

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
FAYETTEVILLE DIVISION

COBY TOWNSEND HURST (Prisoner ID 27751)

PLAINTIFF

v.

Civil No. 5:21-cv-05029

DR. MARK RUCKER, Mercy Hospital  
Northwest Arkansas; DR. CALEB J. MILLER,  
Mercy Hospital Northwest Arkansas; NURSE  
DANIEL BURSON, Mercy Hospital Northwest  
Arkansas; and NURSE ANGIE L. NACHTIGAL,  
Mercy Hospital Northwest Arkansas

DEFENDANTS

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

Defendants Caleb J. Miller<sup>1</sup>, Nurse Daniel Burson, Nurse Angie L. Nachtigal, and Mercy Hospital Rogers d/b/a Mercy Hospital Northwest Arkansas (“Mercy Hospital”) (collectively “Defendants”) state that the following facts are not in dispute and are the only facts relevant to their motion for summary judgment on the complaint of Coby Hurst (“Hurst”):

1. Plaintiff has brought a prisoner claim pursuant to Section 1983 against the Defendants for an alleged violation of his Fourth Amendment rights and for “rape.” *See Complaint* (Doc. 1, pgs. 4-6). Hurst claims damages of \$21 million. *Id.*, pg. 7.

---

<sup>1</sup> Incorrectly referred to as “Dr.” Caleb J. Miller in Plaintiff’s Complaint.

2. Section III of Hurst’s Complaint concerns the mandatory grievance procedure. (Doc. 1, pg. 2). Hurst did not present the facts relating to his complaint in the state or county written grievance procedure. *Id.* He also did not attach any written grievances or responses. *Id.* Because he answered “no,” Hurst explained, “I was taken in cop car to Mercy Hospital and a tube was shoved up my penis, raped violation of my 4<sup>th</sup> Amendment.” *Id.* Hurst confirmed that he wrote his Complaint and that each page was his handwriting. *See Testimony of Coby Hurst (selected portions), Exhibit A*, pgs. 92-96. The relevant grievance portion of his complaint is copied below:

III. There is a written prisoner grievance procedure in the Arkansas Department of Correction and in your county jail. Failure to complete the grievance procedure may affect your case in federal court.

A. Did you present the facts relating to your complaint in the state or county written prisoner grievance procedure?

Yes \_\_\_\_\_ No

B. If your answer is YES, Attach copies of the most recent written grievance(s)/response(s) relating to your claims showing completion of the grievance procedure. FAILURE TO ATTACH THE REQUIRED COPIES MAY RESULT IN THE DISMISSAL OF YOUR COMPLAINT. If copies are not available, list the number assigned to the grievance(s) and the approximate date it was presented.

C. If your answer is NO, explain why not: I was taken in cop car to Mercy Hospital and a tube was shoved up my penis, Raped violation of my 4th amendment

IV. Parties

*See Complaint* (Doc. 1, pg. 2).

3. On June 6, 2019, Hurst and “some girl” went to a drug dealer’s house to get some methamphetamine (hereinafter “meth”). *See Testimony of Coby Hurst (selected portions), Exhibit A*, pgs. 39, 49. The plan was for them to come back to

Hurst's house to use the drugs and have sex. *Id.* When they got back to his house, they had a fight and the girl left. *Id.* Hurst waited for a few days for the girl to come back, but she never returned. *Id.*

4. On the morning of June 9, 2019 around 8:00 a.m., Hurst injected himself with the meth. *Exhibit A*, pg. 50. The meth was laced with PCP and Oxycontin according to Hurst. *Id.* After using the meth, Hurst got hot and took off all of his clothes. *Id.* He tried to tie his clothes around his body to cover his penis ("like an Indian would tie it on") but his clothes fell off when Hurst went outside and stepped off the porch. *Id.*, pgs. 50-51.

5. Hurst first went over to the neighbor's house, Ben Cameron, to go beat him up for ruining a race car engine that Hurst was working on in his garage. *Exhibit A*, pgs. 51-52. He then started pouring used, dirty oil on his neighbor's vehicles, because it was raining and he did not want the cars to get rusted when the water went away. *Id.*, pg. 52. Next, Hurst went to a neighbor's backyard and tried to save their German Shepherd, as Hurst thought God was going to flood the place. *Id.*

6. Then, Hurst saw a police car. *Exhibit A*, pg. 52. He ran over to a little kiddie pool in his neighbor's backyard and dove into it, because he wanted to go swimming before the police arrested him. *Id.* He laid in the kiddie pool face down with his arms spread out. *Id.*, pg. 53.

7. By this time, an officer had arrived at the scene and attempted to arrest Hurst. *Exhibit A*, pgs. 53-55. Hurst and the officer got into a fight. Hurst claims the officer hit him in the head multiple times. *Id.* Hurst then hit the officer in the jaw

and ran. *Id.* Hurst took off around the corner and unsuccessfully tried to run through a fence. *Id.* He bounced back into the officer's arms and was arrested. *Id.*

8. Hurst was transported to the Mercy Hospital ER by ambulance with police escort around 10:30 a.m. on June 9, 2019. *ER Arrival Note*, MHNWA-CH.00009, *Exhibit B*. His chief complaint was altered mental status. *Id.* The nurse also commented "on meth, head pain, was in someone else's yard naked trying to save a girl that was in the pool [( ) this is not a true story,] laceration to his head, level 2 trauma called." *Id.*

