murderous. In fact, I was purposely locked in the cell for two more days. I was on the floor, unconscious, and close to death. Each time the guards changed shifts, the new supervisor looked into the cell window and made the decision to continue my torture uninterrupted. This lasted for days.

3) As far as the evil intent is concerned, not only was their initial intent to punish with the cold, but the intent was transferred to the new guards each time the guards changed shifts. The order to *keep* me in the cold cell passed to each new shift. The guards knew that cold cell 1613 was cold and they intended me to suffer, and I did.

4) The fact that I was rescued on the third day not by the guards but by Sheriff Deputies who expressed enough genuine concern for my well being, enough so to see if I was alive, and when they detected no signs of life, they performed CPR. This all raises the question as to how long the guards would have continued the torture and to who knows what end.

**Eighth Amendment Violations by the Medical Provider,
“Correct Care Solutions, LLC” (CCS)**

When you are in jail, you do not have a choice of medical providers, there is only one provider and if they turn you down, there is absolutely nothing you can do about it, you just suffer. I had to rely on a medical provider that was callous to my suffering. As I lay on the floor of the suicide watch room racked with severe pain for six days, it was more important to them to provide a legal refusal form to protect their corporation from suit. It was cruel and unusual punishment.

I should have been taken to the emergency room on April 5, 2006 after they took my temperature and confirmed I was severely hypothermic, but I would not sign their questionnaire as I was scared of what might happen. My body was in critical condition. I had suffered cerebral hypoxia, and my heart was suffering from ventricular tachycardia. I was partially paralyzed and convulsing with seizures, I could have expired at any time.

When I took the deposition of the head nurse, she claimed that “I” was the one that turned down health care, thus they signed a refusal form to that effect. I attest that I was in no condition to make any decisions and I had no medical training and was incapable of making any decisions. The refusal form notes that they withheld medical care because I would not fill out a questionnaire. At that time I could not even read or grasp a pen. It was no time for a questionnaire.

On April 6th, 2006, my second day in the jails hospital, according to my medical records, my body temperature had almost normalized, I was slightly tachacardic, and still had an elevated blood pressure, and my body was still at risk of death and the pain from warming up was prolific. I was left alone on the floor of the suicide watch room because I was being punished for not filling out a questionnaire. It was cruel and unusual punishment.

**Fourth Amendment, Fifth Amendment, Seventh Amendment
and Fourteenth Amendment
Violations to Due Process by the State of South Carolina
and the State Prosecutor John Magera**

In January 2004 I received a package in the mail stating that I was in massive child support arrears, that I had already been declared guilty, that a lawsuit had already been initiated against me, and that a whole host of abusive collection efforts had been called to force. There were no due process protections between the false arrears accusations and the declaration of guilt and punishment; there was no presumption of innocence, nor a chance to even be heard. There was no

administrative judge or hearing to protect me. To save time and money, South Carolina goes ahead and schedules a meeting directly with the prosecutor. I proved to the prosecutor that I was not in arrears.

The prosecutor, State Attorney John Magera, took no action to zero balance my false arrears for nine months. In the ninth month, he did zero balance my arrears, but during the nine months the state's abusive collection actions caused the complete destruction of my business, my income, my good name and reputation, and my mental health. I had a thriving small business with two employees and was fully leveraged as are most start ups. When the claim of arrears hit my personal and business credit rating agencies, all my creditors shut down credit lines, called in loans, and seized assets. When my working capital had been cut off, I had no choice but to liquidate. After nine months of brutal punishment I was living in my van, was hundreds of thousands of dollars in debt, and indigent. When my van was seized, I was homeless. I was distraught and I threatened a lawsuit against South Carolina and John Magera for my injuries. This angered John Magera and the State of South Carolina. I was placed under investigation by the SBI and my picture had been posted at the state offices. The state offices were guarded by men with machine guns.

Just when I thought I had suffered great injury, my situation turned for the worse. I had no money to pay my child support so I began to accumulate real child support arrears. In retaliation, John Magera prosecuted me fiercely as he wanted me in jail. I was found innocent in my first two trials, but I lost the third trial and was jailed without being heard, I was barred from presenting a defense. When I was taken to the jail, I was immediately tortured almost to death, already discussed.

The mini-trials that South Carolina performs are not really trials, for reasons of expediency; the trials are just brief hearings where your Constitutional rights to due process and equal protections are non-existent. If you ask for your Constitutional rights the judges say on the record that you have none (See below, Judge Cate and Judge Turbeville Trials.) The accused have no rights to a defense, no right to appointed counsel, no right to present evidence, no right to face their accusers, no right to present witnesses, no right to file counter motions, no right to the subpoena powers of the court, no presumption of innocence, and no Seventh Amendment right to a jury or that of double jeopardy. The South Carolina state family court judges are not even able to dispose of a case until the prosecutor and accuser give permission to the judge in writing. South Carolina just keeps on putting you on trial until they jail you. South Carolina does this by utilizing civil court processes instead of criminal court processes, as the state wrongly assumes that civil court processes do not require Constitutional rights.

