

**THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

DAVID ECKERT,

Plaintiff,

v.

1:13-CV-00727

THE CITY OF DEMING, et al.,

Defendants.

**PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGEMENT NO. I ON COUNTS
VI, VII, VIII, IX, AND X AGAINST DEFENDANT OFFICERS CHAVEZ AND
HERNANDEZ**

Plaintiff David Eckert, by and through his attorney of record, hereby request the Court grant partial summary judgment in his favor on Plaintiff's Complaint for Civil Rights Counts VI, VII, VIII, IX, and X against Defendant Chavez and Defendant Hernandez. In support of this motion, Plaintiff states the following:

I. Introduction to Legal Analysis

This motion specifically addresses Defendants officers' unlawful execution of an "anal cavity" warrant against Plaintiff. The content and language in the warrant was overly broad and therefore, invalid. The search warrant Defendant officers relied upon to detain and search Plaintiff did not authorize a nighttime search of his body. The searches that are the basis for this motion occurred during the late night; namely between the hours of 10:00 PM and 6:00AM. The warrant itself clearly and unambiguously authorized a search only between 6:00 AM and 10:00 PM, and required additional approval for searches outside that scope of time. The warrant authorized a search of Plaintiff's "anal cavity" without indicating the permissible medical methodology of the execution of the search of Plaintiff's "anal cavity." Acting on the authority of the "anal cavity" search warrant, Defendants caused numerous medical procedures to be

performed on Plaintiff that far exceeded his “anal cavity,” and these searches occurred when the warrant was stale and ineffective.

In addition, the warrant for an “anal cavity” search itself is too vague for Defendant officers to have reasonably relied on it. Not only did Defendant Chavez never allege that Plaintiff inserted anything into his anal cavity, the warrant never identified what medical procedure, if any, was to be used to execute the manual and medically probing search of Plaintiff’s “anal cavity.” After each manner of probing into Plaintiff’s body and stool, the Defendant officers found nothing but exculpatory evidence. Rather than stop the fruitless violations of Plaintiff’s humanity, they pressed on for more invasive procedures culminating with a forced colonoscopy. If the warrant is read to have authorized more than a “squat and cough,” visual search of Plaintiff’s genital area, then the warrant was a general warrant to search Plaintiff’s entire body, inside and out, in any manner medically possible, and was thus highly invasive and constitutionally impermissible.

Although Defendant officers were not the doctors who performed the medical procedures, they are also responsible for these illegal searches. It was their unlawful search warrant which was used to justify the invasive medical procedures conducted while Plaintiff was in their custody and control. But for the Defendant officers directing the doctors to conduct illegal searches on Plaintiff’s body, pursuant to their unlawful “anal cavity” search warrant, the terrifying medical invasions into the most intimate parts of Plaintiff’s body would not have taken place. Plaintiff was in police custody for approximately twelve hours. It is undisputed that these shockingly invasive medical searches took place in the United States of America. Thus, this motion asks that the Court find the Defendants’ actions to be a violation of the Fourth Amendment of the United States Constitution.

II. Relevant Medical Terms. See <http://medical-dictionary.thefreedictionary.com/>.

1. An Enema is the Insertion of a tube into the rectum to infuse fluid into the bowel and encourage a bowel movement.
2. A rectum is the lower part of the large intestine, about 12 cm long, continuous with the descending sigmoid colon, proximal to the anal canal. It follows the sacrococcygeal curve, ends in the anal canal, and usually contains three transverse semilunar folds: one situated proximally on the right side, a second one extending inward from the left side, and the third and largest fold projecting caudally. Each fold is about 12 mm wide. The folds overlap when the intestine is empty or defecation occurs.
3. Anal Canal is the terminal portion of the alimentary canal, from the rectum to the anus.
4. Bowel means: The intestine; a tube-like structure that extends from the stomach to the anus. Some digestive processes are carried out in the bowel before food passes out of the body as waste. See <http://medical-dictionary.thefreedictionary.com/bowel>.
5. A colonoscopy is the examination of the mucosal lining of the colon by using a colonoscope, an elongated endoscope. It requires the cleansing of the client's large intestine, clear liquids the evening before the exam, and nothing by mouth after midnight. The client is usually sedated with IV medication and is placed in a state of twilight sleep.
6. Colon is the part of the large intestine extending from the cecum to the rectum.
7. Cecum is the beginning of the large intestine and the place where the appendix attaches to the intestinal tract.

III. Statement of Undisputed Material Facts.

8. On January 2, 2013, Plaintiff was pulled over for allegedly running a stop sign by Defendant Chavez, although Defendant Chavez did not witness the alleged traffic violation. See

Plaintiff's Complaint, (Doc. 1) filed 8/07/2013, at ¶¶32-33 and Defendant City's Answer, (Doc. 22) filed 10/11/13, at ¶¶11-12.

9. Plaintiff was handcuffed and taken to Deming Police Department at or around 2:00 PM. See Plaintiff's Complaint, (Doc. 1) filed 8/07/2013, at ¶44, and Defendant City's Answer (Doc. 22), filed 10/11/2013, at ¶ 21.

10. Plaintiff was in police custody at least by 2:00 PM on January 2, 2013, and was de facto under arrest. (United States v. White, 584 F.3d 935, 952 (10th Cir. 2009) (where "[a]n arrest is distinguished from an investigative *Terry* stop by the involuntary, highly intrusive nature of the encounter. For example, the use of firearms, handcuffs, and other forceful techniques generally exceed the scope of an investigative detention and enter the realm of an arrest." (citations and quotations omitted))).

11. On January 2, 2013, Defendant Chavez sought a search warrant for Plaintiff's person "to include but not limited to his anal cavity." See Exhibit 1, Affidavit for Search Warrant.

12. On January 2, 2013, a Judge signed a search warrant for Plaintiff's anal cavity based on Defendant Chavez's affidavit. The warrant did not authorize a nighttime search and expired at 10:00 PM. See Exhibit 2, Signed Search Warrant.

13. Defendant Chavez and Defendant Hernandez took Plaintiff to Gila Regional Medical Center to execute the search warrant while Plaintiff was in handcuffs. See Exhibit 3, January 2, 2013 Police Report. See Also Plaintiff's Complaint (Doc. 1) filed 8/07/2013, at ¶59, and Defendant City's Answer (Doc. 22) filed 10/11/13, at ¶32.

14. Plaintiff was admitted to Gila Medical Center where he was given an x-ray and two digital searches of his rectum by two different doctors. No drugs were found. See Plaintiff's Complaint, (Doc. 1) filed 8/07/2013.

