

In The
Supreme Court of the United States

WILLIAM R. STEVENSON,
Petitioner,

v.

RANDY CORDOVA, *ET AL.*
Respondents.

On Petition for Writ of Certiorari to the
United States
Court of Appeals for the Tenth Circuit

**BRIEF IN OPPOSITION
APPENDIX VOLUME I
(APPENDICES A-1 THROUGH A-198)**

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-00649-CBS

WILLIAM R. STEVENSON,

Plaintiff,

v.

R. CORDOVA, Captain at Colorado Territorial Correctional Facility in his individual and official capacities,

D. NUNEZ, Captain at Colorado Territorial Correctional Facility in his individual and official capacities,

M. HOLLOWAY, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,

K. TOPLISS, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,

C. WILLIAMS, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,

K. CLINKENBEARD, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,

J. ESPINOZA, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,

G. SULLIVAN, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,

J. HANSON, Corrections Officer at Colorado Territorial Correctional Facility in his individual and official capacities,

J. BUFMACK, Nurse at Colorado Territorial Correctional Facility in his individual and official capacities,

M. BENOVEDEZ, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities, and

A. BELL, Case Manager at Colorado Territorial Correctional Facility in his individual and official capacities,

Defendants.

DEFENDANTS R. CORDOVA, M. HOLLOWAY, C. WILLIAMS, K. CLINKINBEARD, J. ESPINOZA, AND M. BENADEVEDZ'S MOTION FOR SUMMARY JUDGMENT

Defendants R. CORDOVA (Capt. Randy Cordova), M. HOLLOWAY (Lt. Mark

Holloway), C. WILLIAMS (Lt. Carl Williams), K. CLINKENBEARD (Sgt. Karen Clinkinbeard; Sgt. Clinkenbeard's name is misspelled in Plaintiff's Complaint), J. ESPINOZA (Sgt. Jason Espinoza), and M. BENAWEDEZ (Sgt. Michael Benavidez; Sgt. Benavidez's name is misspelled in Plaintiff's Complaint) (hereinafter "Defendants"), pursuant to Fed.R.Civ.P. 56 hereby move for summary judgment against Plaintiff and, in support thereof, state as follows:

I. INTRODUCTION

1. Plaintiff William R. Stevenson, an inmate with the Colorado Department of Corrections (CDOC) at the Colorado Territorial Correctional Facility ("CTCF"), has filed a Prisoner Complaint pursuant to 28 U.S.C. § 1343 and 42 U.S.C. § 1983, claiming alleged violations under the United States Constitution. (See Plaintiff's Complaint.) (Doc. 1) Plaintiff alleges that he has been deprived of his Eighth Amendment right to be free from cruel and unusual punishment.
2. In Plaintiff's Complaint, he alleges that Defendants Sgt. Espinoza, Sgt. Clinkinbeard, Officer Hanson, Sgt. Sullivan, and Sgt. Benavidez subjected him to excessive force by:

excessively tasing him five times in rapid succession; by applying handcuffs more tightly than necessary; by dropping him on his face from approximately 2-3 feet in the air after he was handcuffed, shackled and otherwise subdued; by then pressing his face hard into the floor grinding his teeth on the concrete; by intentionally bending his wrist and pulling his arms while handcuffed and strapped to a back board; and by ignoring his repeated and reasonable complaints about the cuffs being too tight and refusing his requests to loosen the same.

(See p. 3 of Plaintiff's Complaint.)(Doc. 1) Plaintiff further alleges that Defendants

Holloway, C. Williams, and Cordova, as supervisors, were deliberately indifferent to Plaintiff's alleged constitutional deprivation in violation of his Eighth Amendment rights. (See pp. 13-16 of Plaintiff's Complaint.)(Doc. 1)

3. Defendants submit that no genuine issue of material fact exists and that Defendants, as government officials, are immune from suit on Plaintiff's claims as Defendants' conduct did not violate Plaintiff's Eighth Amendment rights because Plaintiff cannot prove that Defendants' actions were malicious or sadistic. As no issue of material fact exists that Defendants' actions were consistent with the legitimate purpose of maintaining and restoring order and protecting institutional security, Defendants are entitled to summary judgment in their favor.

II. UNDISPUTED MATERIAL FACTS

4. On February 29, 2012, Officer Gary Meyers observed Plaintiff receiving a manila envelope from another inmate at CTCF. (See Officer Gary Meyers' Incident Report attached hereto as **Exhibit A.**) (See 18:3-11 of Plaintiff's Deposition Transcript attached hereto as **Exhibit B.**)
5. Officer Meyers ordered Plaintiff to bring the envelope and contents to the control center so that it could be searched. (See Officer Gary Meyers' Incident Report attached hereto as **Exhibit A.**) Plaintiff removed the contents of the envelope and attempted to hand the envelope, but not its contents, to Officer Meyers. (See 55:4-12 of Plaintiff's Deposition Transcript attached hereto as **Exhibit B.**) Plaintiff then stated: "If you want to write me up for disobeying a direct order, you're more than welcome." (See 54:21-23 of Plaintiff's Deposition Transcript attached hereto as

Exhibit B.) Following Plaintiff's refusal to produce the contents of the envelope, Officer Meyers issued a call to CTCF staff to search Plaintiff for contraband. (See Officer Gary Meyers' Incident Report attached hereto as **Exhibit A.**)

6. Defendants Sgt. Clinkinbeard and Officer Hanson responded to Officer Meyers' call informing them that Plaintiff had received contraband and that Plaintiff had refused to comply with a direct order to relinquish the item. (See Sgt. Karen Clinkinbeard's Incident Report and affidavit attached hereto as **Exhibit C.**) (See Officer Gary Meyers' Incident Report attached hereto as **Exhibit A.**) A security camera located in the upper vestibule of cell house 1 at CTCF captured a portion of Plaintiff's interaction with Defendants Sgt. Clinkinbeard and Officer Hanson beginning prior to the subject use of force. (See Upper Vestibule Video Footage attached hereto as **Exhibit D-1**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.) The following is a chronology of events as documented by multiple security cameras, numerous CDOC staff incident reports, and Plaintiff's deposition testimony:

- (1) Upon contact with Defendants Clinkinbeard and Hanson, Plaintiff explained that he had grievances in the envelope and that he would not relinquish the envelope to be searched. (See Sgt. Karen Clinkinbeard's Incident Report and Affidavit attached hereto as **Exhibit C.**) (See Officer Jessica Hanson's Incident Report attached hereto as **Exhibit E.**) (See 63:8-9 of Plaintiff's Deposition Transcript attached hereto as **Exhibit B.**)
- (2) Defendant Sgt. Clinkinbeard explained to Plaintiff that any item passed between inmates in a CDOC facility may be searched and informed him that he is required to comply with the orders of CDOC staff. (See Sgt.

Karen Clinkinbeard's Incident Report and Affidavit attached hereto as **Exhibit C**) (See Officer Jessica Hanson's Incident Report attached hereto as **Exhibit E**.)