A citizen's Constitutional Rights must be held superior to those of the state, lest the Constitution fail. If the Constitution fails so does the United States. The US

Supreme Court protects the Constitution thus protecting the United States. Many citizens today fear the failure of the United States because of what is happening to citizens such as me. I have been litigating my case for four years, through hundreds of pleadings, and the federal courts, and even the federal appeals court, refuses to recognize the Constitution as primary law.

The district court dismissed my claims against the state due to Eleventh Amendment immunity. *Ex parte Young*, 209 U.S. 123 (1908), is a United States Supreme Court case that allows suits in federal courts against officials acting on behalf of states of the union to proceed despite the State's sovereign immunity, when the State acted unconstitutionally.

As to *Rooker-Feldman*, lack of jurisdiction, discussed below, negates any application. There is no immunity for acting in the absence of, or beyond the powers of jurisdiction, so there is no moment for even discussing any application of *Rooker-Feldman*

Further to the Eleventh Amendment issue: "Eleventh Amendment does not protect state officials from claims for prospective relief when it is alleged that state officials acted in violation of Federal law." *Warnack v. Pecos County, Texas*, 88 F3d 341 (5th Cir. 1996.)

I claim Fourth Amendment, Fifth Amendment, Seventh Amendment, and Fourteenth Amendment Violations to Due Process by the State of South Carolina and the State Prosecutor John Magera.

**Fourth Amendment, Fifth Amendment, Seventh Amendment
and Fourteenth Amendment Violations to Due Process by
South Carolina Family Court Judge Jocelyn B. Cate
South Carolina Family Court Judge R. Wright Turbeville
South Carolina Family Court Judge Paul W. Garfinkel**

I was put on trial three times, each by a different judge. Already discussed, these mini-trials are really only hearings where you have no Constitutional rights. Worse, the three judges never had jurisdiction over me or my child support order and if a judge does not have jurisdiction, they have no immunity. These three judges acted in a complete jurisdictional vacuum. The district court erred by granting these judges immunity and they were dismissed from my case.

When I asked the judges for my Constitutional rights they denied them. My first trial was with Judge Cate, here is part of the transcript:

9 MR. BARDES: OKAY. AND THEN THERE IS A HEARING
10 THAT IS SORT OF THE TRIAL?

11 THE COURT: YES

12 MR. BARDES: IS THERE A JURY THAT I CAN REQUEST?

13 THE COURT: THERE IS NO JURY IN FAMILY COURT.

14 MR. BARDES: CAN I REQUEST ONE AS MY CONSTITUTIONAL
15 RIGHT?

16 THE COURT: YOU DON'T HAVE A CONSTITUTIONAL RIGHT.

17 MR. BARDES: I DON'T HAVE A CONSTITUTIONAL RIGHT?

18 THE COURT: THIS IS NOT CRIMINAL CONTEMPT. DO YOU
19 WISH -- IF THE DEPARTMENT OF SOCIAL SERVICES WISHES TO
20 FILE A CRIMINAL CONTEMPT OF COURT, THEN YOU HAVE A RIGHT
21 TO A JURY TRIAL IF YOU -- IF YOUR PENALTY EXCEEDS ONE
22 YEAR.

23 MR. BARDES: BUT, IT'S UNDER THE CONSTITUTION THEN?

24 THE COURT: SIR, YOU NEED TO GO HIRE AN ATTORNEY
25 AND LET THAT ATTORNEY EXPLAIN TO YOU WHAT FAMILY COURT IS
1 ALL ABOUT.

During my preparation of filing my lawsuit, I received an email from a South Carolina legislator who answered my query as to the reason for the lack of Constitutional rights in family court:

From: Phil Lenski: lenskip@scsenate.org
Staff Attorney
South Carolina Senate Judiciary Committee
December 10, 2007

"Family Courts are statutorily created courts of limited jurisdiction in South Carolina and while this is far too complex a legal issue to address in this email, there is no constitutional right to a jury in Family Court, and the legislation that created the Family Court do not provide for jury trials or other constitutional rights.

The "legislation" that "created" family court in South Carolina is void, not voidable, but void. The "legislators" need to go back to work, and redesign family court to recognize basic and fundamental Constitutional rights. Whenever the government interacts with citizens, the government's actions have to be tempered with US Constitution Rights to an extent that "a reasonable" person can understand. The states cannot abrogate those rights.

"All law (rules and practices) which are repugnant to the Constitution are VOID." Since the 14th Amendment to the Constitution states, "NO State (Jurisdiction) shall make or enforce any law which shall abridge the rights, privileges, or

immunities of citizens of the United States nor deprive any citizens of life, liberty, or property, without due process of law, ... or equal protection under the law,” *Maybury v. Madison*, 5 U.S. (2 Cranch) 137, 180 (1803.)