15. During the second digital search, Dr. Odocha determined that "There was stool in the rectum. There were no masses felt apart from the soft stool." Exhibit 4, Dr. Odocha's Notes.
16. At 10:23 PM, Plaintiff was given the first enema. See Exhibit 5, Nurses Notes.
17. At 11:51 PM, Plaintiff was given the second enema. Id.
18. At 12:00 AM, Plaintiff was given the third enema. Exhibit 5, Nurses Notes. See also Exhibit 5, Dr. Odocha's Written Order from 11:56 PM.
19. After each enema, Plaintiff had a forced bowl movement, and Defendant officers searched Plaintiff's stool after each bowl movement. See Plaintiff's Complaint, (Doc. 1) filed 8/07/2013.
20. After completing the three enemas, doctors performed a chest x-ray of Plaintiff. See Exhibit 6, Chest X-Ray Report.
21. Plaintiff was scheduled for a colonoscopy to be conducted at 1:00 AM. See Exhibit 7, Dr. Odocha's Written Order from 10:00 PM.
22. The Colonoscopy was pursuant to the warrant. Id.
23. At 1:26 AM, Plaintiff was taken into surgery. Exhibit 5, Nurses Notes.
24. A Colonoscopy was performed on Plaintiff. See Exhibit 8, Surgical Notes from Dr. Odocha's Operative Report.
25. At 2:20 AM, Plaintiff was approved for discharge. See Exhibit 9, Post Operative Note.
26. At 2:35 AM, Defendant officers escorted Plaintiff back to Deming City from Silver City. Exhibit 3, January 2, 2013 Police Report.
27. From the Demining Police Department, Plaintiff was eventually taken to his home in Lordsburg, New Mexico. Id.

28. Defendant Odocha spoke to Defendant police officers throughout the night, updating them on the procedure, and specifically told Defendant officers that the colonoscopy could not be performed until 1:00 AM. Exhibit 3, January 2, 2013 Police Report.

29. All three enemas, the second x-ray and the colonoscopy (the basis for Counts XIII, IX and X) were preformed after 10:00 PM on January 2, 2013, but before 6:00 AM on January 3, 2013.

30. The warrant was not valid during the hours of 10:00 PM to 6:00 AM when these procedures occurred.

31. Although Plaintiff contends that he was in police custody from when he was pulled over until approximately 5:00 AM when Plaintiff was taken home, it is undisputed that Plaintiff was in custody from when he was handcuffed around 2:00 PM and discharged from the hospital around 2:35 AM.

32. Plaintiff was in custody for over twelve hours.

33. No drugs were found in or on Plaintiff's person.

IV. Standard of Review

The general rule for summary judgment is that a “court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.” FED. R. CIV. P. 56(a). “All material facts set forth in the Memorandum will be deemed undisputed unless specifically controverted.” D.N.M.LR-CIV. 56.1(b). However, in addition to disputing a fact’s truthfulness or materiality, “[a] party may object that the material cited to support or dispute a fact cannot be presented in a form that would be admissible in evidence. FED. R. CIV. P. 56(c)(2). “Where different ultimate inferences may

properly be drawn, the case is not one for summary judgment.” Webb v. Allstate Life Ins. Co., 536 F.2d 336, 339 (10th Cir. 1976).

V. Defendants’ “Anal Cavity” Warrant Authorized an Unlawful Visual Strip Search of Plaintiff of Plaintiff’s Anal and Genital Areas.

Defendants’ purported governmental interest in searching Plaintiff was to discover whether Plaintiff possessed in his genital area illegal drugs. Typically, officers and jail guards, when searching for drugs secreted away in the genital area, search the anal and genital areas of suspects or inmates by asking them to strip naked, squat and cough. This is called a strip search. “[T]here are generally three types of strip searches: ‘A ‘strip search,’ though an umbrella term, generally refers to an inspection of a naked individual, without any scrutiny of the subject’s body cavities. A ‘visual body cavity search’ extends to visual inspection of the anal and genital areas. A ‘manual body cavity search’ includes some degree of touching or probing of body cavities.” State v. Williams, 2010-NMCA-030, 148 N.M. 160, 165, 231 P.3d 616, 621 rev’d, 2011-NMSC-026, 149 N.M. 729, 255 P.3d 307 (quoting Blackburn v. Snow, 771 F.2d 556, 561 (1st Cir. 1985))(see also Bolden v. Vill. of Monticello, 344 F. Supp. 2d 407, 411 (S.D.N.Y. 2004)(“For purposes of this discussion, the following definitions apply: ‘strip search’ refers to the inspection of the naked body of the person searched; ‘visual body cavity search’ refers to a strip search including a visual examination of the anal and genital areas of the person searched; and ‘invasive body cavity search’ refers to a strip search including digital probing of the anal and genital areas of the person searched by the person performing the search.”). The three types of strip searches, though all incredibly invasive, have different requirements for law enforcement officers to meet. In a case involving “body cavity searches,” including cases with in the prisoner context, the search was always modified to indicate whether actual physical probing was authorized: i.e. manual, invasive, physical, intrusive etc. “The constitutional requirements for performing the

three types of strip searches differ. Physical body cavity searches are the most invasive, and, therefore, are subject to the strictest requirements." Foster v. City of Oakland, 621 F. Supp. 2d 779, 789 (N.D. Cal. 2008). It would seem to be common sense that an officer must indicate to the judge whom he is seeking a warrant from, whether that officer intends to perform a visual search which although highly invasive, has a lower constitutional threshold than a manual, probing medical search.

Here, no such authorization was sought or granted. Had authorization for a physical cavity search been sought the warrant still would not have authorized the colonoscopy because the warrant in this case would not have alerted a judge that the officer sought to medically probe the colon, but rather to conduct the less invasive alternative of a visual search. See Sanchez v. Pereira-Castillo, 590 F.3d 31, 55 (1st Cir. 2009)("As we discussed above, a surgical invasion is far more intrusive than the already severe encroachment on a prisoner's bodily privacy occasioned by a manual body cavity search."). Plaintiff was not going into general population in a local jail. There was absolutely no governmental interest in searching his "anal cavity."

When considering the "strip searches" discussed in the cited precedent, it is important to distinguish that the case law either refers to persons who are being searched incident to a separate arrest, or who have been charged with a crime, or who are currently incarcerated. "Given the limits on strip searches even in a jail setting, certainly the limitations are greater when the search is in the field pursuant to a valid arrest." Foster v. City of Oakland, 621 F. Supp. 2d 779, 791 (N.D. Cal. 2008). By extension to the holding in Foster, surely there are greater limitations on searches that are not even incident to an arrest. Plaintiff was subjected to invasive medical procedures to find some evidence with which to charge him with a crime.

Plaintiff was detained because of a traffic violation. He was plucked from the side of a public road by Defendant officers and taken to a hospital. He was never charged with a crime; nor was he incarcerated. The officers were instead investigating whether Plaintiff might be possessing contraband by subjecting him to multiple digital penetrations and three enemas.

