

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

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

**JUL 22 2024**

**JEFFREY P. COLWELL  
CLERK**

Civil Action No. 1:24 CV-01429-RTG  
(To be supplied by the court)

Adam Jones, Plaintiff

v.

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

X  Yes   No

Curtis Deines,

April Ogley,

Robert Dick,

"See Attached", 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.*

Adam Jones # 135845 PO Box 6000 Sterling, CO 80751  
(Name, prisoner identification number, and complete mailing address)

N/A  
(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: Curtis Deines, Case Manager, PO Box 6000 Sterling, CO 80751  
(Name, job title, and complete mailing address)

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:

Mr. Deines was and still is Mr. Jones' Case Manager and an employee of the  
Co. Dept. of Corrections

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

Defendant 2: April Ogley, Case Manager, PO Box 6000 Sterling, CO 80751  
(Name, job title, and complete mailing address)

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:

Mrs. Ogley was Mr. Jones' case manager and an employee of the CO Dept.  
Of Corrections

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

Defendant 3: Robert Dick, Case Manager 3, PO Box 6000 Sterling, CO 80751  
(Name, job title, and complete mailing address)

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:

Mr. Dick is the Case Manager 3 and is an employee of the CO Dept. of  
Corrections

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

### 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

\_\_\_ Other: (*please identify*) \_\_\_\_\_

**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."*

**Additional paper is attached**

**CLAIM ONE:** MR. Jones contends that he has a state created Liberty Interest in attending Sex Offender Treatment Prior to seeing the Colorado Parole Board and that their failure to do so has deprived Mr. Jones of his constitutional rights of Due Process, Protection from Significant and Atypical Hardship, and Equal Protection.

Claim one is asserted against these Defendant(s):

1. Curtis Deines
2. April Ogley
3. Robert Dick

Supporting facts:

1. As stated in his originally filed complaint Mr. Jones was sentenced as a sex offender to the CDOC in 2015.
2. Per the definitions of a case manager set-forth in CDOC's Administrative Regulations (AR's) and in 8CCR1511-1 it is a case manager's duty to monitor an inmate's progress, their treatment needs and participation, and their Criminogenic needs/problem areas.
3. Both Mr. Deines and Mrs. Ogley were Mr. Jones's personal Case Managers at the time he raised this complaint with CDOC in September of 2022 and again in September of 2023. Neither has made any attempt to see that this required class was given to Mr. Jones, to date.



**G. REQUEST FOR RELIEF**

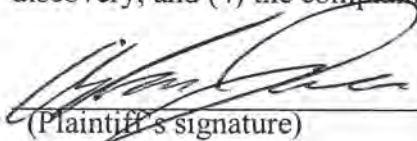
*State the relief you are requesting or what you want the court to do. If additional space is needed to identify the relief you are requesting, use extra paper to request relief. Please indicate that additional paper is attached and label the additional pages regarding relief as "G. REQUEST FOR RELIEF."*

1. An Order from the Court for the cessation of retaliatory behaviors by the defendants and CDOC staff.
2. Re-imbursement for all court fees and associated costs.
3. Re-imbursement and/or compensation for all attorney fees and associated costs
4. Conduct the SVPASI in a timely manner and then conduct a new application for the release on parole with that information by the CO Parole Board.
5. Immediate Placement into the appropriate SOTMP
6. A Total of \$100,000.00 Collectively from all Defendants

**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)

7/17/24  
(Date)

(Revised November 2022)

**“See attached”  
List of Defendants**

\_\_\_\_\_  
Jose Ruiz

\_\_\_\_\_  
Cyrus Clarkson

\_\_\_\_\_  
Randi Moore

\_\_\_\_\_  
Lakisha Sharp

\_\_\_\_\_  
Michelle Geng

Defendant(s).

