

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

**FILED**  
UNITED STATES DISTRICT COURT  
DENVER, COLORADO

**FEB 27 2023**

JEFFREY P. COLWELL  
CLERK

Civil Action No. \_\_\_\_\_  
(To be supplied by the court)

\_\_\_\_\_  
Joseph J. Roos, Plaintiff

v.

**Jury Trial requested:**  
(please check one)

  X   Yes        No

\_\_\_\_\_  
Michelle Ruffini,

\_\_\_\_\_  
Robin Garrelts,

\_\_\_\_\_  
Jessica Archuleta,

\_\_\_\_\_  
Christina Ortiz-Marquez, 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.**

**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.*

Joseph J. Roos, CDC No. 133392; PO Box 6000; Sterling, CO 80751

(Name, prisoner identification number, and complete mailing address)

Joe Roos

(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: Michelle Ruffini (9744), Sergeant at AVCF: 12750 Highy 96, at  
(Name, job title, and complete mailing address)

Lane 13; Ordway, CO 81034

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:

Michelle Ruffini is a sergeant at AVCF who is responsible for  
mailroom operations there.

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

Defendant 2: Robin Garrelts (16203), SOTMP Supervisor: 502 Colorado Street;  
(Name, job title, and complete mailing address)

Sugar City, CO 81076-5013

At the time the claim(s) in this complaint arose, was this defendant acting under color of state or federal law? X Yes \_\_\_ No (*check one*). Briefly explain:

Robin Garrelts was the supervisor for the Sex Offender Treatment and Monitoring Program (SOTMP) at AVCF.

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

Defendant 3: Jessica Archuleta (17659), SOTMP Supervisor: 5003 Landmark  
(Name, job title, and complete mailing address)

Road; Pueblo, CO 81008

At the time the claim(s) in this complaint arose, was this defendant acting under color of state or federal law? X Yes \_\_\_ No (*check one*). Briefly explain:

Jessica Archuleta was the SOTMP supervisor at CCF.

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

Defendant 4: See additional page 4 attached.

### C. JURISDICTION

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

X State/Local Official (42 U.S.C. § 1983)

\_\_\_ Federal Official

As to the federal official, are you seeking:

\_\_\_ Money damages pursuant to *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971)

\_\_\_ Declaratory/Injunctive relief pursuant to 28 U.S.C. § 1331, 28 U.S.C. § 1361, or 28 U.S.C. § 2201

X Other: (*please identify*) This court has jurisdiction to hear a civil conspiracy claim under C.R.S. § 13-21-11.5(4).

**B. DEFENDANT(S) INFORMATION**

Defendant 4: Christina Ortiz-Marquez (14852), SOTMP Director: 1250

Academy Park Loop; Colorado Springs, CO 80910.

At the time of the claims in which this complaint arose, was this  
defendant acting under color of state or federal law? **YES**

Briefly explain:

Christina Ortiz-Marquez is the director of the SOTMP program in the CDOC.

Defendant 4 is being sued in her   X   individual and   X   official  
capacity.

**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: INTRODUCTION

Claim one is asserted against these Defendant(s):

(ADDITIONAL PAGES 6-26 ATTACHED)

Supporting facts: Mr. Roos has been incarcerated for over 17 years on an indeterminate sentence of two-years-to-life as a result of a plea agreement he entered in 1999. During his incarceration he has attended a SOTMP Track I program group for low-to-moderate risk sex offenders within the Dept. of Corrections, and has completed the 7 criteria required for SOTMP to provide a favorable recommendation for parole as far back as 2017. (Relevant pages of Administrative Regulations [ARs] and declarations of Dustin McDaniel and Joseph Roos were submitted with original complaint and are incorporated by reference herein.) Please see Exhibit A, page 5. Nonetheless, the SOTMP program has continuously acted in bad faith against Mr. Roos to undermine his treatment progress with retaliatory actions, filing false reports, and improperly using polygraph assessments to hinder his opportunities for parole. After filing a DORA complaint against an SOTMP clinician in 2018, Mr. Roos was inexplicably placed in punitive segregation for one week before being removed from Fremont Correctional Facility (FCF) and transferred to AVCF. No disciplinary charges were filed and Mr. Roos did not receive any written documentation

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regarding his removal from general population and being placed in segregated housing. He was not terminated from SOTMP, but clinicians at FCF authored a highly prejudicial and inaccurate discharge summary, which was sent to Defendants Garrelts and Archuleta at AVCF. When Mr. Roos arrived at AVCF in July 2018, Defendants Garrelts and Archuleta had already been negatively biased by the discharge summary against Mr. Roos, which further amplified an existing pattern of retaliatory conduct against Mr. Roos by SOTMP staff that has been ongoing and continuous to this day.

**CLAIM ONE: FIRST AND FOURTEENTH AMENDMENT VIOLATIONS**

Defendant Ruffini violated Mr. Roos' rights by censoring his incoming and outgoing mail, violating the First and Fourteenth Amendments to the United States Constitution.