Only after the colonoscopy, Plaintiff was free to leave. Defendant officers' actions are shocking. They did not have evidence sufficient to justify a roadside frisk of Plaintiff let alone a field visual body cavity search. Defendants acted completely outside the bounds of human decency by orchestrating wholly superfluous physical body cavity searches performed by an unethical medical professional. "[D]etentions and stops that are short of an actual arrest will not support a strip search or, indeed, any kind of search except for a *Terry* search when the standards of *Terry v. Ohio*, 392 U.S. 1, 88 S.Ct. 1868, 20 L.Ed.2d 889 (1968), justify a *Terry* stop. *Id.* 621 F. Supp. 2d 779, 790-91 (N.D. Cal. 2008). The court in Foster, further determined that:

Fourth Amendment requirements for the three types of strip searches performed in the field—strip search, visual body cavity search and physical body cavity search—are as follows:

- 1) there must be exigent circumstances;
- 2) the search may only be performed on persons who have been lawfully arrested on probable cause and may *not* be performed on anyone for whom there is no probable cause to arrest;
- 3) the search requires probable cause that is independent of the probable cause found for the arrest;
- 4) the search may only be performed when there is probable cause to believe that the arrestee is in possession of weapons, drugs or dangerous contraband; and
- 5) additionally, physical body cavity searches require a warrant authorizing the search and must be administered by an authorized medical professional.

Id. 621 F. Supp. 2d 779, 791 (N.D. Cal. 2008)(footnote omitted). Here, Defendants did not establish any, let alone all, of the requirements established in Foster. There was no exigency alleged in the warrant, there was no lawful arrest, there was no probable cause for arrest that was independent from any alleged probable cause to search Plaintiff. Plaintiff was not an "arrestee"

going into general population, and the warrant did not authorize a **physical** search nor did it reference a medical professional conducting the “anal cavity,” search of Plaintiff.

It is undisputed that a medical professional was required for the types of searches Plaintiff underwent. In Foster, the court held that, “[A]lthough the 1998 Policy requires warrants for physical body cavity searches, it does not state that such searches must be performed by a medical professional. ... [F]ederal common law require[s] that a physical body cavity search be performed by a medical professional.” Foster v. City of Oakland, 621 F. Supp. 2d 779, 793 (N.D. Cal. 2008). (See also Sanchez v. Pereira-Castillo, 590 F.3d 31, 55 (1st Cir. 2009)(where “physicians asked to perform invasive body searches should not comply uncritically with the requests of prison officials and thereby become complicit in depriving prisoners of their constitutional rights.”)(Spencer v. Roche, 659 F.3d 142, 147 (1st Cir. 2011) cert. denied, 132 S. Ct. 1861, 182 L. Ed. 2d 643 (U.S. 2012) (where “we have upheld digital searches of a vagina and rectum when supported by probable cause and appropriately carried out by medical professionals.” citing Rodrigues v. Furtado, 950 F.2d 805, 811 (1st Cir.1991))). The language of the warrant and the allegations in Defendant Chavez’s affidavit make no reference to Plaintiff inserting anything in his rectum, nor do the documents suggest taking Plaintiff to a hospital or any other medical provider. No judge reading the warrant would know that Defendants intended to take Plaintiff to a hospital to perform two instances of digital probing, three enemas and a colonoscopy. At most, the warrant indicates that a strip search including a visual examination of the anal cavity is authorized.

“No search warrant shields a police officer from carrying out a search in an unreasonable manner or from employing excessive force during a search. It would be frivolous for defendants to argue otherwise.” Bolden v. Vill. of Monticello, 344 F. Supp. 2d 407, 416 (S.D.N.Y. 2004).

Plaintiff contends the officers in this case carried out the warrant in an unreasonable manner. There was no indication in the warrant that any search, beyond a visual search was authorized. The very nature of strip searches are so invasive that courts must protect the rights of the citizens who endure them. "Of particular interest for this case, for more than two decades, courts have specifically and repeatedly recognized the importance of guarding against unreasonable strip searches, in view of the degrading nature of this particular invasion of privacy." *Id.* Courts around the country have commented that "[t]he intrusiveness of a body-cavity search cannot be overstated. Strip searches involving the visual exploration of body cavities is [sic] dehumanizing and humiliating." Justice Marshall remarked in *Bell* that visual body cavity searches represent one of the most grievous offenses against personal dignity and common decency.' (Marshall, J., dissenting). The majority in *Bell* commented that '[a]dmittedly, this practice instinctively gives us the most pause.'" *Foster v. City of Oakland*, 621 F. Supp. 2d 779, 789 (N.D. Cal. 2008)(quoting *Kennedy v. Los Angeles Police Dep't*, 901 F.2d 702, 711 (9th Cir. 1989), *Bell v. Wolfish*, 441 U.S. 520, 576–77, 99 S. Ct. 1861, 1903, 60 L. Ed. 2d 447 (1979), and *Bell v. Wolfish* at 558, 99 S.Ct. 1861)). See also *United States v. Booker*, 728 F.3d 535, 542 (6th Cir. 2013)(where "no reasonable police officer could believe that, without direction from the police, and over the clear refusal to consent by a conscious and competent patient, a doctor could lawfully go ahead and perform such a procedure. Even if LaPaglia was motivated by benevolent medical ideals, his actions in paralyzing and intubating Booker and performing a rectal examination without his express or implied consent constitute medical battery." "[I]t [is] necessary and important ... for all courts to be precise in the language they use to describe the various forms of searches administered by law enforcement personnel." *United States v. Talkington*, 701 F. Supp. 681, 688 (C.D. Ill. 1988) *aff'd*, 875 F.2d 591 (7th Cir. 1989). Without

precise words authorizing the truly invasive and degrading procedures performed on Plaintiff, no reasonable officer could have believed that the warrant authorized more than a visual search of Plaintiff's genital area.

VI. Defendants Executed a Nighttime Warrant Without Required Authorization and Also Searched Plaintiff Beyond His Anal Cavity Which Violated Plaintiff's Fourth Amendment Rights.

New Mexico law provides that "[a] search warrant shall direct that it be served between the hours of 6:00 a.m. and 10:00 p.m., according to local time, unless the issuing judge, by appropriate provision in the warrant, and for reasonable cause shown, authorizes its execution at any time." NM R DIST CT RCRP Rule 5-211. It is undisputed that no authorization was given to Defendant Officers to execute the warrant at issue beyond the hours in the statute. "Where a warrant provided for execution in the daytime, but was executed in the nighttime, it was legally invalid. As such, the police officers' entry into the defendants' apartment was on the same plane as an entry without a warrant and, therefore, a violation of the Fourth Amendment. O'Rourke v. City of Norman, 875 F.2d 1465, 1474 (10th Cir. 1989)(referring to United States v. Merritt, 293 F.2d 742 (3d Cir.1961)). "If the scope of the search exceeds that permitted by the terms of a validly issued warrant or the character of the relevant exception from the warrant requirement, the subsequent seizure is unconstitutional without more." Horton v. California, 496 U.S. 128, 140, 110 S. Ct. 2301, 2310, 110 L. Ed. 2d 112 (1990).

