

MARCUS RUBEN ELLINGTON  
CDCR #E-44837/D3-140  
CSP-LAC., POB 4670  
Lancaster, CA 93539

THE CALIFORNIA PRISON SYSTEM DENIES DISABILITY RIGHTS TO ITS WARDS  
DUE TO THE MEDICAL DEPARTMENTS FAILURE TO PROPERLY TRAIN DOCTOR'S  
AND NURSE'S AS TO WHAT QUALIFIES AS A DISABILITY UNDER THE (ADAA).,  
AMERICANS WITH DISABILITIES ACT - AMENDED.

The California prison system has a Department all it's own for the training and, promulgation of medical rules and studies. However, during the (1990's) the U.S. Supreme court ruled that both, the Americans with Disabilities Act and Rehabilitation Act. are applicable to U.S. Prison's. Not a derivative of these acts. But, the acts themselves. See, Pennsylvania v. Yeskey, U.S. Pa, 1998, 118 S.Ct. 1952, 524 U.S. 206, 163 A.L.R. Fed. 5t71, 141 L.Ed. 2d 215, on remand 76 F.Supp. 2d 572.

Under the Americans with Disabilities Act - Amended (ADAA) a disability is defined like so:

42 U.S.C. § 12102(1)(A): "A physical or mental impairment that substantially limits one or more major life activities of the "INDIVIDUAL.""

(B): "A record of impairment or," (C): Having been regarded as impaired.

Now, where in that definition is teh INDIVIDUAL with the physical impairment, required to present or have a doctor explain to the reviewer that, the INDIVIDUAL'S IMPAIRMENT limits them? This writer has read the above segment (1000) times or more. and, nowhere is the INDIVIDUAL with the impairment required to present a doctors opinion that, the INDIVIDUAL is disabled. CDCr., has added to the above FEDERAL STATUTE that, a doctor must declare an inmate disabled. This (addition) also permits the prison doctor(s) to hold that, the individuals physical impairment, does not disable 'them.'

The IMPLEMENTING REGULATION'S of the ADAA. has setforth a list of physical impairments that are most certainly covered by the statute. See, 28 C.F.R.§ 35.104 et seq. leaving no doubt as to what a PHYSICAL IMPAIRMENT is. and it states that, any of the listed impairments are most certainly covered by the (ADAA). It does not however state that any of the listed IMPAIRMENTS be of any certain severity. This is an important point because, CDCr doctors hold that, an inmates PHYSICAL IMPAIRMENT must be so severe as to require one be virtually, if not altogether, totally reliant upon an assistive device for ambulation. But, nowhere in the above cited statute, is there any requirement that, the condition be so severe? and, by these (additions) CDCr is removing properly verified prisoner's from the disability program, based on its own (regulation) that, the physical impairment must be so, severe!

Throughout the writers stay in the California Prison system, He has had to bear the inadequate medical care being issued out within it. and, more specifically, during the early or mid-90's, the writer suffered a fall in cell from a top bunk of which he was assigned in contravention of a medical chrono for a lower bunk. This fall caused the bulging and herniation of several of his disc within his lumbar spine (L4-L5, L5-S1.) along with some mild degenerative disc disease (D.D.D.). that, has caused him substantial lower back pain and sciatica pain. This occurred in year- 1995. While at the Calipatria State Prison. The Southern District Court held that, the prison was not at fault for both, assigning an inmate that had been medically prescribed a lower bunk, to an upper bunk. and leaving him confined

to a flooded cell for more then (7) hours in nothing more then, shower thong's, underwear and T-shirt. As a new arrival to the above listed prions.

When it was discovered that, My back injury was the result of a flooded cell and an upper bunk. When I was in fact to be accommodated with a lower bunk, It immediately began to discount My injury. Even unto lying about it. That, I did not have any injury.

from year - 1995) to date, I have been verified a disabled under the (ADAA). by one doctor. then (30 day's) to (6 Months) later, a different doctor would look at the same medical evidence and claim that, It (the medical evidence) was insufficient to warrant disability placement. and order all medical devices and accommodations removed. Totally, without regard nor, any output from the writer. Leaving him, to crawl and drag himself about the prison until sain individuals got involved. Which wasn't easy for them to do. Because, Prison's have groups both, among the inmates and guards/medical personnel. and, these groups contain some very mixed up people at time. Those that, are here to strike back at people that have hurt them in the past (through punishing inmates); those who are merely follower's, those still subject to peer pressure. and it is these types that, CDCr chooses to employ. and this is because they are most "usable." "pliable. and, will not unlike, the students of the 'milgram experiment.' do whatever it takes to be included/accepted. Within such an environment individuals with such psychi, are dangerous. They will lie, cover-up wrongs/crimes and generally will go along with whatever, just to be liked. There is no training being issued within the prison(s) to defeat or break these groups. They have rules on the books. but, that is just for show. So, when they are brought onto the carpet for so wrong doing, they may point to these rules they have in place.