- (3) Plaintiff continued to refuse to consent to a search. (See Sgt. Karen Clinkinbeard's Incident Report and Affidavit attached hereto as **Exhibit C**.) (See Officer Jessica Hanson's Incident Report attached hereto as **Exhibit E**.)
- (4) Defendant Sgt. Clinkinbeard then directed Plaintiff to submit to having wrist restraints (handcuffs) applied. (See Sgt. Karen Clinkinbeard's Incident Report and Affidavit attached hereto as **Exhibit C**.) (See Officer Jessica Hanson's Incident Report attached hereto as **Exhibit E**.) (See 63:9-11 of Plaintiff's Deposition Transcript attached hereto as **Exhibit B**.)
- (5) Plaintiff became passive resistive, raised his hands in the air, and stated that he would not "cuff up." (See 66:9-15 of Plaintiff's Deposition Transcript attached hereto as **Exhibit B**.) (See Sgt. Karen Clinkinbeard's Incident Report and Affidavit attached hereto as **Exhibit C**.) (See Officer Jessica Hanson's Incident Report attached hereto as **Exhibit E**.) (See Officer Gary Meyers' Incident Report attached hereto as **Exhibit A**.) (See Plaintiff's handwritten note dated March 14, 2012 attached hereto as **Exhibit F**.) (See at 1:18 of Upper Vestibule Video Footage attached hereto as **Exhibit D-1**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.)
- (6) Plaintiff physically resisted Defendants Officer Hanson and Sgt. Clinkinbeard's attempts to direct Plaintiff to face the wall so that wrist restraints could be applied. (See at 1:28 of Upper Vestibule Video Footage attached hereto as **Exhibit D-1**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.) (See Sgt. Karen Clinkinbeard's Incident Report and Affidavit attached hereto as **Exhibit C**.) (See Officer Jessica Hanson's Incident Report attached hereto as **Exhibit E**.) (See Gary Meyers' Incident Report attached hereto as **Exhibit A**.)

- (7) Plaintiff dropped to his knees and actively resisted attempts by Defendants Sgt. Clinkinbeard and Officer Hanson to secure Plaintiff's arms. (See at 1:37-1:50 of Upper Vestibule Video Footage attached hereto as **Exhibit D-1**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.) (See Officers Gary Meyers' Incident Report attached hereto as **Exhibit A**.)
- (8) Officer Meyers then radioed for additional assistance. (See Sgt. Karen Clinkinbeard's Incident Report and Affidavit attached hereto as **Exhibit C**.)
- (9) After verbally commanding Plaintiff to place his hands behind his back, and Plaintiff not complying Defendant Sgt. Clinkinbeard used a pressure point technique upon Plaintiff in an attempt to gain his compliance. (See Sgt. Sgt. Karen Clinkinbeard's Incident Report and Affidavit attached hereto as **Exhibit C**.) (See at 1:43 of Upper Vestibule Video Footage attached hereto as **Exhibit D-1**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.)
- (10) Plaintiff dropped himself completely to the floor and laid face down on the ground with his arms beneath his body. (See at 1:53 of Upper Vestibule Video Footage attached hereto as **Exhibit D-1**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.) (See Plaintiff's handwritten note dated March 14, 2012 attached hereto as **Exhibit F**.) (See Sgt. Karen Clinkinbeard's Incident Report and Affidavit attached hereto as **Exhibit C**.) (See Officer Jessica Hanson's Incident Report attached hereto as **Exhibit E**.)
- (11) Defendant Officer Hanson attempted to place wrist restraints on Plaintiff's left wrist, and Plaintiff actively resisted by pulling his arm away. (See at 2:03 of Upper Vestibule Video Footage attached hereto as **Exhibit D-1**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.) (See Gary Meyers' Incident Report attached hereto as **Exhibit A**.)
- (12) According to Plaintiff, he simply "didn't want to get cuffed up." (See 78:15-16 of Plaintiff's Deposition

Transcript attached hereto as **Exhibit B.**)

- (13) Defendant Sgt. Espinoza and Officer Moschetti arrived and witnessed Plaintiff “wrestling” on the floor with Defendants Sgt. Clinkinbeard and Officer Hanson, refusing direct orders to “cuff up.” (See 2:35 of the Upper Vestibule Video Footage attached hereto as **Exhibit D-1**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.) (See Sgt. Jason Espinoza’s Incident Report and Affidavit attached hereto as **Exhibit g.**) (See Officer Gary Meyers’ Incident Report attached hereto as **Exhibit A.**) (See Officer Dominic Moschetti’s Incident Report and Affidavit attached hereto as **Exhibit H.**)
- (14) Officer Moschetti placed both of his hands upon Plaintiff’s left arm in an attempt to restrain Plaintiff’s left wrist. (See Officer Dominic Moschetti’s Incident Report and Affidavit attached hereto as **Exhibit H.**) (See 2:39 of the Upper Vestibule Video Footage attached hereto as **Exhibit D-1**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.)
- (15) Defendant Sgt. Espinoza verbally directed Plaintiff to submit to being restrained, and informed him that further noncompliance would result in Plaintiff being tased. (See Sgt. Karen Clinkinbeard’s Incident Report and Affidavit attached hereto as **Exhibit C.**) (See Sgt. Jason Espinoza’s Incident Report and Affidavit attached hereto as **Exhibit G.**) (See Officer Dominic Moschetti’s Incident Report and Affidavit attached hereto as **Exhibit H.**)
- (16) Plaintiff continued to resist despite the use of pressure point tactics and persistent orders to submit. (See Sgt. Jason Espinoza’s Incident Report and Affidavit attached hereto as **Exhibit G.**) (See Officer Dominic Moschetti’s Incident Report and Affidavit attached hereto as **Exhibit H.**)
- (17) After Defendant Sgt. Espinoza issued three orders directing Plaintiff to comply, Defendant Sgt. Espinoza used his taser upon Plaintiff’s back. (See 81:15-16 of Plaintiff’s Deposition Transcript attached hereto as **Exhibit B.**) (“They were asking me to cuff up at that

time.")) (See Sgt. Karen Clinkinbeard's Incident Report and Affidavit attached hereto as **Exhibit C.**) (See Sgt. Jason Espinoza's Incident Report and Affidavit attached hereto as **Exhibit G.**) (See Officer Dominic Moschetti's Incident Report and Affidavit attached hereto as **Exhibit H.**)