**“B. DEFENDANT(S) INFORMATION.”**

Defendant 4: Jose Ruiz, Kitchen Lieutenant, PO Box 6000 Sterling, CO 80751  
(Name, job title, and complete mailing address)

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:

Mr. Ruiz is the Kitchen Lieutenant in SCF's Food Services and is an employee  
of the CO Dept. of Corrections

Defendant 4 is being sued in his/her X individual and/or \_\_\_ official capacity.

Defendant 5: Cyrus Clarkson, Kitchen Captain, PO Box 6000 Sterling, CO 80751  
(Name, job title, and complete mailing address)

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:

Mr. Clarkson is the Captain in SCF's Food Services and is an employee of the  
CO Dept. of Corrections

Defendant 5 is being sued in his/her X individual and/or \_\_\_ official capacity.

Defendant 6: Randi Moore, CO. Parole Board Member  
(Name, job title, and complete mailing address)

1250 Academy Park Loop Colorado Springs, CO 80910

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:

Mr. Moore is a Parole Board Member and is an employee of the CO Dept. of  
Corrections and the State of Colorado

Defendant 6 is being sued in his/her X individual and/or \_\_\_ official capacity.

Defendant 7: Lakisha Sharp, CO. Parole Board Member  
(Name, job title, and complete mailing address)

1250 Academy Park Loop Colorado Springs, CO 80910

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:

Mrs. Sharp is a Parole Board Member and is an employee of the CO Dept. of  
Corrections and the State of Colorado

Defendant 7 is being sued in his/her X individual and/or \_\_\_ official capacity.

Defendant 8: Michelle Geng, CO. Parole Board Member  
(Name, job title, and complete mailing address)

1250 Academy Park Loop Colorado Springs, CO 80910

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:

Mrs. Geng is a Parole Board Member and is an employee of the CO Dept. of  
Corrections and the State of Colorado

Defendant 8 is being sued in his/her X individual and/or \_\_\_ official capacity.

***“D. STATEMENT OF CLAIMS.”***

**CLAIM ONE:** MR. Jones contends that he has a state created Liberty Interest in attending Sex Offender Treatment Prior to seeing the Colorado Parole Board and that their failure to do so has deprived Mr. Jones of his constitutional rights of Due Process, Protection from Significant and Atypical Hardship, and Equal Protection.

**(Cont.)**

4. Defendant Dick refused to not only allow Mr. Jones to be re-classed to a lower security sighting Mr. Jones’ “Need for Program participation” but failed to facilitate this program need for Mr. Jones when it was brought to his attention in his capacity as the Case Manager 3 supervisor.
5. Under Colorado law, a sex offender is required as part of his or her sentence to undergo appropriate treatment. Colo. Rev. Stat. §§ 16-11.7-106 and 18-1.3-1004(3). The sex offender is further **required** to undergo an evaluation to determine what kind of treatment would be appropriate for him or her. Colo. Rev. Stat. §§ 16-11.7-104, 16-11.7-105. For a sex offender to be **eligible for release on parole**, the parole board must consider whether the sex offender has successfully progressed in treatment. Colo. Rev. Stat. § 18-1.3-1006(1)(a). Thus, participation in a treatment program is an **absolute prerequisite** for release on parole.
6. This was expanded in “**Tillery V. Raemisch, 2018**” to include that withholding treatment altogether is also a violation of this state created liberty interest, in which Mr. Jones would qualify under as he has never been given the opportunity to attend the SOTP.
7. For this reason Mr. Jones clearly has a Fourteenth amendment right to receive or at the very least, attempt, to complete said treatment prior to seeing parole.
8. Mr. Jones sustained injury by being unfairly denied parole **Multiple Times** because this **Required** class was not given to him, which would allow him to even be **eligible** for

Parole's consideration.

