

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA DIVISION**

KEITH MARK DILLON,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 06-1258
)	
BRIAN RODGERS;)	
T.W. THOMPSON;)	JUDGE TRIMBLE
SERGEANT EDWARDS;)	
SERGEANT WALKER;)	MAGISTRATE JUDGE KIRK
LIEUTENANT HOLLIFIELD;)	
SERGEANT PIETSCH;)	
OFFICER HARTZOGLU; and)	
OFFICER CASPERS,)	
)	
Defendants.)	

SECOND AMENDED COMPLAINT AND JURY DEMAND

Plaintiff, Keith Dillon, alleges as follows:

PRELIMINARY STATEMENT

1. This is a civil rights action under 42 U.S.C. § 1983 and Louisiana law arising out of incidents occurring at Jena Correctional Facility (“Jena”), to which Plaintiff, Keith Dillon, was evacuated upon its emergency reopening following Hurricane Katrina. During this time, Defendants subjected Plaintiff to egregious abuse and deplorable conditions. Among other things, Defendants deliberately and maliciously assaulted and battered Plaintiff, without provocation or justification, causing serious physical, mental, and emotional injuries. Moreover, despite knowledge of both the risk of serious injury present at Jena and the actual injuries sustained by inmates – and despite actual participation in the abuse – Defendant Thompson exhibited deliberate indifference toward the medical needs of those inmates, failing to enact and

enforce policies to ensure adequate medical care.

2. When Katrina hit the gulf coast region, the world watched much of the chaos and tragedy that ensued. Less was reported, however, about what happened to those being held in local jails and state prisons. While the evacuation of much of Louisiana began on or around August 27 and 28, the evacuation of prisoners was slow, and later turned into a nightmare.

3. As with other facilities, prisoners at the Jefferson Parish Correctional Center (“JPCC”), where Dillon was originally held, spent days in the facility without food, water, functioning restroom facilities, or electricity. Eventually, officers from multiple agencies arrived, dressed in riot gear, to assist in the evacuation. Dillon was handcuffed with nylon “cable tie” cuffs so tight that his wrists bled, loaded on a bus, and transported, legs shackled, to the Jena facility in Jena, Louisiana.

4. According to published accounts, upon their arrival at Jena, inmates were informed that “martial law” had been declared and that this gave the prison staff authority to do whatever they wanted to with impunity. This announcement foreshadowed the abuse that was to come. Inmates at Jena were reportedly slapped, punched, beaten, stripped naked, hit with belts, and kicked by correctional officers. Verbal threats and intimidation were the order of the day; guards assisting from Rikers Island Correctional Facility in New York reportedly told inmates that they would “show them how they handle prisoners up in New York.” The implication was clear and, as Dillon and others later learned all too well, prescient.

5. After enduring weeks of abuse and deplorable conditions detailed herein, on Tuesday, September 27, 2005, Dillon was repeatedly beaten by several of the Defendants,

sustaining serious injuries. As a direct result of Defendants' actions, Dillon has pain and hearing loss in his left ear and still suffers from, *inter alia*, pain in his back and knees, severe shooting pain in his right shoulder and down his bicep, as well as frequent headaches, pain in his eye-sockets, blurred vision, and broken teeth. Moreover, as result of the abuse he endured, Dillon has been suffering from emotional distress and bouts of depression.

PARTIES

6. Plaintiff, Keith Dillon, is a former inmate of JPCC, who was temporarily transferred to Jena. He is a citizen of the United States and is currently incarcerated at the Allen Correctional Center in Kinder, Louisiana, serving out a term for a minor parole violation.

7. Defendant Warden T.W. Thompson is an individual who is believed to be a resident of Louisiana and who, at all times relevant to this action, was the acting warden responsible for operating and maintaining Jena during the events giving rise to this suit. Upon information and belief, Thompson was a Wackenhut Corrections Corporation employee, working under contract with the Louisiana Department of Public Safety and Corrections ("DPSC") at all times relevant to this action. Defendant Thompson is being sued in his individual capacity.

8. Defendant Major Brian Rodgers is an individual who is believed to be a resident of Louisiana and who, at all times relevant to this action, was an employee of the DPSC and Warden Thompson at Jena. Upon information and belief, Defendant Rodgers held a supervisory position at Jena at all times relevant to this action. Defendant Rodgers is being sued in his individual capacity.

9. Defendant Sergeant Edwards is an individual who is believed to be a resident of Louisiana and who, at all times relevant to this action, was an employee of the DPSC and

Warden Thompson at Jena. Defendant Edwards is being sued in his individual capacity.

10. Defendant Sergeant Walker is an individual who is believed to be a resident of Louisiana and who, at all times relevant to this action, was an employee of the DPSC and Warden Thompson at Jena. Defendant Walker is being sued in his individual capacity.