In my second trial, on October 18, 2005, I again asked for my Constitutional rights. The transcript with Judge Trubeville follows:

12 THE COURT: All right, sir. And, you're ready to
13 proceed with this matter?

14 MR. BARDES: No, sir.

15 THE COURT: Why not?

16 MR. BARDES: One, I was not invited. Two, I've
17 asked for a jury -- my rights to take depositions, to
18 issue interrogatories, to be given access to subpoena
19 powers of the Court, file counter motions, and proceed
20 according to due process rights under the constitution of
21 the United States of America.

22 THE COURT: And, where did you ask all of that?

23 MR. BARDES: Several times, I have all the
24 documents to prove it.

25 THE COURT: I don't see anything in this file. Who
1 have you served those request on?

2 MR. BARDES: Donna Clutts.

3 THE COURT: Who is Donna Clutts?

4 MR. BARDES: Donna Clutts was Judge Cate' s
5 assistant. Two letters to her and I have the letters and
6 the response and then the other thing that I am unable to
7 find an answer to is that I was told twice in this
8 courtroom that I have no constitutional rights. And, I
9 asked the Judge to repeat it and she said you have no
10 constitutional rights. And, I have been seeking to find
11 out from many avenues what exactly I am. What is a person
12 that's an American [Citizen] that has no constitutional
13 rights? That's my question that I pose to the Judge on
14 three separate occasions.

Judge Turbeville ignored my request for rights and proceeded with the trial. Judge Turbeville found me not guilty and he issued an order for the State of South Carolina to obtain my psychological records to confirm mental illness and sit down with me to resolve my claims instead of my filing a lawsuit. This angered the prosecutor to such degree that John Magera cursed out my witness, Reverend Peterson. He told Reverend Peterson, “You go tell Mr. Bardes he is fucked.”

(Affidavit obtained.) John Magera then made up a fake court order stating that I was found guilty and he rolled my case into a third trial, this time with a judge of his choosing.

At this point I contacted the Department of Justice. I feared for my life. The Department of Justice had me turn over my evidence to the FBI in Columbia, South Carolina. The FBI never took action.

My third trial with Judge Garfinkel took place on April 3, 2006. I was broke, indigent, disabled with depression, worn out, and I had no fight left in me. I tried to hang on, but I gave up. Judge Garfinkel would not even let me present a defense; I was never even heard. The trial lasted six minutes. The transcript follows:

20 THE COURT: Do you have any proof of this Justice
21 Department claim you make, Mr. Bardes?

22 (Defendant presents Court with a piece of paper.)

This was my memo to the FBI, it was the start of my defense.

23 THE COURT: Show it to Mr. Magera first, please.

24 MR. MAGERA: That is just a memo that he wrote to
25 the FBI.

John Magera threw the memo down onto the floor in disgust.

1 THE COURT: All right. Do you have any proof of
2 receipt of the Department of Justice taking action on
3 it?

4 MR. BARDES: Would you like to read that?

I pointed at the FBI memo on the floor as that was my defense.

5 THE COURT: No, Sir. Tell me do you have any proof
6 of the Department of Justice ---

I gave up.

7 MR. BARDES: --- you are going to continue to deny
8 my constitutional rights under the Bill of Rights?

9 THE COURT: I'm going ---

10 MR. BARDES: --- violate my due -- all my rights of
11 due process?

12 THE COURT: Do you want to present a defense, Sir?

I had tears in my eyes.

13 MR. BARDES: Sir did you take an oath to uphold the
14 Constitution of the United States of America?

15 THE COURT: I find ---

16 MR. BARDES: --- protect and defend ---

17 THE COURT: --- okay I find Mr. Bardes is in civil
18 contempt and sentence him to 6 months in the Charleston
19 County Detention Center without good time or work
20 credits. He can purge himself by the payment of the
21 outstanding amount that is due and owed.

I was hauled off to jail by four sheriff deputies. When I got to the jail I was immediately tortured and almost killed, already discussed.

These three family court judges swore an oath on the US Constitution, yet they actively violated their oaths. These judges are no longer judges if they violate your Constitutional Rights. They are stripped of their authority and can be sued as traitors.

“Any judge, state legislator, or executive who does not comply with his oath to the Constitution of the United States wars against that Constitution and engages in acts in violation of the supreme law of the land. The judge is engaged in acts of Treason.” The U.S. Supreme Court has stated that “no state legislator or executive or judicial officer can war against the Constitution without violating his undertaking to support it.” *Cooper v. Aaron*, 358 U.S. 1, 78 S. Ct. 1401 (1958.) See also *In Re Sawyer*, 124 U.S. 200 (188); *U.S. v. Will*, 449 U.S. 200, 216, 101 S. Ct. 471, 66 L. Ed. 2d 392, 406 (1980); *Cohens v. Virginia*, 19 U.S. (6 Wheat) 264, 404 5 L. Ed 257 (1821.)