9. It is clear that the laws in this matter are clearly established.
10. It is also clear that the defendant's failed in their **State Appointed Duty** to uphold the laws of the land by not providing Mr. Jones with Sex Offender Treatment.
11. The Defendant's actions in this matter are so gross as to boggle the mind of any rational person. Simply put, Mr. Jones was sentenced as a Habitual Sex Offender Against Children and he is about to be released back into society without ever having taken the appropriate classes nor even having been evaluated for his risk of re-offense.
12. Besides the already mentioned clearly established CRS's both here and in Mr. Jones' originally filed complaint under the Table of Authorities, there is already precedence set in this matter in *Beebe v. Heil*, 333 F. Supp. 2d 1011, *Tillery V. Raemisch*, 2018, and *LeRner V. Stancil*, 2023
13. While in all 3 of these cases "*Beebe v. Heil*, 333 F. Supp. 2d 1011", "*Tillery V. Raemisch*, 2018", and "*LeRner V. Stancil*, 2023" the plaintiffs in question all fell under the Indeterminate Sentencing for sex offenders statute and Mr. Jones does not, is irrelevant. The statutes quoted "Colo. Rev. Stat. §§ 16-11.7-106 and 18-1.3-1004(3)" do not say anything about only offenders with Indeterminate Sentences being required to take these classes, but that **ALL** sex offenders are required as part of his or her sentence to undergo the appropriate level of treatment.
14. Therefore it is clear that the defendant's violated both Clearly established law and is so egregious, so outrageous, that it may fairly be said to shock the contemporary conscience and thus the defendant's should be disqualified from the "Qualified Immunity" defense and

goes to prove a State created Liberty Interest in which Mr. Jones would be entitled to attend these classes.

15. This is even to a greater degree for Defendant Dick who was also a defendant in the Tillery v. Raemisch, 2018 U.S. Dist. LEXIS 170894 case and was already given this information by this very court.

16. Mr. Jones wishes to make it clear, he is not saying that taking these classes would then miraculously grant him parole. Nor is he seeking Treatment to be released from CDOC. Mr. Jones' complaint in this is Solely on the grounds that he has a Due Process Right under Colorado Statute to receive these classes to become Eligible for consideration and POSSIBLE release by the parole board. As it is stated in LeRner V. Stancil, 2023

- Treatment is vital to the custodial component of a SOLSA sentence. See Colo. Rev. Stat. § 18-1.3-1004(3) ("Each sex offender sentenced pursuant to this section shall be required as a part of the sentence to undergo [\*21] treatment to the extent appropriate."). Under the Act, each adult sex offender is **required**, as part of any sentence to incarceration, "to undergo treatment to the extent appropriate" to such offender based on the recommendations made in his or her presentence or probation investigation, see Colo. Rev. Stat. § 16-11.7-104, or based on the subsequent recommendation by the department of corrections, the judicial department, the department of human services, or the division of criminal justice. Colo. Rev. Stat. § 16-11.7-105. Sentencing judges lack discretion to stray from this framework. See Manaois, 488 P.3d at 1106. "While the statute does vest some degree of discretion in the Colorado Department of Corrections, that discretion is not as to whether a sex offender **should** receive treatment; rather, it is as to what kind of treatment is 'appropriate' for the offender." Beebe, 333 F. Supp. 2d at 1016; but see Doe v.

Heil, 533 F. App'x 831, 842 n.9 (10th Cir. 2013). Considering the foregoing provisions, the Colorado Supreme Court has identified "the legislature's philosophy that treatment is necessary during imprisonment to minimize the risk to the community when a sex offender reenters society." Manaois, 488 P.3d at 1110.

**CLAIM TWO:** MR. Jones contends that he has a state created liberty interest in having a Sexually Violent Predator Assessment Screening Instrument (SVPASI) conducted prior to having the Parole Board deny him Parole and that their failure to do so has deprived Mr. Jones of his constitutional rights of Due Process, Protection from Significant and Atypical Hardship, and Equal Protection.

Claim two is asserted against these Defendant(s):

1. Curtis Deines
2. April Ogley
3. Robert Dick
4. Randi Moore
5. Lakisha Sharp
6. Michelle Geng

Supporting facts:

1. As stated Mr. Jones was adjudicated and sentenced to CDOC as a habitual sex offender against children. His charges in this case are 5 counts of a possession of sexual exploitation of a child, motion picture and 1 count of sexual exploitation of a child, 20 or more items.

