

No. 1881555

IN THE SUPREME COURT OF ALABAMA

Ex parte Doyle Lee Hamm,	*	
	*	
In re. State of Alabama	*	
<i>Petitioner,</i>	*	Status Update in response to
	*	the Court's Order dated
v.	*	August 25, 2017
	*	
Doyle Lee Hamm,	*	
<i>Respondent.</i>	*	

DOYLE HAMM'S STATUS UPDATE OF SEPTEMBER 1, 2017

Pursuant to this Court's order dated August 25, 2017, Doyle Lee Hamm respectfully submits the following status update:

1. Undersigned counsel has been working diligently with the warden's assistant at Donaldson Correctional Facility, Ms. Johnnie Luster, to schedule a medical visit for Dr. Mark Heath in September. Warden Leon Bolling at Donaldson and counsel are currently working on a visit with Dr. Heath on Saturday, September 24, 2017. Undersign counsel will ensure that the visit happen within the timeframe set by this Court in its Order dated August 25, 2017.

2. At the request of Dr. Mark Heath, undersigned counsel respectfully requested from the Attorney General on Monday, August 28, 2017, by e-mail and by letter, a copy of the State of Alabama's official written protocol for lethal injection. This protocol is essential to determine whether Mr. Hamm's late-stage cranial and lymphatic cancer would interfere with a lethal injection. To date, undersigned counsel has not heard back from the Attorney General.

3. In the Attorney General's reply brief dated August 15, 2017, the Attorney General remarked in footnote 1 on page 2 that "Dr. Heath is an anesthesiologist, not an oncologist." This is indeed true. An anesthesiologist is the proper expert to assess questions of venous access and whether Mr. Hamm's late-stage cancer will interfere with a lethal injection, and for that reason undersigned counsel is organizing a medical visit by Dr. Heath. However, the Attorney General raises a good point, which is the necessity of properly assessing the cranial and lymphatic cancer as well, and undersigned counsel will locate an oncologist to conduct a medical visit with Mr. Hamm within the timeframe set by this Court in its Order dated August 25, 2017.

4. Undersigned counsel also sent a law associate (third-year Columbia Law School student Nicola Cohen, CLS '18) to Donaldson Correctional Facility to meet with Mr. Hamm in August 2017, to conduct a lay visual inspection to determine whether

Mr. Hamm's cancer has progressed, and apparently, it has. Ms. Cohen reported that Mr. Hamm has a visible lesion on his left cheek right under his left eye. The lesion is about the size of a quarter and is not perfectly circular. The area goes inwards into his cheek and is purple or blue with, within the area, black dots. Under the lesion, Mr. Hamm's left cheek is visibly swollen, and Mr. Hamm said it was sensitive to touch. According to Mr. Hamm, the lesion has grown and its color has gotten darker since the last biopsy conducted on his eye in March 2017. This is consistent with a worsening cancer situation in the left side of his cranium. The medical records confirm that his cancer was most prominent on the left side, and previously was not visible but only within the cranium, as reflected in the following excerpts from the MRI Imaging Report dated May 27, 2014, in the Donaldson medical records:

"Exophthalmos is noted on the left. There is a soft tissue lesion filling most of the retro-orbital region on the left. There is extension posteriorly through the orbital fissures to involve the pterygopalatine fossa and cavernous sinus regions. From the cavernous sinus region, there may be extension into the middle cranial fossa with some degree of asymmetrical dural enhancement noted. There is mass effect on the left temporal lobe, although no reactive vasogenic edema is seen.

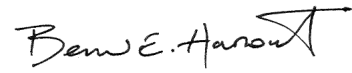
There is also extension of tumor laterally into the infratemporal fossa and masticator space region on the left. Enhancing tumor surrounds portions of the pterygoid musculature, as well as the inferior aspect of the temporalis muscle. There is also tumor surrounding the gasserian ganglion and extending inferiorly along the foramen ovale into the masticator space. Some component of tumor near foramen lacrum portion of the carotid canal cannot be excluded [...]

IMPRESSION: Extensive left facial tumor as described above in detail." See Appendix A.

5. Ms. Cohen also identified two abnormal lumps on Mr. Hamm, one under his chin on the left side that is visible to someone looking at him, as the area appears swollen; and one on the back right of his neck below his right ear. Mr. Hamm indicated that both are sore to touch. Ms. Cohen reported that Mr. Hamm can barely see out of his left eye now and is taking Norco, a strong pain medicine, three times a day.