1. Beginning sometime approximately in March 2021, Defendant Ruffini began illegally and secretly withholding Mr. Roos' multiple outgoing letters without cause and did not provide written notice that the correspondence was withheld.

2. AR 300-38 "Offender Mail" requires that offenders are provided written notice any time incoming or outgoing letters are withheld in full or in part.

(Exhibit B, page 9, 9.a)

3. Sending outgoing mail is a Constitutionally protected action, and restrictions on outgoing mail can not be greater than "necessary or essential" to protect "important or substantial interests."

4. Incoming and outgoing mail may only be censored in accordance with AR 300-26 "Publications" (Exhibit C, page 2, IV.A.1). The letters seized only inquired about the purchase of photos that are allowable pursuant to AR 300-26. The letters contained no contraband or prohibited content.



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5. Defendant Ruffini did not mail Mr. Roos' outgoing letters and began turning them over to Defendant Garrelts in violation of AR 300-26, which requires withheld mail to be forwarded to the facility publication committee, not SOTMP. (See Exhibit C, p.3)

6. At a later time, Mr. Roos met with his SOTMP clinician who confirmed that SOTMP is in possession of multiple letters of Mr. Roos that were withheld without his prior knowledge. The clinician was at least the third person in the chain of custody, and she had detailed knowledge of their contents, which could have been known only if she had read them personally herself. (cf. ¶ 43.)

7. Every piece of mail seized from Mr. Roos without his knowledge is a separate and distinct violation of Mr. Roos' First Amendment Constitutional rights. To this day, the total number of pieces of mail seized is still unknown.

8. By turning over Mr. Roos' outgoing mail to Defendant Garrelts and not providing Mr. Roos with the required written notice, Defendant Ruffini further violated Mr. Roos' right to due process under the 14th Amendment by circumventing facility publication review. (Exhibit C, p.4-5)

9. By sending Mr. Roos' outgoing letters to Defendant Garrelts and not to the publication committee, Defendant Ruffini denied Mr. Roos his constitutionally protected safeguard to his liberty interest in sending mail including: (a) written notice of rejection that his letters were withheld; (b) an opportunity to protest the denial; (c) review by somebody other than the censor, and (d) disposition of the correspondence after a censorship decision has been made. (See Exhibit C, p.6, E.1 which allows an offender to decide a final disposition of censored material within ten days of decision.)

10. Between April 14, and May 19, 2021, Defendant Ruffini began harassing Mr.

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Roos, and on four separate instances, sent photos to the publication committee that were allowable pursuant to AR 300-26 (Exhibit C, p.2). On the Notice of Rejection, Defendant Ruffini made allegations that are not supported in the text of AR 300-26 such as: "Photos of underage girls in sexually suggestive exploitative poses," "Appear to be minors in provocative poses," and "Offender has previously requested photos of young girls." None of these allegations are censorable or relevant under AR 300-26.

11. On April 14, 2021, the first of four batches (15 photos) was improperly sent to Defendant Garrelts in SOTMP, and not to the publication committee in violation of AR 300-26 (Exhibit C, p.2-3). Mr. Roos filed an informal and formal grievance against Defendants Ruffini and Garrelts for denying the 15 photos.

12. The remaining three sets of photos were sent to the publication committee for review. Mr. Roos filed appeal statements in each instance pointing out the fact that a censorship decision must not be made based on an alleged appearance of age. Even if her allegation were true, the plain language of AR 300-26 does not permit the censorship of photos absent the showing of sexually explicit content as defined in the AR's. (Exhibit C, p.2)

13. The photos that Defendant Ruffini had alleged to contain "minors in provocative poses" and were also opposed by Defendant Garrelts were approved by the publication committee pursuant to AR 300-26 and given to Mr. Roos.

14. Additionally, after filing appeals and grievances regarding the improper actions of Defendants Ruffini and Garrelts, Mr. Roos was issued a memorandum by Captain Burket, the publication committee chair, on June 9, 2021 that states, "The appropriate staff have been reminded of policy requirements and the pro-



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cess concerning publication issues... Thank you for bringing attention to these errors. I have personally addressed this issue so there will not be similar issues in the future."

15. All of Mr. Roos' outgoing letters that were illegally seized by Defendant Ruffini and sent to SOTMP, as well as the 15 photos rejected on April 14, 2021, were given to Defendant Garrelts, who later gave them to Defendant Archuleta at CCF. Defendant Ruffini never sent any of this material to the publication committee, and all is still in the custody of SOTMP. Mr. Roos continues to await a final disposition for them, which he was never given the opportunity to designate, in violation of the 10-day rule in AR 300-26. (Exhibit C, p.6, E.1)

16. Defendant Ruffini acted with malicious intent to deprive Mr. Roos of his constitutionally protected rights when she unilaterally took it upon herself to censor allowable materials and circumvent established procedures and publication review.

