

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

DEC 18 2023

JEFFREY P. COLWELL
CLERK

LANCE REYNOLDS,
Plaintiff,

vs.

Case #1:22-cv-02055-NYW-NRN

UNITED STATES OF AMERICA,
Defendant.

JURY TRIAL DEMANDED

AMENDED COMPLAINT

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, Lance Reynolds (hereinafter the "Plaintiff" and/or "Mr. Reynolds"), the Plaintiff, Pro Se¹, and respectfully files the following Amended Complaint. Mr. Reynolds asserts the following below in support of his Amended Complaint, which further's his claims pursuant the Federal Tort Claims Act ("FTCA").

° § °

VERIFIED COMPLAINT FOR DAMAGES

I. Introduction

1. This is a Federal Tort Claim Action ("FTCA") by Plaintiff Lance Reynolds, a Federal Prisoner, alleging violations violations of Colorado State Law that support tort claims for: Battery, Negligence and Intentional Infliciton of Emotional

¹ See Haines v. Kerner, 404 U.S. 519, 520, 92 S.Ct. 594, 30 L.Ed.2d 652 (1972)(courts should liberally construe a pro se litigants filing).

Distress.

II. Jurisdiction

2. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§1346(b), 2671-80 under the Federal Tort Claims Act.

III. Parities

3. Plaintiff Lance Reynolds at all times relevant was confined by the Federal Department of Corrections at the United States Penitentiary.

4. Defendant UNITED STATES OF AMERICA, as the only proper defendant in an FTCA case, is properly named because the FTCA is the only remedy for the noted torts committed by federal employees within the scope of their employment.

IV. Exhaustion of Available Remedies

5. The plaintiff filed an administrative tort claim concerning the occurrences complained of within two years of after those occurrences (including additional documentation and referencing of state torts), and brought suit within six months of the mailing of the notice of final agency denial of that claim, as is required by 28 U.S.C. §2401.

V. Factual Statement

6. On June 28, 2021, Plaintiff was walking by Lt. Troutman and made an inappropriate joke with the Lt.

7. C.O. Gertain (Sp?) heard the joke and then sent me to

the Lt.'s Office (for either time-out or to be berrated for inappropriate joke).

8. Lt. Troutman and Lt. Jensen ended up at the Lt.'s office and laughed about the incident, telling plaintiff to go ahead and go back to the unit.

9. On the way back to the unit, C.O. Wilcox and C.O. Tracy were on a patio (in which the officers stand around) and hollered at plaintiff as he was walking toward them accross the compound.

10. C.O. Wilcox starts swearing and cussing--talking trash--and walks up to plaintiff and pushes him against the fence (Please Note: Officer Wilcox is about 7 feet tall and 300 lbs).

11. When Officer Wilcox pushed plaintiff against the fence, he bounced back off the fence and into him, knocking him down (Please Note: that is how hard he pushed the plaintiff).

12. C.O. Wilcox then got up and grabbed plaintiff, trying to pick him up (grabbing him around the legs)--while not saying a word--and as he did so, he then grabbed the fence to hold onto it so he couldn't pick plaintiff up and hurt him.

13. Once C.O. Wilcox realizes that plaintiff has a hold of the fence and that it is futile to try and pick him up as he holds onto it,so he then lets plaintiff go so that he falls sideways onto his side.

14. As plaintiff goes to get up, C.O. Wilcox grabs plaintiff around the knees and lifts him straight up into the air and then intentionally slams him to the ground on his back.

15. Plaintiff felt his back pop and then was in excruciating pain.

16. Plaintiff noticed that the entire time this was going on and happening, C.O. Tracy had just been standing by watching.

17. After plaintiff back pops and the pain surges through him, he also notes that he has lost most feeling in his lower body.

18. In severe pain and confusion (especially because of the loss of feeling in his lower extremities) plaintiff did not notice what officer then grabbed him and then drug him over three flights of stairs until finally throwing him into a wheel chair.

19. Plaintiff was then wheeled to the Special Housing Unit ("SHU") and put into ambulatory restraints.

20. While in the SHU cell--every moment that went by, the plaintiff was in excruciating pain, unable to stand, and frightened that he may be paralyzed.

