

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JAMES HANDWORK

Plaintiff,

v.

**THE OHIO DEPARTMENT OF
REHABILITATION AND CORRECTION**

and

GARY C. MOHR
In his official capacity

Defendants.

Case No. 1:16-cv-00825-SO
JUDGE SOLOMON OLIVER, JR.

**PLAINTIFF JAMES HANDWORK'S
MOTION FOR SUMMARY JUDGMENT**

Plaintiff James Handwork, by and through his undersigned counsel, moves this Honorable Court for an Order granting Summary Judgment in his favor, pursuant to Fed. R. Civ. P. 56(a). “[T]here is no genuine dispute as to any material fact” in this case, and Mr. Handwork “is entitled to judgment as a matter of law.” *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 250 (1986).

The material facts in this case are undisputed. Defendants, the Ohio Department of Rehabilitation and Correction (ODRC) and its Director Gary Mohr promulgate statewide policies that control all of Ohio’s prisons. They maintain a policy that hearing disabled prisoners, regardless of their individual medical needs, may only have one hearing aid, even if they need two. Mr. Handwork is a hearing-disabled prisoner with a medically diagnosed need for two hearing aids. But pursuant to their blanket policy, Defendants deny Mr. Handwork a second hearing aid, despite

medical recommendations to the contrary. Defendants withhold this necessary treatment based solely on their cruel and discriminatory policy that people in prison need only hear with one ear.

This denial is a violation Mr. Handwork's rights under the Eighth Amendment to the Constitution; the Americans with Disabilities Act; and Section 504 of the Rehabilitation Act, and the policy is unconstitutional on its face. Mr. Handwork is entitled to judgment as a matter of law in his favor as to every claim.

The reasons supporting this Motion are more fully set forth in the attached Memorandum.

Dated this 19th day of September, 2016.

Respectfully submitted,

s/ Freda J. Levenson
Freda J. Levenson (0045916)
Trial Attorney for Plaintiffs
Elizabeth Bonham (0093733)
ACLU of Ohio Foundation, Inc.
4506 Chester Ave.
Cleveland, OH 44103
Tel: (216) 472-2220
Fax: (216) 472-2210
flevenson@acluohio.org

CERTIFICATE OF SERVICE

I hereby certify that on September 19, 2016 the foregoing was filed electronically.

Notice of this filing will be sent to all parties for whom counsel has entered an appearance by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

Dated this 19th day of September, 2016

s/ Freda J. Levenson
Freda J. Levenson (0045916)