**CLAIM TWO: FIRST AND FOURTEENTH AMENDMENT VIOLATIONS**

Defendant Garrelts violated Mr. Roos' rights by censoring his incoming and outgoing mail in violation of the First and Fourteenth Amendments to the United States Constitution.

17. Mr. Roos realleges and incorporates by reference paragraphs 1-16.

18. After receiving multiple letters illegally seized from Mr. Roos by Defendant Ruffini, Defendant Garrelts knowingly became complicit in an illegal act.

19. Defendant Garrelts denied Mr. Roos his constitutionally protected safeguard to his liberty interest in sending his outgoing mail: (a) written notice that she had withheld multiple outgoing letters was never provided; (b) an opportunity for review by the facility publication committee; (c) a review by some-

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one other than herself; and (d) notice allowing Mr. Roos to declare a disposition of his property after the censorship decision was made. (Exh. C, p.4-6)

20. Defendant Garrelts improperly received the 15 photos that were initially rejected on April 14, 2021 and violated Mr. Roos' due process rights by circumventing publication review and denying the photos herself without proper authority or basis in law.

21. Defendant Garrelts is not part of the publication committee and does not have the legal authority to make censorship decisions regarding mail or photos belonging to Mr. Roos.

22. AR 300-26 establishes that the publication committee will consist of a minimum of five persons with a committee chair. (Exhibit C, p.1, III.D) Defendant Garrelts acted alone in the censorship decision of the 15 photos with no other committee members participating in the decision. The decision was not authorized by the committee chair in violation of the AR. An appeal to the director of prisons must also be allowed when less than three members participate in the censorship decision, which was also denied to Mr. Roos when Defendant Garrelts acted on her own accord. (Exhibit C, p.5, 7.d.5)

23. Defendant Garrelts lacked the legal authority to censor Mr. Roos' outgoing letters and incoming photos when she substituted her own feelings and opinions to justify her actions, which is expressly prohibited pursuant to AR 300-26. (Exhibit C, p.4, C.3.b)

24. Defendant Garrelts lied on the censorship decision to deny Mr. Roos cf his 15 photos when she wrote, "Offender is currently in treatment and some material is not conducive to his treatment needs." Mr. Roos was not in the SOTMP treatment program on July 2, 2021 when the decision was signed, and he

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was not under any censorship criteria beyond what is articulated in AR 300-26.

25. Defendant Garrelts' other attempt to justify her censorship of Mr. Roos' 15 photos was to selectively misapply a provision to curtail illegal activities of gangs and Security Threat Groups. (Exhibit C, p.3, 2.c) This censorship provision actually states, "Material that by depiction or description support the illegal activities of a security threat group contrary to the security interests of the facility or the individual rehabilitative goals of the recipient. **Sign language or style of dress alone, in the absence of other material that supports, incites, promotes, encourages, or advocates any type of illegal gang activity will not be the cause of rejection.**" Defendant Garrelts willfully chose to ignore the plain meaning of the language of this clause and instead circled only the portion that reads, "individual rehabilitative goals of the recipient." (Boldface text in original.)

**CLAIM THREE: FIRST AND FOURTEENTH AMENDMENT VIOLATIONS**

Defendant Garrelts violated Mr. Roos' rights by retaliating against him for engaging in the Constitutionally protected conduct of sending and receiving incoming and outgoing mail, filing grievances and publication committee appeals in violation of the First and Fourteenth Amendments of the United States Constitution.

26. Mr. Roos realleges and incorporates by reference paragraphs 1-25.

27. After receiving multiple deliveries of Mr. Roos' illegally stolen outgoing letters from Defendant Ruffini, Defendant Garrelts summoned Mr. Roos to her office on March 26, 2021 to harass and confront him about the letters seized.

28. When Mr. Roos arrived, Defendant Garrelts showed him at least one of his letters that was seized and he was able to personally verify that the letter

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was his, the stamped envelope was opened, and the letter was being withheld by Defendant Garrelts and was not mailed out.

29. The letter(s) seized by Defendants Ruffini and Garrelts were sent to vendors requesting a price quote of allowable, AR-compliant photos that offenders are permitted to have. (cf. paragraphs 12-13.) Although Mr. Roos was not subject to an SOTMP contract at that time, Defendant Garrelts harassed Mr. Roos by expressing her personal feelings and opinions that the photos requested were "not conducive to treatment."

30. Mr. Roos was **not** in treatment or under an SOTMP contract at the time of Defendant Garrelts' unwelcome harassment. Without a valid SOTMP contract signed by Mr. Roos at that time, Defendant Garrelts had no legal authority to opine on the photos being inquired about by Mr. Roos, or to censor photos he is allowed to have pursuant to AR 300-26.

31. Defendant Garrelts was fully aware that Mr. Roos was not under contract with the SOTMP at the time when she chose to harass him over inquiring about photos by pushing her own personal feelings, morality, and agenda. Mr. Roos asserts that the primary motive of the meeting was to intimidate and harass.