5. Undersigned counsel is continuing to review the 777 pages of Doyle Hamm's medical records, mostly concerning his cancer, that were obtained from Donaldson Correctional Facility.

Respectfully submitted,

A handwritten signature in black ink that reads "Bernard E. Harcourt". The signature is written in a cursive style with a prominent, sweeping flourish at the end of the name.

BERNARD E. HARCOURT
Counsel of Record
COLUMBIA LAW SCHOOL
435 West 116th Street
New York, NY 10027
Phone: (212) 854-1997
E-mail: beh2139@columbia.edu

MAY 27 2014 8:51 AM

Central Reporting 205-8772153

Diagnostic Imaging Department
Telephone: 205-877-2156

Brookwood Medical Center
2010 Brookwood Medical Center Drive
Birmingham, AL 35209

Patient Name: HAMM, NO. 1033 L P. 2/3
MRN: 0334304
Acct #: 36537033
Encounter Type: 2 - Outpatient

Imaging

Procedure	Accession	Ordering	Date of Examination
MRI Face Neck Orbit w/ + w/o Contrast	368-MR-14-003976	HOOD MD, HUGH M	05/23/2014 15:51:00 CDT

Report

MRI facial region

HISTORY: 57-year-old male with orbital cancer

TECHNIQUE: Pre-and postcontrast MRI of the facial region.

FINDINGS: No priors.

Exophthalmus is noted on the left. There is a soft tissue lesion filling most of the retro-orbital region on the left. There is extension posteriorly through the orbital fissures to involve the pterygopalatine fossa and cavernous sinus regions. From the cavernous sinus region, there may be extension into the middle cranial fossa with some degree of asymmetric dural enhancement noted. There is mass effect on the left temporal lobe, although no reactive vasogenic edema is seen.

There is also extension of tumor laterally into the infratemporal fossa and masticator space region on the left. Enhancing tumor surrounds portions of the pterygoid musculature, as well as the inferior aspect of the temporalis muscle. There is also tumor surrounding the gasserian ganglion and extending inferiorly along the foramen ovale into the masticator space. Some component of tumor near foramen lacerum portion of the carotid canal cannot be excluded.

I see no evidence of tumor spread through the sphenopalatine foramen. There may be some degree of tumor in the leftward aspect of the nasopharyngeal region and perhaps in the region of the fossa Rosenmüller which is asymmetrically prominent on the left when compared with the right.

The oropharynx and posterior nasal regions are grossly normal in appearance. Some component of the tumor involving the pterygoid plate region and extending into the posterior, inferior maxillary antrum cannot be excluded.

There is mucosal thickening in the ethmoids. Right orbit and right facial regions are grossly normal.

Left mastoid disease noted. This may be related to eustachian tube dysfunction.

IMPRESSION: Extensive left facial tumor as described above in detail.

Finalized by Harry Rosenthal, MD
5/25/2014 4:52 PM

Final Report

Dictated: 05/25/2014 4:29

Dictated By: ROSENTHAL III MD, HARRY B

Electronic Signature: 05/25/2014 4:52 pm Signed By: ROSENTHAL III MD, HARRY B

Ordering: HOOD MD, HUGH M
Admitting: HOOD MD, HUGH M
Consulting:

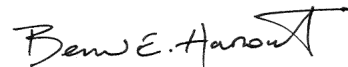
Patient Name: HAMM, DOYLE L
MRN: 01334304
Acct #: 36537033
DOB: 02/14/1957 Age: 57 years Sex: Male
Location: BMC - RD Radiology/
Admitted: 05/23/2014
Discharge: 05/23/2014

Chart Type: Cumulative
Chart Request ID: 48212873
Printed: 05/26/2014 06:47:08 CDT

1 of 1

CERTIFICATE OF SERVICE

I hereby certify that on September 1, 2017, I served a copy of the attached pleading by electronic mail to Assistant Attorney General Beth Jackson Hughes at bhughes@ago.state.al.us.

A handwritten signature in black ink that reads "Bernard E. Harcourt". The signature is written in a cursive style with a prominent, stylized initial "B".

BERNARD E. HARCOURT
Counsel of Record