As to jurisdiction, John Magera did not bother to follow the federal law (UFISA) as to the legal registration of a foreign child support order. Mr. Magera merely photocopied my Pennsylvania order and claimed it was registered. My Pennsylvania court order was never registered in South Carolina. During my trial with Judge Turbeville, the judge came to the conclusion that South Carolina did not have jurisdiction, but he proceeded anyway. I had even filed a contest to the false registration. The record reads:

4 MR. MAGERA: Mr. Bardes filed an action to contest it.

Mr. Magera had my contest motion in his hands.

15 MAGERA: ...would ask the Court to dismiss his contest registration,

16 issue a bench warrant for failure to pay, and order him to..

18 THE COURT: Well, where is the Rule to Show Cause
19 that got him before the Court?

20 MR. MAGERA: Right here, Your Honor, I have a copy
21 of it if you don't have it.

7 MR. MAGERA.: And, here is the pretrial order, Your
8 Honor. Here is a notice to him to be here today and a
9 certificate of mailing to him of that.

10 THE COURT: This is a notice of a pretrial hearing
11 on September 15th

12 MR. MAGERA.: That's correct, Your Honor. As you
13 can see from the letter that I provided to the Court, the
14 Judge on that day continued the matter until today and
15 instructed us to inform him.

16 THE COURT: But, she did not issue an order?

17 MR. MAGERA: No, Your Honor, she did not.

18 THE COURT: Well, now, I can't issue a bench
19 warrant for him. I don't see anything holding him to be
20 here.

21 MR. MAGERA: Well, Your Honor, I believe the
22 statute allows you to issue a bench warrant for failure to
23 pay. And, this gentlemen is \$27 thousand -- and I've got
24 the printout and I'll pass it up to the Court as well, his
25 printout he hasn't paid in over a year. I'm sorry, here
1 is the order ordering us for today.

2 THE COURT: This order is not filed.

3 MR. MAGERA: That's a copy that the Court gave me,
4 Your Honor.

5 THE COURT: Okay. You say the contest that he
6 filed -- where he contested the registration, I mean, I
7 don't see that. I mean, I see the notice to register and
8 I don't see -- I don't know why it isn't registered as a
9 matter of law because I [don't] see any contest to it.

Mr. Magera then slipped my motion back into his file, thus *fooling* the court that it did not exist, thus committing fraud before the court and denying me my First Amendment right to formally petition the court and my rights of due process to address it.

10 MR. MAGERA: That would be my argument, too, Your
11 Honor, that he has not filed a motion pursuant to the
12 rules. Additionally, his only objection was orally at the
13 Rule to Show Cause and Judge Bridges allowed it over our

14 objection.

15 THE COURT: I see some Rule to Show Cause that was
16 issued in North Carolina, what's North Carolina got to do
17 with it?

18 MR. MAGERA: Your Honor, what happened---

19 THE COURT: I mean, North Carolina is still ruling
20 him in, too.

Yes. I had three states charging me child support. Two of the states did not have jurisdiction.

21 MR. MAGERA: Well what's happened, Your Honor, is
22 this, the mother is now living in North Carolina. He
23 moved to North Carolina and then moved back here. And,
24 The order is only
3 registered in South Carolina, it is not registered in
4 North Carolina.

5 THE COURT: Well---

6 MR. MAGERA: Unless there is something that we
7 don't know about.

8 THE COURT: Well, North Carolina issued a Rule to
9 Show Cause on July 7, 2005, requiring him to appear on
10 August 1, 2005, in the Alamance (sp) County District Court
11 for failure to comply with this Pennsylvania order---

12 MR. MAGERA: -- Your Honor---

13 THE COURT: ---so this is obviously registered in
14 North Carolina.

15 MR. MAGERA: Your Honor, they can't serve him.
16 They have not been able to sever him -- the mother just
17 explained to me they have not been able to have him served
18 in North Carolina.

This is false, I was served and attended my trial in North Carolina, then I sent the order to South Carolina, as required by federal law (UFISA).

19 THE COURT: Well, I don't know why, when he is the
20 one that sent a copy of the rule here.

21 MR. MAGERA: ---that's---

22 THE COURT: ---I mean, a copy of the rule is in the
23 file and it apparently came from him.

Mr. Magera got confused from lying to the court.

24 MR. MAGERA: The mother can better explain it, Your
25 Honor. It's a pretty complicated situation. Basically
1 the parties were divorced in Pennsylvania. At one time,
2 they both moved here. Both parties lived here. The
3 mother than -- we registered the order and the mother than
4 moved to North Carolina. The Defendant then moves to
5 North Carolina and then the Defendant then moves back
6 here. So, it's a question we just can't get him.

