

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.

Roberto Rodriguez 78565-509 FCI Florence P.O. Box 6000; Florence, CO 81226
(Name, prisoner identification number, and complete mailing address)

(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

XX 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: MESA COUNTY
(Name, job title, and complete mailing address)

215 Rice Street , Grand Junction, CO 81501

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

The Mesa County Jail (MCJ) via the persons it employs

operates under the laws of Colorado and the United States to
provide for my consitutional rights while a pre-trial detainee
Defendant 1 is being sued in his/her ____ individual and/or XX official capacity.

Defendant 2: Mesa County Sheriff Matt Lewis

(Name, job title, and complete mailing address)

Mesa County Jail, 215 Rice St. , Grand Junction, CO 81501

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

As a the Chief Law enforcement officer of the County, Sheriff Matt Lewis was tasked with ensuring my safety and not violating my Constitutional Right to Equal Protection of the laws / improper Medical care

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

Defendant 3: Unknown Mesa County Sheriff's deputies

(Name, job title, and complete mailing address)

215 Rice Street, Grand Junction, CO 81501

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

Incident to my arrest on state/federal charges, These deputies punched me in the face repeatedly after I was in restraints, lifted me off my feet repeatedly while I was cuffed with my hands behind my back, and threw me to the ground on concrete, off of a raised porch--severing my muscles from the bone, while I was cuffed. This was unreasonable. Excessive Force
Defendant 3 is being sued in his/her XX individual and/or XX official capacity.

PLEASE SEE ADDITIONAL DEFENDANT'S ATTACHED

C. JURISDICTION

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

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

XX Federal Official

As to the federal official, are you seeking:

XX 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

___ Other: (*please identify*) _____

ATTACHMENT FOR ADDITIONAL DEFENDANT'S

B. DEFENDANT(S) INFORMATION

Defendant 4: UNKNOWN S.W.A.T. AGENTS

215 Rice Street, Grand Junction, CO 81502

This Defendant was operating under the color of state and federal law, as agents of law enforcement, arresting me on state/federal charges.

Defendant 4 is being sued in his Official and Individual capacity.

Defendant 5: UNKNOWN D.E.A. AGENTS

DEA Office 2734 Crossroads Blvd. Grand Junction, CO 81506

This Defendant was operating under the color of state and federal law, as agents of law enforcement, arresting me on state/federal charges.

Defendant 5 is being sued in his Official and Individual capacity.

Defendant 6: SCL HEALTH MEDICAL GROUP

627 25 1/2 Road, Grand Junction, CO 81505

This Defendant was operating under the color of state and federal law, as a health care provider for state and federal pre-trial detainees incarcerated at Mesa County Jail.

Defendant 6 is being sued in its Official and Individual capacity.

Defendant 7: U.S. MARSHALL SERVICE

901 19th Street 3rd Floor; Denver, CO 80294

This Defendant was operating under the color of Federal law, as the custodian for all Federal pretrial detainees, tasked with providing for the Health and safety of individuals held within its custody during pre-trial proceedings relevant to Federal charges.

This defendant is being sued in its 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."

Fourteenth Amendment violation

CLAIM ONE: My Constitutional Rights have been violated due to the Excessive Force used on me by the Arresting Agents and the policy of
lifting me off my feet while I was in hand-cuff behind my back.

Claim one is asserted against these Defendant(s):

Claim one is asserted against the UNKNOWN MESA COUNTY SHERIFF'S DEPUTIES, UNKNOWN S.W.A.T. AGENTS, and MESA COUNTY

Supporting facts: Plaintiff was arrested on October 27, 2021 by a law enforcement team comprised of Mesa County Sheriff's Deputies, Mesa County S.W.A.T. Officers, and D.E.A. agents in Grand Junction, Colorado. After Plaintiff, hereinafter Mr. Rodriguez, had been seized and placed in Handcuffs, the Defendant's applied excessive force in moving Mr. Rodriguez from the house to the squad car and Mesa County Jail (MCJ).

The excessive force consists of the defendants delivering repeatd close-fisted blows to Mr Rodriguez's head while he was in restraints with his hands behind his back, as well as the defendants lifting him off his feet while passing him from one party to the next, and then throwing him from the porch of the residence to the ground--while handcuffed, and without the ability to beak his fall.