- (18) After Plaintiff did not visually respond to being tased, Defendant Espinoza inspected his taser to make sure that it was operating correctly, verbally directed Plaintiff to comply, and again tased Plaintiff on his back. (See Jason Espinoza's Incident Report and Affidavit attached hereto as **Exhibit G.**) (See Dominic Moschetti's Incident Report and Affidavit attached hereto as **Exhibit H.** ("The taser had little to no affect on the [Plaintiff]."))
- (19) After repeating the tasing in an effort to gain Plaintiff's compliance, Defendant Sgt. Espinoza determined the taser to be ineffective and placed the taser back into its holster. (See Sgt. Jason Espinoza's Incident Report and Affidavit attached hereto as **Exhibit G.**)
- (20) Plaintiff verbally stated that he "had done too much time for [the taser] to affect him." (See Sgt. Karen Clinkinbeard's Incident Report and Affidavit attached hereto as **Exhibit C.**)
- (21) Defendant Sgt. Espinoza then utilized strength techniques in an attempt to assist Defendants Sgt. Clinkinbeard and Officer Hanson in placing Plaintiff's hands behind his back for cuffing. (See Sgt. Jason Espinoza's Incident Report and Affidavit attached hereto as **Exhibit G.**)
- (22) Defendants Sgt. Sullivan, Sgt. Benavidez, Capt. Cordova, and Lt. Holloway arrived at the upper vestibule in response to Officer Meyers' call and witnessed Defendants Sgt. Espinoza; Sgt. Clinkinbeard; and Officer Hanson, and Officer Moschetti attempting to restrain Plaintiff who continued to resist these attempts. (See 3:00 of Upper Vestibule Video Footage attached hereto as **Exhibit D-1**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.) (See Sgt. Jason Espinoza's Incident Report and Affidavit attached hereto

as **Exhibit G.**) (See Sgt. Gary Sullivan's Incident Report attached hereto as **Exhibit I.**) (See Officer Dominic Moschetti's Incident Report and Affidavit attached hereto as **Exhibit H.**) (See Capt. Randy Cordova's Incident Report and Affidavit attached hereto as **Exhibit J.**) (See Sgt. Michael Benavidez's Incident Report and Affidavit attached hereto as **Exhibit K.**) (See Lt. Mark Holloway's Incident Report and Affidavit attached hereto as **Exhibit L.**)

- (23) Defendant Sgt. Benavidez used his body weight to secure Plaintiff's legs. (See 3:03 of Upper Vestibule Video Footage attached hereto as **Exhibit D-1**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.) (See Sgt. Michael Benavidez's Incident Report and Affidavit attached hereto as **Exhibit K.**)
- (24) Defendant Sullivan secured Plaintiff's head using a pressure point technique. (See 3:11 of Upper Vestibule Video Footage attached hereto as **Exhibit D-1**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.) (See Sgt. Gary Sullivan's Incident Report attached hereto as **Exhibit I.**)
- (25) Defendant Lt. Holloway applied leg restraints to Plaintiff. (See 3:28 of Upper Vestibule Video Footage attached hereto as **Exhibit D-1**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.) (See Lt. Mark Holloway's Incident Report and Affidavit attached hereto as **Exhibit L.**)
- (26) At one point during this incident with Plaintiff, Defendant Sgt. Sullivan removed his taser and placed it upon Plaintiff's shoulder blade, but did not activate the taser. (See Sgt. Gary Sullivan's Incident Report attached hereto as **Exhibit I.**)
- (27) Defendant Sgt. Sullivan verbally ordered Plaintiff to stop resisting and to allow the staff to place restraints on him. (See Sgt. Gary Sullivan's Incident Report attached hereto as **Exhibit I.**)
- (28) Despite the use of pressure point techniques, Plaintiff continued to resist. (See Sgt. Gary Sullivan's Incident

Report attached hereto as **Exhibit I.**)

- (29) CDOC staff were eventually able to secure Plaintiff's wrists behind his back with handcuff restraints. (See at approximately 3:50 of Upper Vestibule Video Footage attached hereto as **Exhibit D-1**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.) (See Sgt. Jason Espinoza's Incident Report and Affidavit attached hereto as **Exhibit G.**)
- (30) Officer Robles arrived at the location of the incident and observed CDOC staff on the ground with Plaintiff. (See 4:14 of Upper Vestibule Video Footage attached hereto as **Exhibit D-1**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.) (See Officer Jerod Robles' Incident Report attached hereto as **Exhibit M.**)
- (31) After speaking with Defendant Capt. Cordova for several minutes, Plaintiff was ordered to his feet. (See Officer Gary Meyers' Incident Report attached hereto as **Exhibit A.**) (See Lt. Mark Holloway's Incident Report and Affidavit attached hereto as **Exhibit L.**) (See Sgt. Jason Espinoza's Incident Report and Affidavit attached hereto as **Exhibit G.**) (See Officer Jessica Hanson's Incident Report attached hereto as **Exhibit E.**)
- (32) Plaintiff verbally refused to stand and informed CDOC staff that they would have to carry him. (See 86:15 of Plaintiff's Deposition Transcript attached hereto as **Exhibit B.** ("So I said, 'Fine. Carry me.'")) (See Capt. Randy Cordova's Incident Report and Affidavit attached hereto as **Exhibit J.**) (See Lt. Mark Holloway's Incident Report and Affidavit attached hereto as **Exhibit L.**) (See Virgil Fontenot's Incident Report attached hereto as **Exhibit N.**) (See Sgt. Karen Clinkinbeard's Incident Report and Affidavit attached hereto as **Exhibit C.**) (See Sgt. Jason Espinoza's Incident Report and Affidavit attached hereto as **Exhibit G.**) (See Officer Gary Meyers' Incident Report attached hereto as **Exhibit A.**) (See Officer Dominic Moschetti's Incident Report and Affidavit attached hereto as **Exhibit H.**) (See Sgt. Gary Sullivan's Incident Report and Affidavit attached hereto as **Exhibit I.**) (See Officer Jessica Hanson's Incident Report and Affidavit attached hereto as **Exhibit E.**)

as **Exhibit E.**)

- (33) Following Plaintiff's explicit refusal to stand up, CDOC staff physically lifted Plaintiff to his feet. (See 4:36 of Upper Vestibule Video Footage attached hereto as **Exhibit D-1**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.) (See Officer Gary Meyers' Incident Report attached hereto as **Exhibit A.**) (See Capt. Randy Cordova's Incident Report and Affidavit attached hereto as **Exhibit J.**)
- (34) After verbal directives to walk with the staff downstairs, Plaintiff verbally refused and began to physically resist. (See Sgt. Michael Benavidez's Incident Report and Affidavit attached hereto as **Exhibit K.**) (See Officer Carol Snow's Incident Report attached hereto as **Exhibit O.**) (See Capt. Randy Cordova's Incident Report and Affidavit attached hereto as **Exhibit J.**) (See Officer Gary Meyers' Incident Report attached hereto as **Exhibit A.**) (See Sgt. Karen Clinkinbeard's Incident Report and Affidavit attached hereto as **Exhibit C.**)
- (35) Plaintiff physically refused to walk and began thrashing his legs. (See 4:43 of Upper Vestibule Video Footage attached hereto as **Exhibit D-1**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.) (See Officer Gary Meyers' Incident Report attached hereto as **Exhibit A.**) (See Capt. Randy Cordova's Incident Report and Affidavit attached hereto as **Exhibit J.**)
- (36) As Plaintiff kicked his legs out from underneath himself, CDOC staff assisted him back to the ground. (See 4:47 of Upper Vestibule Video Footage attached hereto as **Exhibit D-1**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.) (See Officer Gary Meyers' Incident Report attached hereto as **Exhibit A.**) (See Sgt. Jason Espinoza's Incident Report and Affidavit attached hereto as **Exhibit G.**) (See Sgt. Karen Clinkinbeard's Incident Report and Affidavit attached hereto as **Exhibit C.**) (See Officer Jessica Hanson's Incident Report and Affidavit attached hereto as **Exhibit E.**) (See Michael Benavidez's Incident Report and Affidavit attached hereto as **Exhibit K.**) (See Capt. Randy Cordova's Incident Report and Affidavit attached

hereto as **Exhibit J.**)

