

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO
NOV 08 2019
JEFFREY P. COLWELL
CLERK

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 19-CV-02906-GPB
(To be supplied by the court)

Robert Zamora, Plaintiff

v.

Ramsey, CDOC Officer,

Kilcrease, CDOC Officer, and

Wilson, CDOC Officer

_____, Defendant(s).

(List each named defendant on a separate line. If you cannot fit the names of all defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Section B. Do not include addresses here.)

Amended - PRISONER COMPLAINT

NOTICE

Federal Rule of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should not contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include only: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Plaintiff need not send exhibits, affidavits, grievances, witness statements, or any other materials to the Clerk's Office with this complaint.

Original form provided free of charge by CODOC Legal Access Program to Offender Zamora #104552 on October 28, 2019

A. PLAINTIFF INFORMATION

You must notify the court of any changes to your address where case-related papers may be served by filing a notice of change of address. Failure to keep a current address on file with the court may result in dismissal of your case.

Robert Zamora, BULL Reg # 104552, P.O. Box 2017
(Name, prisoner identification number, and complete mailing address)

Buena Vista, CO 81211
(Other names by which you have been known)

Indicate whether you are a prisoner or other confined person as follows: (check one)

- Pretrial detainee
- Civilly committed detainee
- Immigration detainee
- Convicted and sentenced state prisoner
- Convicted and sentenced federal prisoner
- Other: (Please explain) _____

B. DEFENDANT(S) INFORMATION

Please list the following information for each defendant listed in the caption of the complaint. If more space is needed, use extra paper to provide the information requested. The additional pages regarding defendants should be labeled "B. DEFENDANT(S) INFORMATION."

Defendant 1: CO Ramsey, BULL Officer, P.O. Box 2017
(Name, job title, and complete mailing address)

Buena Vista, CO 81211

At the time the claim(s) in this complaint arose, was this defendant acting under color of state or federal law? Yes No (check one). Briefly explain:
CO Ramsey was acting under color of state law in his individual and official capacity when he used excessive force against me while I was under seize and in retaliation for talking to a female staff member

Defendant 1 is being sued in his individual and/or _____ official capacity.

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Defendant 2: CO KILCREASE, BULL OFFICER, P.O. BOX 2017
(Name, job title, and complete mailing address)

BUENA VISTA, CO 81211

At the time the claim(s) in this complaint arose, was this defendant acting under color of state or federal law? Yes ___ No (check one). Briefly explain:
CO KILCREASE WAS ACTING UNDER COLOR OF STATE LAW IN HIS INDIVIDUAL AND OFFICIAL CAPACITY WHEN HE WATCHED CO RAMSEY USE EXCESSIVE FORCE AGAINST ME WHILE I WAS UNDER SEIZE AND DID NOTHING TO PREVENT THE ABUSE.

Defendant 2 is being sued in his individual and/or ___ official capacity.

Defendant 3: CO WILSON, BULL OFFICER, P.O. BOX 2017
(Name, job title, and complete mailing address)

BUENA VISTA, CO 81211

At the time the claim(s) in this complaint arose, was this defendant acting under color of state or federal law? Yes ___ No (check one). Briefly explain:
CO WILSON WAS ACTING UNDER COLOR OF STATE LAW IN HER INDIVIDUAL AND OFFICIAL CAPACITY WHEN SHE WATCHED CO RAMSEY USE EXCESSIVE FORCE AGAINST ME WHILE I WAS UNDER SEIZE AND DID NOTHING TO PREVENT THE ABUSE.

Defendant 3 is being sued in her individual and/or ___ official capacity.

C. JURISDICTION

Indicate the federal legal basis for your claim(s): (check all that apply)

42 U.S.C. § 1983 (state) county, and municipal defendants)

___ *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971)
(federal defendants)

___ Other: (please identify) _____

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D. STATEMENT OF CLAIM(S)

State clearly and concisely every claim that you are asserting in this action. For each claim, specify the right that allegedly has been violated and state all facts that support your claim, including the date(s) on which the incident(s) occurred, the name(s) of the specific person(s) involved in each claim, and the specific facts that show how each person was involved in each claim. You do not need to cite specific legal cases to support your claim(s). If additional space is needed to describe any claim or to assert additional claims, use extra paper to continue that claim or to assert the additional claim(s). Please indicate that additional paper is attached and label the additional pages regarding the statement of claims as "D. STATEMENT OF CLAIMS."

CLAIM ONE: BVCC Correctional Officers Ramsey,

Supporting facts: Kilerese, and Wilson violated my Constitutional Rights under the Fourth and Eighth Amendments when they used excessive force against me while I was under seize and did nothing to prevent each other from the physical abuse to me. A Violation under the 8th & 4th Amendments to the United States Constitution.