The charge the court used to allow Mr. Jones to be sentenced under the Habitual Sex

Offender against children sentence enhancer was, criminal attempt sexual assault on a child.

2. Under CO statute § 18-3-414.5(1)(a)(IV), C.R.S. it states “When considering release on parole or discharge for an offender who was convicted of one of the offenses specified in subparagraph (II) of paragraph (a) of subsection (1) of this section, if there has been **“no previous court order”**, the parole board shall make specific findings concerning whether the offender is a sexually violent predator, based on the results of a sexually violent predator assessment.”
3. This same information is outlined in 8 CCR 1511-1 in subsection 7.01 stating **“If there has been no previous court order**, the Board will review the records provided by the CDoC to determine whether an assessment has been conducted in accordance with the Sex Offender Management Board ("SOMB") Sexually Violent Predator Assessment Screening Instrument (SVPASI) pursuant to § 18-3-414.5(1)(a)(IV), C.R.S.”
4. In that same section it also states “C. If an SVPASI **“has not”** been conducted, the Board will **table** the Hearing and request the CDoC conduct the assessment in a timely fashion.”
5. As the documents Mr. Jones has already provided to the court as attachments show, not only did the Parole board, specifically Defendants Randi Moore, Lakisha Sharp, and Michelle Geng, state Mr. Jones was Sexually Violent, but they further violated this CCR and CRS by denying his parole outright without first “Tabling the decision and having an SVPASI conducted by CDOC in a timely fashion”. This happened not once, but twice, even after Mr. Jones informed them of the error in his grievance and was told it was a non-grievable issue.
6. Mr. Jones points out that under § 18-3-414.5(1)(a)(IV), C.R.S. it further states, “a Sexually violent predator” “means an offender: who has been convicted on or after July 1, 1999, of one of the following offenses, or of an **attempt**, solicitation, or conspiracy to commit one of

the following offenses, committed on or after July 1, 1997: and in section (D) of that statute Sexual assault on a child, in violation of section 18-3-405, is listed.

7. These laws are clearly establish in Colorado and are designed for the sole concern of public safety.
8. The fact that Mr. Jones was denied Parole, at least in part, on the grounds of him being “Sexually Violent” shows that the Parole board considers Mr. Jones to be a risk to public safety, which was also stated in their denial.
9. It was then the state appointed duty of both the CO Parole Board members and Mr. Jones’ Case Managers with CDOC to then conduct the SVPASI if one had not already been conducted.
10. At the time of Mr. Jones’ Presentence Investigation Report (PSI) he was appealing his case. It was conducted in the presence of his attorney and there were large gaps that were not even done because of this.
11. At no point throughout his incarceration nor during the PSI was an SVPASI conducted in spite of Mr. Jones being adjudicated as a habitual sex offender against children and his requests for one to be conducted.
12. Not only should this shock the mind of any rational person, the fact that Mr. Jones is now approaching his Mandatory Release Date “MRD” without an SVPASI or any type of sex offender treatment having been even offered to him during his incarceration is astounding.
13. 8 CCR 1511-1 grants the Parole Board the authority to force Mr. Jones to register in the community as a sexually violent predator, even without a court order. This in turn would not only include community notification and many other such requirements besides, it would

greatly impact his way of life and even the places he could live and work. For this reason, having the SVPASI conducted per this state regulation raises to the level of a Federal Liberty Interest under his Due Process Rights.

14. Because these laws are clearly established in statute, CDOC's policy, and conventional rational thinking, the defendants are clearly outside the bounds of what could be claimed under "Qualified Immunity" and thus should not be granted such a defense. Furthermore it is clear that this raise to the level of a State created Liberty Interest to which Mr. Jones is legally entitled to.
15. As Mr. Jones' Case Managers Defendants Deines and Ogley were directly responsible for ensuring that this examination was completed as was Defendant Dick, who, as their supervisor would have been required to sign off on the offender classification report.
16. As the CCR and that aforementioned CRS indicates it was also the members of the Colorado Parole Board's responsibility to review the documents supplied by CDOC and if the SVPASI had never been conducted, to then order CDOC to do so in a timely fashion.