Mr. Rodriguez avers that home surveillance cameras at the residence, as well as law enforcement Body-cam footage will support and provide evidence of this claim. Additionally, Medical records from the MCJ, as well as SCL Medical Group will support that Mr. Rodriguez sustained serious medical injuries (complete ruptures of the triceps tendons from the elbow in both arms and several minor tears in each arm. Mr. Rodriguez also continues to experience headaches, an inability to sleep through the night, and symptoms related to post-traumatic stress syndrome. Mr. Rodriguez is unable to complete simply tasks such as removing his shirts by raising his arms over his head, stretching, or extending his arms at the elbow.

ATTACHMENT PAGE FOR CLAIM #2

D. STATEMENT OF CLAIM(S)

CLAIM TWO: My Constitutional Rights were violated when, as a pre-trial detainee, I received delayed access to medical care, and inadequate medical care by Officers, employees, and medical staff at the MCJ; and staff at SCL Health Medical Group.

Claim two is asserted against: MESA COUNTY, SCL HEALTH MEDICAL GROUP, and the U.S. MARSHALL SERVICE

Supporting facts: Mr. Rodriguez was placed in the custody of Mesa County Jail (MCJ) and their medical staff on October 27, 2021. He sat with completely torn triceps tendons for over three (3) weeks while confined in a cell during the Covid pandemic. Mr. Rodriguez persistently complained of the excruciating pain to jail staff during their rounds, and medical staff when he was able to be provided a paper "cop-out" three weeks later. In the interim, he submitted electronic requests to the medical staff via the electronic messaging he was provided. The electronic messages were ignored. When medical staff finally interviewed Mr. Rodriguez, they told him that his arms "looked fine". Mr. Rodriguez noted the swelling and loss of mobility and persistently informed the staff that his arms were "not normal" and "didn't feel right".

It took over two (2) months for the Jail and medical staff to provide the MRI that revealed that Mr. Rodriguez's Left arm suffered a complete rupture of the triceps tendon from the elbow joint, which anchors it. Two months later, Mr. Rodriguez received surgery for one of the injuries he sustained incident to his arrest.

Because of the Employees and staff members' deliberate indifference to Mr. Rodriguez's serious medical needs, he suffered for almost five (5) months with muscles torn from the bone of his upper arm, headaches, and severely reduced mobility in his arms. Medical staff at the jail should have been able to diagnose that there were injuries to Mr. Rodriguez's arms by noting his symptoms or by general observation, which was accompanied by swelling and deformity in the members.

Mr. Rodriguez continued to receive inadequate medical care, a delay in access to medical care, and severe pain and imobility while awaiting medical

care. This is because surgery was only performed on his left arm, although his right arm was diagnosed with the identical condition. Mr. Rodriguez continued to ask when surgery would be performed on his Right arm. As of this filing, Mr. Rodriguez has not received medical treatment for the torn tendons in his Right arm. He resided at Mesa County Jail for eighteen (18) months.

Mr. Rodriguez asserts that the employees at the jail, the medical staff at the jail, and the reviewing medical staff at SCL Health Medical displayed deliberate indifference to his pain and suffering, as well as his serious medical needs, by delaying his access to effective medical treatment, and post-operation, the staff at SCL Medical stated that it was inconvenient for them to have an inmate in the building receiving treatment around the public who occasioned their office. SCL limited Mr. Rodriguez to the initial post-operation review and one (1) therapy session because the Doctor was concerned that it "didn't look good" having an inmate come to the office. The doctor found it more pertinent to ask the attending officers if they would renew his "Hunter safety card" and the possibility of them educating him about gun carrying laws in the county.

Mr. Rodriguez continues to experience pain and disability in his arms due to the lack of medical treatment for his Right arm, and the lack of therapy provided for his Left arm. He has been persistent in seeking treatment for his injuries, and discovery in this matter will provide additional evidence in support of this claim, as an electronic record exists at the MCJ, and SCL Health Medical records will support the statements he presents herein.

The U.S. Marshall service is tasked with maintaining the safety, care, and health of the prisoner's, pre-trial detainees, and wards, placed in its custody. At the time of these circumstances, Mr. Rodriguez was a pre-trial detainee in the custody of the U.S. Marshall service and contracted to be safely housed at Mesa County Jail. It is due to the Deliberate indifference and actions of individuals at MCJ, SCL Health Medical Group, and Mesa County that Mr. Rodriguez continues to suffer what has become chronic pain and debilitation due to the lack of medical care he received after sustaining the injuries he received after he was shackled with his hands behind his back.

