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United States Settles Medical Malpractice Lawsuit with Former Prisoner for \$600,000

The U.S. Bureau of Prisons (BOP) has agreed to pay \$600,000 to Robert Hernandez to settle claims that its prison medical providers failed to provide Mr. Hernandez with basic medical care, leaving him permanently disabled. Mr. Hernandez was represented by Liah Catanese of the law firm Alan Goldfarb P.A., as well as Randall C. Berg, Jr. and Dante Trevisani of the Florida Justice Institute. The settlement followed closing arguments after a bench trial in Tampa in a case brought pursuant to the Federal Tort Claims Act.

“Even though I’ll never get my health back, I’m glad to put an end to this long and painful ordeal,” Mr. Hernandez cried. In February 2009, while incarcerated at the Coleman prison in central Florida, he awoke with severe stabbing pain in his right hip. Rather than order diagnostic tests, the BOP medical staff, most of whom are unlicensed in the U.S., dismissed Hernandez’s complaints as low back pain. A simple medical workup would have revealed that he was suffering from septic arthritis of the hip, an infection that is considered an orthopedic emergency. He was unable to walk, his leg atrophied, and he writhed in pain for 8 months until he finally saw a licensed physician who ordered the proper tests, leading to the discovery of septic arthritis and osteomyelitis of the hip.

Tried before U.S. District Judge Scriven, the United States vehemently challenged causation and argued that even if the BOP had diagnosed the condition 8 months earlier, the treatment would have been the same. Mr. Hernandez argued that had he received the proper treatment when he initially reported his pain, his condition could have been treated with a simple course of antibiotics. Instead, Mr. Hernandez required two hip replacement surgeries that left him with a leg length discrepancy and a permanent limp. At the close of the trial, Judge Scriven strongly suggested that the parties engage in settlement negotiations. The next morning, the BOP agreed to a settlement of \$600,000 rather than allow Judge Scriven to decide the case.

“I hope this case causes the BOP to re-examine the way that unlicensed medical providers are used and supervised in federal prisons,” said Randall C. Berg, Jr., Executive Director of the Florida Justice Institute. “This was a case of atrocious medical care rendered to a human being and we expect this result to bring effective change to medical care rendered in our federal system,” added Liah Catanese, senior associate at Alan Goldfarb, P.A.

The case is *Hernandez v. United States*, 5:11-CV-00370 (M.D. Fla.). For further information contact: Randall C. Berg, Jr. of FJI at 305-358-2081 ext. 225, or Liah Catanese of Alan Goldfarb, PA at 305-371-3111.

The Florida Justice Institute is a non-profit, civil rights law firm that, since 1978, has primarily represented incarcerated people challenging conditions of confinement in Florida’s prisons and jails. Alan Goldfarb P.A. is a premiere civil litigation firm that represents victims of catastrophic personal injuries, wrongful death, and medical malpractice.