

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION

UNITED STATES OF AMERICA

v.

FREDERICK MERVIN BARDELL

Defendant

Case No. 6:11-CR-401

State of Montana

County of Missoula


**AFFIDAVIT OF JUDY L SCHMIDT, M.D., F.A.C.P.**

1. I am a medical doctor licensed to practice in the States of Hawaii and Montana and specializing in the medical specialties of Internal Medicine, Hematology, and Medical Oncology.
2. I hold a B.A. degree in Chemistry, *magna cum laude*, from the University of Minnesota.
3. I hold an M.D. degree from the University of Minnesota.
4. I completed an internship and residency in Internal Medicine at the University of California, Davis, Martinez V.A.
5. I completed my internal medicine residency at Hennepin County Medical Center/Mount Sinai in Minneapolis, Minnesota.
6. I completed a fellowship in Hematology and Medical Oncology at the Mayo Clinic in Rochester, Minnesota.
7. I am a diplomate of the National Board of Medical Examiners.
8. I am board-certified by the American Board of Internal Medicine in Internal Medicine, Hematology, and Medical Oncology.
9. I am a Fellow of the American College of Physicians.
10. I practice and have practiced in areas substantially similar to the types of practice engaged in at the times at issue here, notably, screening for colorectal cancer and the care of patients with colorectal cancer.
11. My experience and education are documented in my *curriculum vitae* (Attached hereto as Exhibit 1)

12. I have reviewed Mr. Bardell's available medical records and the Affidavit's of Celio O. Burrowes, M.D. from November 2, 2020 and November 13, 2020.
13. I offer all my opinions to a reasonable degree of medical certainty.
14. According to the available information, Mr. Bardell was 53 years old in November 2019 when he started to notice rectal bleeding. At this time, he more likely than not, had stage III sigmoid colon cancer and would have been cured with a 71% probability with surgery and adjuvant chemotherapy. A colonoscopy should have been done in November 2019.
15. The rectal bleeding became more profuse in April 2020.
16. The CEA (carcinoembryonic antigen) level was markedly elevated at 205.3 ng/mL (0.5 - 5.0) 9/8/20. A CEA at this level is consistent with stage IV metastatic colorectal cancer.
17. The hemoglobin was low at 12.3 gm/dL (13.5 - 18) consistent with blood loss from the colorectal carcinoma 9/8/20.
18. A CT scan of the abdomen/pelvis done 9/17/20 showed multi-lobar bilateral liver metastases and sigmoid colon wall thickening and narrowing consistent with sigmoid colon cancer with liver metastases. The five-year overall survival for stage IV colon cancer is 14%.
19. On 10/2/20, Mr. Bardell was seen by Farboud Masrour DO at Advanced Gastroenterology of Texas. It was noted that Mr. Bardell had had rectal bleeding since April 2020 and had left lower quadrant abdominal pain. He had never had an EGD or colonoscopy. There was no evidence that Dr. Masrour reviewed the prior elevated CEA or recent CT abdomen/pelvis. Dr. Masrour recommended an EGD and colonoscopy as well as Pepcid AC.
20. On 12/18/20, Dr. Masrour performed an EGD. He found gastritis and a Schatzki's ring. There was no evidence of malignancy. He recommended a proton pump inhibitor. He recommended a colonoscopy.
21. On 1/29/21, Mr. Bardell had a colonoscopy. He was told the results would not be available for one to two weeks. The clinical results from the colonoscopy are available at the time of the study (whether there was a sigmoid colon cancer) and the pathology results are generally available in 1 - 2 days. Apparently, it was noted that he was now jaundiced.
22. Mr. Bardell needs to be referred to a medical oncologist with speciality in metastatic colorectal cancer ASAP. If Mr. Bardell is jaundiced, he is at risk for ascending cholangitis and liver failure. He should be referred to an institution like M.D. Anderson or the Mayo Clinic by air ambulance ASAP.
23. The doctors at M.D. Anderson or Mayo Clinic will determine the cause of the jaundice, they will obtain pathologic confirmation of metastatic colorectal cancer and determine if Mr. Bardell is a candidate for systemic therapy.
24. Mr. Bardell needs to have an immediate compassionate release from the prison to allow for life-saving emergency treatment at another higher level facility.
25. The delay in treatment for this sigmoid colon cancer caused by the prison will, more likely than not, cost Mr. Bardell his life in a matter of weeks to months.

26. The factual assessments and medical opinions expressed herein are based on the currently available information; I reserve the right to modify my assessments and medical opinions as additional medical records and information become available.
27. The medical opinions expressed herein are unique to the specific factual circumstances of this case and therefore may not apply to other cases or factual scenarios.
28. This Affidavit is written in support of Bardell's Second Emergency Motion for Compassionate Release.

Further, your affiant sayeth naught,

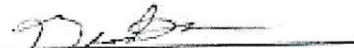
  
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Judy L. Schmidt M.D., F.A.C.P.

February 1, 2021

State of Montana

County of Missoula

This instrument was signed or acknowledged before  
me on 2-1-2021 by Judy L. Schmidt  
(Name of signer)

  
(Notary Signature)  
[Affix seal/stamp to the left or below]