(37) Because Plaintiff continued to refuse to walk, Plaintiff was then lifted onto a backboard and secured with straps. (See 11:28 of Upper Vestibule Video Footage attached hereto as **Exhibit D-1**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.) (See Officer Gary Meyers' Incident Report attached hereto as **Exhibit A**.) (See Sgt. Karen Clinkinbeard's Incident Report and Affidavit attached hereto as **Exhibit C**.) (See Sgt. Jason Espinoza's Incident Report and Affidavit attached hereto as **Exhibit G**.) (See Officer Dominic Moschetti's Incident Report and Affidavit attached hereto as **Exhibit H**.)

(38) The body cam footage captured the following verbal exchange:

Plaintiff: **"You loosen that strap, there sir?"**
[inaudible] **on the right side."**

CDOC Staff: **"When you comply, when you comply."**

Plaintiff: **"Will you let go of my arm, man?"**

CDOC Staff: **"When you comply."**

(See 1:15-1:30 of the Body Cam video attached hereto as **Exhibit D-2**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.)

(39) CDOC staff carried Plaintiff down the stairs to the lower Vestibule, placed him on a gurney, and delivered him to the clinic for an anatomical evaluation. (See Sgt. Jason Espinoza's Incident Report and Affidavit attached hereto as **Exhibit G**.) (See Officer Dominic Moschetti's Incident Report and Affidavit attached hereto as **Exhibit H**.) (See Officer Jessica Hanson's Incident Report attached hereto as **Exhibit E**.)

(40) While being carried to the clinic, Plaintiff stated:

"Oh you guys aren't strong enough to carry me all the way, you sure tased me four times."

You didn't hurt me did you? You guys be wrong, man."

(See 2:41 of the Body Cam video attached hereto as **Exhibit D-2**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.)

"I made them carry me, cause I'm not going to walk."

(See 6:06 of the Body Cam video attached hereto as **Exhibit D-2**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.)

(41) Upon arriving at the CDOC clinic, Plaintiff continued to verbally express his non-compliance. (See Sgt. Jason Espinoza's Incident Report and Affidavit attached hereto as **Exhibit G.**) (See Officer Jerod Robles' Incident Report attached hereto as **Exhibit M.**) (See Capt. Randy Cordova's Incident Report and Affidavit attached hereto as **Exhibit J.**)

CDOC Staff: **"So I'm saying is if they are telling you to put your hands behind your back all you gotta do is put them behind your back. You know your going to get your time to talk to me soon as I get there. Okay? And it's the same deal, you're telling me you're not going to be compliant."**

Plaintiff: **"I aint tellin' you notin', I aint said shit yet."**

CDOC Staff: **"Yeah, you said you're not going to work with these guys, you know I want to loosen your cuffs up, get you where you are situated."**

(See 10:24-10:50 of the Body Cam video attached hereto as **Exhibit D-2**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.)

CDOC Staff: **"Are you going to sit up? [inaudible]**

You gunna do this anatomical with the nurse?"

Plaintiff: **"Yeah, she can do an anatomical, yeah, I'm not complying [inaudible] I might stand up. I'm doing everything laying down. [inaudible] You guys going to carry me."**

Unknown: **"If you continue to be resistant, [inaudible] there should be no use of force but you're being resistant."**

Plaintiff: **"Why, why should I be helpful to you guys?"**

(See 11:28-11:52 of the Body Cam video attached hereto as **Exhibit D-2**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.)

(42) Defendant Capt. Cordova asked Plaintiff to comply with the anatomical examination and informed him that his wrist restraints would then be adjusted. (See Capt. Randy Cordova's Incident Report and Affidavit attached hereto as **Exhibit J**.)

CDOC Staff: **"It's understandable that, that you wanted to get it settled easy, is what I'm saying, okay? But, if they give you a direct order to cuff up, you need to cuff up when they tell you to do that. Okay? They don't. They were coming up on a situation."**

Plaintiff: **"Can we take the cuffs off man?"**

CDOC Staff: **"No."**

Plaintiff: **"No."**

CDOC Staff: **"So you going to sit up? Let the nurse do her anatomical?"**

Plaintiff: **"How am I going to do the anatomical**

with these cuffs on?"

CDOC Staff: **"Well, we're going to loosen them, when you get up and get you situated. But I need to know you're going to be compliant."**

(See 13:03-11:36 of the Body Cam video attached hereto as **Exhibit D-2**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.)

- (43) Plaintiff refused to comply with requests to be anatomically examined so Defendant Cordova ordered that Plaintiff be taken to Cell House 3 (segregation) for a simultaneous strip search and anatomical exam. (See 13:37-14:44 of the Body Cam video attached hereto as **Exhibit D-2**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.) (See Capt. Randy Cordova's Incident Report and Affidavit attached hereto as **Exhibit J**.) (See Sgt. Jason Espinoza's Incident Report and Affidavit attached hereto as **Exhibit H**.) (See Gary Sullivan's Incident Report and Affidavit attached hereto as **Exhibit I**.) (See Lt. Mark Holloway's Incident Report and Affidavit attached hereto as **Exhibit L**.)
- (44) Plaintiff was carried on the backboard into the "strip out" room in Cell House 3. (See Officer Virgil Fontenot's Incident Report hereto as **Exhibit N**.)
- (45) During this process, Plaintiff verbally mentioned, multiple times, that he would be filing a lawsuit against the staff. (See Michael Benavidez's Incident Report and Affidavit attached hereto as **Exhibit K**.) (See e.g., 17:00 of the Body Cam video attached hereto as **Exhibit D-2**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.)
- (46) Plaintiff was then asked if he was going to comply with the strip search and replied again in the negative. (See Capt. Randy Cordova's Incident Report and Affidavit attached hereto as **Exhibit J**.)