21. Because plaintiff was prescribed Oxycabazapine, the medical nurse had to stop by twice a day to give him his medication.

22. Everytime the nurse came by with Plaintiff's medication, he turned in a cop-out (explaining how much pain he was in and begging for help); he further would explain to the nurse that he was in desperate need of help--pain!

23. Seemingly Plaintiff was ignored by medical until July 1, 2021, when medical pulled him out for a Chronic Care visit to see Dr. Resto.

24. When Dr. Resto saw the Plaintiff, he immediately told Plaintiff that something was definitely wrong and that he needed to do some tests.

25. After a short examination, Dr. Resto determined that

medical attention--stating that Plaintiff's lower back/spine was all swollen and messed up.

26. Plaintiff was then rushed outside the prison to St Thomas Moore hospital where an MRI was immediately conducted and it was concluded that Plaintiff had two broken lumbar--L2 and L4; further determination was made that Plaintiff's whole lumbar was 'outta whack'.

27. The Doctor that was examining Plaintiff explained that his injury was one in which there was no surgery that could be performed to fix him; that he would have to just naturally heal and would forever be significantly damaged (permanent scarring and pain, nerve damage, arthritis, limited range of motion, etc...).

28. The Doctor then placed lidocane pads on Plaintiff's back for the pain, prescribing the lidocane patches for a significant period of time.

29. Arriving back to the prison, Medical PA McCullough approached Plaintiff and maliciously ripped the lidocane patches off his back, telling Plaintiff that, "You can't have those!"

30. When PA Kaamrad comes to see the Plaintiff the next day, and Plaintiff explains that he is in pain, Plaintiff furthers that he did have lidocane patches prescribed and placed on his back, but PA McCullough ripped them off and told him he couldn't have them.

31. PA Kaamrad then explained that PA McCullough should not have done that, especially because there are plenty of inmates at the prison that are prescribed the patches or spray, and out of all those inmates, Plaintiff's broken back is most deserving.

32. Plaintiff asserst that his back was broke on June 28, 2021, and as of approximately today, two-and-a-half-years later, his movement is severely limited, his is in constant pain, and he is emotionally traumatized--he is in fear of bop staff members.

IV. Claims for Relief

A. Tort of Assault

33. The elements of the tort of assault in Colorado are: (i) that the defendant intended to make physical contact with the plaintiff or place the defendant in apprehension of immediate physical contact, (ii) that plaintiff was placed in such apprehension, and (iii) that the contact was offensicve. O'Hayre v. Board of Education, 109 F.Supp. 2d 1284, 1296 (D. Colo. 2000).

34. The Defendant United States (C.O. Wilcox) intended to make physical contact with Plaintiff, and did place him in apprehension of that contact, when pushing plaintiff against the fence and eventually slamming him on the ground and breaking his back, furthering that such contact offensive.

35. The Defendant United States (Unknown C.O.) intended to make physical contact with Plaintiff, and di place him in apprehenssion of that contact, when grabbing the Plaintiff (as Plaintiff had a broke back) and dragging him over three flights of stairs, and them throwing into a wheelchair.

B. Tort of Battery

36. The elements of the tort of battery in Colorado are: (i) a showing that the defendant intended to make physical

contact with the Plaintiff, or intended to put the Plaintiff in apprehension of immediate physical contact; (ii) a showing that immediate physical contact of the Plaintiff resulted; and (iii) a showing that the contact was harmful or offensive. White v. Muniz, 999 P.2d 814, 816 (Colo. 2000).

37. The Defendant United States (C.O. Wilcox) intended to make physical contact with the Plaintiff when he called the Plaintiff over to him and then pushed him into the fence; he furthered this intent when grabbing the Plaintiff and slamming him down and breaking his back; the fact that Plaintiff's back was broke and permanently messed up, with the Plaintiff in excruciating pain, is a showing that the contact was harmful and offensive.

38. The Defendant United States (Unknown C.O.) intended to make physical contact with the Plaintiff when he grabbed the Plaintiff (with a broken back) and drug him over three flights of stairs and threw him into a wheelchair; obvious physical contact with the Plaintiff occurred; and the fact that Plaintiff's back was broke and permanently messed up, with the Plaintiff in excruciating pain, is a showing that the contact was harmful and offensive.

