IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

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

Second Amended Complaint

Russell Singletary, Plaintiff

v.

Jury Trial requested:
(please check one)
XX **Yes** ____ **No**

Dr. Susan Courtney Conroy,

Dr. Juan Colon, Bureau of Prisons,

and United States of America,

_____, 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.)

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.

Russell Singletary, Prisoner No. 05009-030
FCI Englewood, 9595 W. Quincy Ave., Littleton, Colorado 80123

(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: Dr. Susan Courtney Conroy, Medical Doctor
(Name, job title, and complete mailing address)

FCI Englewood, 9595 W. Quincy Ave., Littleton, CO 80123

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 BOP employee at all times relevant to the complaint, defendant acts under color of law.

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

Defendant 2: Juan Colon, Dentist
(Name, job title, and complete mailing address)

FCI Englewood, 9595 W. Quincy Ave., Littleton, CO 80123

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:

As a federal employee at all times relevant to the complaint, defendant acts under color of federal law.

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

Defendant 3: Bureau of Prisons (federal agency)
(Name, job title, and complete mailing address)

320 First Street NW, Washington, DC 20530

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:

[Federal Agency]

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

C. JURISDICTION

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

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

x Federal Official

As to the federal official, are you seeking:

X 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*) Freedom of Information Act and Privacy Act; Rehabilitation Act; Federal Tort Claims Act, Title 28 U.S.C. §1346(b), 2671 et seq.; Eighth Amendment of the Constitution;

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: NEGLIGENCE

Claim one is asserted against these Defendant(s): **UNITED STATES OF AMERICA**

Supporting facts:

(1) On July 14, 2022, Dr. Juan Colon negligently caused an injury to Plaintiff's neck while removing two of Plaintiff's teeth. (See continuation page for additional facts supporting this claim)

CLAIM TWO: MEDICAL NEGLIGENCE
Claim Two is asserted against Defendant **UNITED STATES OF AMERICA**

Supporting facts:

From July 15, 2022 until January 2023, Plaintiff repeatedly reported to his care providers, Amanda Garcia (nurse) and Defendant Conroy requesting care for his broken neck which occurred on July 15, 2022. Defendant Conroy and Amanda Garcia did not provide Plaintiff with any care for his neck injury and, in fact, refused to treat Plaintiff's neck or send Plaintiff to a specialist that could provide Plaintiff with adequate treatment for his neck injury. (See continuation page for additional facts supporting this claim).

CLAIM THREE: DELIBERATE INDIFFERENCE TO A SERIOUS MEDICAL NEED IN VIOLATION OF PLAINTIFF'S EIGHTH AMENDMENT RIGHT TO BE FREE FROM CRUEL AND UNUSUAL PUNISHMENT

Claim 3 is asserted against Defendant Susan Conroy.

(2) The facts alleged in Claim Two (above) are realleged and incorporated here as facts supporting Claim Three. From July 15, 2022 until January 2023, Plaintiff made repeated attempts to obtain treatment from his FCI Englewood care providers, Nurse Amanda Garcia and Defendant Conroy. Defendant Conroy and Nurse Garcia refused to provide any medical care for Defendant's neck injury. (See continuation page for more facts).

D. STATEMENT OF CLAIMS

CONTINUATION PAGE (Additional Claim Information)

(3) On July 14, 2022, Plaintiff reported to FCI Englewood Dental Office to begin an extraction of a two teeth. While placed in the dental chair with my mouth opened, Dr. Colon attempted to remove my tooth with his dental instruments.

(4) Dr. Colon was unable to successfully remove my tooth for awhile and he began to pull forcefully on the tooth until I was jerked out of the chair. The tooth broken in half by the dental tool that he was using. I felt a sharp pain in my neck whenever Dr. Colon jerked my body from the chair in his attempt to remove the tooth. I told Dr. Colon that my neck was in severe pain.

(5) On or about three days after Dr. Colon injured my neck, the pain was so severe that I went to sick call requesting treatment for my neck. I was seen by Nurse Amanda Garcia and I told her what had happened to my neck during my dental surgery as described above. I was not given any pain medications or other treatment on the day that I spoke to Nurse Garcia.

(6) Sometime in February 2023 I spoke to Dr. Conroy concerning my neck injury and my lack of treatment. As I told Nurse Garcia, I lost feeling in my lips, suffered from numbness in my arms and hands, and have dizziness at times for no apparent reason. All of these symptoms began after I injured my neck. and I informed Dr. Conroy of my symptoms. Dr. Conroy informed me that she was going to order an MRI. and did nothing else to treat my symptoms.

(7) I made repeated trips to the Health Services Department of my prison whereas I complained about my neck injury and symptoms (described above) to my primary care providers, Dr. Conroy and Nurse Garcia.