CDOC Staff: **"You going to comply?"**

Plaintiff: **"You guys going to tase me again."**

CDOC Staff: **"You going to strip out for us?"**

Plaintiff: **"You going to loosen the handcuffs?"**

CDOC Staff: **"You going to strip down for us?"**

Plaintiff: **"You going to loosen the handcuffs?"**

CDOC Staff: **"We're going to take you out of those handcuffs."**

Plaintiff: **"I'm asking you reasonably [inaudible] right now [inaudible] that's my that's my [inaudible] right there."**

CDOC Staff: **"If you work with us. You going to work with us? . . . Right now you're unpredictable."**

(See 19:03-19:34 of the Body Cam video attached hereto as **Exhibit D-2**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.)

- (47) Defendant Capt. Cordova directed that Plaintiff's wrist restraints be removed and replaced with strip search restraints. (See Capt. Randy Cordova's Incident Report and Affidavit attached hereto as **Exhibit J**.) (See 22:44 of the Body Cam video attached hereto as **Exhibit D-2**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.)
- (48) Plaintiff was directed to submit to having his clothing removed. Plaintiff again refused. As a result, Plaintiff's clothing was manually removed by Sergeant Andrew Weaver. (See Officer Jerod Robles' Incident Report attached hereto as **Exhibit M**.) (See Capt. Randy Cordova's Incident Report and Affidavit attached hereto as **Exhibit J**.) (See Sgt. Andrew Weaver's Incident Report attached hereto as **Exhibit P**.) (See 22:44-24:00 of the Body Cam video attached hereto as **Exhibit D-2**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.)

(49) Plaintiff then cooperated for the anatomical exam, with the exception of the penis and anus check. (See 34:03 of the Body Cam video attached hereto as **Exhibit D-2**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.) (See Sgt. Michael Benavidez's Incident Report and Affidavit attached hereto as **Exhibit K**.) (See Officer Jerod Robles' Incident Report and Affidavit attached hereto as **Exhibit M**.)

(50) Defendant Jody Bufmack, RN, visually evaluated Plaintiff and questioned him as part of her first anatomical examination of Plaintiff. (See Jody Bufmack's first Incident Report and Affidavit attached hereto as **Exhibit Q**.)

(51) Defendant Bufmack recorded Plaintiff's injuries as follows:

- (a) **Six (6) small raised red bumps less than 1 cm each on Plaintiff's back;**
- (b) **chipped right front tooth;**
- (c) **two (2) superficial non bleeding lacerations on lower lip;**
- (d) **superficial abrasions times two, both wrists; and**
- (e) **indentation of skin.**

Nurse Bufmack further commented: "Complaints of above plus neck pain." (See Jody Bufmack's First Anatomical Form attached hereto as **Exhibit R**.)

(52) During the exam, Defendant Lt. Holloway photographed Plaintiff's body. (See Officer Jerod Robles' Incident Report attached hereto as **Exhibit M**.) (See Lt. Mark Holloway's Incident Report and Affidavit attached hereto as **Exhibit L**.) (See seven (7) photos attached hereto as **Exhibit S**.)

(53) After the anatomical exam, and following Plaintiff's refusal to dress himself, Plaintiff's underwear was placed upon him. (See Lt. Mark Holloway's Incident Report and Affidavit attached hereto as **Exhibit L**.) (See 37:06 of the Body Cam video attached hereto as

Exhibit D-2, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.)

- (54) Plaintiff was next ordered to accompany the staff to the segregation cell. Plaintiff verbally refused and dropped himself to the floor. (See 39:20 of the Body Cam video attached hereto as **Exhibit D-2**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.) (See Sgt. Jason Espinoza's Incident Report and Affidavit attached hereto as **Exhibit G**.) (See Sgt. Michael Benavidez's Incident Report attached hereto as **Exhibit K**.) (See Sgt. Gary Sullivan's Incident Report and Affidavit attached hereto as **Exhibit I**.) (See Sgt. Andrew Weaver's Incident Report attached hereto as **Exhibit P**.) (See Lt. Mark Holloway's Incident Report and Affidavit attached hereto as **Exhibit L**.) (See Capt. Randy Cordova's Incident Report and Affidavit attached hereto as **Exhibit J**.) (See officer Virgil Fontenot's Incident Report attached hereto as **Exhibit N**.)
- (55) Once on the floor, Staff picked up Plaintiff from the floor and placed Plaintiff back onto the backboard and gurney and transported him to the segregation cell. (See Sgt. Jason Espinoza's Incident Report and Affidavit attached hereto as **Exhibit g**.) (See Sgt. Gary Sullivan's Incident Report attached hereto as **Exhibit I**.) (See Sgt. Michael Benavidez's Incident Report and Affidavit attached hereto as **Exhibit K**.) (See Lt. Mark Holloway's Incident Report and Affidavit attached hereto as **Exhibit L**.)
- (56) Once in the segregation cell, while still on the backboard, Plaintiff was placed on the floor and his leg restraints were removed. (See Sgt. Michael Benavidez's Incident Report and Affidavit attached hereto as **Exhibit K**.)
- (57) Plaintiff refused to comply with orders directing him to rise and back up to the cell door to allow staff to remove his wrist restraints. (See 44:17 of the Body Cam video attached hereto as **Exhibit D-2**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.) (See Sgt. Jason Espinoza's Incident Report and Affidavit attached hereto as **Exhibit G**.) (See Sgt. Gary

Sullivan's Incident Report and Affidavit attached hereto as **Exhibit I.**) (See Officer Jerod Robles' Incident Report attached hereto as **Exhibit M.**) (See Sgt. Andrew Weaver's Incident Report attached hereto as **Exhibit P.**) (See Capt. Randy Cordova's Incident Report and Affidavit attached hereto as **Exhibit J.**) (See Officer Virgil Fontenot's Incident Report attached hereto as **Exhibit N.**)

- (58) The staff then exited the cell in a "force cell" fashion; exiting one at a time and staging at the cell door. Once all restraints were removed from Plaintiff, CDOC staff exited Plaintiff's cell. (See Sgt. Jason Espinoza's Incident Report and Affidavit attached hereto as **Exhibit G.**) (See Sgt. Gary Sullivan's Incident Report attached hereto as **Exhibit I.**)
- (59) Plaintiff remained in the segregation cell laying face down on the ground and wearing nothing but his boxer shorts underwear. Plaintiff was then given his socks, jumpsuit, and shoes. (See Sgt. Andrew Weaver's Incident Report attached hereto as **Exhibit P.**)
- (60) Defendant Nurse Bufmack requested that Plaintiff come to the door of his segregation cell so that she could perform a second anatomical exam. Plaintiff refused to stand or talk to medical staff. (See Capt. Randy Cordova's Incident Report and Affidavit attached hereto as **Exhibit J.**) (See Jody Bufmack's second Incident Report and Affidavit attached hereto as **Exhibit Q.**)
- (61) Defendant Bufmack reported:

"Bumps/six (6) raised areas on back are less red."

"Plaintiff refuses to get off floor and come to door. Lying on stomach on floor voicing displeasure. No acute injury or distress noted."