11. Defendant Lieutenant Hollifield is an individual who is believed to be a resident of Louisiana and who, at all times relevant to this action, was an employee of the DPSC and Warden Thompson at Jena. Defendant Hollifield is being sued in his individual capacity.

12. Defendant Sergeant Pietsch is an individual who is believed to be a resident of Louisiana and who, at all times relevant to this action, was an employee of the DPSC and Warden Thompson at Jena. Defendant Pietsch is being sued in his individual capacity.

13. Defendant Officer Hartzoglou is an individual who is believed to be a resident of New York and who, at all times relevant to this action, was an employee of the New York Department of Corrections and a temporary contract employee of the DPSC and Warden Thompson at Jena. Defendant Hartzoglou is being sued in his individual capacity.

14. Defendant Officer Caspers is an individual who is believed to be a resident of New York and who, at all times relevant to this action, was an employee of the New York Department of Corrections and a temporary contract employee of the DPSC and Warden Thompson at Jena. Defendant Caspers is being sued in her individual capacity.

JURISDICTION AND VENUE

15. This Court has jurisdiction over the claims set forth herein pursuant to 28 U.S.C. §§ 1331, 1343, and 1367.

16. Venue is appropriate in this district pursuant to 28 U.S.C. § 1391.

FACTS

17. In August 2005, Keith Dillon was a pretrial detainee at the JPCC.
18. On or around August 29, 2005, Hurricane Katrina hit the gulf coast region.
19. Persons held at the JPCC, including Dillon, were not evacuated until on or around August 30, 2005. Officers from multiple agencies, including but not limited to the DPSC, the federal Drug Enforcement Agency, and the Bureau of Alcohol, Tobacco and Firearms, assisted in the evacuation.
20. For the evacuation, Dillon was handcuffed with nylon “cable tie” cuffs so tight that his wrists bled, loaded on a bus, and transported, legs shackled, to Jena. In or about September 2005, attorneys who interviewed Jena inmates reported that the inmates still had visible scarring on their wrists from the plastic restraints, with some reporting persistent numbness and possible nerve damage.
21. The trip from the JPCC took approximately twelve to fifteen hours, with the officials reportedly driving to multiple facilities across the state of Louisiana before arriving at Jena.
22. Upon Dillon’s arrival at Jena, employees of the Wackenhut Corporation – the owner and former operator of Jena – opened the facility. Jena had been closed down since in or about 2000, after a state takeover prompted by a federal Department of Justice report detailing chronic abuse and neglect of the children housed there.
23. When reopened for evacuees, the staff at Jena was a mix of correctional officers from other DPSC facilities and volunteers and contractors from out-of-state corrections departments.
24. The conditions at Jena were poor. For example, the temperature in the dorms was

manipulated by the guards such that it was unreasonably hot during the day, but the air conditioning was purposely run excessively high at night to “freeze-out” the inmates.

25. Jena was also overcrowded. Upon information and belief, fire marshals who inspected the facility within the first couple of weeks reportedly informed prison officials that Jena was dangerously overcrowded and that changes had to be made.

26. Correctional staff at Jena also subjected prisoners, including Dillon, to physical and verbal abuse almost immediately upon their arrival at Jena.

27. According to published accounts of inmate interviews, Defendant Rodgers, upon the inmates’ arrival, informed them that the Governor and DPSC Secretary Richard Stalder had declared “martial law,” and claimed that this gave the staff authority to do whatever they wanted with impunity.

28. Inmates at Jena were reportedly slapped, punched, beaten, stripped naked, hit with belts, and kicked by correctional officers.

29. It was reported that, when inmates broke prison rules, such as moving when told to be still, or not moving quickly enough, officers often responded by hitting and kicking the men and threatening to whip them.

30. Defendant Thompson, as the warden at Jena, and Defendant Rodgers, as a supervisor of guards at Jena, were responsible for ensuring that Jena was operated in a manner that did not violate inmates’ constitutional rights. With reckless disregard for the safety and well-being of the inmates, they failed to fulfill these responsibilities.

31. Upon information and belief, Defendants Thompson and Rodgers participated in and were personally aware of the circumstances and the frequent use of excessive and unjustified

force against inmates.

32. Upon information and belief, Defendants Thompson and Rodgers did nothing to prevent guards at Jena, including those from the New York Department of Corrections, from using excessive force against inmates. Indeed, there was a *de facto* policy, custom and/or practice of allowing or encouraging guards to use excessive force against inmates at Jena.

33. Defendants – by their policies, customs, practices, actions, abdication of responsibilities, and deliberate indifference – created an environment of intimidation, abuse, and neglect at Jena.