**CLAIM THREE:** MR. Jones contends that he has a state created liberty interest in having CDOC and the Colorado Parole Board initiate the Civil Commitment procedure and that their failure to do so has deprived Mr. Jones of his constitutional rights of Due Process, Protection from Significant and Atypical Hardship, and Equal Protection.

Claim Three is asserted against these Defendant(s):

1. Curtis Deines
2. Robert Dick
3. Randi Moore

4. Lakisha Sharp

Supporting facts:

1. As the documents provided for Mr. Jones' denial of Parole in September, 2023 show, Defendants states that Mr. Jones "Needs to continue to work on Mental Health Issues"
2. No other qualifier or information was provided as to how they made such a determination. In Mr. Jones' CDOC file however he is diagnosed as having an anxiety disorder.
3. If however Defendants were referring to Mr. Jones' need for sex offender treatment, of which CDOC considers a mental health related program, the statement would then be justified.
4. Under C.R.S. 27-65-102 in subsection (10) "Danger to the person's self or others" it gives the following 2 definitions:
  - (a) A person poses a substantial risk of physical harm to the person's self as manifested by evidence of recent threats of or attempts at suicide or serious bodily harm to the person's self; or
  - (b) A person poses a substantial risk of physical harm to another person or persons, as manifested by evidence of recent homicidal or other violent behavior by the person in question, or by evidence that others are placed in reasonable fear of violent behavior and serious physical harm to them, as evidenced by a recent overt act, attempt, or threat to do serious physical harm by the person in question.
5. In subsection (22) it states "Mental health disorder" includes one or more substantial disorders of the cognitive, volitional, or emotional processes that grossly impairs judgment or capacity to recognize reality or to control behavior. An intellectual or developmental

disability is insufficient to either justify or exclude a finding of a mental health disorder pursuant to the provisions of this article 65.

6. It is possible and probable the Defendants were implying that due to Mr. Jones' conviction history and the sexual abuse that was perpetrated against himself as a child and for those reasons that Mr. Jones was a Pedophile as well as other possible reasons for his continued need of "Mental Health Treatment/Issues."
7. Regardless of the reasons, the fact that this was even commented on in Mr. Jones' denial of Parole shows a high level of concern by the defendants.
8. In 8 CCR 1511-1 it states in subsection 7.02 "Determination of Mental Illness." When an Inmate has met all the requirements to be eligible for Parole, but the Board has reason to believe that the Inmate may have a mental illness pursuant to article 65 of title 27, C.R.S., the Board shall initiate civil proceedings pursuant to § 17-2-209 and 210, C.R.S.
9. While Mr. Jones has not met all of the requirements to be eligible for parole, the requirement itself that is lacking is a mental health program; Sex Offender Specific Treatment.
10. Be it that the defendants were attempting to ensure that Mr. Jones receives sex offender treatment while in CDOC or they were alluding to a greater problem is irrelevant.
11. Should the defendants believe Mr. Jones poses an undue risk to himself and/or others as is defined above, then by this clearly established regulation, Mr. Jones has a Constitutional Right under Due Process if not Significant and Atypical Conditions to have a mental health evaluation to be conducted, as he assumes, is the case for other inmates who meet this criteria.
12. Therefore the defendants here are clearly conducting themselves in a way that violated not

only the Colorado Code of Regulations but conventional thinking. Either Mr. Jones poses an undue risk to society, in which they are required to initiate civil proceedings pursuant to § 17-2-209 and 210, C.R.S or he does not and therefore an undue bias was used to deny his parole.

13. In either situation this is clearly enough to show that Mr. Jones has a State created Liberty Interest under his Due Process rights and to disqualify the defendants from claiming that they should be allowed the “Qualified Immunity” defense.