(8) Dr. Conroy never provided me with any treatment for my neck injury. Amanda Garcia never provided me with any medical treatment for my neck injury.

CLAIM FOUR: Rehabilitation Act Claim (alleged against BOP agency)

(9) I am handicapped and am confined to a wheelchair. The prison where I am incarcerated, FCI Englewood, does not have a wheelchair ramp leading to the areas used for Psychology Services and the Recreation Area. I have been confined at FCI Englewood since March 2019. I am not able to utilize the recreation area to enjoy the services which are provided there including classes, the hobby shop, yoga area, recreation area, band room (I play the guitar), and other activities that the able-bodied inmates have access to. I am also unable to obtain treatment for my mental health issues from the Psychology Dept. due to my inability to access the area. I am not able to access all of the various program and services offered by the Psychology Department that the able-bodies inmates are able to access.

(10) I made several complaints about my lack of access to these areas (Psychology Dept. and Recreation Dept.) to the warden of my prison. I was told by staff that there is an alternative route to access these areas and that, upon request, staff would ensure that I am able to access these areas. Although I was told that there is an "alternate route" to access these areas, with the exception of two times in the last four years, I have not been permitted to utilize this alternate route to access these areas. Nearly every time I try to access the "alternate route" to these areas the officers in charge of the prison compound refuse to permit me to access the alternate route. My complaints to the warden about this have been ignored.

CLAIM FIVE: Freedom of Information Act Claim (Asserted against BOP)

(11) On or about June 1, 2023, I submitted a Freedom of Information Act request to the Bureau of Prisons whereas I requested that the BOP provide me with copies of all of my medical records in its possession. The BOP received my request and sent me a notification indicating that it received my FOIA/Privay Act request.

(12) The BOP did not send Plaintiff any notification indicating whether or not the Agency would be providing the requested records that Plaintiff requested via his FOIA Request indicated above. Six months have passed since Plaintiff requested his medical records from the BOP via a FOIA/PA Request and the BOP has not searched for nor produced any of the records that Plaintiff requested in his FOIA/PA Request.

ADMINISTRATIVE REMEDIES

(13) Plaintiff has exhausted all of his available administrative remedies in accordance with the law and any relevant BOP policy for all of the above indicated causes of action.

(14) Exhibit A is the FTCA tort claim that Plaintiff submitted to the BOP on 6/26/2023.

(15) Exhibit B is the response that Plaintiff received from the BOP concerning his FTCA claim.

(16) Exhibit C is the BOP's response to Plaintiff's Rehabilitation Act related administrative remedy (BP-11) submitted to the Central Office of the BOP. Plaintiff also filed a BP-8, BP-9, and BP-10 with the relevant BOP offices prior to filing his BP-11 with the Central Office of the BOP.

(17) Exhibit D is the BOP's response to Plaintiff's deliberate indifference related administrative remedy (BP-11 submitted to the Central Office of the BOP. Plaintiff also filed at BP-8, BP-9, and BP-10 with the relevant BOP offices prior to filing his BP-11 with the Central Office of the BOP.

I declare under penalty of perjury that the foregoing is true and correct and executed this 28th day of March 2024 at Littleton, Colorado.

Russell Singletary

Russell Singletary
Prisoner No. 05009-030
FCI Englewood
9595 W. Quincy Ave.
Littleton, Colorado 80123

E. PREVIOUS LAWSUITS

Have you ever filed a lawsuit, other than this lawsuit, in any federal or state court while you were incarcerated? _X_ 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): UNITED STATES OF AMERICA

Docket number and court: No. 99-cv-2270-MLB (Dist. Kansas)

Claims raised: FTCA claim, negligence

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

Reasons for dismissal, if dismissed: Lack of jurisdiction

Result on appeal, if appealed: Affirmed

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?

_X_ Yes ___ No (*check one*)

Did you exhaust administrative remedies?

_X_ 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."

Plaintiff requests compensatory damages against each of the named defendants, jointly and severally;

Plaintiff requests punitive damages against each of the named defendants, jointly and severally;

Plaintiff seeks nominal damages against each of the defendants, jointly and severally;

Plaintiff requests recovery of the costs in this suit; and

any additional relief the court deems just, proper, and equitable.

Plaintiff requests an injunction compelling the Bureau of Prisons to promptly conduct a search for records responsive to Plaintiff's FOIA request for his medical records and compelling production of the same.

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.

Russell Singletary
(Plaintiff's signature)

March 28, 2024
(Date)

(Revised November 2022)

Exhibit A

CLAIM FOR DAMAGE, INJURY, OR DEATH

INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.