Who is "we", the state?

7 THE COURT: Well, where is he now?

8 MR. MAGERA: He is in Manning, South Carolina. So
9 and we haven't requested the order being registered in
10 North Carolina.

11 THE COURT: Well, but somebody-

12 MR. MAGERA: ---somebody---

13 THE COURT: ---well, if Pennsylvania---

14 MR. MAGERA: ---it might be Pennsylvania---

15 THE COURT: ---Pennsylvania needs to decide who
16 they want to enforce it.

Judge Turbeville correctly ruled that Pennsylvania still had jurisdiction, not South Carolina, nor North Carolina. John Magera never followed the federal law (UFISA) to legally transfer jurisdiction of a foreign support order from Pennsylvania. He never sent the transmittal forms to Pennsylvania. During discovery he failed to produce the requisite transmittal forms.

When a judge lacks jurisdiction they lose immunity and are open to suit. In my case, the three family court judges and the state acted in a complete jurisdiction vacuum and they have no protections from the law.

The U.S. Supreme Court stated that "when a state officer acts under a state law in a manner violative of the Federal Constitution, he comes into conflict with the superior authority of that Constitution, and he is in that case stripped of his official or representative character and is subjected in his person to the consequences of his individual conduct. The state has no power to impart him any immunity from responsibility to the supreme authority of the United States." *Scheuer v. Rhodes*, 416 U.S. 232, 94 S. Ct. 1683, 1687 (1974.)

I am asking the Supreme Court to allow my claims of Constitutional violations to proceed to trial against the three family court judges.

Constitutional Violations as to the Clerk of Family Court

The clerk charged me over \$1,100 in fines to collect false arrears. The clerk entered my name into the destructive child support enforcement databases which resulted in great injury. I claim violations of my Fourth Amendment and Fourteenth Amendment rights to be secure in my property and person without unjust seizure and due process.

Constitutional Violations as to Wade Harrison, the Family Court Lawyer From North Carolina and his Firm

Mr. Wade Harrison is a family court attorney for the firm of Wishart, Norris, Henninger, & Pittman, P.A., of Burlington, North Carolina. After I had been released from jail in South Carolina, I moved to North Carolina as I was prohibited from living in South Carolina. With my approval, Mr. Harrison had me sign a stipulation transferring the Pennsylvania child support order to North Carolina, thus confirming that South Carolina never had jurisdiction, with the proviso that Mrs. Bardes and I would create a new support order. Once my child support order had been legally registered in North Carolina, Mr. Harrison fabricated false arrears and came after me in the North Carolina courts with a lawsuit, in the same fashion as South Carolina. Mr. Harrison admitted at deposition that he did not know where the arrears came from; they were fabricated evidence. After almost being *killed* in South Carolina's unconstitutional courts and jails, I had no expectation that North Carolina's actions would be any different. The fabrication of evidence violates my rights to due process and equal protections. I am suing Mr. Harrison and his law firm. Family court lawyers are just as responsible as the family court judges to obey the law; and they all swore an oath uphold and protect the Constitution. His law firm specializes in family court law so they know of the constitutional abuses, yet they ply their trade and profit handsomely. Family court lawyer's are of unclean hands. Their silence implicates them.

Reason for Granting the Petition

The Supreme Court *Pro Se* kit states, “Try to show not only why the decision of the lower court may be erroneous, but the national importance of having the Supreme Court decide the question involved.”

I believe that I suffered near death torture and permanent brain damage for a reason. If my lawsuit is allowed to go to trial, South Carolina would be forced to insert basic and fundamental Constitutional rights into their child support enforcement penalties, their family court processes, and they would no longer jail their indigents.

A State’s right not to be sued cannot be primary over the Constitution. The states cannot violate citizen’s Constitutional rights without being held by the superior covenants. Citizen’s Constitutional rights are superior to states rights. The Constitution cannot be superseded, lest it fail. In my case the federal court erred by holding South Carolina’s rights superior to my Constitutional rights. The court did not even discuss, more or less recognize, that I even had Constitutional Rights, more or less hold them in a superior position. Perhaps that is why states routinely and freely violate citizen’s rights, as the courts, to whom such rights are trusted for their survival, will not enforce the citizen’s rights. Therefore, the federal court actually violated my Constitutional rights, thus adding to my injury. I am *Pro Se*, have no formal legal training, and can only understand the Constitution as a “reasonable” person may, so I can only testify to the obvious Constitutional violations as understood as such a “reasonable” person.

I have a Constitutional right to take my defendants to trial for great injury. I have a right to seek redress and remedy. What happened to me in South Carolina was criminal. American citizens become scared when they read about my case online, and they have real reason to be fearful. The sworn civil servants can actually kill the citizens and the courts protect the evil doers with great zeal.