32. Mr. Roos was polite and cordial explaining to Defendant Garrelts that he is allowed to have the inquired about photos while not under contract; and reaffirmed that he will comply with all expectations when he starts, and relinquish any objectionable photos, if requested, when he signs a contract and begins a treatment group in SOTMP.

33. Defendant Garrelts was visually and verbally angered by Mr. Roos' response that he would not prematurely forfeit his rights to possess or purchase photos before actually signing a contract or starting an SOTMP group.

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34. The SOTMP contract does not even ban the possession of sexually stimulating material and only stipulates, "You will not possess, nor view material that would stimulate or reinforce your criminal or ~~deviant~~ sexual behavior or fantasy." At the time of the meeting with Defendant Garrelts, Mr. Roos was not under SOTMP contract nor subject to this heightened censorship provision, and was under no greater restriction than what is allowed pursuant to AR 300-26.

35. DOC promulgates its official policies in written form contained in the AR's so that people who are serving their sentences have fair notice of what conduct is allowed and what is not. When an offender is engaged in allowable conduct, such as the case with Mr. Roos, he or she has the right to be free from adverse action taken by staff that is primarily driven by personal motivation and intent, as was the instant case with the actions of Defendant Garrelts taken against Mr. Roos.

36. During their meeting, Defendant Garrelts made threats against Mr. Roos by stating that ordering the photos requested in the letters could jeopardize his placement in SOTMP. (To clarify: NONE of the seized letters discussed herein were actual photo orders, but merely inquired about the purchase of photos.)

37. At all times Mr. Roos was engaged in allowable conduct. Sending outgoing letters is a constitutionally protected activity to which Defendants Garrelts expressed her personal displeasure, but absent any legal authority to act.

38. Before the meeting was over, Mr. Roos discussed his pending placement in the SOTMP group with Defendant Garrelts. It was mutually agreed that Mr. Roos would be starting a Track I group at AVCF as soon as a spot was open and groups resumed after the COVID closures. It was also mutually agreed that Mr. Roos had substantially completed the Track I program's curriculum previously meeting the



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7 criteria, and that he should have a reasonable expectation of getting parole at his scheduled hearing in July, 2021. This opportunity was lost as the result of Defendant Garrelts' retaliatory acts.

39. Within a few weeks of this meeting, the photos described in claims ONE and TWO arrived and were rejected by the mailroom. Mr. Roos filed grievances and publication committee appeals against Defendants Ruffini and Garrelts to protest their initial rejection.

40. Defendant Garrelts had previously expressed her personal feelings of disapproval toward the photos and was further motivated to take retaliatory countermeasures against Mr. Roos after the publication committee approved the photos and gave them to Mr. Roos.

41. Also within a few weeks of this meeting, Defendant Garrelts took retaliatory action against Mr. Roos by raising his STATIC score from a 3 to a 4, and thus reclassifying him as a "high-risk" sex offender. The reclassification had the adverse punitive effect of a retaliatory transfer from AVCF to CCF to be placed in a "high-risk" Track II program group. Track II is only provided at CCF. (Exhibit A, p.5, G.3)

42. Defendant Garrelts' reclassification was motivated in substantial part with malice and desire to punish Mr. Roos for attempting to order photos which she personally did not like, but the publication committee allowed him to have. Mr. Roos had already told her that he would relinquish any and all photos requested when placed in a group. If Defendant Garrelts' motivation not been driven by her personal malice and need for revenge, her therapeutically proper course of action would have been to simply have Mr. Roos sign an SOTMP contract for Track I, and Mr. Roos would have voluntarily complied with the rules.



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43. After Defendant Garrelts fraudulently reclassified Mr. Roos as a "high-risk" sex offender and transferred him to CCF, he spoke with an SOTMP clinician there about his transfer. His clinician told him, "Your STATIC score was raised because you tried to order those pictures, and that's why you're here now in Track II." (See STATIC-99 coding form attached to Declaration by Mr. Roos as Exhibit F, showing the invalidity of clinician's justification.) It was also not until after his arrival at CCF that Mr. Roos first learned that it was **multiple** outgoing letters that were seized and in the possession of SOTMP. (cf. ¶ 6.)

44. Mr. Roos was engaged in Constitutionally protected activity when he sent his outgoing mail and filed grievances, and it was but for these actions that defendant Garrelts took retaliatory action that otherwise would not have occurred.

45. On March 9, 2021, Defendant Garrelts came to Mr. Roos' housing unit and told him directly that he was third on the global referral list and would be starting a Track I group at AVCF as soon as they resumed.

46. On March 12, 2021, Mr. Roos received a written memorandum from SOTMP also confirming he was 3rd on the wait list and would be starting Track I at AVCF.

47. Starting a Track I group at AVCF was confirmed to Mr. Roos a third time by Defendant Garrelts at their meeting in her office on March 26, 2021.

48. It is clear that the expected course of action for Mr. Roos was to begin a Track I program group at AVCF. However, approximately in July 2021, about 24 people were selected and started Track I program groups when they resumed. Despite being 3rd on the wait list and promised a spot in one of those groups, Defendant Garrelts took retaliatory action against Mr. Roos, passed him over, and sent him to CCF for a Track II SOTMP group instead.