(See Jody Bufmack's Second Incident Report and Affidavit attached hereto as **Exhibit Q..**)

7. During this incident, Officer Moschetti sustained a cut to his hand and Defendant Hanson sustained a scratch and strain to her right arm. (See Officer Dominic Moschetti's Incident Report and Affidavit attached hereto as **Exhibit H.**) (See Capt. Randy Cordova's Incident Report and Affidavit attached hereto as **Exhibit J.**)

III. STANDARD OF REVIEW

8. Summary Judgment is appropriate if "the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a). In reviewing a motion for summary judgment, the court reviews the record in the light most favorable to the non-moving party. *Sealock v. State of Colorado*, 218 F.3d 1205, 1209, (10th Cir. 1994). The purpose of summary judgment is to determine whether trial is necessary. *White v. York Int'l. Corp.*, 45 F.3d 357, 360 (10th Cir. 1995). Summary judgment is appropriate when the pleadings, depositions, answers to interrogatories, admissions or affidavits show that there is no genuine issue of material fact and that the moving party is entitled to judgment as a matter of law. *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986). The moving party bears the initial burden of showing an absence of evidence to support the nonmoving party's case. *Id.* at 325. "Once the moving party meets this burden, the burden shifts to the nonmoving party to demonstrate a genuine issue for trial on a material matter." *Concrete Works, Inc. v. City & County of Denver*, 36 F.3rd 1513, 1518 (10th Cir. 1994) (citing *Celotex*, 477 U.S. at 325). The nonmoving party may not rest solely on the allegations in the pleadings, but must instead designate "specific facts showing that there is a genuine issue for trial." *Celotex*,

477 U.S. at 324. A disputed fact is “material” if “under substantive law it is essential to the proper disposition of the claim.” *Adler v. Wal-Mart Stores, Inc.*, 144 F.3d 664, 670 (10th Cir. 1998) (citing *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986)). At the summary judgment stage of litigation, a plaintiff’s version of the facts must find support in the record. *Thomson v. Salt Lake Cnty.*, 584 F.3d 1304, 1312 (10th Cir. 2009). In response to a motion for summary judgment, the burden shifts to the party opposing the motion to produce factual evidence, not mere allegations or argument, to show a triable issue of fact exists. *Hall v. Bellmon*, 935 F.2d 1106, 1111 (10th Cir. 1991).

IV. NO GENUINE ISSUE OF MATERIAL FACT EXISTS THAT DEFENDANTS ARE IMMUNE FROM SUIT ON PLAINTIFF’S CLAIMS

9. In order to promote the efficient administration of public services, the doctrine of qualified immunity “shields government officials performing discretionary functions from individual liability under 42 U.S.C. § 1983 unless their conduct violates ‘clearly established statutory or constitutional rights of which a reasonable person would have known.’” *Baptiste v. J.C. Penney Co.*, 147 F.3d 1252, 1255 (10th Cir. 1998) (quoting *Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982)). “[Q]ualified immunity is an affirmative defense to a section 1983 action, providing immunity from suit from the outset.” *Adkins v. Rodriguez*, 59 F.3d 1034, 1036 (10th Cir. 1995).
10. Once a defendant asserts qualified immunity as a defense, the plaintiff must satisfy a “heavy two-part burden” to avoid summary judgment: (1) “that the defendant’s actions violated a constitutional or statutory right” and (2) that the right “was clearly established at the time of the defendant’s unlawful conduct.” *Serna v. Colorado*

Dep't of Corr., 455 F.3d 1146, 1150 (10th Cir. 2006) (quoting Medina v. Cram, 252 F.3d 1124, 1128 (10th Cir.2001)).

11. Because no genuine issue of material fact exists that Defendants, as employees of the State of Colorado, did not violate Plaintiff's Eighth Amendment right to be free from cruel and unusual treatment, Defendants Espinoza, Clinkinbeard, Hanson, Sullivan, Benavidez, Holloway, C. Williams, and Cordova are immune from suit on Plaintiffs claims. Therefore, summary judgment is appropriate.

A. Elements of an Eighth Amendment Claim

12. The "core inquiry" for an Eighth Amendment excessive force claim is "whether force was applied in a good-faith effort to maintain or restore discipline, or maliciously and sadistically to cause harm." Serna, 455 F.3d at 1152 (citing Hudson v. McMillian, 503 U.S. 1, 7(1992)).
13. The Tenth Circuit has articulated two "prongs" that a plaintiff must prove to prevail on an excessive force claim: (1) that "the alleged wrongdoing was objectively harmful enough to establish a constitutional violation;" and (2) "that the officials acted with a sufficiently culpable state of mind." Serna, 455 F.3d at 1152.
14. With respect to the first prong, the objective component of an excessive force claim is "contextual and responsive to contemporary standards of decency." Smith v. Cochran, 339 F.3d 1205, 1212 (10th Cir. 2003).
15. Although an inmate need not show a "significant injury" to state a claim, *de minimis* uses of physical force are excluded from the cruel and unusual punishment inquiry unless "**repugnant to the conscience of mankind.**" Hudson v. McMillian, 503 U.S.

at 9-10 (boldface emphasis); See *Norton v. The City of Marietta*, 432 F.3d 1145, 1156 (10th Cir.2005); *Reed v. Smith*, 1999 WL 345492, at *4 (10th Cir. 1999) (not selected for publication) (offered as persuasive authority); *Rhoten v. Werholtz*, 243 Fed. Appx. 364, 367 (10th Cir. 2007) (not selected for publication) (offered as persuasive authority).

16. With respect to the second prong, the Tenth Circuit holds that a sufficiently culpable state of mind (malicious and sadistic intent) may be inferred where “**there can be no legitimate purpose for the officers' conduct.**” *Serna*, 455 F.3d at 1152 (quoting *Smith v. Cochran*, 339 F.3d 1205, 1212 (10th Cir.2003) (boldface emphasis)). Courts must determine whether “**the evidence goes beyond a mere dispute over the reasonableness of a particular use of force or the existence of arguably superior alternatives.**” *Whitley v. Albers*, 475 U.S. 312, 322 (1986)(boldface emphasis).
17. In reviewing a prison guard’s use of force, the court must give “**wide-ranging deference**” to the measures taken with the intention of preserving internal order and discipline and maintaining institutional security. See *Id.* at 321-22 (boldface emphasis); *Hudson v. Palmer*, 468 U.S. 517, 529 (1984). It is “**abundantly clear that prison guards have the authority to use that amount of force or those coercive measures reasonably necessary to enforce an inmate's compliance with valid prison rules so long as such measures are not undertaken maliciously or sadistically.**” *Hope v. Pelzer*, 536 U.S. 730, 761 (2002) (internal quotation marks omitted) (quoting *Ort v. White*, 813 F.2d 318 (C.A.11 1987)

(boldface emphasis)).

