

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

DARRICK ALEXANDER,

Plaintiff,

V.

MICHAELA MARTINEZ, CAPTAIN
TURNER, LIEUTENANT VARGAS, C/O
HAMMER

Defendants.

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CIVIL ACTION NO. 1:24-cv-02431-RTG

(JURY TRIAL DEMANDED)

PLAINTIFF'S FIRST AMENDED COMPLAINT

COMES NOW, Plaintiff Darrick Alexander (“Plaintiff” or “Alexander”), by and through undersigned counsel, and for his First Amended Complaint against Defendants Michaela Martinez, Captain Turner, Lieutenant Vargas and C/O Hammer alleges as follows:

PARTIES

1. Plaintiff Darrick Alexander is a prisoner in the custody of the Colorado Department of Corrections (“CDOC”) currently being housed at Colorado Territorial Correctional Facility (“CTCF”) in Cañon City, Colorado. His CDOC number is 86806

2. At all times relevant to this action, Defendant Michaela Martinez (“Martinez”) was employed as a corrections officer for the CDOC. All of Defendant Martinez’s actions and/or inactions were taken under color of state law and within the scope of her employment as a Colorado correctional officer. She is being sued in her individual capacity.

3. At all times relevant to this action, Defendant Captain Turner (“Turner”) was employed as a corrections officer for the CDOC. All of Defendant Turner’s actions and/or inactions were taken under color of state law and within the scope of her employment as a Colorado correctional officer. She is being sued in her individual capacity.

4. At all times relevant to this action, Defendant Lieutenant Vargas (“Vargas”) was employed as a corrections officer for the CDOC. All of Defendant Turner’s actions and/or inactions were taken under color of state law and within the scope of her employment as a Colorado correctional officer. She is being sued in her individual capacity.

5. At all times relevant to this action, Defendant C/O Hammer (“Hammer”) was employed as a corrections officer for the CDOC. All of Defendant Turner’s actions and/or inactions were taken under color of state law and within the scope of her employment as a Colorado correctional officer. She is being sued in her individual capacity.

JURISDICTION AND VENUE

1. This action arises under 42 U.S.C. § 1983 and § 1988. This Court has original subject matter jurisdiction under 28 U.S.C. § 1331 and 28 U.S.C. § 1343(3).

2. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events or omissions giving rise to the claim occurred in this District and Defendants have sufficient contacts with this District to be subject to general personal jurisdiction in this District.

FACTS

EXCESSIVE FORCE INCIDENT

6. On September 25, 2022, at approximately 1:25 p.m., Defendant Martinez deliberately hit Plaintiff with the metal door as he was entering his pod.

7. Plaintiff approached the door to ask Martinez if there was an issue and to inquire as to why she hit him with the door.

8. Martinez immediately became belligerent and unprofessional.

9. While talking to Martinez, Plaintiff’s hand was resting in the food tray slot.

10. Martinez saw Plaintiff's hand resting in the food slot, and maliciously and sadistically slammed the metal food tray slot onto Plaintiff's hand.

11. At no point in time prior to slamming Plaintiff's hand in the metal slot did Martinez ask Plaintiff to move his hand or otherwise tell him to move away from the door.

12. Once Plaintiff's hand was slammed in the food slot, he immediately told Martinez that his hand was stuck and asked that she open it so that he could remove his hand. Plaintiff was obviously in severe pain, and Martinez was aware of the agony caused by shutting his hand in the metal slot.

13. However, instead of opening the food tray slot so that Plaintiff could remove his hand, as asked, Martinez maliciously leaned on the metal food tray slot with her entire weight to deliberately put more pressure on Plaintiff's hand causing him severe pain and long-lasting damage to the nerves in his hand.

14. Martinez kept leaning on the metal food slot tray while Plaintiff's hand was trapped underneath it for approximately two minutes, despite the obvious pain she was causing and Plaintiff's repeated requests that she open the food slot so that he could remove his hand.

15. At no time prior to or during the incident in which Martinez slammed Plaintiff's hand in the food tray slot did Plaintiff pose a danger to Martinez nor was he in any way threatening the safety or security of the facility.