49. Mr. Roos was adjudicated for his crime in 1999 when he was 19 years old.

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During the entire 23 years he has been under correctional control, his STATIC score has always been a 3 in the "low-moderate" range. The STATIC-99 scoring instrument is, as its name implies, static. It does not change except for major events such as being charged with a new crime, or the occasional deduction due to age. (See Exhibit F) With an established STATIC score of 3 for over two decades, Defendant Garrelts action of raising his STATIC score within a few weeks of filing grievances shows very close temporal proximity and retaliatory intent.

50. After the adverse retaliatory reclassification and transfer by Defendant Garrelts, Mr. Roos thoroughly reviewed the STATIC scoring instrument in relation to the facts of his STATIC score of 4 is factually false. (cf. ¶ 67.)

51. Alternatively, even an action that otherwise may be legal is unconstitutional if it is done for retaliatory purposes.

52. Defendant Garrelts' retaliatory actions infringed on Mr. Roos' liberty interest because they had the direct adverse effect of extending his time in prison. Before being misclassified as a "high-risk" sex offender, Mr. Roos had completed the Track I program and had the understanding with Defendant Garrelts that he would quickly graduate and be able to get paroled (cf. ¶ 38). Mr. Roos was not given credit for his Track I completion and was forced instead to start from the beginning of a Track II group. A SOTMP clinician at CCF informed Mr. Roos that Track II completion could take him an additional 2-3 years. Mr. Roos was then denied parole and given a two-year setback until 2024, over three years past the initial expectation or parole in July, 2021.

53. Defendant Garrelts' retaliatory transfer was an injury to Mr. Roos that constitutes a grievous loss and significant change in conditions of his confinement.

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Mr. Roos was transferred from AVCF, a level III medium custody facility, to CCF, a level V custody facility (ie. "super-max"), the highest in the state.

54. Conditions at CCF are significantly more punitive and harsh than at a level III facility. CCF does not provide offenders with an outdoor recreation yard with comparable activities such as a running track, softball, soccer, etc. Indoor recreation is significantly smaller and curtailed as well.

55. Mr. Roos is an avid musician who plays the cello and was denied all practice and performance opportunities that otherwise would have been available to him. Mr. Roos had a documented safety plan with Mental Health that included time to practice. Defendant Garrelts was aware of the cello's importance to Mr. Roos's safety and mental health, making her retaliatory transfer to CCF, where she knew there was no cello, a particularly cruel and malice act.

56. The unexpected transfer to CCF was a traumatic event for Mr. Roos that caused severe, debilitating anxiety, headaches and loss of sleep.

57. CCF cells are kept locked 24/7 and can only be opened at the request of a guard. (ie. cell keys are not issued and no personal control of the door.)

58. Miscellaneous property was taken from Mr. Roos upon his arrival at CCF. Possession of padlocks is not allowed, and razors are only exchanged 1x weekly.

59. CCF does not provide a dining hall for offender meals, which severely diminishes positive social interaction for the resident population. Substitute meal options and coffee are also not served, contrary to the standard DOC menu.

60. Defendant Garrelts' retaliatory actions caused Mr. Roos to lose his job assignment in recreation at AVCF. CCF has an official policy to force the sex offender population into involuntary servitude working 40-hour work weeks in the kitchen, which is done under duress of termination from SOTMP. This policy

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violates Article II, §26 (Slavery Clause) of the Colorado State Constitution (cf. class action suit 2022-cv-30421).

61. Before Defendant Garrelts retaliatory transfer out of AVCF, Mr. Roos had a single cell assignment there for approximately two years that he had earned through good behavior and being writeup free. To date, Defendants have failed to restore Mr. Roos' previous single cell assignment.

62. Defendant Garrelts acted in her personal capacity and with deliberate intent to harm and punish Mr. Roos through her retaliatory actions described herein. Mr. Roos further alleges that Defendant Garrelts was systematically acting in bad faith during the time of the events described in this complaint. After the events described herein, Defendant Garrelts was removed from her position as the SOTMP supervisor at AVCF, and a large volume of documents from her office were suspiciously shredded after she was gone. (See Declaration of Dustin McDaniel.)

**CLAIM FOUR: FOURTEENTH AMENDMENT VIOLATIONS**

Defendants Garrelts and Archuleta violated Mr. Roos' substantial and procedural due process rights by arbitrarily reclassifying him as a "high-risk" sex offender in violation of the Fourteenth Amendment to the United States Constitution.

63. Mr. Roos realleges and incorporates by reference paragraphs 1-62.

64. Mr. Roos has a protected liberty interest in not being classified as a "high-risk" sex offender. Where a state action has stigmatizing consequences for a prisoner and results in a punishment that is qualitatively different from that characteristically suffered by a person convicted of a crime, the protected liberty interest arises from the due process clause directly. Courts have referred to this third inquiry as the "stigma plus" test.

