

July 2020.

U.S. District Court, Southern District of Florida

Case No. 18-CV-20696-Martinez

Eight Amendment

Hepatitis C Inmates

The plaintiff alleged that deliberate indifference on the part of Dade Correctional Institution's physicians lead to development of liver cancer as a result of failure to treat hepatitis C. Because the origination of liver cancer predated the introduction of hepatitis C therapies and because the treatment was correctly focused on the liver cancer, not on the hepatitis C, the patient was not a candidate for treatment until remission from liver cancer. In this case, the plaintiff was a statistical rarity and survived a very advanced liver cancer. He was successfully treated for hepatitis C subsequently. Dr. Angel Alsina's uncontroverted sworn affidavit concluded that the liver cancer occurred before the introduction of effective anti-viral drugs for hepatitis C in the market and there was no genuine dispute of material fact. Causal connection between the origin of the liver cancer and the defendants' failure to treat the hepatitis C could not be shown. The plaintiff's allegations were insufficient to survive Summary Judgment, which was Granted, based on Dr. Alsina's expert opinion, and the case was Closed on June 22nd, 2020, per Magistrate Judge Lisette Reid's Report and Recommendation. U.S. District Judge Jose E. Martinez adjudged the R & R and the defendants' Motion for Summary Judgment was Granted. The case was Closed on all merits in favor of the defendants, on July 14th, 2020.