

COURT OF APPEALS OF TEXAS, FOURTH COURT OF APPEALS, SAN ANTONIO

David Goad v. Jamie Osborne and Eric Strey

Goad · No. 04-15-00219-CV; companion case 04-15-00218-CV · Decided September 18, 2015

SUMMARY

This document is a pro se appellant's second request for additional time to file an appellate brief in the Texas Fourth Court of Appeals. The request relies primarily on the appellant's claimed medical conditions and disabilities and asks to provide a status notice within 30 days.

CASE DETAILS

COURT	Court of Appeals of Texas, Fourth Court of Appeals, San Antonio
JURISDICTION	Texas
DECIDED	September 18, 2015
DOCKET	04-15-00219-CV; companion case 04-15-00218-CV
DISPOSITION	other
PROCEDURAL POSTURE	Appellant filed a second request for additional time to file his appellate brief.
PRECEDENTIAL VALUE	None apparent; the provided document is a litigant's procedural request rather than a court decision.
PARTIES	David Goad v. Jamie Osborne, Eric Strey

TOPICS

appellate procedure civil procedure ada / disability health law

PRACTICE AREAS

Appellate procedure Civil procedure Disability and health-related accommodation

QUESTIONS PRESENTED

1. Whether the appellant should receive additional time to file his appellate brief based on his asserted medical conditions and resulting inability to meet the filing deadline.

FACTUAL BACKGROUND

David Goad stated that he had suffered a stroke, undergone heart surgery, and experienced atrial fibrillation, atrial flutter, post-traumatic stress disorder, and symptoms of dementia. He asserted that a severe health setback beginning in July 2015 prevented him from completing his appellate brief and that several other court deadlines were also pending. He requested thirty days to notify the appellate court regarding his ability to complete the brief.

PROCEDURAL HISTORY

The document states that the matter was pending in the Fourth Court of Appeals of Texas under appellate cause number 04-15-00219-CV, with a companion appeal under cause number 04-15-00218-CV. David Goad requested additional time based primarily on claimed medical conditions and the resulting difficulty completing his brief. The provided text contains no ruling on the request.

DISPOSITION

other

OPINION

PER CURIAM.

Court of Appeal Number: 04-15-00219-CV, Trial Court No. 2014-CV-0393 and companion case ^ Court of Appeal Number: 04-15-00218-CV, Trial Court No: 2014-CV-0392 "vS DAVID GOAD § IN THE FOUWTjHSOURT^ Appellant, § 5, OO V. § § OF A JAMIE OSBORNE § & § ERIC STREY § Appellee's. § SAN ANTONIO, TEXAS SECOND REQUEST FOR MORE TIME Appellant. David Goad, makes this second request for more time to file his brief for the following reasons: 1.

Appellant has previously e.xplained to the court that he suffered a stroke back in 2009 with subsequent heart surgery in 2010. 2. Appellant is disabled as defined under the Americans with Disabilities Act. 3. In February of 2009. appellant went into atrial fibrillation (a-fib) as a result of being tortured; the stroke came shortly thereafter. This left appellant with post traumatic stress disorder (PTSD).

4. Appellant has symptoms of dementia. Attached and incorporated herein along with other exhibits please find Exhibit "A." This is an article relating mental decline due to a-fib. 5. See Exhibit "B" a 2010 letter from Texas Cardiac Arrhythmia. This letter documents a heart rate of 261 beats per minute (bpm). This was a device (Holter monitor) used for two days that was able to record a much high heart rate than other monitoring equipment.

However, this is not even close to the much higher rates the appellant frequently endured, rates so high the monitoring equipment the appellant used would display "ERROR." It is believed that appellant's heart rate exceeded 300 bpm on these occasions and these episodes lead to the

discovery of the appellant's PTSD. Mainly, but not always, during certain events or in certain environments the heart rate would skyrocket.

6. The PTSD was discovered when the Holter monitor was in place. This documented the appellant's heart rate more than doubling when he entered a certain environment. At times the heart rate tripled, but this is not documented on a Holter monitor. Rather, it is estimated based upon the condition the appellant was in, for example, the appellant would pass-out and fall to the ground or have to sit down immediately.