B. Plaintiff Verbally Refused and Physically Resisted Multiple Lawful Commands

18. Consistent with the United States Supreme Court's determination that searches of inmates are valid and necessary to ensure institutional security and safety, the Colorado Territorial Correctional Facility maintains a policy providing CDOC employees with the absolute right to search an offender or cell at any time. (See § 18 of CTCF New Arrival Orientation Handbook attached hereto as **Exhibit T.**) see *Hudson v. Palmer*, 468 U.S. at 529. Pursuant to CDOC Administrative Regulation 150-01, it is an offense for an inmate to refuse to allow, obstruct, or hinder in any way, a CDOC employee's search of any person, housing unit, or property. (See CDOC AR 150-01(IV)(D)(CLASS II OFFENSES)(15) attached hereto as **Exhibit U.**) Additionally, it is a CDOC violation for an inmate to refuse to obey a reasonable order issued by CDOC staff, or to create a facility disruption. (See CDOC AR 150-01(IV)(D)(CLASS II OFFENSES)(16), (25)(a) attached hereto as **Exhibit U.**)
19. It is undisputed that on February 29, 2012, Officer Gary Meyers observed Plaintiff receiving a manila envelope from another inmate at CTCF. (See 18:3-11 of Plaintiff's Deposition Transcript attached hereto as **Exhibit B.**) Officer Meyers ordered Plaintiff to bring the envelope to the control center so that it could then be searched for contraband. (See Officer Gary Meyers' Incident Report and Affidavit attached hereto as **Exhibit A.**) Plaintiff disobeyed the order and refused to turn over the contents of the envelope to Officer Meyers. Plaintiff explained to Officer Meyers, "**If you want to write me up for disobeying a direct order, you're more than welcome.**" (See 55:4-12, 54:21-23 of Plaintiff's Deposition Transcript attached hereto as **Exhibit B.**)

Following Plaintiff's refusal to produce the contents of the envelope, Officer Meyers summoned Defendants Clinkinbeard and Hanson to search Plaintiff for contraband. (See Officer Gary Meyers' Incident Report and Affidavit attached hereto as **Exhibit A.**)

20. At this point, Plaintiff had (1) refused a lawful order, (2) refused to allow a search of his property, and (3) created a facility disruption; thus violating three separate CDOC Administrative Regulations. (See CDOC AR 150-01(IV)(D)(CLASS II OFFENSES)(15),(16), and (25)(a) attached hereto as **Exhibit U.**)
21. Upon contacting Plaintiff, Defendant Clinkinbeard:

asked me [plaintiff] if I had not given [Officer Meyers] an envelope . . . and I told her . . . 'Yes, I didn't give him an envelope and I took it up to my cell.' And at that point she told me to turn around and cuff up. And that's when I asked her, 'To turn around and cuff up for what?' She said, 'You're going to seg.' And I said, 'Seg for what?' She Said, 'Well, you disrupted the facility.'

(See 63:5-15 of Plaintiff's Deposition Transcript attached hereto as **Exhibit B.**)

22. It is undisputed that Plaintiff refused to comply with Defendant Clinkinbeard's order to submit to being handcuffed. According to Plaintiff, he simply "didn't want to get cuffed up" and "felt that it was unnecessary[.]" (See 66:9-15, 78:15-16, 79:1-3 of Plaintiff's Deposition Transcript attached hereto as **Exhibit B.**)
23. Acting in accordance with their legitimate authority to preserve internal order and discipline and to maintain institutional security, Defendants Clinkinbeard and Hanson utilized physical force in an attempt to apply wrist restraints upon Plaintiff following his explicit refusal to comply with the lawful order to submit to having them applied.

(See at 1:18 of Upper Vestibule Video Footage attached hereto as **Exhibit D-1**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.)

24. Plaintiff's Complaint does not dispute the fundamental authority of Defendants Clinkinbeard and Hanson (or any other Defendant) to restrain Plaintiff with handcuffs. See *Von Hally v. Clements*, 519 Fed. Appx. 521, 523 (10th Cir. 2013) (not selected for publication) (handcuffing an inmate while in prison does not offend a constitutional right). Instead, Plaintiff claims that excessive force was used in the manner and force utilized to apply the wrist restraints; in essence, "a mere dispute over the reasonableness" of Defendants' conduct. See *Whitley*, 475 U.S. at 322.
25. The undisputed evidence demonstrates that Plaintiff physically resisted the attempts of Defendants Clinkinbeard and Hanson to apply wrist restraints by pulling away from them, dropping to the ground, and continuing to defend himself actively and passively against the efforts of Defendant Clinkinbeard and Hanson to secure Plaintiff's arms. (See at 1:28-1:50 of Upper Vestibule Video Footage attached hereto as **Exhibit D-1**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.)

C. No Genuine Issue of Material Fact Exists That Defendant Espinoza Did Not Violate Plaintiff's Constitutional Rights By Tasing Plaintiff to Compel His Compliance

26. Defendant Sgt. Espinoza and Officer Moschetti responded to Officer Meyers' call requesting assistance with an offender refusing to "cuff up." (See Sgt. Jason Espinoza's Incident Report and Affidavit attached hereto as **Exhibit G**.) (See Officer Dominic Moschetti's Incident Report and Affidavit attached hereto as **Exhibit H**.) Upon arrival, Defendant Sgt. Espinoza and Officer Moschetti witnessed Plaintiff

“wrestling” on the floor, engaged in a physical altercation with Defendants Sgt. Clinkinbeard and Officer Hanson and resisting the application of restraints. (See 2:35 of the Upper Vestibule Video Footage attached hereto as **Exhibit D-1**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.) (See Sgt. Jason Espinoza’s Incident Report and Affidavit attached hereto as **Exhibit G.**) (See Officer Dominic Moschetti’s Incident Report and Affidavit attached hereto as **Exhibit H.**)

27. After issuing multiple verbal commands directing Plaintiff to discontinue his resistance, and upon informing Plaintiff that he would be tased if he did not comply, Defendant Sgt. Espinoza did use his taser upon Plaintiff’s back. (See Sgt. Karen Clinkinbeard’s Incident Report and Affidavit attached hereto as **Exhibit C.**) (See Sgt. Jason Espinoza’s Incident Report and Affidavit attached hereto as **Exhibit G.**) (See Officer Dominic Moschetti’s Incident Report and Affidavit attached hereto as **Exhibit H.**) Because Plaintiff did not visually respond to being tased and continued to physically resist, Defendant Espinoza tased Plaintiff a second time. (See Sgt. Jason Espinoza’s Incident Report and Affidavit attached hereto as **Exhibit G.**) (See Officer Dominic Moschetti’s Incident Report and Affidavit attached hereto as **Exhibit H.**) (“The taser had little to no affect on the [Plaintiff].”) Plaintiff verbally proclaimed that he **“had done too much time for [the taser] to affect him.”** (See Sgt. Karen Clinkinbeard’s Incident Report and Affidavit attached hereto as **Exhibit H.**) After repeated tasing of the Plaintiff, apparently once more, for a total of three times, Defendant Espinoza determined the taser to be ineffective and placed the device back into its holster. (See Sgt. Jason Espinoza’s Incident Report and Affidavit

attached hereto as **Exhibit H.**)

28. Contrary to Plaintiff's contention that he "posed no threat to anyone," Defendants submit that Plaintiff's refusal to obey multiple and direct orders from CDOC staff did pose a direct threat to the security of the institution. (See p. 12 of Plaintiff's Complaint.) (Doc. 1) As explained by the Seventh Circuit,

When an order is given to an inmate there are only so many choices available to the correctional officer. If it is an order that requires action by the institution, and the inmate cannot be persuaded to obey the order, some means must be used to compel compliance, such as a chemical agent or physical force. [. . .]