In addition to the three enemas, chest x-ray and colonoscopy being conducted outside the allotted time frame of the warrant, these searches also searched Plaintiff beyond his anal cavity. Although the term "anal cavity" is not a medical term per se, Plaintiff contends the intent of the warrant was to search Plaintiff's anal canal which is the area between Plaintiff's rectum and anus. The three enemas Plaintiff endured caused a medical instrument be inserted past Plaintiff's anal

canal and into his rectum. Plaintiff contends that Defendants seizure of Plaintiff's rectum through the enemas was outside the scope of Plaintiff's anal cavity.

The enemas required that fluid pass through the rectum and into Plaintiff's bowels, which include his entire intestinal track, which is far beyond the scope of Plaintiff's anal canal or any interpretation of "anal cavity." Furthermore, the enema's purpose was to force Plaintiff to have multiple bowl movements, which were subsequently searched by Defendants. Plaintiff contends that his fecal matter was outside the scope of the warrant because the affidavit in support of the warrant did not allege that Plaintiff had swallowed anything prior to being seized. Moreover, the affidavit for the search warrant never specifically alleged that Plaintiff inserted anything into his anal canal, and it certainly did not allege that Plaintiff swallowed anything illegal. The search of an "anal cavity," typically is a "squat and cough," visual search and the affidavit underlying the warrant did not even allege sufficient facts to justify a visual search of Plaintiff's genital area.

The most analogous case to the facts in this case arise in Rochin v. People of California, 72 S. Ct. 205, 342 U.S. 165 (1952), where law enforcement officers took their target to a hospital to have his stomach pumped after the officers saw the target swallow contraband. In that case, the Supreme Court found that the officers' conduct "do[es] more than offend some fastidious squeamishness or private sentimentalism about combating crime too energetically. This is conduct that shocks the conscience...There are methods to close to the rack and the screw to permit of constitutional differentiation." Id. at 209-210. Plaintiff was placed on the rack and the screw in this case into the wee hours of the morning. The Supreme Court has strongly disfavored these type of medical procedures because they are extremely invasive. It is important to note that the target in Rochin was searched incident to arrest, whereas Plaintiff merely looked nervous during a traffic stop and was not arrested for any other purpose but to execute a search

warrant of his "anal cavity." Defendants also had performed a chest x-ray of Plaintiff. The chest is nowhere near Plaintiff's anal canal, and exceeds the scope of the warrant.

Plaintiff underwent a forced colonoscopy. Like the enemas, the colonoscopy caused a medical instrument to be inserted through Plaintiff's anal canal, into and through his rectum, into his colon, through his large intestine and to his cecum. Plaintiff's rectum was injected with fluid until nothing but fluid came back out. There was no governmental interest in these medical procedures as previous probing via the enemas rendered no evidence of contraband. It is shocking that defendants sought an even more invasive surgery which explored Plaintiff's internal organs after it was medically certain there was nothing left in the area, not even stool. They knew Plaintiff's digestive system was clean and empty when Plaintiff was subjected to the colonoscopy. While the war on drugs has resulted in aggressive government tactics, the Supreme Court has never authorized the seizing of an alleged drug user for forced medical procedures to purge their bodies of drugs.

It is undisputed that a colonoscopy was not authorized by the warrant for an "anal cavity" search, or at a minimum greatly exceeded the warrant under the circumstances to an unconscionable degree. The colonoscopy was so invasive that Plaintiff had to be sedated while medical instruments were inserted into his intestines through his anus. "[F]lagrant disregard for the limitations of a search warrant might make an otherwise valid search an impermissible general search." United States v. Medlin, 798 F.2d 407, 411 (10th Cir. 1986)(quotations omitted). The warrant, to the extent that it is valid, only authorized a search of Plaintiff's anal cavity. Plaintiff contends that any interpretation of "anal cavity" does not include the rectum, colon, large intestine, or feces and is limited to a visual "squat and cough" search of Plaintiff's genital area.

In addition to the grossly excessive nature of the searches, they were conducted after the time parameters of the search warrant. Therefore, Defendant officers exceeded the scope of the warrant when they continued to search Plaintiff well into the early hours of the morning, after conducting three previous searches of Plaintiff's anal canal, and penetrated Plaintiff far beyond his anal cavity. Plaintiff further contends that even if the specific procedures were somehow not outside the scope of the warrant, Defendant officers acted outside the scope by conducting the procedures after they had already obtained an x-ray image of the anal cavity, and had two fruitless digital searches of the anal canal. The warrant was exhausted and no further searches were authorized when Defendants caused the doctors to conduct the three enemas and the colonoscopy.

VII. The Warrant was Unconstitutionally Vague

"[B]ody cavity searches ... are the most debasing indignities to which American citizens are subjected by the government." Draper v. Walsh, 790 F. Supp. 1553, 1558 (W.D. Okla. 1991). Although Plaintiff contends that "anal cavity" necessarily refers to "anal canal," if the court determines that the warrant authorized any visual search beyond Plaintiff being directed by the officers to expose his buttock, spread his butt cheeks, squat and cough, then the warrant was impermissibly general. "[W]hen a search warrant is executed with flagrant disregard for its terms is found in our traditional repugnance to "general searches" which were conducted in the colonies pursuant to writs of assistance." United States v. Medlin, 842 F.2d 1194, 1199 (10th Cir. 1988)(quotations omitted)Repugnant adequately describes the Defendants' execution of their warrant on Plaintiff's person.

To protect against invasive and arbitrary searches, the Fourth Amendment mandates that search warrants particularly describe the place to be searched and the persons or things to be seized." United States v. Medlin, 842 F.2d 1194, 1199 (10th Cir. 1988)(quotations omitted). The

actual language of the warrant stated, "to include but not limited to his anal cavity." If anal cavity can be interpreted to mean more than anal canal, then there is no medical limitation on how invasive of a procedure can be utilized to execute a warrant for an "anal cavity." What happened to Plaintiff is so outrageous that the court will struggle to find any case in which law enforcement utilized medical procedures as invasive as the procedures used in the case at hand. Cases that discuss searches of an "anal cavity," do not foresee that Defendant officers could cause to be conducted such invasive medical procedures.

For example, in United States v. Gray, 669 F.3d 556, 560 (5th Cir. 2012) cert. granted, judgment vacated, 133 S. Ct. 151, 184 L. Ed. 2d 2 (U.S. 2012), law enforcement officers "suspected Gray of concealing crack cocaine in his "anal cavity," [but] did not describe the medical procedure to be performed at all." In Gray, the hospital preformed an x-ray where something was seen, but it was unclear what the object was. The doctors then performed a digital search, but Gray struggled throughout the procedure. Id. Ultimately, the doctors, performed "a proctoscopic examination of Gray's rectum. In such an examination, the proctoscope, essentially an illuminated tube, is inserted across the anal canal and into the rectum. The rectum is then filled with air, or insufflated, so that the interior can be examined. When the rectum is insufflated, the walls are distended, which permits a more thorough evaluation of the wall of the rectum and objects within the rectal vault." Id. at 560-61. Gray was not then subjected to enemas and a colonoscopy. In Gray, the court found the execution of the warrant unreasonable, and suggested that courts in the future specifically determine limitations for medical procedures. Id. The government in Gray also had actual knowledge that the evidence was located in the defendant's body; in this case, Defendant officers were on a fishing expedition throughout Plaintiff's body- from his chest to his colon. Id.