9. The ER physician, Dr. Mark Rucker, saw Hurst and noted in his history that Hurst had been brought to the ER because he was confused and found naked in his neighbor's yard with altered loss of conscious and combativeness. *ER Provider Note by Dr. Rucker*, MHNWA-CH.000010-16, *Exhibit C*. In his review of systems, Dr. Rucker found Hurst to be positive for agitation, behavioral problems, confusion, and hyperactivity. *Id.* Around 10:35 a.m., Dr. Rucker entered orders for various diagnostic studies, including (a) laboratory studies: urine drug screen, CBC with differential, comprehensive metabolic panel, troponin baseline, troponin, and ethanol level; (b) radiology studies: CT head without contrast and chest x-ray; and (c) EKG. *Id.*; see also *Orders / Results*, MHNWA-CH.000016-31, *Exhibit D*.

10. An EKG was done at 10:39 a.m. See *Exhibit D*. Around 11:05 a.m., Hurst had a CT head without contrast and a chest x-ray, both of which were negative for any acute abnormality or process. *Id.* The ethanol level came back normal. *Id.*

11. At around 10:52 a.m., Hurst was started on a bag of fluid (saline) at 2,000 ml/hr and given Ativan. *MHNWA-CH.000035, Exhibit E*. He completed his bag of fluids at 11:22 a.m. *Id.*

12. At 12:46 p.m., Daniel Burson (“Burson”), inserted an “intermittent” urethral catheter to obtain Hurst’s residual urine. *Nurse’s Note, MHNWA-CH.000047, Exhibit F*. It was made of latex, size 16 Fr. *Id.* Burson was successful on his first insertion attempt. *Id.* He obtained 60 ml of clear, yellow urine. *Id.* Burson noted that he removed the catheter around that same time. *Id.* Under “tolerance,” Burson recorded “no complaint.” *Id.*

13. Around 1:45 p.m., Hurst’s urine drug screen came back positive for cannabinoids, methamphetamine, amphetamine, and benzodiazepine. *Exhibit D at MHNWA-CH.000023-24.*

14. Following the medical work-up and diagnostic studies, Dr. Rucker rendered a primary diagnosis for Hurst of methamphetamine abuse. *ER Provider Note by Dr. Rucker, MHNWA-CH.000010-16, Exhibit C*. Hurst was discharged at 2:14 p.m. in stable condition. *Id.*

15. The medical records reflect that Hurst had no complaints and no injury related to the urine catheter.

16. According to Hurst’s testimony, Hurst did not know who inserted the urine catheter and did not even know if it was a male or female. *Exhibit A, pg. 69, 72-73.*

17. Regarding the catheterization, Hurst testified that the police officer present at the hospital had nothing to do with the urine drug screen or the catheterization. *Exhibit A*, pgs. 65-66. The police officer gave no orders or direction to the Mercy Hospital staff to insert the catheter to obtain the urine. *Id.* The medical staff was doing this on their own free will. *Id.*

18. Mercy Hospital is a faith-based, Catholic not-for-profit hospital in Rogers, Arkansas. *See Affidavit of Mercy Representative, Eric Pianalto, Exhibit G.* It is a domestic nonprofit corporation filed under the laws of the State of Arkansas. *Id.* Mercy Hospital is a private institution. *Id.* Mercy Hospital is not owned by the State of Arkansas or any other state. *Id.* It is not owned by the federal government. *Id.* On June 9, 2019, Caleb Miller, Daniel Burson, and Angie Nachtigal were employees of Mercy Hospital while providing medical services to Coby Hurst. *Id.*

19. Hurst has not sought any medical treatment of any kind related to alleged injuries from the catheterization during the June 9, 2019 ER visit at Mercy Hospital. *Exhibit A*, pg. 80.

20. Plaintiff has admitted that he did not intend to sue Mercy Hospital, Caleb Miller, and Nurse Nachtigal, as none of them were the individuals who placed the catheter or ordered the catheter placement. *See Exhibit A*, pgs. 45-47, 100. Hurst only intended his lawsuit to “be against the doctor and the individual that catheterized [him].” *Id.*, pg. 46.

Respectfully submitted,

WRIGHT, LINDSEY & JENNINGS LLP  
3333 Pinnacle Hills Parkway, Suite 510  
Rogers, Arkansas 72758-8960  
(479) 986-0888  
FAX: (479) 986-8932  
E-MAIL: [elowther@wlj.com](mailto:elowther@wlj.com); [gritter@wlj.com](mailto:gritter@wlj.com)

By: 

---

Edwin L. Lowther, Jr. (81107)  
Glenn S. Ritter (2011146)  
*Attorneys for Defendants Caleb J. Miller,  
Nurse Daniel Burson, Nurse Angie L.  
Nachtigal, and Mercy Hospital Rogers  
d/b/a Mercy Hospital Northwest  
Arkansas*

#### CERTIFICATE OF SERVICE

I hereby certify that I have filed the foregoing on the CM/ECF system which shall provide notice to the attorneys of record. Because Plaintiff represents himself pro se and it is unclear whether he has access to the CM/ECF system, I do hereby certify that I forwarded a copy of the foregoing via US Mail on January 13, 2022, to the following:

Coby Townsend Hurst, No.99103  
ADC - DELTA REGIONAL UNIT  
880 East Gaines  
Dermott, AR 71638-9505



---

Glenn S. Ritter