On Sept. 14, 2018, I noticed CO Ramsey standing at my cell door putting on gloves and looking angrily at me. I asked him what was up. He responded and said "get the 'F' up. I said for what? He said "you know where you're going, so get the 'F' up Zamora, and cuff-up". I then told him that I had an existing injury to my shoulder and standing medical order to be handcuffed in the front. CO Kilerese interrupted and said that to avoid hurting me that they would use double cuffs from the back so I complied.

While walking down the stairs, CO Ramsey said "I don't give a 'F' about your shoulder Zamora."

And started jerking the handcuffs to put pressure on my injured shoulder. I screamed from the pain. CO Ramsey continued to jerk and pull the handcuffs to deliberately hurt my shoulder and I continued to scream in excruciating pain. CO Killecrease and CO Wilson stood by and watched CO Ramsey hurt me, and did nothing to prevent him from hurting me.

While my shoulder pain was unbearable, CO Ramsey took me to a camera blind spot and started jerking and pulling the handcuffs again. I continued to scream in horrible pain and CO Killecrease and CO Wilson continued to watch CO Ramsey hurt me. This time, I felt something in my shoulder joint tear and the pain was especially excruciating. I again screamed in pain.

After being taken to the prison's segregation unit, my shoulder was inoperable and pain excruciating for months. I was later informed that muscle tissue and cartilage had been torn and I needed to be operated on to repair the aggravated and already existing injuries. This complaint follows.

D. Statement of Claims Continued

Claim Two: BUC, CO Ramsey violated my rights under the First Amendment to the United States Constitution when he used excessive force against me while I was under seizure in retaliation for talking to a female staff member regarding my personal life.

Supporting Facts:

On Sept. 14, 2018, I communicated my personal opinion about my views of how I felt about intimate relationships with people in general and gave my C.E.A. instructor a cite and reference to a story that I had read. She reported our conversation and the written reference/story to the BUC shift commander. CO Ramsey was briefed on what had happened and was ordered by the shift commander to remove me from the BUC General Population.

As summarized in the Supporting Facts of my Claim One, CO Ramsey's response to my communications with my C.E.A. instructor was excessive and in retaliation for my freedom of expression and speech. To avoid repetition of the facts, the rest of the facts surrounding my Claim Two are the same as my Claim One. I was later informed that CO Ramsey had stated that he was going to teach me about hitting on the females at BUC. A fellow prisoner heard him tell CO Kline that this was his way to my cell to remove me from general population. This Retaliation Complaint follows.

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E. PREVIOUS LAWSUITS

Have you ever filed a lawsuit, other than this lawsuit, in any federal or state court while you were incarcerated? Yes No (check one).

If your answer is "Yes," complete this section of the form. If you have filed more than one previous lawsuit, use additional paper to provide the requested information for each previous lawsuit. Please indicate that additional paper is attached and label the additional pages regarding previous lawsuits as "E. PREVIOUS LAWSUITS."

Name(s) of defendant(s): N.A.

Docket number and court: N.A.

Claims raised: N.A.

Disposition: (is the case still pending? has it been dismissed?; was relief granted?) N.A.

Reasons for dismissal, if dismissed: N.A.

Result on appeal, if appealed: N.A.

F. ADMINISTRATIVE REMEDIES

WARNING: Prisoners must exhaust administrative remedies before filing an action in federal court regarding prison conditions. See 42 U.S.C. § 1997e(a). Your case may be dismissed or judgment entered against you if you have not exhausted administrative remedies.

Is there a formal grievance procedure at the institution in which you are confined?

Yes No (check one)

Did you exhaust administrative remedies?

Yes No (check one)

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G. REQUEST FOR RELIEF

State the relief you are requesting or what you want the court to do. If additional space is needed to identify the relief you are requesting, use extra paper to request relief. Please indicate that additional paper is attached and label the additional pages regarding relief as "G. REQUEST FOR RELIEF."

Unspecified Compensatory Damages from each Defendant for physical and mental anguish; Injury

Unspecified punitive Damages from each Defendant;

Unspecified nominal Damages from each Defendant;

In the Defendant's individual capacities

H. PLAINTIFF'S SIGNATURE

I declare under penalty of perjury that I am the plaintiff in this action, that I have read this complaint, and that the information in this complaint is true and correct. See 28 U.S.C. § 1746; 18 U.S.C. § 1621.

Under Federal Rule of Civil Procedure 11, by signing below, I also certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending or modifying existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

Robert Zamora
(Plaintiff's signature)

11/04/2019
(Date)

Colorado Department Of Corrections

Name Mr. Robert Bennett

Register Number 7311E Reg # 109552

Unit P.O. Box 2017

Box Number Regway Wash, CO

City, State, Zip 81211

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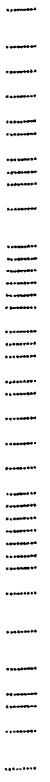
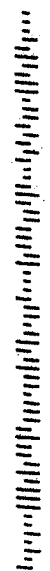
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STAFF LAST NAME Lawson ID# 2106 INT BC
DOC# 10552 OFFENDER LAST NAME Mr. Bennett INT 032