34. Attorneys who interviewed inmates during their incarceration at Jena reported that inmates repeatedly expressed that they were “terrified” and “scared for their lives” inside Jena.

35. Within the first few days after Jena reopened – on or around September 2 or 3, 2005 – guards rushed into the dorm where Dillon was housed with dogs, mace, and full riot gear. It was unclear to the inmates what precipitated this action, though there were reports that something had happened in a completely separate wing of Jena.

36. During this incident, Dillon, along with the other inmates, was forcibly pulled from his bed in the middle of the night, forced to the ground, and made to lay face-down on the cold floor for hours. Dillon was also hit in the back by an unknown guard because his hands were to his side and not placed in front of him as directed.

37. Other inmates reportedly had their heads kicked into the floor, drawing blood and knocking out teeth.

38. After approximately six hours of laying face-down on the floor in extremely cold conditions, all inmates heads were shaved.

39. Upon information and belief, Defendants Thompson and Rodgers participated in these

abuses. Among other things, Warden Thompson addressed the guards in front of the inmates, stating that “if anyone doesn’t want to cooperate, just beat them...” and “beat them if you have to.” Upon information and belief, Thompson also forcibly pulled prisoners from their bunks and physically beat them, including a fellow inmate of Dillon’s, Melvin Lewis.

40. During his first week at Jena, Dillon and the other inmates were also made to strip naked and forced to stand genitals to buttocks for hours with their hands clasped behind their heads. Similar treatment continued throughout Dillon’s detention at Jena.

41. These abusive conditions were accompanied by antagonizing verbal threats. Guards repeatedly told inmates how much they hated “you mother-f***ers from New Orleans,” or “you gangsters from New Orleans.”

42. Guards also reportedly warned inmates that they were going to show them how they “took care of things” out in that part of Louisiana, a more rural area than the area around New Orleans where many of the evacuees lived.

43. Upon information and belief, guards assisting from Rikers Island Correctional Facility in New York threatened inmates, telling them they would “show them how they handle prisoners up in New York.”

44. Upon information and belief, Defendant Thompson warned inmates during the first week Jena reopened that, “if one of you messes up, you all are going to pay.”

45. Periodically throughout their detention at Jena, Dillon and other prisoners were forced to kneel at the guards’ whim and sometimes stay on their knees for hours at a time.

46. As Dillon’s stay at Jena moved into the second and third weeks, conditions worsened and

tensions rose among the prison population.

47. Food, both its poor quality and the inhumane manner in which it was distributed, became a major issue for the inmates at Jena. The guards would routinely feed 80 inmates at a time, giving them only 10 to 15 minutes to line up, eat, and get back to the dorm. Dillon and others were often left with approximately only three minutes to force down food that was always of inadequate portions, often close to inedible, and at times reportedly rancid.

48. Inmates at Jena were also given dangerously unsanitary water, which the guards themselves would not drink. When Hurricane Rita hit the region on or around September 24, 2005, a “boil water order” was reportedly in effect. Upon information and belief, Jena officials did not boil water for, or provide bottled water to, inmates. Dillon, along with other prisoners, experienced diarrhea as a result.

49. In contrast, guards ate well. Inmate “trustees” who worked at Jena reported that Jena officials were keeping the food and water supplies provided by the Federal Emergency Management Agency (“FEMA”) for themselves.

50. As a result of the conditions of the food and water provided at Jena, Dillon lost approximately 15 pounds and was hungry and weak during much of his incarceration at Jena.

51. During the second and third weeks after Jena reopened, Dillon and other inmates were again made to strip down to their boxer shorts and forced to stand genitals to buttocks for hours with their hands clasped behind their heads. This occurred at least three times, where prisoners were forced to go through the “chow line” in that position and later forced to stand in that position for one to two hours before being allowed to return to their bunks. Defendant Rodgers,

along with several of the New York guards, were responsible for this.

52. Additionally, the artificially-created extreme hot and cold temperatures in the Jena dorms began to push inmates, including Dillon, to the psychological edge. Prison officials also exacerbated tensions by promising privileges, such as phone use and access to reading materials, only to deny these privileges later.

53. Defendants also conspired to cover-up the abuse that was occurring. Upon information and belief, outgoing mail was also impermissibly censored by guards at Jena. Dillon wrote to his brother, attempting to alert him that “they are brutalizing us in here.” Dillon’s brother never received the letter and many inmates believed that the guards were censoring the outgoing mail.

54. Periodically, some of the New York guards would – ostensibly without reason – dress in full riot gear and march around and down the halls in plain view. Many inmates saw these displays solely as an attempt to intimidate and unnerve the already panicked prison population.