The 251 bpm recorded on the Holter monitor only caused a brief delay in walking. 7. Not only did the appellant have a-flb and a runaway heart rate, he also had flutter, see Exhibit "C." I can only say that death felt eminent on a daily bases. 8. Exhibit "D" is the most current letter from a physician. SUMMARY 9. Just in September, appellant has briefs due in this court (4th court of appeals), the Texas Supreme Court 15-0663, and the Fifth Circuit Court of Appeals USDC No. 5:14-CV- 813.

Additionally, a critical emergency motion was to be in the hands of the Western District Court in San Antonio on July 20, 2015. Since July 17,2015, the appellant has suffered a severe setback that has stopped him in his tracks. Since the 17th of July he has only been able to write approximately 10 pages in total, all for "more time," believing health will quickly improve.

Health has not improved and it is not known when it will improve to a level that will allow the appellant the capacity to complete his work. Each time a court threatens the appellant with a dismissal it exacerbates the health issue.

Although the surgery was a success, it did not alter the underling cause of the appellant's illness and the a-fib does reoccur. REQUEST Appellant asks the court again to provide additional time to complete the brief. He respectfully asks that he be allowed to provide notice to the court in 30 days time regarding his ability to complete the brief as his health concerns have made deadlines all but impossible to meet.

DECLARATION L David Goad, if requested to do so, could and would competently testify under oath, based upon my personal knowledge, to the matters stated herein: The information provided in the attached SECOND REQUEST FOR MORE TIME is true. I freely swear under the penalty of perjury' under the Laws of the United States of America that my above statements are true and correct to the best of my knowledge.

August 3, 2015 Respectfully submitted and attested to. DAVID GOAD, Plaintiffpro se 1154 Rivertree Drive New Braunfels, Texas 78130 Please notice new phone number 512-730-0762
CERTIFICATE OF SERVICE The undersigned certifies that on September 10, 2015, this SECOND REQUEST FOR MORE TIME was served on all parties in accordance with Texas Rules of Civil Procedure as set out herein below: Jeremy R. Sloan, Esq.

16500 San Pedro., Suite 410 San Antonio, Texas 78232 U.S. Mail David Goad • Atrial Fibrillation's Rapid Heartbeat Can Speed Mental Decline -Healthline <http://www.everydayhealth.com/news/atrial-fibrillation-rapid-heartbc>. Brought to you by Everyday Health Racing Heartbeat Can Speed Mental Decline By Jennifer J. Brown, PhD, © June Brown The rapid, Irregular heartbeat of atrial fibrillation is linked to earlier dementia.

Monday, January 13, 2014 People who have atrial fibrillation develop dementia at younger ages than those without Afib, finds a new study that shines a light on the relationship between heart health and brain health. The research was published in *Neurology*. Atrial fibrillation, also called Afib, is a common heart condition in which the heartbeat becomes irregular, putting a person at higher risk for stroke and heart failure.

In the aging U.S. population, both Afib and dementia are on the rise. Stroke is known to affect brain function and cause disability, but the effect of the Afib that comes before stroke has not been clear. "I have been interested in the overlap between heart health and brain health for a long time," said Evan Thacker, PhD, an epidemiologist and author of the study, who is on the staff of the Cardiovascular Health Research Unit at the University of Alabama at Birmingham.

The connections between Afib and brain function are now coming into focus, said Dr. Thacker. We studied atrial fibrillation in particular because several studies in the past showed cognition test scores were lower at one point, but did not track scores over time as people got older," he explained. "As people get into their seventies, eighties and nineties, scores tend to go down, and we wanted to see if that would be true for patients with atrial fibrillation as well.

As people's cardiovascular systems become less healthy, they need to think about the impact on the rest of the body. The Heart Health-Brain Health Link The new study followed 5,150 healthy participants, aged 65 and up, for an average of seven years, and found that 552 of them developed Afib, 11 percent of the group.

To screen for brain function, participants took a test of memory, orientation, calculation and verbal fluency each year; scores below 78 correct out of 100 pointed to possible dementia. Over time, scores went down more rapidly for people with Afib after they reached age 75, by an average of two points every five years.

As they aged, people who were diagnosed with Afib developed dementia two years earlier on average, at age 85, compared with age 87 for people without Afib. People who were diagnosed with stroke were not included in the study, so the acceleration of dementia was not thought to be due to stroke. But in the patients who had Afib, silent strokes caused by undetected clots may account for some decline in brain function.