The warrant cannot have been interpreted to allow the colonoscopy which required Plaintiff be put under sedation. In Winston v. Lee, 470 U.S. 753, 105 S. Ct. 1611, 84 L. Ed. 2d 662 (1985), the court entertained a motion to compel a defendant to undergo surgery to retrieve a bullet from his body for evidence. The court found that "[a] compelled surgical intrusion into an individual's body for evidence implicates expectations of privacy and security of such magnitude that the intrusion may be "unreasonable" even if likely to produce evidence of a crime. The reasonableness of surgical intrusions beneath the skin depends on a case-by-case approach, in which the individual's interests in privacy and security are weighed against society's interests in conducting the procedure to obtain evidence for fairly determining guilt or innocence." Id. at 1613. The court ultimately forbade the procedure because it found that the risks associated with general anesthesia greatly outweighed the government's interests. Id. Plaintiff did not have the benefit of a hearing prior to the warrant. He was seized and the procedures were performed with no consideration for his constitutional rights or for any alleged governmental interests.

VIII. Both Officers are Liable for the Violations of Plaintiff's Civil Rights.

Although Defendant officers did not physically perform the enemas, the x-ray or the colonoscopy, they caused the searches by forcing Plaintiff to be at the hospital, and for not limiting the scope of procedures being performed by the doctors. Officers have a duty to intervene to prevent civil rights violations, and failing to prevent civil rights violations create liability under Section 1983. "An officer who fails to intervene to prevent another officer from depriving a person of his or her civil rights may be liable under § 1983." Smith v. Kenny, 678 F. Supp. 2d 1124, 1147-48 (D.N.M. 2009)(citing Lusby v. T.G. & Y Stores, Inc., 749 F.2d 1423, 1433 (10th Cir.1984). In Hall v. Burke, 12 Fed.Appx. 856 (10th Cir.2001)). The Tenth Circuit has found:

[I]t is clearly established that all law enforcement officials have an affirmative duty to intervene to protect the constitutional rights of citizens from infringement by other law enforcement officers in their presence. An officer who fails to intercede is liable for the preventable harm caused by the actions of the other officers where that officer observes or has reason to know: (1) that excessive force is being used, (2) that a citizen has been unjustifiably arrested, or (3) that any constitutional violation has been committed by a law enforcement official.

Hall v. Burke, 12 F. App'x 856, 861 (10th Cir. 2001)(citing Anderson v. Branen, 17 F.3d 552, 557 (2d Cir.1994)). Defendant officers empowered the Gila Medical Center Doctors to be law enforcement agents when they requested said doctors execute the search warrant beyond the time limitation on the search warrant. Defendants therefore became liable for the actions of the doctors not only because the doctors were acting on Defendant officers' behalves and at their direction, but also because Defendant officers had a duty to intervene when Plaintiff was being searched past 10:00 PM. In fact, the police report reveals that not only did Defendant officers not intervene, they participated in discussions with the Doctor about when to perform the procedures.

CONCLUSION

For all of the above reasons, Plaintiff moves this Court to grant Motion for Summary Judgment for Counts VI, VII, VIII, IX and X against Defendant Chavez and Hernandez.

Respectfully Submitted:

KENNEDY LAW FIRM

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I hereby certify that the foregoing was delivered to all interested parties through the CM/ECF system on the day of its filing.

/s/ Joseph P. Kennedy
Joseph P. Kennedy

IN THE MAGISTRATE COURT
STATE OF NEW MEXICO
COUNTY OF LUNA

v.

David W. Eckert
1470 South Animas
Lordsburg, New Mexico 88045 Defendant(s)

No. MS-2013-1

AFFIDAVIT FOR SEARCH WARRANT
Attachment "A"

Affiant, Officer Robert Chavez, is a commissioned, full-time, salaried Law Enforcement Officer employed as a Police Officer by the Deming Police Department, and being duly sworn upon oath states the following:

I have reason to believe that on the following described premises or person of:

A brown 1998 Dodge displaying New Mexico with a VIN # and the person of David W. Eckert with a date of birth of [REDACTED], to include but not limited to his anal cavity.

In the city or county designated above there is now being concealed:

Attachment "B"

Illegal narcotics and /or any other controlled substance(s) and/or suspected illegal narcotics and/or any other suspected controlled substance(s) including, but not limited to any drug or substance listed in Schedules I through V of the Controlled Substance Act or regulations adopted thereto..

Illegal narcotics paraphernalia, including but not limited to all equipment, products and/or materials of any kind that are apparently used, intended for use and/or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling and/or otherwise introducing into the human body, a controlled substance or controlled substance analog in violation of the Controlled Substance Act.



IN THE 6th JUDICIAL DISTRICT COURT
STATE OF NEW MEXICO
COUNTY OF LUNA

v.

David W. Eckert, Defendant(s)

No. MS-2013-1

AFFIDAVIT FOR SEARCH WARRANT

Attachment "C"

I am a certified law enforcement officer of the State of New Mexico currently commissioned by the City of Deming as a Detective Sergeant.

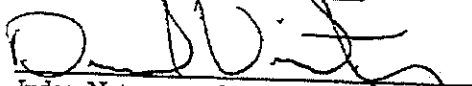
1. I Officer Robert Chavez was contacted by Sgt. Detective Orosco in reference to a brown 1998 Dodge pick-up truck that failed to stop at the posted stop sign at the intersection of Deming Del-Sol and Pine Street.
2. I was traveling East bound on Pine Street and did locate the brown 1998 Dodge pick-up traveling West bound on Pine Street from Deming del-Sol.
3. I conducted a traffic stop with the brown 1998 Dodge pick-up displaying New Mexico in the parking lot of 1021 E. Pine Street (Wal-Mart) parking lot.
4. I approached the driver who was later identified as David W. Eckert and informed him for the reason for the stop.
5. While speaking with Mr. Eckert I did notice that he was avoiding eye contact with me as I asked him for his driver's license, registration and proof of insurance.
6. As Mr. Eckert handed me the documents that were requested I did notice his left hand began to shake at which time I had Mr. Eckert step out of the vehicle. Once outside of the vehicle Mr. Eckert was asked if he had any weapons or anything else that might harm me which he stated "no".
7. I then conducted a Terry Pat Down on Mr. Eckert's person to search for any weapons which none were found.
8. While Mr. Eckert was standing outside of the vehicle I did notice his posture to be erect and he kept his legs together. A short time later I informed Mr. Eckert that a uniformed patrol Officer was coming to issue him a citation for the stop sign violation.
9. Officer Villegas did arrive and issued Mr. Eckert his citation for stop sign violation.
10. Mr. Eckert was then informed that he was free to go.
11. As Mr. Eckert turned to walk back towards his vehicle, I asked him for verbal consent to search his vehicle for any illegal narcotics and/or weapons at that time he did give consent.
12. I then asked Mr. Eckert if I could search his person for any illegal narcotics and/or weapons. At that time he stated that he had a problem with me searching his person.
13. I then informed Mr. Eckert that an open air search was going to be conducted on the vehicle and reminded him that he had given verbal consent to search his vehicle as well.
14. Hidalgo County K-9 Officer walked his K-9 around the vehicle which the K-9 alerted to the driver's side of the vehicle. A short time later the K-9 made entry into the cab of the vehicle and once again alerted to the driver's side seat.
15. Mr. Eckert was then informed of the K-9 alerting to the seat and was informed that a search warrant was going to be obtained. Hidalgo County K-9 Officer did inform me that he had dealt with Mr. Eckert on a previous case and stated that Mr. Eckert was known to insert drugs into his anal cavity and had been caught in Hidalgo County with drugs in his anal cavity.
16. Mr. Eckert was then placed into investigated detention and was transported to the Deming Police Department.