FORM APPROROVED
OMB NO.
1105-0008
EXPIRES 5-31-05

1. Submit To Appropriate Federal Agency:
Federal Bureau of Prisons
North Central Regional Office
400 State Ave., Ste. #800
Gateway Complex, Tower #2
Kansas City, KS 66101-2492

2. Name, Address of claimant and claimant's personal representative, if any. *(See instructions on reverse.) (Number, street, city, State and Zip Code)*
RUSSELL SINGLETARY 05007-030
FCI Englewood
9595 W. Quincy Ave.
Littleton, CO 80123

3. TYPE OF EMPLOYMENT	4. DATE OF BIRTH	5. MARITAL STATUS	6. DATE AND DAY OF ACCIDENT	7. TIME *(A.M. OR P.M)*
☐ MILITARY ☒ CIVILIAN	4/23/1973	Single	June/July 2022	unknown

8. Basis of Claim *(State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof) (Use additional pages if necessary.)*

Medical Negligence and general negligence as described in the attached Statement of Facts regarding my injuries suffered at FCI Englewood in the care of both Dr. Colon, DDS. and Ms. Rasmussen (dental assistant) while performing an extraction of one of my teeth.

-- SEE ATTACHMENT FOR FACTS RELATED TO THIS CLAIM --

PROPERTY DAMAGE

NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT *(Number, street, city, State, and Zip Code)*

BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF DAMAGE AND THE LOCATION WHERE PROPERTY MAY BE INSPECTED. *(See instructions on reverse side)*

PERSONAL INJURY/WRONGFUL DEATH

STATE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE NAME OF INJURED PERSON OR DECEDENT

My molar was crushed and the cuspid of one of my teeth was broken below the gumline during the surgery. The attempted extraction resulted in a severe injury to my neck. I have lost feeling in my mouth, lips, and neck. I am in constant pain and not being treated for any of the pain or the injuries.

WITNESSES

NAME	ADDRESS *(Number, street, city, State, and Zip Code)*

AMOUNT OF CLAIM *(in dollars)*

(See instructions on reverse)

12a. PROPERTY DAMAGE	12b. PERSONAL INJURY	12c. WRONGFUL DEATH	12d. TOTAL *(Failure to specify may cause forfeiture of your rights.)*
	$100,000.00		$100,000.00

CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE ACCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM

13a. SIGNATURE OF CLAIMANT *(See instructions on reverse side.)*	13b. Phone number of signatory	14. DATE OF CLAIM
Russell Singletary		6/18/2023

CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM

The claimant shall forfeit and pay to the United States the sum of not less than $5,000 plus not more than $10,000, plus 3 times the amount of damages sustained by the United States. *(See 31 U.S.C. 3729.)*

CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS

Imprisonment for not more than five years and shall be subject to a fine of not less than $5,000 and not more than $10,000, plus 3 times the amount of damages sustained by the United States. *(See 18 U.S.C.A. 287.)*

STATEMENT OF FACTS

Sometime in June or July 2022, I was called to the dental office at at FCI Englewood by Dr. Colon, DDS. Upon arrival, the dental assistant, Ms. Rasmussen, directed me to a chair and prepared me for the dentist by administering anesthetics. Shortly thereafter, Dr. Colon entered and began to extract my upper left cuspid and first molar. Both teeth as well as others were previously prepared as anchors by a Dr. Stacey Barkaukas at FCI Allenwood in Pennsylvania.

Dr. Colon was so aggressive during that procedure that he broke the cuspid off below the gumline and crushed the molar. This caused an injury to my neck and resulted in severe pain. My neck is swollen and I am in constant pain due to the injury.

I have made several complaints to the medical staff at FCI Englewood in an attempt to obtain treatment for my neck injury that occurred when Dr. Colon treated me and injured my neck, however, the medical staff at FCI Englewood has failed to treat or otherwise provide care for my serious neck injury. It has been over a year since my injury occurred, however, I am still in pain without the care providers at FCI Englewood rendering medical treatment for my neck or the pain associated with the injury.

I declare that the foregoing is true and correct under penalty of perjury. Executed this 18th day of July 2023 at Littleton, Colorado.

Russell Singletary

Exhibit B

U.S. Department of Justice
Federal Bureau of Prisons

North Central Regional Office

Office of the Regional Counsel

400 State Avenue
Tower II, Suite 800
Kansas City, KS 66101

10-17-2023

RUSSELL SINGLETARY, #05009-030
FCI ENGLEWOOD
9595 WEST QUINCY AVENUE
LITTLETON, CO 80123

Re: Administrative Claim for Damages
Claim #: TRT-NCR-2024-00252 $ 100,000.00

Dear Claimant:

This is to notify you of our receipt of your administrative claim for damages under provisions of the Federal Tort Claims Act, Title 28 USC §1346(b), 2671 et. seq., alleging liability of the United States Government.