People who developed Afib in the study were more likely to have other heart conditions, including • hypertension • coronary heart disease • heart failure Treat the Heart Problem, Save the Brain? It's

possible that any one of these heart conditions influence brain function. What's clear is that heart health and brain health are connected as we age, according to Thacker; "One of the reasons people with atrial fibrillation get cognitive decline may be due to small blood clots in the brain.

Taking blood thinners may help, like they help prevent a stroke." He added that investigators hope to figure out which heart or blood clot or other medications may prevent loss of brain function in the coming. Cardiologist William Abraham, MD, an Everyday Health columnist. Professor of Internal Medicine and Chief of the Division of Cardiovascular Medicine at The Ohio State University College of Medicine in Columbus, put the findings into practical perspective, "Atrial fibrillation is often a result of high blood pressure, so controlling high blood pressure may be a way to avoid both atrial fibrillation and the 8/7/2014 9:16 AM Fibrillation's Rapid Heartbeat Can Speed Mental Decline - Heart... <http://www.everydayhealth.com/news/atrial-fibrillation-rapid-heartbeat-associated-earlier-dementia>.

Moreover, once atrial fibrillation occurs, the present findings support a more aggressive approach to treatment (cardioversion or atrial fibrillation ablation) as another possible way to avoid earlier dementia." The mental decline of dementia has been linked to aging, and so has atrial fibrillation. But dementia is not a normal part of aging. Instead, it is a set of symptoms including decreased brain functioning.

Changes in memory and language skills and, sometimes, delusions and hallucinations. Earlier dementia is a heavy burden for the aging patient and caretakers. Patients with dementia often need care 24 hours a day, and they may require constant supervision in order to remain safe. If further research supports Thacker's findings, treating heart conditions like Afib, high blood pressure, and heart failure could help lessen the dementia burden.

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2014 8/7/2014 9:16 AM Texas Cardiac Arrhythmia Outpatient Clinic, 35. Ste 700 Austin, TX 78705 (612) 807-3150 Fax (512) 878-7879 A Division of Cardiovascular Specialists in Texas, PA 16 August, 2010 To Whom It May Concern: Mr. Goad is currently under my care for a ventricular dysrhythmia.

We have now scheduled his surgery for a second time on; August 19, 2010. Due to Mr. Goad's heart condition, he is unable to have been revoked by the State of Texas. In February, he was diagnosed to occur on a daily rate at 261 beats per minute. This extremely high heart rate seems to be on a daily basis. His condition

and more. approximately after his surgery. Rodney P. Horton, MD Texas Cardiac Arrhythmia
Texas Cardiac Arrhythmia 3000 N. IH 35.

Ste 700 Austin, TX 78705 www.tcaheart.com (512)807-3150 Fax (512)-458-7879 October 26,
2011 RE; David Goad DOB 1/16/57 To whom it may concern, This letter states Mr.
David Goad's previously documented diagnosis of atrial fibrillation and atrial flutter. These
abnormal cardiac arrhythmias cause erratic and rapid electrical conduction in the heart leading
to severe symptoms and a potential decrease in cardiac output.

Mr. Goad's symptoms included profound fatigue, heart palpitations, dizziness and shortness of
breath. These symptoms have been debilitating for him. Respectful, /r Rodney P. Horton, MD '6'
OUR MISSION "To Extend the Healing Ministry of Jesus Christ" CHRISTUS. SANTA ROSA
MEDICAL GROUP Family Medicine Bulverde Claudio C. Toledo, M.D. CSRMG 19851 State
Hwy 46W Spring Branch, TX 78070 (830)438-8866 April 20, 2015 To Whom It May Concern,
Mr. David Goad (DOB: 01/16/1957} has a medical condition which prevents him from working
pending completion of diagnostic studies and definitive treatment.

In addition because of the nature of his cardiac condition, I recommend that he be allowed to be
seated when necessary, as acute flare ups are episodic, and that some leniency be allowed
regarding scheduling of appointments and proceedings. Sincerely, Claudio Toledo, M.D. 19851
State Highway 46 W (Suite 201 Spring Branch] TX 79070 Tell 830.438.8866 | Fax 830.438.9084