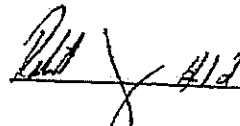
Approved,
Dougherty DDA
11/2/13

17. Mr. Eckert's vehicle was tagged for evidence and was later transferred to the Deming Police Department's impound lot awaiting a search warrant.
18. At approximately 1401 hrs., I contacted DDA Dougherty and informed of the incident. DDA Dougherty did approve pursuit of a search warrant for Mr. Eckert's vehicle and also for Mr. Eckert's person to include Mr. Eckert's anal cavity.

Subscribed and sworn to or
declared and affirmed to before
me in the above-named county
of the State of New Mexico this

2 day of Jan, 2013.


Judge, Notary, or other Officer Authorized
to Administer Oaths


Signature of Affiant

Officer Chavez, Deming Police Dept.
Official Title (if any)

My Commission Expires: _____

NOTE: This affidavit shall be filed in the same file as the Search Warrant. If no criminal proceedings are filed, the affidavit and warrant shall be filed in a miscellaneous file.

Distribution Instructions

1 copy-Goes with Search Warrant; return to Court

1 copy-Defendant

1 copy-Court

Criminal Form 9-213

Approved:
Dougherty
11/2/13

Rule 9-215

RETURN AND INVENTORY

I received the attached Search Warrant on Jan 2, 2013, and executed it on Jan 2, 2013, at 1419 o'clock (a.m.) (p.m.). I searched the person or premises described in the Warrant and I left a copy of the Warrant with David W. Gilbert

(name the person searched or owner at the place of search) together with a copy of the inventory for the items seized.

The following is an inventory of property taken pursuant to the warrant:

(attach separate inventory if necessary)

nothing located on Mr. Gilbert's person, vehicle
Search Pending.

This inventory was made in the presence of Off. H. Quaker
(name of applicant for the search warrant) and David W. Gilbert

(name of owner of premises or property. If not available, name of other credible person witnessing the inventory.)

This inventory is a true and detailed account of all the property taken pursuant to the Warrant.

[Signature]
Signature of Officer

[Signature]
Signature of Owner of Property or Other Witness

Return made this _____ day of _____,
at _____ (a.m.) (p.m.).

(Judge) (Clerk)

After careful search, I could not find at the place, or on the person described, the property described in this warrant.

Officer

Date

Officer Robert Chavez #12
12/1/12 Affiant

Approved:
[Signature]
11/1/12

ECKERT, DAVID
M0068172

Dept: MEDICAL RECORDS
Report: HISTORY AND PHYSICAL

Temperature: 97.8
Blood Pressure: 147/89
Pulse: 89
Respirations: 18
Pulse Oximetry: 97 percent on room air

HEENT:

Head:

Atraumatic, normocephalic.

Eyes:

No icterus. No pallor.

Neck:

Supple. No lymphadenopathy noted.

Chest:

The patient has good breath sounds bilaterally.

Heart:

S1, S2 regular.

Abdomen:

The abdomen is soft, nontender, no distention. Bowel sounds are normoactive. The patient had healed groin surgical scars noted.

Rectal:

Shows intact sphincter tone. No lesions were noted. There was stool in the rectum. No masses were felt except for the soft stool and gloved finger had brownish stool with no gross blood noted.

Neurologic:

The patient is alert and oriented times 3.

Back:

Unremarkable.

ASSESSMENT

The patient is a 53-year-old male who was sent on judge's order from Deming for body search for foreign body hidden in the anus and rectum.

ECKERT, DAVID
HISTORY AND PHYSICAL
Additional copies to:

V21730619

M0068172

page
2



RUN DATE: 06/06/13
 RUN TIME: 0823
 RUN USER: CONK.JENG

Gila Regional EDM **LIVE**
 SUMMARY REPORT

PAGE 5

Patient: ECKERT, DAVID

ED Provider: Wilcox, Robert MD

Age/Sex: 53/M

Acct No: V21730619

Unit No: 40068172

Entered by Zimelman, Brian J, RN on 01/02/13 at 2216
 REPORT GIVEN AND CARE TURNED OVER TO CLAY, RN.

Entered by Donovan, Clay J, RN on 01/02/13 at 2223
 saline enema administered as per dr odocha

Entered by Donovan, Clay J, RN on 01/02/13 at 2315
 PT HAD BM THAT RESULTED IN 300CC BROWN LIQUID, NO CONTENTS OF WHAT WAS BEING
 SOUGHT AFTER BY COURT ORDER. ORDERS ARE FOR 2ND ENEMA, ADMINISTERED NOW

Entered by Donovan, Clay J, RN on 01/02/13 at 2351
 PT HAD 400CC BROWN LIQUID, WITH 5-6 SMALL SEGMENTS OF SOFT STOOL. PAGING DR
 ODOCHA TO SEE IF HE WANTS MORE ENEMAS UNTILL CLEAR

Entered by Donovan, Clay J, RN on 01/02/13 at 2356
 NEW ORDERS RECIEVED FROM ODOCHA

Entered by Donovan, Clay J, RN on 01/03/13 at 0100
 BLOOD COLLECTED AND SENT TO LAB

Entered by Donovan, Clay J, RN on 01/03/13 at 0110
 RAD AT BEDSIDE

Entered by Donovan, Clay J, RN on 01/03/13 at 0112
 RESPIRATORY AT BEDSIDE FOR EKG

Entered by Donovan, Clay J, RN on 01/03/13 at 0126
 PT TO SURGERY VIA STRECHER AT THIS TIME

Medication Administration

Medication

Sch Date-Time	Ordered Dose	Admin Dose	Site	User
Doc Date-Time	Given - Reason			
01/02/13-0047	0.9% SODIUM CHLORIDE 1000 ML (Sodium Chloride 0.9% 1000 ML)	1000 ML	IV/.STK-MED/ONE	
01/03/13-0052	Y			Donovan, Clay J RN
GIVEN AS DIRECTED AT 150ML/HR PER ODOCHA'S WRITTEN ORDERS				

Diagnostic Order

Ordered	Order	Ordering Provider	E-Signed
01/02/13 2108	ABD (KUB) WITH DECUB &/OR ERECT	Wilcox, Robert MD	N/A

Treatment

01/03/13 0052 IV Start - Site 1

Donovan, Clay J, RN

Site Number: 1
 Field Start: N
 Per procedure: Y
 Aseptic tech: Y
 Left/Right: Left
 Site: Lt Antecubital
 Gauge: 18
 Length: 1.25

Patient: ECKERT, DAVID

PLAINTIFF'S
 EXHIBIT

5

PHYSICIAN'S ORDER SHEET

I CERTIFY THAT THIS PATIENT NEEDS INPATIENT HOSPITAL SERVICES.