Your claim was received on 06-26-2023. The above referenced Act provides that the agency has 6 months to make an administrative determination on your claim from the date such claim was received by the appropriate agency. Accordingly, in the matter of the above referenced claim, the government's response is not due until 12-25-2023.

Regulations that may be pertinent to your claim may be found at Title 28 C.F.R. Part 14 et.seq., and §543.30.

Sincerely,
Mary A. Noland
Regional Counsel

Exhibit C

Administrative Remedy No. 1167311-A1
Part B - Response

This is in response to your Central Office Administrative Remedy Appeal, wherein you allege unsuitable conditions at FCI Englewood. Specifically, you claim your parent institution lacks wheelchair access to Recreation and Psychology and as a result, you are unable to access these facilities. For relief, you request reasonable accommodation to access these facilities.

We have reviewed documentation relevant to your appeal and, based on the information gathered, concur with the manner in which the Warden responded to your concerns at the time of your Request for Administrative Remedy. Pursuant to the Warden's response, a wheelchair access ramp to the Recreation and Psychology departments is currently under construction. Furthermore, you were advised of the proper procedure to request a staff escort to access these facilities. Accordingly, we find no further relief is warranted.

Considering the foregoing, this response is for informational purposes only.

10-30-2023
Date

T. Barnett
Timothy Barnett, Administrator
National Inmate Appeals

Exhibit D

Administrative Remedy No. 1168597-A1
Part B - Response

This is in response to your Central Office Administrative Remedy Appeal wherein you allege your neck was injured during a dental surgery. You further allege Health Services have ignored your repeated requests to be seen for your neck pain. For relief, you request immediate treatment for your neck injury as well as compensatory damages for deliberate indifference to your serious medical condition.

We have reviewed documentation relevant to your appeal and, based on our findings, concur with the way the Warden responded to your concerns at the time of your Request for Administrative Remedy. Our succeeding review of your medical record reveals you had an extraction of your teeth on July 14. 2022. On July 18, 2022, you were seen in the Chronic Care Clinic (CCC) and a 4-view x-ray of your cervical spine was ordered for chronic cervicalgia. The x-ray was completed on July 20, 2022, showing no fracture or misalignment, and the C5/C6 and C6/C7 showed mild to moderate degenerative disc space. In addition, it was revealed the remaining disc heights are maintained and minimal to mild arthropathy was noted in the mid to lower cervical spine. There was no recent injury noted. There is no record of complaints of neck pain from July 18, 2022, to December 3, 2023, documented in your electronic medical record and you have been seen once in CCC, three times for evaluations by the Physician's Assistant, and one nursing visit. Lastly, on December 4, 2023, you went to sick call for numbness and tingling symptoms in your face and bilateral arms. A new cervical x-ray was ordered for a neurology consult.

There is a clear progression of clinical assessments, follow-up, consultation, and treatment in accordance with evidence-based standard of care and within the scope of services of the Federal Bureau of Prisons. If your condition has changed or worsened, please sign up for daily sick-call to have your concerns appropriately addressed by your Primary Care Provider. Your primary care team will continue to make recommendations as needed. As recommendations are made, a course of treatment will be determined. Given this, we shall defer diagnostic testing and treatment interventions to the Health Services staff at the local level.

Administrative Remedy No. 1168597-A1
Part B - Response
Page 2

There is no evidence to support your allegations of deliberate indifference or not caring for your neck injury.

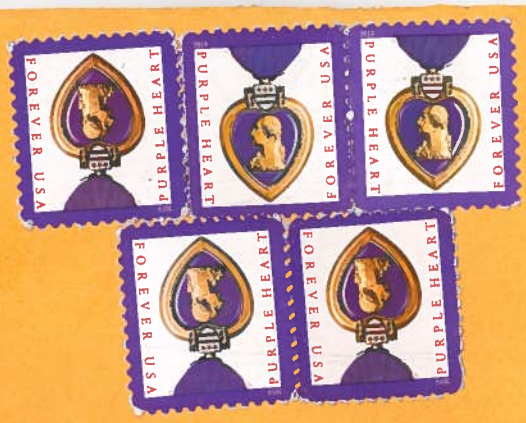
Regarding your request for monetary compensation, Program Statement 1330.18, Administrative Remedy Program, does not provide such relief. There are statutorily mandated procedures in place for addressing such requests. Therefore, your request will not be considered in this response.

Considering the foregoing, this response is for informational purposes only.

December 5, 2023
Date

T. Barnett
Timothy Barnett, Administrator
National Inmate Appeals

Russell Singletary #05009-030
Federal Correctional Institution
9595 W. Quincy Ave.
Littleton, Colorado 80123



Legal Mail

Clerk of the Court
901 19th Street
Room A105
Denver, Colorado 80294-3589