16. Martinez was acting out of malice, and not in any good faith effort to maintain or restore discipline.

17. Plaintiff filed a Step 1 Grievance against Martinez relating to this incident on October 5, 2022, and subsequently submitted both the Step 2 and Step 3 grievances. Plaintiff was issued a response to his Step 3 grievance related to this incident on February 1, 2023, and the

signed grievance was forwarded to the Facility Grievance Coordinator. By submitting the applicable grievances, Plaintiff fully exhaust his administrative remedies in accordance with applicable CDOC policies.

18. Plaintiff has suffered permanent nerve damage to his hand as a result of this incident and is still required to wear a brace.

PRISON CONDITIONS

19. At all times while incarcerated at CDOC, Plaintiff has suffered from extensive and severe food allergies that are well-documented in CDOC records.

20. As a result, Plaintiff cannot enter the food hall without risking an allergic reaction and likely anaphylactic shock and is supposed to have a food tray delivered to him for his meals that abides by his dietary restrictions.

21. In or around April 2021, Defendant Hammer cancelled the delivery of Plaintiff's meals and has continued to refuse to allow food trays to be delivered to Plaintiff, despite knowing that he has food allergies that prevent him from entering the food hall and has no other way of receiving his meals.

22. Lieutenant Vargas and Captain Turner have also routinely denied Plaintiff's requests to have a food tray meeting his dietary restrictions delivered to him.

23. The last time Plaintiff attempted to go to the food hall so that he could eat a meal was on October 6, 2021. He immediately suffered from a severe allergic reaction and a medical emergency declared. Defendants Hammer and Vargas are both aware of that incident and the danger of his food allergies.

24. Both have continuously denied his requests to have a food tray meeting his dietary restrictions delivered to him.

25. There are other inmates with dietary restrictions who routinely have food trays delivered to them.

26. Due to the denial of having food trays delivered, Plaintiff has not been able to eat any of the meals provided by CDOC in years. Instead, Plaintiff has to buy all of his food from the canteen.

27. Thus, he is consistently denied a well-balanced meal or any kind, including any fruit and/or vegetables.

28. CDOC officials, including Defendants Turner, Hammer and Vargas, have denied Plaintiff “the minimal civilized measure of life’s necessities” by denying him meals and forcing him to choose between eating the meals provided in the food hall and risking an allergic reaction or not eating at all.

29. Plaintiff has fully exhausted his administrative remedies regarding his denial of meals by filing the applicable grievances in accordance with CDOC policies.

COUNT ONE – 42 U.S.C. § 1983
VIOLATION OF EIGHTH AND FOURTEENTH AMENDMENTS
Excessive Force

30. Each of the previous paragraphs of this Complaint is incorporated as if fully restated herein.

31. The Eighth Amendment, as incorporated and applied to the states through the Due Process Clause of the Fourteenth Amendment, “prohibits the infliction of ‘cruel and unusual punishments’ on those convicted of crimes,” including the “unnecessary and wanton infliction of pain.” *Wilson v. Seiter*, 501 U.S. 294, 296–97 (1991); *Sealock v. Colorado*, 218 F.3d 1205, 1210 (10th Cir. 2000).

32. Defendant Martinez used excessive force against Plaintiff in violation of the

Eighth Amendment when she slammed his hand into the metal food tray slot. *See Baker v. GEO Lawton Correctional Facility*, No. CIV-23-797-SLP, 2024 WL 4720294, at *3 (W.D. Okla. Jan. 22, 2024) (plaintiff sufficiently stated Eighth Amendment claim because “[s]lamming a person’s arm in a (likely metal) food tray slot is objectively harmful, and it is difficult, without more detail, to infer how such an action would be related to a good faith effort to restore or maintain discipline”) (collecting cases). Doing so was objectively harmful and resulted in serious and long-lasting injuries to Plaintiff’s hand.

33. Martinez’s actions in slamming Plaintiff’s hand in the metal food tray slot were done maliciously and sadistically for the very purpose of causing harm and were not part of any good faith effort by Martinez to maintain or restore discipline.

34. Defendant Martinez’s misconduct, as described in this Count, was objectively unreasonable in light of the facts and circumstances known to her at the time and was undertaken intentionally with willful indifference to Plaintiff’s constitutional rights.