PHYSICIAN'S SIGNATURE _____

M.D. DATE _____

DATE

TIME

☐ OBSERVATION

☐ ADMISSION

1/2/13 2354

One saline Enema at 12 o'clock
midnight

TORB Clay Donnan RN/Dr Odocha

Odocha

1/3/13

2:15 AM

DATE

TIME

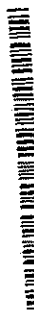
☐ OBSERVATION

☐ ADMISSION

ANOTHER BRAND OF THERAPEUTICALLY EQUIVALENT PRODUCT, APPROVED BY THE PHARMACY AND THERAPEUTICS COMMITTEE, MAY BE ADMINISTERED UNLESS (SPECIFIC) IS WRITTEN AFTER THE MEDICATION ORDER.



ECKERT, DAVID
PRE ER 01/02/13 V21730619
H0068172 H 53
ERH



ECKERT, DAVID
PRE ER 01/02/13 V21730619
H0068172 H 53
ERH



ECKERT, DAVID
PRE ER 01/02/13 V21730619
H0068172 H 53
ERH

PHYSICIAN'S ORDERS

GILA REGIONAL MEDICAL CENTER
1313 EAST 32nd Street
Silver City, New Mexico 88061

DIAGNOSTIC IMAGING SERVICES
X-RAY REPORT

Patient: ECKERT, DAVID
Medical Record: M0068172
DOB / Sex: [REDACTED] M

Dictating Radiologist: Orzel, Joseph A MD
Ordering Provider: Odocha, Okay H MD
PCP:

Exam: CHEST 1 VIEW STD PORTABLE
Exam Date: 01/03/13
Accession: 119120.001

2420153

CHEST, SINGLE VIEW
01/03/13

HISTORY
Pre operative.

FINDINGS

The heart is normal in appearance and the lungs look clear. Nipple shadow appears to overlie the lower lateral left chest.

IMPRESSION

Negative chest. No acute cardiopulmonary findings noted.

<Electronically signed by Joseph A Orzel, MD>01/03/13 1135

DD/T: 01/03/13 0707
TD/T: 01/03/13 0858/URSITERX
Additional copies to:

Dictated By: Orzel, Joseph A MD
Technologist: Calderwood, Diane

0103-0007
V21730619

ECKERT, DAVID
X-RAY REPORT
Additional copies to:

REG SDC
V21730619

M0068172

page
1



PHYSICIAN'S ORDER SHEET

I CERTIFY THAT THIS PATIENT NEEDS INPATIENT HOSPITAL SERVICES.

PHYSICIAN'S SIGNATURE

M.D. DATE

DATE

TIME

☐ OBSERVATION☐ ADMISSION

ANOTHER BRAND OF THERAPEUTICALLY EQUIVALENT PRODUCT, APPROVED BY THE PHARMACY AND THERAPEUTICS COMMITTEE, MAY BE ADMINISTERED UNLESS (SPECIFIC) IS WRITTEN AFTER THE MEDICATION ORDER.

12/13

10:00 AM

☐ OBSERVATION☐ ADMISSION

094360 02

① IVF → NS @ 125 cc/h - Done in ER 0155

② Saline Enema - 1 liter - high-Dose rotational now and if not clear give another 1 liter in 1 hr

③ please inspect effluent from rectum with the police officer when PT has bowel movement

④ NPO

Eckert

DATE

TIME

☐ OBSERVATION☐ ADMISSION

⑤ PT is for DR for Flexible Sigmoidoscopy/Colonoscopy @ 1 AM 1/3/13

⑥ CBC CMP 12 lead EKG CXR as prep stat

⑦ See Judge's order for Consent for this procedure.

Eckert

Eckert

DATE

TIME

☐ OBSERVATION☐ ADMISSION

PHYSICIAN'S ORDERS

PLAINTIFF'S
EXHIBIT

7

tabbles

GILA REGIONAL MEDICAL CENTER

1313 EAST 32nd Street

Silver City, New Mexico 88061

**MEDICAL RECORDS
OPERATIVE REPORT**

Patient:	ECKERT, DAVID	DOB:	[REDACTED]
Medical Record #:	M0068172	Sex:	M
Account Number:	V21730619	ADM Status:	DEP SDC
Attending Phys:	Odocha, Okay H MD	Room:	
Date of Admission:			

DQV JOB #1094361

DATE OF SURGERY

01/03/13

PREOPERATIVE DIAGNOSES

Foreign body in the rectum.

POSTOPERATIVE DIAGNOSES

Internal hemorrhoids.

OPERATION

Flexible colonoscopy.

SURGEON

Okay Odocha, MD

ANESTHESIA

Intravenous sedation.

ANESTHESIA BY

Aaron Rudd, CRNA

FINDINGS

1. Fair bowel prep.
2. Internal hemorrhoids.

ESTIMATED BLOOD LOSS

None.

COMPLICATIONS

None.

ECKERT, DAVID
OPERATIVE REPORT
Additional copies to:

V21730619

M0068172

page
1



ECKERT, DAVID
M0068172

Dept: MEDICAL RECORDS
Report: OPERATIVE REPORT

DRAINS

None.

MATERIAL SENT TO LABORATORY

None.

CONDITION

Good.

BRIEF CLINICAL HISTORY

The patient is a 63-year-old male who was brought in by the police following a judge's order for body cavity search for possible foreign body (bag of crystal methamphetamine) in the rectum. Following this, the patient was evaluated by the emergency room physician who did a rectal examination and felt that he could feel something inside the rectum, but he was not sure what it was.

Following this, a surgical consultation was requested. The patient was evaluated. The bowel was prepped with liters of saline enema, and the patient was then brought to the operating room for a flexible colonoscopy.

DESCRIPTION OF PROCEDURE

The patient was moved to the operating room table. A time out was called. Monitoring devices were placed. The patient was positioned with his left side down and his right side up. Following this, well-lubricated index finger into the anus.. The anal sphincter was intact. No masses were noted.

Following this, a well-lubricated colonoscope was inserted into the anus and air insufflation was begun. The scope was passed up the rectum, the rectosigmoid, descending colon and transverse colon. We encountered some looping in the transverse colon, but this was corrected by manipulation of the abdomen and manual dexterity with the scope.

We got into the ascending colon and then into the cecum. The cecum was identified by the orifice of the appendix and by the ileocecal valve.