Within the ARMSTRONG REMEDIAL PLAN (ARP.) another (9th Cir.) and U.S. Supreme court case holding that, the (ADAA) is applicable in U.S. Prison's has setforth guidelines for the prison officials to follow when determining who is and isn't disabled under the (ADAA). and, in pertinent part holds:

"Once the disability of any inmate has been verified on CDCr 1845, disability verification form, by the facility doctor. and approved by the chief medical executive. That form may not be changed absent clear and tangible proof of the verified condition having ameliorated." See, ARP.IV.B.1d) Field Operations.

Any competent person reading the above, would think that, once an inmates disability had been verified and approved. said disability would not be disturbed without scientific medical evidence that, the condition once verified, has changed for the better. Not temporarily. But, permanently. That the, (e.g., MRI) now shows no herniation/bulges nor degenerative disc disease)). But, that is not how CDCr is interpreting the above quote. 'They' simply ignore it. So, today, one doctor may find you disabled based on (mild degenerative Disc Disease) and tomorrow, a different doctor, will remove that, finding. However this removal goes directly against the FEDERAL guideline above. and nothing is done, about it within the administrative agency itself. and the California court's. Which seem to be in league with the CDCr with regard to "covering-up" such egregious wrongs. Calling claims of this nature, without merit. and, frivolous. to get them out of the way and out of public scrutiny. I call it "our governments racket." From the streets to the sub-station. From the sub-station, to the court. From the court, to the prison plantation for (X) amount of year's of free labor. and every government agency designed to ensure that your rights are observed while there will only work toward keeping you there. and, keeping you quiet!

So, as the direct result of CDCr not following the rules and regulations given it to abide by, My walker and wheelchair are being denied Me now for (7) months.



For (7) months. or, since January 28, 2014. to-date. I've been force to remain in cell without, access to the chowhall for My three (3) meals daily, daily shower's, access to the prison law library, exercise and recreational yard, property collection and visits and telephones. Access to the clinic for collection of pain medication and psychotropic medication for depression. and, mainly, My heart medication for which, I fear suffering an event without. Due to My proclivity toward heart attackj and stroke. As I suffer with Coronary abdnd peripheral artery disease. That, gives Me un-controllable HYPERTENSION. The meds that they have issued does not lower My blood pressure. Only insignificantly. So, not having My med. place Me at risk for serious harm. and, nothing is done about this by the internal administrative agency on its own. and they seem to know that, no court is going to force .. them to do their job's! not in the case of ELLINGTON. He's a hated black-man, for some secrete reason? any other murderer, Pimp, drug pusher, Sextrafficker, Hostage taker, may receive competent medical care. But this ELLINGTON, who has brought our illegal and crminal doing to light over the (25) years of forced incarceration, may not! Please say that it isn't "RETRIBUTION?" I've been denied the opportunity to change My bedding for (7) months.

The doctor Fitter, that took My walker on: (09/24/2013) stated as his reason for doing so, "His having seen the writert while on the (B) facility walking with his walker asthough He did not need it. and, doing dips against his body. Not, evidence that, My verified disability changed. Merely a subjective claim of a CDCr doctor. "As if I did not need it?" Ding dips is legal the last time I looked. and disabled individual's may do them too? After that attack, a Dr. Marcelo got into the act, an simply ordered My cane, given in place of My walker taken claiming he'd seen a videotape of My exercising as basis to do so. this is the blow that, left the writer confined to the cell from: January 28, 2014. To-date. this too was done without physical examination. Nor, any evidnece of change in condition verified by the facility doctor and chief medical executive. Therefore, violating: ARP.IV.B.1d) aswell. They overlook any rule, guideline or law that proves them wrong! and, since our court system is in the busness of trying to sweep whatever CDCr does, under the carpet and that, without regard to the rights of prisoner's, the safety of prisoner's, the truth, the law, the U.S. Constitution and the fact that, though incarcerated, we are U.S. citizen's? you see, our courts (federal) have already declared that, our prisoners are in imminent danger due to overcrowding. That, this overcrowding is causing poor medical care here in California prison's. See, Plata v. Brown,. (9th Cir.),. All California Prisoner's have been deemed to be suffering "irreparable harm." within the prisons medical comunity. Due to overcrowding and poor medical care. So, for a State or Federal court to be trying to claim a prisoner isn't suffering "deliberate Indifference." at teh hands of the current medical personnel. Is, incredible. I ws once a believer that, Judges were HONORABLE. I no longer believe that!