55. It was under these persistent conditions and in this environment of abuse that Dillon began to experience depression. This set the stage for the minor altercation that led to Defendants’ excessive and unconscionable beating of Dillon and, ultimately, his loss of hearing in his left ear and other serious injuries.

56. On Tuesday, September 27, 2005, Dillon and other inmates were made to stand in line for an excessive period of time in order to be fed. Dillon was in line directly behind another inmate, Jesse Gilmore. After standing in line for a while, Gilmore got out of the line, only to return later.

Upon his return, Gilmore attempted to reclaim his place in front of Dillon. Dillon told Gilmore that he “better get out from in front of him” and move to the back of the line.

57. Gilmore did not move out of the line. Upon information and belief, he responded that he “was not no punk.” Dillon proceeded to grab Gilmore by his shirt, move him out of the line, and push him up against the wall. Within seconds, Defendant Walker yelled for them to stop. Both men complied immediately.

58. Dillon was grabbed by Walker and punched in the side of his head by both Defendants Edwards and Casper. Both Dillon and Gilmore were then dragged along the floor, and each was taken into the back of separate hallways. The guards then slammed Dillon down to the floor and handcuffed him behind his back. At this point, Defendant Pietsch approached and kicked Dillon several times in the back.

59. The Defendants acted in concert to ensure that further abuse could be inflicted upon Dillon. Defendant Walker commented that the rest of the room could see what was happening. The guards then picked Dillon up, moved him further back in the hall, and slammed him to the floor again. Defendant Pietsch continued to kick Dillon repeatedly in the back, each time causing Dillon’s face to hit the wall. Dillon could hear the guards beating Gilmore as well.

60. Dillon was next picked up by Defendants Edwards and Walker and was forced to face them. Edwards then – with great force – punched Dillon in his right shoulder. He then repeated this action, punching Dillon hard in the same spot. Dillon continues to experience, among other serious injuries, searing pain in his right shoulder and bicep as a result Edwards’s punches.

61. Up to this point in the beating incident, Dillon estimates that he was hit in the shoulder twice and on the sides of his head six to eight times by Defendant Edwards, kicked in the back

several times and hit in the head three times by Defendant Pietsch, hit in the head twice and slammed to the ground twice by Defendant Walker, and hit in the head at least once by both Defendant Caspers and Defendant Hartzoglou.

62. Dillon was then dragged into the lock-down area, where he observed Gilmore being beaten. Defendant Hollifield pushed Dillon onto his knees, forcing Dillon's his head to hit a wall. Hollifield then proceeded to hit Dillon in the head.

63. Defendant Rodgers then came into the lock-down area. Rodgers began to verbally harass Dillon and then hit him repeatedly in the head, alternating sides. At this point, Dillon was in serious pain and feared for his life.

64. Rodgers just kept repeating his threats, telling Dillon "didn't I tell you that if any of you f***ed up, you would get the sh** beat out of you?" Dillon believes Rodgers hit him approximately 12 to 15 times in the head. On approximately the fifth blow to the left side of his head, Dillon heard a "pop" and lost the hearing in his left ear.

65. After Rodgers beat Dillon, Defendant Hollifield commented that "you should have given him more," and proceeded to hit Dillon approximately three more times in the head. Dillon was then stripped naked and put in a cell next to another inmate who also appeared to have been badly beaten.

66. During the entire beating, Defendants used the hard "ball" of their palms, as opposed to their closed fists, to strike Dillon in the head. Upon information and belief, this decreased the chances of visible scarring and other damage to their hands, thereby decreasing evidence of the beating they inflicted on Dillon.

67. At some point after he was placed naked in the cell, Dillon passed out.

68. When he came to, a nurse had been brought to the cell. She was accompanied by Defendant Hollifield, one of the officers involved in Dillon's beating.
69. The nurse inspected Dillon's hands for signs that Dillon had himself been fighting. Finding no indications that Dillon had struck anyone, the nurse asked Dillon what happened.
70. Hollifield immediately communicated non-verbally to Dillon, in a manner which Dillon took to be a clear message that he had better not speak of the incident.
71. Intimidated by Hollifield, Dillon responded that he "really couldn't say how it happened."
72. Observing this interaction, the nurse said to Hollifield that she knew how all of this happened to Dillon. Dillon inferred from the nurse's response that she understood he had been beaten by Jena guards.
73. At this point, the nurse gave Dillon some ice for his swelling. When he removed the bags
of ice from the sides of his head, he saw blood all over the bags.
74. Dillon later reported to the nurse that he could not hear out of his left ear.
75. Despite making Jena medical and other personnel aware of the injuries he suffered, Dillon received nothing more than inadequate pain medication for the serious injuries he sustained. While at Jena, and while subsequently detained at other facilities, Dillon received no diagnosis of, nor treatment for, the multiple injuries he sustained, including the hearing loss in his left ear.
76. Upon information and belief, Dillon's inability to secure adequate medical treatment of his injuries was the result of prison employees' desire to cover-up what occurred at Jena.