**CLAIM FOUR:** MR. Jones contends that he has a state created liberty interest in having his CDOC record updated prior to seeing the Colorado Parole Board in accordance with the Colorado Code of Regulations and that their failure to do so has deprived Mr. Jones of his constitutional rights of Due Process, Protection from Significant and Atypical Hardship, and Equal Protection.

Claim Four is asserted against these Defendant(s):

1. Curtis Deines
2. April Ogley
3. Robert Dick

Supporting facts:

1. In 8 CCR 1511-1 Subsection 1 it gives the following definition for a “Case Manager” - an individual employed by the CDoC responsible for direct involvement with Offenders and ensuring an ongoing process of case monitoring, case recording, counseling, and guidance.
2. Under CDOC’s Administrative Regulation (AR) 550-08 it outlines the responsibilities that a case manager has when one of the offenders that they are REQUIRED to monitor is going

before the CO Parole Board.

3. In that same AR section IV\_A outlines the “Preparole planning and Development” with section 2 having “Case Management Functions” also defined.
4. Up to 4 options for community placement can be submitted and are required to be investigated 120 days prior to the parole board hearing. Also listed in this section is an updated CTAP case plan and “areas of deficiency such as not having a plan for housing, lack of job skills and treatment needs these will be addressed through the CTAP Case plan.
5. In Section VI\_D “Parole Board Hearing” there is listed subsections (a) through (m) that lists out the items that a case manager is REQUIRED to update and submit to the parole board for their consideration.
6. Mr. Jones would also like it noted that it specifically adds that this is also part of Section VI\_D “Facility Administrative Heads, Case Management Supervisors/designee, Community corrections functions” and responsibilities, which would indicate it was part of Defendant Dick’s responsibilities.
7. This is not only a clearly established CDOC policy as outlined in this AR but much of this information is also listed in 8 CCR 1511-1 sections 6.01 through 6.04 which is also clearly established.
8. In 8 CCR 1511-1 section 6.04 it states “A. In considering Inmates for Parole, the Board shall consider the totality of the circumstances, which include, but need not be limited to, the following factors:” before giving 11 different things to be addressed, all of which are directly tied to the Case Managers responsibilities as they are outlined in CDOC’s AR 550-08.
9. Should an inmate be granted Parole it would drastically alter their way of life and life circumstances.

10. As such it raises to the level of a Liberty Interest, as stated in *Tillery V. Raemisch*:

- To determine whether a due process violation has occurred, the Court must first determine whether Plaintiff has a protected liberty interest. *Teigen v. Renfrow*, 511 F.3d 1072, 1078 (10th Cir. 2007). Therefore, the Court must determine whether a state statute has created a liberty interest protected by due process. See *Sandin v. Conner*, 515 U.S. 472, 483-84, 115 S. Ct. 2293, 132 L. Ed. 2d 418 (1995). **In the prison context, due process interests are violated only when prison conditions impose an "atypical and significant hardship on the inmate in relation to the ordinary incidents of prison life." Id. at 484. Additionally, a "'major change' in a prisoner's conditions of confinement may amount to a 'grievous loss' to a prisoner" and may constitute a constitutionally cognizable deprivation.** *Beebe v. Heil*, 333 F. Supp. 2d 1011, 1016-17 (D. Colo. 2014) (citing *Wolff v. McDonnell*, 418 U.S. 539, 572 n. 19, 94 S. Ct. 2963, 41 L. Ed. 2d 935 (1974) and *Vitek v. Jones*, 445 U.S. 480, 492, 100 S. Ct. 1254, 63 L. Ed. 2d 552 (1980)).

11. By not properly updating and submitting the complete case file for the Parole Board's consideration the defendants subjected Mr. Jones to "atypical and significant hardship" as it is the right of other inmates that are similarly situated to have their case files updated and submitted to the parole board for consideration.