There are 2,000 indigent and forgotten parents languishing in South Carolina jails. They have no money and are jailed illegally. They suffer repeated jail sentences. Here is an example of a father that was subjected to the constant jailing:

July 28, 2010: Charleston County Jail's inmate Charlie Mercer, a broke, indigent, and mentally ill father, committed suicide in his cell. Charlie Mercer was to be released in less than a week after a year of forced labor for child support arrears. The Post and Courier reported the suicide. The coroner declared death by hanging. From all accounts, the suicide stands. Very sad, one less father, more orphans. The question is, how many more

deaths of indigent, out-of-work, disabled, and mentally ill parents will it take to gain their freedom?

The lack of Constitutional protections that would otherwise protect an indigent creates a paradox, a ripple in the fabric of law, that once an indigent parent is jailed, their arrears keep growing and growing and the state has no choice but to keep jailing them over and over again, lest they admit a problem with their law. That's why debtor's prison was outlawed and Constitutional rights were invented, to prevent this very situation. I was forced into South Carolina's debtor prison system unwillingly. The state made me indigent first, took away everything that I owned, destroyed my good name and reputation, and then jailed me because I was indigent. My brain damage is permanent, there is no recovery from my injuries, but I was fortunate enough to escape the state and I feel a duty to the Public Trust to do something while I still have a voice.

In 1997, 6% of non-custodial parents were indigent, by 2007, indigents grew to 10%, and by 2010 it is 16%. Each year the states create 200,000 new indigent victims. There are now 1.7 million indigents nationwide, and there is no recovery, no failsafe. The federal government spends \$3.7 billion dollars a year trying to collect child support from people that have no money, the child support industry grows ever larger, the abuses compound, the judicial branch is complicit, and the victim class grows unabated and citizens are dying. If you stand up to the giant the sworn civil servants will torture you and try to kill you in their jails. If you seek proper redress, the federal courts will dismiss your case without explanation. Citizens no longer have Constitutional rights if no one enforces them. That's why the states knowingly violate citizen's Constitutional Rights as they have assurance of no recourse or penalty from the courts. The only court in the United States that still protects Constitutional Rights is the US Supreme Court, so it is there that I must go. I am still compelled.

I am asking the US Supreme Court to allow my defendants to go to trial for my great injuries. I am also asking the court to declare South Carolina's child support enforcement actions unconstitutional until the state provides reasonable due process protections such as hardship provisions, disability clauses, emergency cash reserves to allow indigent parents time to find employment, get back on their feet and be productive, receive job assistance, apply for disability benefits, receive health care for rehabilitation, obtain mental health therapy and medication, transportation assistance, and a break from the abusive collection penalties. My lawsuit may begin a profound *healing* period for our nation and start a chain reaction that ripples across all states.

Conclusion

1.7 million indigent parents are enslaved and dying by a perversion of the law.
Please help us.

Respectively submitted,

This 29th Day of December, 2010,

X_____

David A. Bardes, *Pro Se*
2016 Glenndale Lane
Burlington, North Carolina 27215
336-684-5914
davidbardes@davidbardes.com

Appendix A

Decision of the Federal District Court in Charleston

Appendix B Decision of the Federal Court of Appeals, Fourth Circuit

Appendix C

Exhibit: Why are jails so cold?

COUNTY OF CHARLESTON
DETENTION CENTER

INMATES GRIEVANCE FORM

INMATES NAME: Bardas, David INMATE # 12543V3

HOUSING UNIT: 36 DATE: 4/15/06

STATEMENT:

Why is the jail so bloody cold? I nearly
died from hypothermia in the cold cell during my
first (3) three days in the jail
DAB

RECEIVED BY: _____ AT _____ ON _____
TOUR COMMANDER TIME DATE

() ROUTINE () EMERGENCY

O.I.C. REVIEW:

Because it keeps the inmates
subdued - less likely to riot

4-16-06
DATE REVIEW COMPLETED


O.I.C. SIGNATURE

GRIEVANCE COMMITTEE MEETING ON _____, COMPOSED OF:

CHAIRMAN: _____

MEMBER: _____

MEMBER: _____

FINDINGS AND RECOMMENDATIONS:

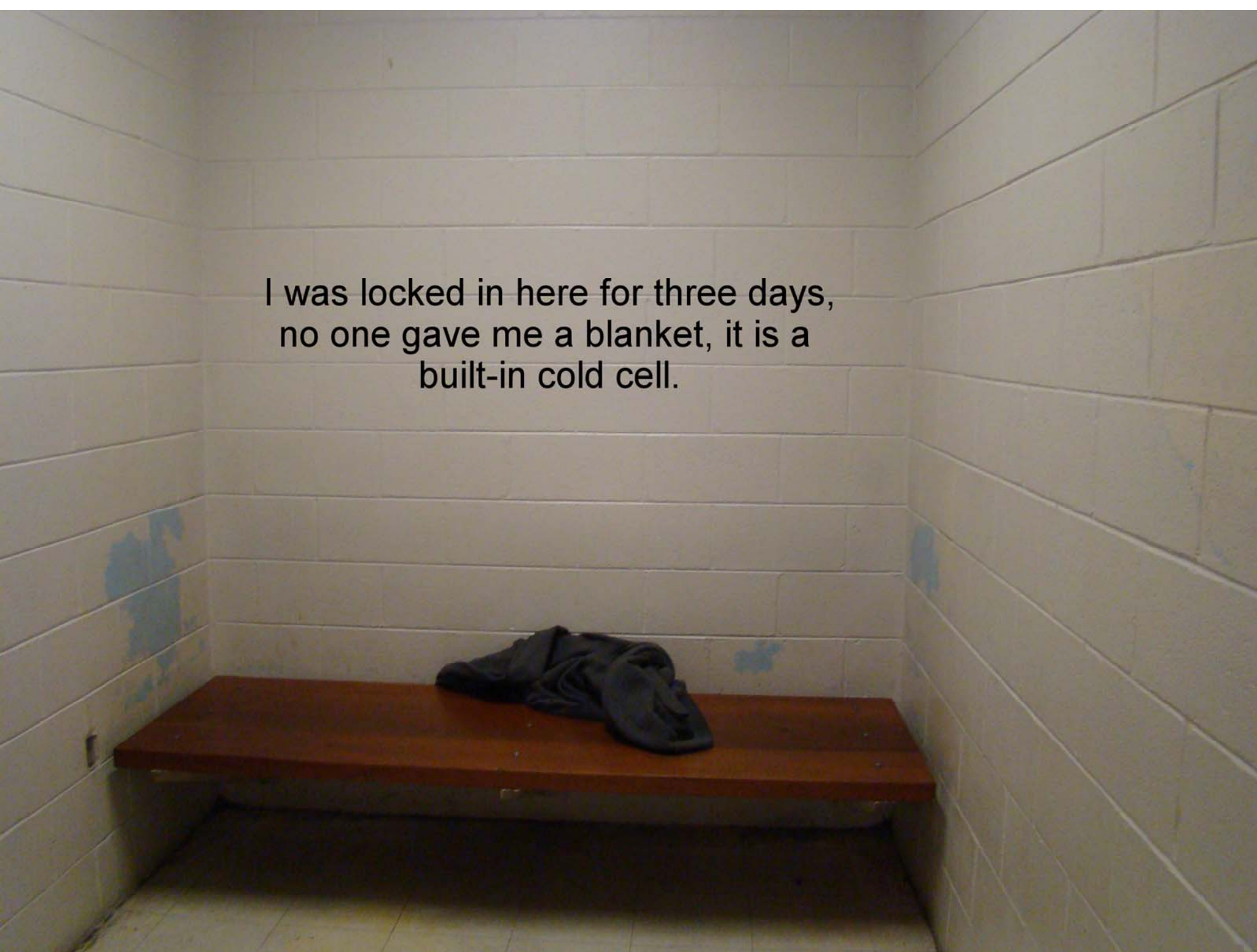
Appendix D

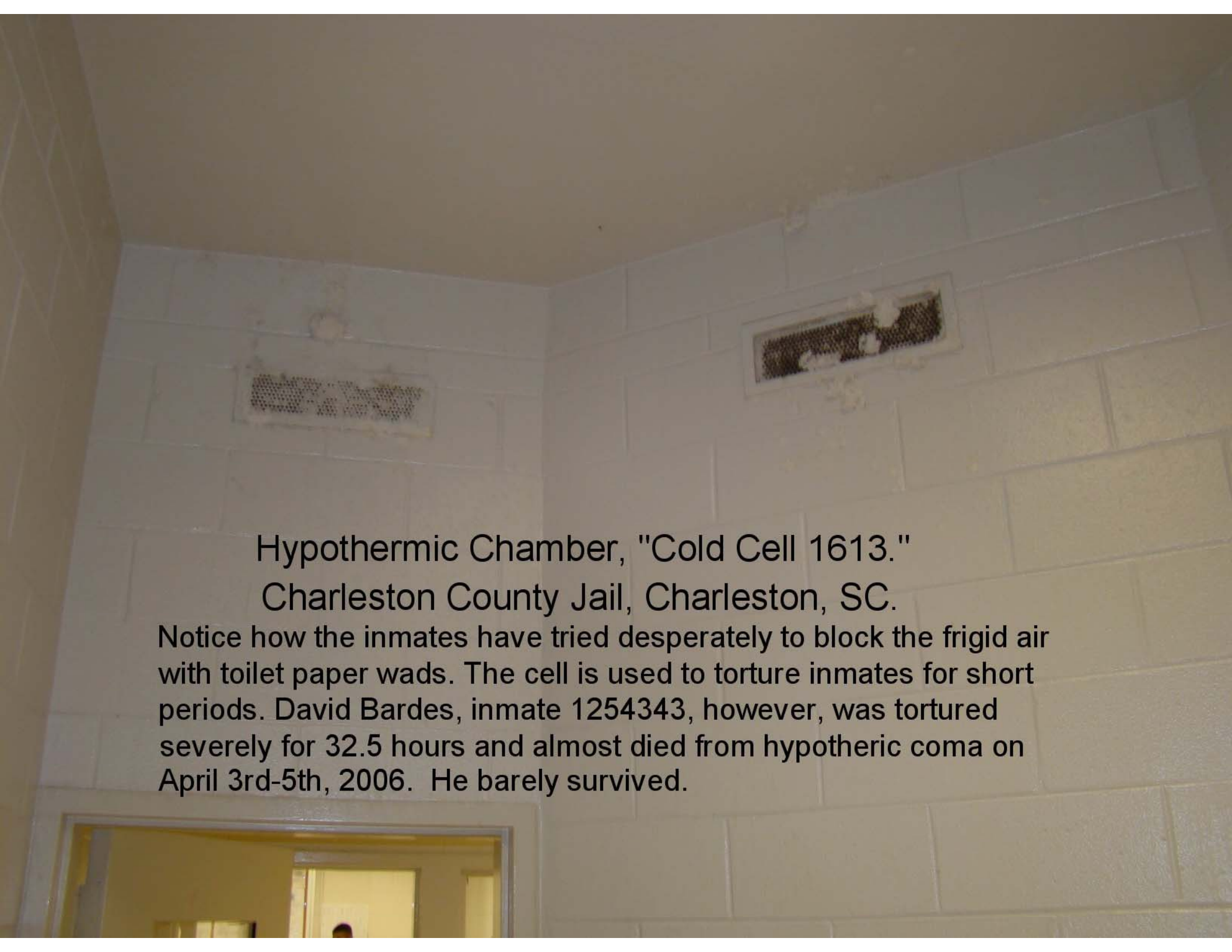
Exhibit: Torture Chamber Pictures

Hypothermic Torture Chamber, Cold Cell 1613



I was locked in here for three days,
no one gave me a blanket, it is a
built-in cold cell.





Hypothermic Chamber, "Cold Cell 1613."

Charleston County Jail, Charleston, SC.

Notice how the inmates have tried desperately to block the frigid air with toilet paper wads. The cell is used to torture inmates for short periods. David Bardes, inmate 1254343, however, was tortured severely for 32.5 hours and almost died from hypothermic coma on April 3rd-5th, 2006. He barely survived.

Appendix E Evidence: Vital Signs April 5th, 2006

Enlargement

TEMPERATURE

Date	04/5/06	
Time	1600	
104		
102	88°	
100		
98	ER?	

Vital Signs Flow Sheet- CCS



TEMPERATURE

Date	04/5/06						
Time	1600						
104							
102	88						
100							
98	ER?						
96							

BLOOD PRESSURE

260							
240							
220							
200							
180							
160							
140							
120							
100							
80							
60							
40							
20							

PULSE

160							
140							
120							
100							
80							
60							
40							

RESPIRATIONS

--	--	--	--	--	--	--	--

INMATE NAME: Bardes, David INMATE #: 1254373

DOB: 4/25/63

Appendix F Evidence: The Medical Refusal Form



REFUSAL OF TREATMENT

Inmate Name: Reuben, David ID#: 1254373 DOB: _____

David Reuben
(Name of Inmate) have, this day, knowing that I have a condition requiring medical care as indicated below:

- A. Refused medication
- B. Refused dental care
- C. Refused an outside medical appointment.
- D. Refused laboratory services
- E. Refused X-Ray service
- F. Refused other diagnosis services
- G. Refused physical exam
- H. Other (Please specify)

IM refused screening including answering questions and signing form.

Reason For Refusal "I will not sign any kind of contract b/c you are legally responsible for me b/c I am in jail."

Potential Consequences Explained IM explained to that we can not care for him without the information and we can not be held responsible for the lack of medical information. He was informed that the medical screening is NOT a contract.

I acknowledge that I have been fully informed of and understand the above treatment recommendations and the risks involved in refusing them. I hereby release and agree to hold harmless CCS and correctional personnel from all responsibility and any ill effects which may result from this refusal and I shall personally assume responsibility for my welfare.

I have read this form and certify that I understand its contents.

Dawn Frazier, W
Witness Signature

Cynthia May RWD
Witness Signature

04/06/06
Date

Dawn Frazier, W
Refused to sign -> D. F. [unclear] [unclear]
Inmate Signature

1605
Time