77. On or about September 28, 2005, the day after Dillon's beating, Defendants Edwards and

Pietsch, along with other guards, continued to threaten Dillon with more physical violence.

78. Dillon attempted to file an administrative grievance, or Administrative Remedy Procedure ("ARP"), but Jena, having been closed down for several years, possibly until literally the day Dillon arrived, had no grievance procedure in place.

79. This absence of any internal grievance procedure was reported by other inmates and attorneys who surveyed the conditions at Jena at the time of Dillon's detention there.

80. When Dillon asked Defendant Rodgers about the abuse that was going on at Jena and whether he could file a complaint, Rodgers ordered Dillon to kneel in his office for approximately an hour, stating "stay here a while [until] you forget about that ARP."

81. Moreover, the continuing explicit threats by guards, the concerted efforts to mask the abuse that was occurring, the wide-spread complicity of Jena officials – including Warden Thompson himself – and the intimidation witnessed by the nurse who saw Dillon after the beating, all left Dillon in fear for his life had he further attempted to report the abuse while detained at Jena.

82. A few days after Dillon's beating, Dillon and many other inmates were interviewed by attorneys investigating reports of abuse and the inmates' various criminal matters. Dillon and other inmates told the attorneys about the abuses that had occurred. Dillon showed the attorneys the bruises covering his head and ears. Upon information and belief, Jena officials continued to abuse inmates after the attorneys left.

83. On October 5, 2005, attorneys from Human Rights Watch and the NAACP Legal

Defense

Fund arrived to conduct their own investigations. Dillon spoke with them and showed them the bruises on his head and ears, which remained visible. Two days after speaking with those attorneys, Dillon was transferred out of Jena.

84. As Dillon was leaving Jena, Defendant Rodgers, apparently mocking Dillon's hearing loss, said: "Dillon, I hope you have a good f***ing life, whether you can hear me or not."

85. Soon after Dillon's transfer, Jena was shut down by Richard Stalder, Secretary of the DPSC, amid allegations of egregious abuse and inquiries from Human Rights Watch and Louisiana state legislators.

86. From Jena, Dillon was transferred to and remained at Allen Correctional Facility ("Allen") from in or about October 2005 until on or about March 21, 2006. Upon information and belief, Allen is privately operated by Geo Group, Inc. (formerly Wackenhut Corrections Corporation). Dillon was subsequently transferred from Allen back to the JPCC.

87. Upon his arrival at Allen, Dillon inquired about filing a grievance for the abuse he endured at Jena. He was told by Allen officials, including a Captain Wheaton, that he could not file a grievance about that from Allen, stating, in essence, "you are here now...and we are Wackenhut and they are the DOC and we have nothing to do with them...there is no point in filing your grievance...you are here now."

88. Despite Dillon's requests, officials at Allen provided Dillon with no means of filing a grievance concerning the events at Jena.

89. Though Dillon did file grievances at Allen regarding his medical care there, he did not file a grievance about the events at Jena because he was told not to do so by Allen officials, was

provided no means of doing so, and he had learned that Jena had been closed down.

90. Dillon faced the same barriers to filing any grievances during his stay at the JPCC.

91. At Jena, Allen, and the JPCC, Dillon consistently experienced a reluctance on the part of prison employees to listen to his story of what occurred at Jena. On a few occasions, Dillon was even stopped from telling his story and told, in effect, “nobody wants to talk about what happened there.” Dillon was left with the impression that the rampant abuse at Jena was well-known by many within the state’s prisons, but nobody wanted to get involved or be implicated.

92. Dillon was not allowed to file grievances about the incidents at Jena from the Allen facility or the JPCC.

93. Even if Dillon had been able to file a grievance from Allen or the JPCC – and he was not – those facilities would have only been permitted to assist in the communication between Dillon and Jena. Louisiana regulations specifically state that the “sending institution” – Jena, in this case – must complete the processing through the First Step. Jena had shut down. The “First Step,” therefore, could not have been completed. Because of Jena’s closure in the face of overwhelming allegations of abuse, there were no grievance procedures available to Dillon and nobody with any authority to provide any redress.

94. As a result of the beatings he received at Jena, Dillon has pain and hearing loss in his left ear and continues to suffer from pain in his back and knees, severe shooting pain in his right shoulder and down his bicep, as well as frequent headaches, pain in his eye-sockets, blurred vision, and broken teeth. Moreover, as a result of the abuse he endured, Dillon has been suffering from emotional distress and bouts of depression.