Following this, we looked in the cecum in a 360 degree fashion and no lesions were noted. There were no masses seen. No foreign body was seen.

We then came out looking in a 360 degree fashion out of the cecum and into the ascending colon. We then went past the transverse colon and into the descending colon, rectosigmoid and into the rectum.

ECKERT, DAVID
OPERATIVE REPORT
Additional copies to:

V21730619

M0068172

page
2

ECKERT,DAVID
M0068172

Dept: MEDICAL RECORDS
Report: OPERATIVE REPORT

In the distal rectum, we retroflexed the scope and saw internal hemorrhoids.

The scope was then straightened out and we came out of the rectum. We performed a careful inspection of the rectum and saw no lesions or foreign body. We then brought the scope out of the anus. We took pictures for the cecum, orifice of the appendix, and the ileocecal valve area. However, due to technical problems with the printer, we could not get any pictures printed. However, we did get pictures of the anorectum printed after the circulating nurse manipulated the printer. We got pictures of the anus and rectum.

The patient was taken to the postanesthesia care unit in stable condition.

<Electronically signed by Okay H Odocha, MD>01/17/13 2026

DD/T: 01/03/13 0223
TD/T: 01/03/13 1019

Dictated by: Odocha,Okay H MD
Transcription: MORR.PEGJ

0103-0026

Additional copies to:

ECKERT,DAVID
OPERATIVE REPORT
Additional copies to:

V21730619

M0068172

page
3

M

Patient ID (addressograph)

☒ The following changes have occurred:

Date 1/2/13 Time

Time 10:50 AM Phy

Physician Signature

Pre-Op Diagnosis

? Fungus Body in Rect

Post-Op Diagnosis

Intensl Hemmich

Procedure:

FC - Flexible Colonoscopy

Surgeon

o d o d n e

Assistant(s)

Anesthesia:

Used

Anesthetist

Ann Rudd

Findings:

(1) Fair Play

(2) Interval Intensity

Complications:

127

③ NV force Body

EBL:

Drains:

S: _____

See in Color

Material to Lab:

6.

Patient's condition:

And

[illegible]

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100 101 102 103 104 105 106 107 108 109 110 111 112 113 114 115 116 117 118 119 120 121 122 123 124 125 126 127 128 129 130 131 132 133 134 135 136 137 138 139 140 141 142 143 144 145 146 147 148 149 150 151 152 153 154 155 156 157 158 159 160 161 162 163 164 165 166 167 168 169 170 171 172 173 174 175 176 177 178 179 180 181 182 183 184 185 186 187 188 189 190 191 192 193 194 195 196 197 198 199 200 201 202 203 204 205 206 207 208 209 210 211 212 213 214 215 216 217 218 219 220 221 222 223 224 225 226 227 228 229 230 231 232 233 234 235 236 237 238 239 240 241 242 243 244 245 246 247 248 249 250 251 252 253 254 255 256 257 258 259 260 261 262 263 264 265 266 267 268 269 270 271 272 273 274 275 276 277 278 279 280 281 282 283 284 285 286 287 288 289 290 291 292 293 294 295 296 297 298 299 300 301 302 303 304 305 306 307 308 309 310 311 312 313 314 315 316 317 318 319 320 321 322 323 324 325 326 327 328 329 330 331 332 333 334 335 336 337 338 339 340 341 342 343 344 345 346 347 348 349 350 351 352 353 354 355 356 357 358 359 360 361 362 363 364 365 366 367 368 369 370 371 372 373 374 375 376 377 378 379 380 381 382 383 384 385 386 387 388 389 390 391 392 393 394 395 396 397 398 399 400 401 402 403 404 405 406 407 408 409 410 411 412 413 414 415 416 417 418 419 420 421 422 423 424 425 426 427 428 429 430 431 432 433 434 435 436 437 438 439 440 441 442 443 444 445 446 447 448 449 450 451 452 453 454 455 456 457 458 459 460 461 462 463 464 465 466 467 468 469 470 471 472 473 474 475 476 477 478 479 480 481 482 483 484 485 486 487 488 489 490 491 492 493 494 495 496 497 498 499 500 501 502 503 504 505 506 507 508 509 510 511 512 513 514 515 516 517 518 519 520 521 522 523 524 525 526 527 528 529 530 531 532 533 534 535 536 537 538 539 540 541 542 543 544 545 546 547 548 549 550 551 552 553 554 555 556 557 558 559 560 561 562 563 564 565 566 567 568 569 570 571 572 573 574 575 576 577 578 579 580 581 582 583 584 585 586 587 588 589 590 591 592 593 594 595 596 597 598 599 600 601 602 603 604 605 606 607 608 609 610 611 612 613 614 615 616 617 618 619 620 621 622 623 624 625 626 627 628 629 630 631 632 633 634 635 636 637 638 639 640 641 642 643 644 645 646 647 648 649 650 651 652 653 654 655 656 657 658 659 660 661 662 663 664 665 666 667 668 669 670 671 672 673 674 675 676 677 678 679 680 681 682 683 684 685 686 687 688 689 690 691 692 693 694 695 696 697 698 699 700 701 702 703 704 705 706 707 708 709 710 711 712 713 714 715 716 717 718 719 720 721 722 723 724 725 726 727 728 729 730 731 732 733 734 735 736 737 738 739 740 741 742 743 744 745 746 747 748 749 750 751 752 753 754 755 756 757 758 759 760 761 762 763 764 765 766 767 768 769 770 771 772 773 774 775 776 777 778 779 780 781 782 783 784 785 786 787 788 789 790 791 792 793 794 795 796 797 798 799 800 801 802 803 804 805 806 807 808 809 810 811 812 813 814 815 816 817 818 819 820 821 822 823 824 825 826 827 828 829 830 831 832 833 834 835 836 837 838 839 840 841 842 843 844 845 846 847 848 849 850 851 852 853 854 855 856 857 858 859 860 861 862 863 864 865 866 867 868 869 870 871 872 873 874 875 876 877 878 879 880 881 882 883 884 885 886 887 888 889 890 891 892 893 894 895 896 897 898 899 900 901 902 903 904 905 906 907 908 909 910 911 912 913 914 915 916 917 918 919 920 921 922 923 924 925 926 927 928 929 930 931 932 933 934 935 936 937 938 939 940 941 942 943 944 945 946 947 948 949 950 951 952 953 954 955 956 957 958 959 960 961 962 963 964 965 966 967 968 969 970 971 972 973 974 975 976 977 978 979 980 981 982 983 984 985 986 987 988 989 990 991 992 993 994 995 996 997 998 999 1000 1001 1002 1003 1004 1005 1006 1007 1008 1009 1010 1011 1012 1013 1014 1015 1016 1017 1018 1019 1020 1021 1022 1023 1024 1025 1026 1027 1028 1029 1030 1031 1032 1033 1034 1035 1036 1037 1038 1039 1040 1

V21730619

POLYMER LETTERS

DR0067

MO068172

EXHIBIT

Q