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65. To establish a stigma plus claim, a plaintiff must show (1) the utterance of a statement sufficiently derogatory to injure his or her reputation, that is capable of being proved false, and that he or she claims is false, and (2) a material, state-imposed burden or state-imposed alteration of the plaintiff's status or rights.

66. The stigma attached to the label "high-risk sex offender" is significantly elevated from the baseline of what is suffered by people who are convicted of sex offenses generally. (eg. Few statements stir feelings of public fear and misunderstanding more than when the media publicizes a story akin to: "A High-Risk sex offender is scheduled to be released from prison into **your** community.")

67. Mr. Roos asserts that his STATIC score of 4 that gives him the "high-risk" label is false. (See Declaration of Mr. Roos concerning his STATIC score.)

68. The liberty interest in not being designated a "high-risk" sex offender is separate and distinct from the liberty interest in SOTMP treatment. Mr. Roos suffered a material, state-imposed burden when he was coerced into participation in a Track II program group. SOTMP Track II placement is simply one of many state-imposed burdens suffered, in addition to the multiple adverse consequences asserted in paragraphs 52-61.

69. The material state-imposed burdens imposed with the "high-risk" designation implicating a liberty interest continue on parole beyond the scope of prison conditions. The "high-risk" designation via the STATIC score of 4 will automatically place Mr. Roos on the very highest level of supervision while on parole. (Exhibit E, AR 250-48.B)

70. Additionally, Mr. Roos has a state created liberty interest in being afforded the appropriate level of treatment pursuant to C.R.S § 16-11.7-104 and



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§ 16-11.7-105. Although the statute vests some discretion in DOC, that discretion is limited to the appropriateness of treatment, primarily requiring an objective evaluation of the offender. (See *Beebe v. Heil*, 333 F.Supp 2d 1011, 1016.) Here, Mr. Roos' evaluation was not an objective one. His STATIC score of 4 is both factually wrong and the result of an unconstitutional retaliatory act.

71. The substantive component of the Fourteenth Amendment Due Process Clause additionally bars arbitrary government conduct, regardless of the ultimate fairness of the procedures involved.

72. Defendant Garrelts acted deliberately with malice in her personal capacity with intent to harm and inflict punishment on Mr. Roos by raising his STATIC score. Between the time of the meeting between Mr. Roos and Defendant Garrelts on March 26, 2021 and the changing of his score, Defendant Garrelts had ample opportunity for deliberation in her decision. When such extended opportunities to do better are teamed with protracted failure even to care, the indifference is truly shocking.

73. After having his STATIC score raised, Mr. Roos was involuntarily transferred without his consent to a "high-risk" sex offender containment camp, located at CCF, a maximum security penitentiary. Before his transfer, Mr. Roos was denied his right to: (1) written notice; (2) an opportunity to be heard; (3) the right to present evidence and call witnesses; (4) receive a written statement by the factfinders concerning the evidence and reason; (5) the right to assistance; and (6) notice of these rights.

74. Covertly increasing Mr. Roos' STATIC score without his knowledge or consent violated his rights procedurally as well. Prior to the change, Mr. Roos did not



**D. STATEMENT OF CLAIMS**

receive a hearing, and the designation was done entirely behind closed doors.

It did not provide: (1) 24-hour advance written notice; (2) an opportunity to be heard and call witnesses; and (3) a written statement by the fact finders detailing the evidence relied on after the redesignation.

75. The STATIC score is a permanent, life-long designation that has long lasting adverse effects with no procedure to challenge its accuracy or petition for a reduction in score. Additionally, there is no scheduled timeline that provides for periodic review.

**CLAIM FIVE: FIRST AND FOURTEENTH AMENDMENT VIOLATIONS**

Defendants Archuleta and Ortiz-Marquez are liable for the censorship, retaliation, and due process violations by reason of their failure to correct them on administrative appeal in violation of the First and Fourteenth Amendments to the United States Constitution.

76. Mr. Roos realleges and incorporates by reference paragraphs 1-75.

77. Defendants Archuleta and Ortiz-Marquez may or may not have directly participated in the initial censorship, retaliation, and due process violations. Nonetheless, irrespective of their level of initial participation, they became responsible for them when they failed to correct them in the course of their supervisory responsibilities, refused to return Mr. Roos' mail, correct his faulty STATIC score, and restore his status prior to the constitutional violations.

78. Both Defendants Archuleta and Ortiz-Marquez were personally aware of the constitutional violations against Mr. Roos, had the opportunity and authority to correct them, and showed deliberate indifference when they knowingly failed to respond, which is sufficient to establish liability under 42 U.S.C § 1983.

**D. STATEMENT OF CLAIMS**

79. Defendant Archuleta knew that there was a problem with Mr. Roos' STATIC score that resulted in him being wrongly designated as a "high-risk" sex offender and placed in a Track II program group, and subsequently refused to take the necessary corrective action to fix his inaccurate STATIC score.