CLAIM THREE: My Constitutional Rights were violated when staff at Mesa County (Jail) and SCL Health Medical Group refused to provide medical treatment for my injuries, after being informed by me and after diagnosis revealed the seriousness of my injuries.

Claim Three is asserted against: Mesa County and SCL Health Medical Group

Supporting facts: I was arrested and detained at MCJ on October 27, 2021, and I sustained serious medical injuries as a direct result of the excess force applied during my arrest. Immediately upon being booked into the MCJ, I informed medical staff and Officers at the Jail that I was experiencing excruciating pain as a result of my injuries. Medical employees and officers at the jail deliberately disregarded my complaints and my condition--which was that I was unable to unbend my arms and there was exacerbated swelling in both of my upper extremities.

I sat in the jail and received no medical treatment for the torn muscles and tendons in my arms for over four almost five (5) months. Throughout that time, submitted electronic request to both jail staff and medical staff. I submitted written requests to both jail staff and medical staff. I complained that I could not climb up on the bunk in the cell, and I made verbal requests for medical treatment.

Even when I received a surgery to repair the torn tendons in my left arm, I was not provided with adequate post operational care in the form of physical thereapy. I received one session and the SCL Medical staff said I should perform thereapy at the jail because it "didn't look good" having an inmate come to the office. The Jail staff refused to find out what specific therapy I needed to perform. The Jail staff informed me that they didn't want to pay for my continued medical treatment--even though I had still not received the surgery I needed and that was recommended to repair my Right arm.

I remained at Mesa County jail for over one (1) year after the initial

ATTACHMENT PAGE FOR CLAIM #3

surgery, and I received one physical therapy session, and to this date, I have never received the surgery necessary for repairing the torn muscle tendons in my Right arm. I continue to experience headaches, pain in my arms, and a lack of full range of motion in the arm that the surgery was performed on. I am unable to perform basic tasks around the cell that require lifting, or extending my arms fully; and my Right arm is partially disabled, as the muscles have atrophied.

There is ample evidence of my injuries and of the medical diagnosis that I received, and of the requests I submitted requesting treatment for my injuries in the written and electronic records at MCJ and SCL Health Medical Group records. There is evidence that I had a serious medical condition, that my access to medical treatment was delayed due to staff indifference, and that once any treatment was received, that treatment was not completed due to the indifference of staff at both the Mesa County Jail, and employees at SCL Health Medical Group. Due to these actions I experience significant pain and disability. This pain and disability has become chronic.

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:

--

Claims raised:

--

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

--

Reasons for dismissal, if dismissed:

--

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)

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."

CLAIM #1

Reimbursement for all legal expenses associated with this lawsuit,

Restraining orders against Law enforcement officers involved
\$4,000,000 Total
(3,000,000 Compensatory for disability and \$1,000,000 for punitive damages)

That persons involved be held accountable for the pain they have caused.

CLAIM #2

Reimbursement for Legal Fees associated with the suit

\$2,000,000 Total
(1,000,000 compensation and \$1,000,000 punitive damages)

That the persons involved be held accountable for their actions against me.

CLAIM #3

Reimbursement of Legal fees associated with this lawsuit

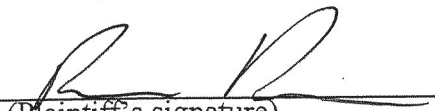
\$3,000,000 Total
(2,000,000 compensation and \$1,000,000 punitive damages)

That persons involved be held accountable for their actions.

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)

February 8th, 2024
(Date)

(Revised November 2022)

CERTIFICATE OF MAILING

I, Roberto Rodriguez certify that I placed one true, correct, and complete copy of this AMENDED PRISONER COMPLAINT in the U.S. Mail Service, first class postage pre-paid, by depositing it in the Prison mail system on this 8th day of February 2024.

Mailed to: The U.S. District Court
901 19th Street
Denver, Colorado 80294

Sworn to under the Penalty of Perjury per 28 U.S.C. § 1746

Respectfully,


Roberto Rodriguez

Roberto Rodriguez
78565-509
FCI Florence
Po Box 6000
Florence CO 81226



Office of The Clerk
United States District Court
Alfred A. ARRAJ Courthouse
901-19th St., Room A105
Denver, CO 80294-3589