C. Tort of Negligence

39. To establish a tort claim for negligence under Colorado law, Plaintiff must adduce facts showing: (i) the existence of a duty owed by the defendant to the plaintiff, (ii) the Defendant's breach of duty, (iii) a causal connection between that breach and

injuries suffered by plaintiff, and (v) resultant damages. Hylar v. Geo-Seis Helicopters, Inc., 296 F.3d 1190, 1192 (10th Cir. 2001).

40. The Defendant United States (all BOP Staff) owe a duty to the Plaintiff, to provide the Plaintiff with reasonable care--avoiding all foreseeable risks; the Defendant (C.O. Tracy Walter) stood by and did nothing while C.O. Wilcox proceeded to break the Plaintiff's back, thereby failing in his duties; the duties owed the Plaintiff by the Defendants--the failure to provide reasonable care (even if that amounts keeping another officer from physically injuring an inmate)--was the causal connection to the injuries then suffered by the Plaintiff, with the resulting damages of having a broken back with permanent injuries.

41. The Defendant the United States (all BOP Staff) owed a duty to the Plaintiff, to provide the Plaintiff with reasonable care, furthering that all Staff Members that were able to view the officer that grabbed the Plaintiff (with a broken back) and watched him being dragged across three flights of stairs and thrown into a wheelchair, all had a duty that they failed to perform, resulting in furthering the pain and suffering endured by the Plaintiff--all of which is furthered by permanent pain and damages.

42. The Defendant the United States (all BOP Staff) owed a duty to the Plaintiff, to continue to provide him with the ability to limit all pain and suffering by the means allotted him, and failure to allow him to maintain the lidocaine patches on his back, when plenty of inmates on the yard have the patches or spray, was a failure to do their duty, and is the causal

connection to the pain and suffering the Plaintiff endured, such as is the resultant damages.

D. Intentional Infliction of Emotional Distress

43. Colorado has adopted the Restatement (Second) of Torts definition of Intentional Infliction of Emotional Distress: 'One who by extreme and outrageous conduct intentionally or recklessly causes severe emotional distress to another is subject to liability for such distress, and if bodily harm to other results from it, for such bodily harm.'" Han Ye Lee v. Colo. Times, Inc., 222 P.3d 957, 963 (Colo. Ct. App. 2009). The elements of outrageous conduct are: (i) the defendant engaged in extreme and outrageous conduct, (ii) recklessly or with the intent of causing the plaintiff severe emotional distress, and (iii) causing the plaintiff severe emotional distress. Pearson v. Kancilia, 70 P.3d 594, 597 (Colo. Ct. App. 2003).

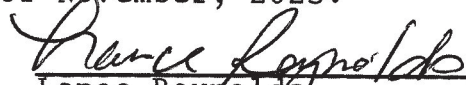
44. The Defendant United States (C.O. Wilcox) engaged in extreme and outrageous conduct when, as a 7-foot 300 lb. man, he grabbed the Plaintiff and picked him up and slammed him down to break his back--doing so, as such conduct was reckless and has caused the Plaintiff permanent emotional distress; Plaintiff finds himself sometimes shaking, uncontrollably when around staff, especially staff that are barking at him or to others around him.

Relief Requested

A. Award compensatory damages for plaintiff's physical and emotional injuries, and punitive damages against each defendant,

for a requested total of \$2,000,000.00 (two Million dollars).

Submitted on this 17th day of November, 2023.



Lance Reynolds
Reg. #72408-061
U.S.P. Lee
P.O. Box 305
Jonesville, VA 24263

Declaration

I, Lance Reynolds, do hereby declare under penalty of perjury that all the aforementioned above is true and correct, and that I placed the following in the internal mailing system here at USP Lee by handing it to staff on this 17th day of November, 2023, first-class postage pre-paid and affixed, all pursuant to 28 U.S.C. §1746.

Executed On: 11/17/2023



Lance Reynolds
72408-061

U.S.P. Lee

P.O. Box 365

Jonesville, VA 24263



KNOXVILLE PRDC TN 374
THU 14 DEC 2023 6M

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Alfred A. Array courthouse
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11-7-23

U.S. DISTRICT COURT - 1ST DISTRICT
PO Box 900 - JONESVILLE, VA 22093
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