COUNT ONE
42 U.S.C. § 1983 – Violation of Fourteenth

Amendment Rights Against All Defendants

95. All previous paragraphs are incorporated herein by reference as if set forth fully here.

96. Through the conduct described above, Defendants, acting under color of state law, unlawfully deprived Plaintiff of his right to be free from the use of excessive and unjustified force, which is guaranteed by the Fourteenth Amendment of the United States Constitution.

97. Defendants intentionally and maliciously devised and/or created a situation which subjected Plaintiff to an unnecessary and wanton infliction of pain, and subjected Plaintiff to physical force which grossly exceeded that which was necessary under the circumstances, was repugnant to the conscience, and violated the standards of contemporary society.

98. The force used against Plaintiff was calculated neither to end a disturbance nor restore discipline, but was instead inflicted maliciously, sadistically, and intentionally for the purpose of causing harm to Plaintiff.

99. By instigating, participating, and failing to intervene and protect Plaintiff from the infliction of bodily harm described above, Defendants, acting under color of state law, unlawfully deprived Plaintiff of his right to be free from excessive force, which, for pretrial detainees, is guaranteed by the Fourteenth Amendment of the United States Constitution.

100. Upon information and belief, Defendants Rodgers, Edwards, Walker, Hollifield, Pietsch, Hartzoglou, and Caspers used excessive force against Plaintiff.

101. Defendants Thompson and Rodgers were grossly negligent, reckless, and deliberately indifferent in managing, training, and supervising their subordinates, including but not limited to Defendants Edwards, Walker, Hollifield, Pietsch, Hartzoglou, and Caspers.

102. Defendants Thompson and Rodgers' supervision of Jena officials was a material

cause of Plaintiff's injuries.

103. Defendants Thompson and Rodgers' personal oversight of the procedures and conditions at Jena was a material cause of Plaintiff's injuries.

104. The injuries caused by Defendants' conscious and voluntary acts were serious and resulted in lasting damage. As a result of Defendants' conduct, Plaintiff suffered, and continues to suffer, physical damage, as well as emotional and mental pain and suffering.

105. Defendants acted under pretense and color of state law in their individual capacities and within the scope of their respective employment as DPSC and New York Department of Corrections officials and officers. Defendants' actions were beyond the scope of their jurisdiction, authority, and power, and were done willfully, knowingly, and with the specific intent to deprive Plaintiff of his constitutional rights secured by 42 U.S.C. § 1983 and the Fourteenth Amendment of the United States Constitution.

COUNT TWO
42 U.S.C. § 1983 – Violation of Fourteenth
Amendment Rights Against Defendants Thompson and Rodgers

106. All previous paragraphs are incorporated herein by reference as if set forth fully here.

107. Defendant Thompson, as the warden at Jena, and Defendant Rodgers, as a supervisor of guards at Jena, were responsible for ensuring that Jena was operated in a manner that did not violate inmates' constitutional rights.

108. Upon information and belief, Defendants Thompson and Rodgers participated in and were personally aware of the circumstances and the frequent use of excessive and unjustified force against inmates.

109. Defendants Thompson and Rodgers, under color of state law, violated Plaintiff's

Fourteenth Amendment right to be free from the use of excessive and unjustified force in that, upon information and belief, the actions described above were part of a *de facto* policy or custom at Jena.

110. Defendants Thompson and Rodgers, under color of state law, violated Plaintiff's Fourteenth Amendment right to be free from the use of excessive and unjustified force in that, upon information and belief, they failed to properly screen, hire, train, supervise, control, investigate and/or discipline correctional officers at Jena in deliberate indifference to the inmates' constitutional rights.

111. Defendants Thompson and Rodgers, under color of state law, violated Plaintiff's Fourteenth Amendment rights to be free from excessive and unjustified force in that, upon information and belief, the force used against Plaintiff by Defendants Rodgers, Edwards, Walker, Hollifield, Pietsch, Hartzoglou, and Caspers, as described above, was part of a pattern of excessive and unjustified force by Jena prison officials that continued with deliberate indifference, acquiescence, tacit approval and/or encouragement – and at times by example – of Defendants Thompson and Rodgers.

112. Upon information and belief, plaintiff was injured as a result of Defendants Thompson and Rodgers' *de facto* custom or policy of allowing or encouraging guards – at times by example – to use excessive and unjustified force against inmates at Jena, as well as by Defendants Thompson and Rodgers' failure to take affirmative measures to ensure that inmates' constitutional rights were protected at Jena.

113. The force used against Plaintiff was calculated neither to end a disturbance nor restore discipline, but was instead inflicted maliciously, sadistically, and intentionally for the purpose of

causing harm to Plaintiff.