12. Mr. Jones is **not** making the claim that with an updated case file he would have been granted parole, but that possibility is there. It is impossible to know if that information could have altered the decision one way or the other. The fact that those documents were not properly submitted by the defendants deprived Mr. Jones of his Due Process rights and further injured him by cherry picking the information submitted for the Parole Board to consider which

**COULD** have drastically altered their decision not to grant him Parole.

13. For this reason it is clear that the Defendant worked outside of the standard practices as they are outlined in the already established laws and regulations. Therefore the defendant's should not be allowed the umbrella of the "Qualified Immunity" defense. Further by the very nature of a Colorado Parole Board Hearing, a State created Liberty Interest is established in Mr. Jones' rights to Due Process as the granting of parole would then DRASTICALLY alter his way of life and the only reasonable chance an inmate has of getting parole it with a complete and updated case file.

**CLAIM FIVE:** MR. Jones contends that he has a state created liberty interest in having CDOC make ADA work accommodations that are in accordance with his already assigned medical work restrictions and that their failure to do so has deprived Mr. Jones of his constitutional rights of Due Process, Protection from Significant and Atypical Hardship, Equal Protection and Protection from Cruel and Unusual Punishment.

Claim one is asserted against these Defendant(s):

1. Curtis Deines
2. Robert Dick
3. Cyrus Clarkson
4. Jose Ruiz

Supporting facts:

1. Mr. Jones was required to begin working in SCF's food services on 3/03/2024
2. Immediately upon being notified of the job assignment Mr. Jones went to SCF's kitchen

staff and case management to inform them that due to his medical situation it was unsafe for him to have that job position and he already has in place work restrictions by CDOC's Medical Staff.

3. Despite this, all four of the named defendants, refused to remove Mr. Jones from that Job assignment or make any type of ADA accommodations to keep him safe while working in that job position.
4. A disability under 42 USCS 12101 has amongst its definitions Neurological, Brain disorders, and endocrine disorder.
5. Mr. Jones has an extended and prolonged history, of which CDOC has record of and is aware of, having Epilepsy, Pituitary disease, Traumatic Brain Injury (TBI), Migraines, and vision issues.
6. Further under the Colorado ADA Guidelines it states the following: That Even if the Epilepsy is currently under control it still can qualify as a disability that requires an employer to make 'reasonable accommodations'.
7. For this reason CDOC has placed a number of medical work restriction to limit the potential harm done to Mr. Jones by his medical disability. Two of these restrictions include "No work assignment where a fall or loss of consciousness would be hazardous" and "No Intensive Labor" which have been assigned to him since 2016.
8. The defendants were well aware of Mr. Jones' Medical Work Restrictions and the underlining disabilities. This was even before Mr. Jones filed his Grievance # R-SF 23/24- on the matter and that is further evident in both defendants Ruiz and Clarkson's responses to that grievance.

9. Not only did both of these individuals lie in their responses, as they directly state Mr. Jones was immediately released from working in the kitchen with no intent to rehire, but Mr. Jones was literally **Forced** to work in SCF's food services for months without any type of accommodations or a transfer to a different job assignment that did not include such risk. Nor was Mr. Jones' work assignment transferred to another part of the facility that did not even require SCF to make any type of accommodation for Mr. Jones' disability at all.
10. Mr. Jones also wants to express that Cpt. Clarkson did in fact released him from working in Food Services on 4/30/2024 at the direction of SCF's Medical Staff. However at the **Behest** of Case Management, Curtis Deines and Robert Dick specifically, he was told that he needed to rehire Mr. Jones, which he did so on 5/15/2024. Defendant Clarkson then responded to Mr. Jones' step 2 grievance on 5/19/2024 that he had release Mr. Jones, but said nothing about rehiring him 4 days earlier in the response and attempted to make it seem as if he was already following the Medical Staffs recommendations in order to deny Mr. Jones' grievance.
11. Had Mr. Jones refused to work in said job assignment he would have been subjected to COPD violations, Loss of Good/Earned Time, Loss of privileges, and extending out the time before he saw parole again, to name but a few.
12. As such Mr. Jones' was **Forced** by the defendants into a situation where he lived in perpetual fear of serious bodily injury, a resurgence of his seizure activity, and being punished for his disability that limited the types of work that he could safely perform.
13. Furthermore Mr. Jones wants it noted by the court that he did sustain a serious head injury while in the kitchen and subsequently went into a grand-mal seizure because of that injury on 6/25/24.