Due to My poverty, I am unable to buy JUSTICE. A Brother of Mine put up some of his MONEY(IES) and, bought Me an attorney. But, the prison officials showed us that, they have power and authority ovf(then all! My attorney made an appointment to visit Me. Well CDCr called him back and told him something that made his change his prior enthusiasm shown to My Brother just prior to being paid. But, Maybe it was just the enthusiasm shown just prior to being paid? There was another firm My Brother retained, for the purpose of obtaining the record. This firm simply took My brothers money(ies) and did nothing? I can't believe that, We keep being beat by these legal agencies, as though they are under the control of CDCr.

I hate that, I have cost My brother so much moneis. and, now, I'll have to get out and work for My brother to pay him for the time and Money he has lost on My account. Sir, I am sorry for the loss. I will Re-pay you, I swear it!

Whatever CDCr is telling people that are trying to scrupulously trying to help me, must be serious. To turn the enthusiasm expressed initially to what appeared in that visiting room on:06/13/2014 for less then (30) mins. It is My prayer that, scrupulous help would come. People that do not cowtow to the enemy. nor, bow to the ungodly. If you are out there, please consider My condition's and circumstances for a Pro bono cause.

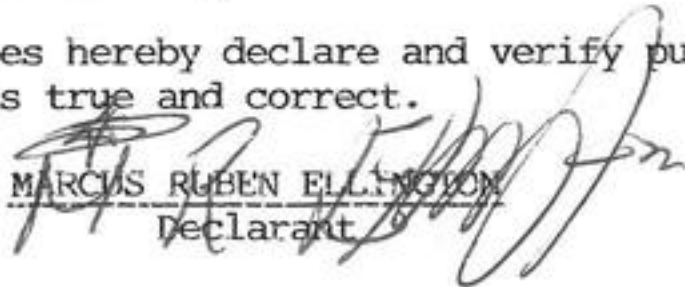
The prison officials had Me designated disability code (DPM) which means ---Disability placement Mobility Impaired. Defined as, unable to walk 100 yards without pausing. With or without assistive device. Now, the code holds that, One My be disabled under it, yet be able to walk without assistance. (With or without walking aid). So, why did they take My Disability "CODE-(DPM)" that allows the holder to be unable to walk 100 yards without assistance? Do you see what I'm saying. They are saying that, I am able to walk. And so, took My disability code. But, the disability code is held, properly, by one that can walk. He must simply pause occasionally due to his impairment. Remember, Dr. Fitter claimed to have seen Me walking with My walker, as-though, I did not need it. Not walking without My walker. So, why was I removed from the (DPM) disability code. I was not found to have violated it? and, If I walked on walker beyond 100 yards. This is not a violation of the code because, the (ADAA) holds that, limitations shall not be determined while the INDIVIDUAL is using an assistive device. See, 42 U.S.C. § 12102(4)(E)(i)-(I). Such a limitation determinations voids the findings!

Dr. fitter claimed to have witnessed the writer on the (B) yard walking with his walker as-though he did not need it. and doing dips against his body. as the basis for its removal in-exchange for a quad cane. When in fact, I was not housed on the (B) yard the week of (09/24/2013) I was confined to the Administrative Segregation Unit (ASU) for allegedly having struck a fellow inmate with My walker. So, Fitter lied! And, now they are trying to cover it up, as usual! I plead these same facts in My inmate administrative appeal of the matter, it was ignored by chief doctor, Morris, Chief Executive Officer - Finnander and all other's. Including the warden Soto, Matthew Cate of the Department of Corrections and the Federal Receiver J. Kelso, that is--making millions of dollars a month federally, to fix the medical care system here in CDCr. All ignored these facts. Are they in cahoots??? They are sure presenting a united front! J. Kelso, the federal receiver put into place by FEDERAL JUDGES, must have kept someones secrets well. To have been given a job where he receives so much money for doing nothing but aiding and abetting the CDCr officials in their wrong doing against self advocating prisoner's. Pretending too, that these self advocates claims are 'pretend.'/'pretentious.' Holla if you hear Me!!!!

These FRAT-Brothers are really doing a number on people's lives. Helping each-other up on the neck of the poor. Demon-class, those who have no regard for (YHWH) nor the operation of his hand. His hand is upon you. But, not for good. You shall be brought low for your selfish evil. Hard-heartedness and the turning of the eye from the oppressed. and not being (YHWH's) hands unto men. Having been taken captive by the devil to do his will against the children.

I, MARCUS RUBEN ELLINGTON, does hereby declare and verify pursuant to 28 U.S.C. § 1746. That, the foregoing is true and correct.

Date: July 03, 2014

  
MARCUS RUBEN ELLINGTON  
Declarant