114. The injuries caused by Defendants' conscious and voluntary acts were serious and resulted in lasting damage. As a result of Defendants Thompson and Rodgers' conduct, Plaintiff suffered, and continues to suffer, physical damage, as well as emotional and mental pain and suffering.

COUNT THREE
Civil Conspiracy under 42 U.S.C. § 1983 –
Violation of Fourteenth Amendment Rights Against All Defendants

115. All previous paragraphs are incorporated herein by reference as if set forth fully here.

116. Through the conduct described above, Defendants, acting under color of state law, violated Plaintiff's right to be free from the use of excessive and unjustified force, which is guaranteed by the Fourteenth Amendment of the United States Constitution.

117. As detailed above, Defendants' actions were carried out in concert with the specific intent to violate Plaintiff's rights protected under 42 U.S.C. § 1983 and the Fourteenth Amendment of the United States Constitution.

118. Defendants conspired with each other to intentionally or willfully violate these rights.

119. Defendants also conspired with each other to intentionally cover-up the violation of these rights.

120. An agreement existed among the Defendants, either expressed or tacit, as to the intended outcome or result. This agreement amounted to a meeting of the minds or collusion between the parties for the purpose of violating Plaintiff's specific rights protected under 42 U.S.C. § 1983 and the Fourteenth Amendment of the United States Constitution.

121. Moreover, each Defendant assisted with and encouraged the violation of Plaintiff's specific rights protected under 42 U.S.C. § 1983 and the Fourteenth Amendment of the United States Constitution.

COUNT FOUR
Assault and Battery Against All Defendants

122. All previous paragraphs are incorporated herein by reference as if set forth fully here.

123. Defendants Rodgers, Edwards, Walker, Hollifield, Pietsch, Hartzoglou, and Caspers committed assault and battery against Plaintiff.

124. As described above, each of these Defendants deliberately created an environment of apprehension and fear of imminent harmful physical contact. Because of the threats made to Plaintiff, the unjustified bodily harm inflicted on Plaintiff, and the bodily harm that Plaintiff observed inflicted on others in equally unjustified ways, Plaintiff had a reasonable apprehension of receiving additional batteries.

125. Defendants Rodgers, Edwards, Walker, Hollifield, Pietsch, Hartzoglou, and Casper committed numerous batteries on Plaintiff when, intending to hurt him, they deliberately inflicted bodily harm on him without provocation or justification. These intentional batteries committed by Defendants were committed without Plaintiffs' consent, were offensive, and caused him serious bodily harm.

126. Defendants Rodgers, Edwards, Walker, Hollifield, Pietsch, Hartzoglou, and Casper's conduct was intentional and designed to cause Plaintiff's injuries.

127. The assault and battery by Defendants Rodgers, Edwards, Walker, Hollifield, Pietsch, Hartzoglou, and Casper was unnecessary and unwarranted in the performance of their duties.

128. As a consequence of the assaults and intentional batteries committed by Defendants

without Plaintiff's consent, Plaintiff was physically harmed, and endured, and will continue to endure, physical, emotional, and mental pain and suffering.

129. Defendants Thompson and Rodgers' practices, procedures, and policies were a proximate cause of the assault and battery.

130. Defendants Thompson and Rodgers' supervision of Jena officials was a proximate cause of the assault and battery.

COUNT FIVE
Civil Conspiracy to Commit Assault and Battery
under Louisiana Civil Code Article 2324.A Against All Defendants

131. All previous paragraphs are incorporated herein by reference as if set forth fully here.

132. Defendants conspired with each other to intentionally or willfully commit an assault and battery against Plaintiff.

133. An agreement existed among the Defendants to commit assault and battery, which resulted in Plaintiff's injuries.

134. There was an agreement, either expressed or tacit, as to the intended outcome or result. This agreement amounted to a meeting of the minds or collusion between the Defendants for the purpose of committing the assault and battery.

135. Moreover, each Defendant assisted and encouraged the assault and battery that the Defendants perpetrated upon Plaintiff.

136. Defendants did actually commit, in whole or in part, the assault and battery they agreed to

perpetrate.

137. Defendants also conspired with each other to intentionally cover-up the assault and battery they agreed to perpetrate.

COUNT SIX
Negligence
Against All Defendants

138. All previous paragraphs are incorporated herein by reference as if set forth fully here.

139. Defendants' conduct constitutes negligence against Plaintiff under Louisiana state law.

140. Defendants injured Plaintiff, as described above, with total disregard for his well-being, and their conduct constituted a gross deviation below the standard of care expected of a reasonable person in the same situation.

141. Defendants Rodgers, Edwards, Walker, Hollifield, Pietsch, Hartzoglou, and Casper's conduct was a proximate cause of Plaintiff's injuries.