35. At the time of Defendant Martinez’s actions described herein, no reasonable officer with the same information could have believed that his or her actions were lawful in light of clearly established law. Therefore, the individually named Defendant is not entitled to qualified immunity.

36. As a direct and proximate result of the Defendant’s misconduct and the violations of Plaintiff’s constitutional rights, Plaintiffs suffered, and will continue to suffer, embarrassment, humiliation, physical and psychological harm, pain and suffering, and financial harm, some or all of which may be permanent.

COUNT ONE – 42 U.S.C. § 1983
VIOLATION OF EIGHTH AND FOURTEENTH AMENDMENTS
Excessive Force

37. Each of the previous paragraphs of this Complaint is incorporated as if fully restated herein.

38. The Eighth Amendment, as incorporated and applied to the states through the Due Process Clause of the Fourteenth Amendment, “prohibits the infliction of ‘cruel and unusual punishments’ on those convicted of crimes.” *Wilson v. Seiter*, 501 U.S. 294, 296–97 (1991).

39. Under the Eighth Amendment, “prison officials must ensure that inmates receive adequate food, clothing, shelter, and medical care, and must ‘take reasonable measures to guarantee the safety of the inmates.’” *Farmer v. Brennan*, 511 U.S. 825, 832 (1994) (quoting *Hudson v. Palmer*, 468 U.S. 517, 526-27 (1984)).

40. The Eighth Amendment is violated when a prison official acts with deliberate indifference to a substantial risk of serious harm to an inmate and/or when prison conditions deprive a prisoner of “the minimal civilized measure of life’s necessities.” *Wilson*, 501 U.S. at 298 (quoting *Rhodes v. Chapman*, 452 U.S. 337, 347 (1981)).

41. A prisoner’s Eighth Amendment rights are violated when he is subject to “‘conditions posing a substantial risk of serious harm’ to inmate health or safety.” *DeSpain v. Uphoff*, 264 F.3d 965, 973 (10th Cir. 2001) (quoting *Farmer*, 511 U.S. at 834).

42. By denying the delivery of food trays within Plaintiff’s dietary restrictions and instead requiring him to go to the food hall for any and all meals and risk severe allergic reaction, Defendants Turner, Hammer and Vargas have denied Plaintiff the minimal necessities of life without risking serious harm to his health and safety.

43. Defendants have continued to deny Plaintiff food that he can safely eat, knowing of the severity of his allergies and that he is unable to go to the food hall or otherwise eat any of the meals provided without serious risk to his health and safety.

44. Defendants' misconduct in deliberately denying the delivery of safe food trays to Plaintiff was objectively unreasonable in light of the facts and circumstances known to them at the time and was undertaken intentionally with willful indifference to Plaintiff's constitutional rights.

45. At the time of Defendants' actions described herein, no reasonable officer with the same information could have believed that his or her actions were lawful in light of clearly established law. Therefore, the individually named Defendants are not entitled to qualified immunity.

46. As a direct and proximate result of the Defendants' misconduct and the violations of Plaintiff's constitutional rights, Plaintiffs suffered, and will continue to suffer, physical and psychological harm, pain and suffering, and financial harm, some or all of which may be permanent.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants for:

(a) Nominal and compensatory damages to compensate him for his physical injuries, pain, suffering, and emotional distress suffered as a result of Defendants' actions or inactions articulated in this First Amended Complaint;

(b) punitive damages in a sum as to deter the Defendants from conduct of this nature;

(c) An injunction directing that the CDOC implement such measures as are necessary to ensure Plaintiff is safely housed within the CDOC;

(d) a declaration that Defendants' conduct, as set forth in this Amended Complaint, violated Plaintiff's rights under the Eighth Amendment to the United States Constitution;

(e) an award of attorneys' fees and costs; and

(f) such other relief as this Court deems just and proper.

Plaintiff demands a trial by jury.

Respectfully submitted this 8th day of January, 2025,

By: /s/ Courtney B. Warren
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ATTORNEY FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that on January 25, 2025, a true and correct copy of the foregoing instrument was served electronically via the Court's CM/ECF system on all counsel of record.

/s/ Courtney B. Warren
Courtney B. Warren