80. On September 17, 2021, Defendant Archuleta ordered Mr. Roos to be present at a tribunal-style "staffing" with seven staff members present behind a row of tables with Mr. Roos sitting exposed in front of them on a single chair. This kind of "staffing" is not a standard procedure for new arrivals at CCF starting a Track II group. Mr. Roos contends that Defendant Archuleta's primary motive was to intimidate and harass, and that being placed under duress on the "hot-seat" served no legitimate therapeutic purpose where legitimate therapeutic objectives would have been more appropriately accomplished talking one-on-one.

81. At this "staffing," Mr. Roos stated that his STATIC score of 4 is wrong and needs to be fixed. Defendant Archuleta refused to even acknowledge the possibility of the score being wrong, and instead told Mr. Roos that he was now in a "high-risk" Track II group because of a previous SOTMP termination. (But compare to paragraph 43 where Mr. Roos was given a conflicting explanation by a clinician that his score was raised because he had inquired about ordering pictures.) (Also see Exhibit F, STATIC-99 Coding Form.)

82. Defendant Archuleta deliberately misled Mr. Roos when she lied to him about his STATIC score being changed as a result of an SOTMP termination. The STATIC scoring instrument does **NOT** change based on previous terminations. (See Declaration of Mr. Roos with Exhibit F concerning his STATIC score.)

83. Defendant Archuleta had direct contact with Defendant Garrelts prior to Mr. Roos' transfer to CCF, as required by AR 700-19. She was fully aware of the

**D. STATEMENT OF CLAIMS**

retaliatory nature of the transfer and change in Mr. Roos' STATIC score as described in Claim Three. (See "continuity of care" in Exhibit A, p.1, c.)

84. While at CCF, Mr. Roos continually spoke with his SOTMP clinician about correcting his faulty STATIC score. His clinician reported that she had discussed Mr. Roos' STATIC score with Defendant Archuleta, who rigidly insisted that his STATIC score would not be changed.

85. AR 950-02, IV.O.21.a (Exhibit D, p. 15-16) states that offenders have the right to request an amendment to their health records. Mr. Roos filed a Step One grievance requesting that his STATIC score be changed back to its previous level 3, which Defendant Archuleta answered and denied.

86. When Defendant Archuleta answered the grievance, she also refused to provide Mr. Roos with the assessment data used to calculate his STATIC score, in violation of the same AR.

87. Additionally, Defendant Archuleta never provided Mr. Roos an opportunity to be heard or present evidence that his "high-risk" STATIC score of 4 is factually wrong.

88. After receiving ample notice of the problem with Mr. Roos' erroneous STATIC score, Defendant Archuleta was not acting objectively or rationally as a clinician, and instead was motivated by her personal malice toward Mr. Roos knowing the retaliatory origin of changing his STATIC score to 4.

89. Mr. Roos was unsuccessfully terminated from his placement in the SOTMP Track II group and subsequently applied for readmission. Mr. Roos answered all homework questions thoroughly to the best of his ability, but Defendant Archuleta arbitrarily refused them with no instructions as to how he could correct the alleged defects. Defendant Ortiz-Marquez also failed to restore

**D. STATEMENT OF CLAIMS**

Mr. Roos' Track I group placement on administrative appeal. Without even being on the wait list to rejoin SOTMP, Mr. Roos is now serving a de facto life sentence with no possibility for parole, as well as denied his liberty interest in being eligible to apply for community corrections or receive earned-time credits.

90. Additionally, the SOTMP has implemented an illegal policy to deny offenders access to their SOTMP records and STATIC scores in violation of AR 950-02.

(See Exhibit D, p11, 0.2.)

91. On July 27, 2022, Mr. Roos met with SOTMP clinician Allison Tally to request his SOTMP records and STATIC score, which he has a right to receive pursuant to AR 950-02. Ms. Tally refused to provide Mr. Roos with his requested records in violation of AR 950-02, and also denied Mr. Roos' step one grievance attempting to acquire his records on June 21, 2022. (See Exhibit D, 0.2 and o.16.c.)

92. Mr. Roos also filed step one grievances to address the return of his mail and to correct his STATIC score. Both grievances were denied by Defendant Archuleta, and thereby causing her to become liable for the constitutional violations contained therein.

93. Defendant Ortiz-Marquez subsequently denied the next step (step two) of the three grievances described above in paragraphs 91-92, and thereby causing her to become liable for the constitutional violations contained therein.

**CLAIM SIX: CIVIL CONSPIRACY**

Defendants Ruffini, Garrelts, and Archuleta's actions collectively caused harm to Mr. Roos as a Civil Conspiracy in violation of Colorado Revised Statutes § 13-21-11.5(4).



**D. STATEMENT OF CLAIMS**

94. Mr. Roos realleges and incorporates by reference paragraphs 1-93.

95. In order to establish a civil conspiracy in Colorado, a plaintiff must show: (1) two or more persons; (2) an object to be accomplished; (3) a meeting of the minds on the course of action; (4) an unlawful overt act; and (5) damages as the proximate result. FDIC v. First Interstate Bank, 937 F.Supp. 1461.