142. As a consequence of the injuries inflicted by Defendants, Plaintiff has endured, and will continue to endure, physical, emotional, and mental pain and suffering.

143. Defendants Thompson and Rodgers' practices, procedures, and policies were a proximate cause of the negligence.

144. Defendants Thompson and Rodgers' supervision of Jena officials was a proximate cause of the negligence.

COUNT SEVEN
Intentional Infliction of Emotional Distress
Against All Defendants

145. All previous paragraphs are incorporated herein by reference as if set forth fully here.

146. Defendants' actions, as alleged above, were not undertaken to restore order and discipline

at Jena, but rather to create an environment of fear and apprehension there. Defendants Rodgers, Edwards, Walker, Hollifield, Pietsch, Hartzoglou, and Casper's actions toward Plaintiff, inflicting bodily harm on him without provocation or justification, exceeded all bounds of decency and constitute behavior intolerable in a civilized society. In inflicting bodily harm that was so unjustified, excessive, and extreme that it shocks the conscience, Defendants Rodgers, Edwards, Walker, Hollifield, Pietsch, Hartzoglou, and Casper intentionally caused severe emotional distress to Plaintiff.

147. Defendants Thompson and Rodgers' practices, procedures, and policies were a proximate cause of the intentional infliction of emotional distress.

148. Defendants Thompson and Rodgers' supervision of Jena officials was a proximate cause of the intentional infliction of emotional distress.

COUNT EIGHT
Negligent Infliction of Emotional Distress
Against All Defendants

149. All previous paragraphs are incorporated herein by reference as if set forth fully here.

150. Based on the foregoing, Defendants are liable to Plaintiff for the negligent infliction of emotional distress.

COUNT NINE
42 U.S.C. § 1983 – Violation of Fourteenth Amendment Rights
Against Defendant Thompson for Failure to Provide Adequate Medical Care

151. All previous paragraphs are incorporated herein by reference as if set forth fully here.

152. Through the conduct described above, Defendant Thompson, acting under color of state law, unlawfully deprived Plaintiff of his right to adequate medical care, which is guaranteed by the Fourteenth Amendment of the United States Constitution.

153. Defendant Thompson, in failing to enact or enforce policies and procedures to ensure that prisoners received adequate medical care, violated Plaintiff's Fourteenth Amendment right to adequate medical care.

154. Defendant Thompson failed to enact policies and procedures to ensure that the staff of Jena would adequately respond to medical emergencies and diagnose and treat injuries sustained by inmates.

155. Defendant Thompson was aware or should have been aware of the environment of abuse, neglect, and violence that existed at Jena and the consequent risk of injury to prisoners that the environment created.

156. Defendant Thompson was aware or should have been aware of the actual injuries sustained by prisoners at Jena.

157. Moreover, Defendant Thompson actually personally participated in the abuse and excessive force inflicted upon prisoners at Jena.

158. Despite his actual and constructive knowledge of both the risk of serious injury present at Jena and the actual injuries sustained by inmates, Defendant Thompson exhibited deliberate indifference toward the medical needs of those inmates.

159. Moreover, despite his actual participation in the abuse and excessive force inflicted upon prisoners at Jena, Defendant Thompson exhibited deliberate indifference toward the medical needs of those inmates.

160. Defendant Thompson's deliberate indifference and his failure to enact or enforce policies

and procedures to ensure that prisoners received adequate medical care, exacerbated the injuries Plaintiff received at the hands of Defendants.

161. As a result of the constitutionally inadequate medical care at Jena, Plaintiff has endured, and will continue to endure, further physical, emotional, and mental pain and suffering.

JURY TRIAL DEMAND

162. Plaintiff demands a jury trial to resolve all claims brought herein.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that, after due proceedings, judgment be entered in favor of Plaintiff and against all Defendants, jointly and in solido, and that this Court:

1. Award Plaintiff all compensatory damages reasonable under the circumstances, including physical pain and suffering, mental anguish and emotional distress, medical expenses, loss of enjoyment of life, and any other compensatory damages, for each count alleged in the Complaint; 2. Award Plaintiff punitive damages against all Defendants for each applicable count alleged in this Complaint;
3. Award Plaintiff reasonable attorneys' fees, expert fees, and court costs under 42 U.S.C. § 1988 for the prosecution of his 42 U.S.C. § 1983 claims;
4. Award Plaintiff reasonable attorneys fees' and court costs under state law for the prosecution of his state law claims;
5. Award Plaintiff legal interest on all damages awarded from the date of judicial demand

until paid; and

6. Award Plaintiff such other and further relief as this Court deems just and proper.

Respectfully submitted,

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Dated: March __, 2007