14. The actions by the defendants, especially AFTER acknowledging Mr. Jones' medical condition in those same grievances, were so far beyond normal and excusable behavior (as is established in 42 USCS 12132) and he believes, is more than enough to qualify in stripping the defendants of the "Qualified Immunity" defense.
15. There are clearly established laws and cases that further go to prove just how far outside the grounds of normal and acceptable practices the defendants went in their actions and can be seen in the following cases and many others besides:
- Aubrey V. Koppes 975 F. 3d 995
  - Sanchez V. United States Doe, 870 F. 3d 1185
  - Iselin V. Bama Cos, 690 F. App'x 593, 597 (10<sup>th</sup> Cir. 2017)
  - Oslund v. Mullen, 2018 U.S. Dist. LEXIS 55351
16. Mr. Jones could have been re-assigned to a different area within the kitchen that did not present such a hazard or even to be re-assigned to work in a different area of the prison entirely. Mr. Jones even attempted to do so and found a job opening in the Law Library as a clerk but was denied for that job position. When the Law Library staff contacted Defendant Deines to hire Mr. Jones for the clerk's position, defendant Deines told them that "He had other plans for Mr. Jones" and so he could not be hired there.
17. Mr. Jones would also like it noted that in this matter CDOC's policy as outlined in "AR 850-04 Grievance Procedure" is to have any grievance that claims ADA discrimination to be responded to and vetted by the ADA Inmate Coordinator (AIC), in which his was not. While Mr. Jones does not necessarily have a constitutional right to CDOC's policies and procedures, other than for Due Process and Protection from Significant and Atypical

Hardship, it does outline the defendant's complicity in abusing Mr. Jones and denying him any type of ADA accommodation as state and federal law proscribe.

**CLAIM SIX:** MR. Jones contends that he has a liberty interest in being protected from retribution and retaliation from CDOC staff for seeking lawful redress through the Grievance Procedure and the Courts

Mr. Jones is hereby withdrawing Claim 6 against Defendant Deines to be brought in a separate action. The actions taken by the Defendant and several others directly led to him being seriously injured with a head trauma and exacerbation of his epilepsy and thus resulted in physical injury. It is for this reason that Mr. Jones is requesting to preserve this claim while withdrawing it from this specific action.

## **Table of Authorities**

1. The United States Constitution and more specifically the 1<sup>st</sup>, 5<sup>th</sup>, 6<sup>th</sup>, and 14<sup>th</sup> amendments.
2. The Constitution of the State of Colorado.
3. CRS 18-3-414.5(1)(a)(IV)
4. CRS 18-1.3-1009
5. CRS 18-1.3-406
6. CRS 17-32-105
7. CRS 17-22.5-107
8. CRS 17-22.5-404
9. CRS 17-2-209 and 210
10. CRS 16-11-102(1)(b)
11. CRS 16-11.7-103 (4)(d)
12. CRS 16-11.7-105 and 106
13. CRS 16-11.9-102
14. 8 CCR 1511-1
15. *Beebe v. Heil*, 333 F. Supp. 2d 1011 (D. Colo. 2004).
16. *Fraser v. Colo. Bd. of Parole*, 931 P.2d 560 (Colo. App. 1996).
17. *Tillery V. Raemisch*, 2018 U.S. Dist. LEXIS 170894
18. *LeRner v. Stancil*, 2023 U.S. Dist. LEXIS 90078
19. CDOC's Administration Regulation (AR) 550-08
20. CDOC's AR 750-04
21. CDOC's AR 850-03

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| SCF                    | 7-17-24            |     |
| DOC EMPLOYEE LAST NAME | ID#                | INT |
| Garcia                 | 3332               | Ja  |
| DOC#                   | OFFENDER LAST NAME | INT |
| 135845                 | Jones              |     |