96. Defendants Ruffini, Garrelts, and Archuleta each had an object to be accomplished with their intent to punish Mr. Roos and violate his Constitutional rights as described in Claims one through five.

97. The actions of each defendant are unlawful overt acts that caused Mr. Roos significant damage as their proximate result.

98. Defendant Garrelts and Ruffini had a meeting of the minds when they illegally conspired and seized Mr. Roos' outgoing mail on multiple occasions and failed to provide Mr. Roos with his written notice and other constitutionally protected safeguards. Both Defendants Ruffini and Garrelts acted in their personal capacities beyond what is authorized under law, which makes their actions tantamount to theft of Mr. Roos' mail.

99. Defendants Garrelts and Archuleta had a meeting of the minds to punish Mr. Roos for his grievances, sending his outgoing mail, and filing publication committee appeals when they conspired to raise his STATIC score, redesignate him as a "high-risk" sex offender, and transfer him from AVCF to CCF. As the supervisors of the SOTMP program at their respective facilities, it is mandated as part of Mr. Roos' continuity of care that Defendants Garrelts and Archuleta collaborate together regarding Mr. Roos' transfer from Track I at AVCF to a Track II group at CCF. (See Exhibit A, III.c.) Defendants Garrelts and Archuleta agreed to the punitive and retaliatory nature of Mr.

**DD. STATEMENT OF CLAIMS**

Roos' redesignation and transfer.

100. The law is well established for all the claims Mr. Roos alleges within this complaint. For all claims, Defendants Ruffini, Garrelts, and Archuleta knew or should have known that their actions against Mr. Roos were illegal and in violation of clearly established law.



**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): Rick Raemisch and Terry Jacques

Docket number and court: 2018-cv-39, Crowley County

Claims raised: Rule 106.5/SOTMP Termination

Disposition: (is the case still pending?  
has it been dismissed?; was relief granted?) Case not pending/Yes dismissed  
No relief was granted

Reasons for dismissal, if dismissed: Lack of evidence

Result on appeal, if appealed: Did not file an appeal

**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)

**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."*

**WHEREFORE**, Mr. Roos respectfully requests that this court grants him the following relief:

1. Granting Mr. Roos a declaration that the acts and omissions described herein violate his rights under the Constitution of the United States.
2. A preliminary and permanent injunction which prohibits all defendants, their successors in office, agents and employees, and all other persons in active concert and participation with them from harassing, threatening, or retaliating in any way against Mr. Roos because he filed this action.

(ADDITIONAL PAGE 29 ATTACHED)

**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.

(Plaintiff's signature)



(Date)

Feb. 23, 2023

(Revised November 2022)

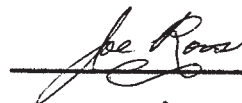
**G. REQUEST FOR RELIEF**

3. A declaratory judgment ordering Defendants to declare Mr. Roos' SOTMP treatment completed, and provide him with a favorable letter of recommendation to the Parole Board stating that Mr. Roos meets all SOTMP criteria and that he should be released on parole.
4. A preliminary and permanent injunction ordering Defendants to immediately return Mr. Roos' STATIC score to its previous level 3 and honor all previous SOTMP program completions.
5. Expunge Mr. Roos' entire SOTMP Track II record for the time he was improperly assigned to that program at CCF.
6. Granting Mr. Roos compensatory damages in an amount to be determined by a jury against each defendant, jointly and severally.
7. Granting Mr. Roos punitive damages in an amount to be determined by a jury against each defendant, jointly and severally.
8. Punitive damages in the amount of \$500.00 a day for each piece of mail the defendants have seized and maintained in the custody of the CDOC, along with the immediate return to Mr. Roos of all material that is still being held.
9. Mr. Roos also seeks a jury trial on all issues triable by jury.
10. Mr. Roos seeks the recovery of his costs in this suit, and;
11. Any additional relief this court deems just, proper, and equitable.

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Amended Prisoner Complaint was mailed to counsel for defendants at the following address on this 23<sup>rd</sup> day of Feb. 2023.

Colorado Attorney General  
Phil Weiser, Reg. No. 38314  
Ralph L. Carr Judicial Center  
1300 Broadway, 10th Floor  
Denver, CO 80203

A handwritten signature in cursive script, appearing to read "Joe Roos", is written over a horizontal line.

Plaintiff's Original Signature  
(Joseph Roos)

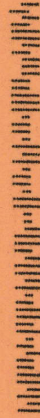


Joseph Roos #133392  
PO Box 6000  
Sterling CO 80751



United States District Court  
Alfred A. Arranjo Courthouse  
901 19<sup>th</sup> Street, Room A-105  
Denver, CO 80294-3589

COLORADO DEPARTMENT OF CORRECTIONS  
STERLING CORRECTIONAL FACILITY  
INMATE MAIL





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133392 ROOS  
DOCH OFFENSE STNAME INT 2R