Orders given must be obeyed. Inmates cannot be permitted to decide which orders they will obey, and when they will obey them. Someone must exercise authority and control. One can quickly reason what would happen in a maximum security prison without proper discipline. [. . .]

Inmates are and must be required to obey orders. When an inmate refuse[s] to obey a proper order, he is attempting to assert his authority over a portion of the institution and its officials. Such refusal and denial of authority places the staff and other inmates in danger.

Soto v. Dickey, 744 F.2d 1260, 1270 (7th Cir.1984), *cert. denied*, 470 U.S. 1085 (1985) (offered as persuasive authority).

29. Consistent with this, federal courts, including the Tenth Circuit, have consistently held that prison guards may use tasers and similar stun devices to compel obedience by inmates. *Hunter v. Young*, 238 Fed. Appx. 336, 339 (10th Cir. 2007) (not selected for publication) (offered as persuasive authority) (compiling cases holding that the use of a taser upon an uncooperative inmate is not unconstitutional). And "**this is so whether the inmate is locked in his prison cell**

or is in handcuffs.” *Id.* (quoting Soto v. Dickey, 744 F.2d 1260, 1270 (7th Cir.1984)).

30. The undisputed evidence demonstrates that Defendant Sgt. Espinoza happened upon an exigent circumstance which threatened the security of the institution, and then utilized his taser in an effort to restore order. Because Defendant Sgt. Espinoza used his taser to assist Defendants Officer Hanson and Sgt. Clinkinbeard in restraining Plaintiff, who was continuing to physically resist repeated lawful commands, there was clearly a legitimate purpose for Defendant Sgt. Espinoza’s conduct. (See 97:15-16 of Plaintiff’s Deposition attached hereto as **Exhibit B**. (“they were trying to cuff me up while I was being tased.”)). As there is no issue of material fact that there was a legitimate purpose for Defendant Sgt. Espinoza’s use of force, malicious and sadistic intent cannot be inferred and Defendant Sgt. Espinoza is entitled to summary judgment. Serna, 455 F.3d at 1152.
31. According to Defendant Nurse Bufmack’s anatomical evaluation of Plaintiff immediately following the altercation, Plaintiff’s back displayed “6 small raised red bumps;” which Defendants submit, indicates that Plaintiff was tased three (3) times (consistent with the taser’s two prongs). (See Nurse Bufmack’s First Anatomical Form attached hereto as **Exhibit R.**) Despite Plaintiff’s statements immediately following the use of force indicating his belief that he had been tased four (4) times, Plaintiff now claims in his Complaint that he was instead tased five (5) times. (Compare 2:42, 22:30, 30:19 of the Body Cam video attached hereto as **Exhibit D-2**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.)) with p. 3 of Plaintiff’s Complaint.) For the purpose of Plaintiff’s Eighth Amendment claim,

Defendant Espinoza contends that the difference between being tased three (3) and five (5) times is negligible as Plaintiff was tased to effectuate the legitimate purpose of restoring order and maintaining security during an ongoing physical confrontation. This is particularly true given the evidence that at least some of the taser applications were either having no effect on Plaintiff or an insufficient effect to persuade him to modify his uncooperative behavior. See paragraph 27, *supra*. See *Serna*, 455 F.3d at 1152.

C. No Genuine Issue of Material Fact Exists That Defendants Did Not Violate Plaintiff's Constitutional Rights By Allegedly Using Pressure Techniques to Compel Plaintiff's Compliance

32. Plaintiff contends that by allegedly utilizing pressure techniques, Defendant Hanson subjected Plaintiff to cruel and unusual treatment. Defendants contend that the use of pressure techniques did not constitute an Eighth Amendment violation as Plaintiff cannot establish that Defendants acted with a sufficiently culpable state of mind. Moreover, Defendants maintain that the use of pressure techniques was not objectively harmful enough to establish a constitutional violation. See *Serna*, 455 F.3d at 1152.
33. Contrary to Plaintiff's claim that pressure techniques were used "merely to inflict unnecessary and wanton pain," there is no evidence to suggest that Defendants used pressure techniques for any other reason but to attempt to restrain Plaintiff. As stated by Defendants Clinkinbeard, Sullivan, and Espinoza:
 - (1) **"I tried loud verbal commands and [the] Mandibular Angle [a pressure technique] to get the offender to put his hands behind his back for restraints to be applied."** (See Sgt. Karen Clinkinbeard's Incident Report and Affidavit attached hereto as **Exhibit C**.) (emphasis added)

- (2) “[Plaintiff] kept resisting even with other pressure points being applied by other officers.” (See Gary Sullivan’s Incident Report attached hereto as **Exhibit I**.)
- (3) “Other staff were giving pressure point tactics to [Plaintiff] with no complaint results from [Plaintiff].” “[I] used strength techniques to assist in getting [Plaintiff’s] right arm behind his back.” (See Sgt. Jason Espinoza’s Incident Report and Affidavit attached hereto as **Exhibit G**.)

34. When asked about his response to having pressure techniques applied, Plaintiff states, “**I just resisted.**” (See 194:8-11 of Plaintiff’s Deposition attached hereto as **Exhibit B**.) Because undisputed evidence demonstrates that the techniques were used for the legitimate purpose of gaining compliance following Plaintiff’s verbal and physical refusal to submit to being restrained, and not “merely to inflict unnecessary and wanton pain,” the use of pressure techniques did not violate Plaintiff’s Eighth Amendment rights.

35. Defendants also urge that the use of pressure techniques was not objectively sufficiently harmful to rise to the level of an Eighth Amendment violation. Plaintiff describes the pressure techniques as being “uncomfortable” but admits that they caused no lasting pain. (See 194:6-7, 12-14 of Plaintiff’s Deposition attached hereto as **Exhibit B**.) Defendants submit that without an identifiable injury, pressure techniques are excluded from the cruel and unusual punishment inquiry as *de minimis* as the force is not “**repugnant to the conscience of mankind.**” See *Hudson v. McMillian*, 503 U.S. at 9-10; see *Norton*, 432 F.3d at 1156 (grabbing and twisting of inmate’s neck was not sufficiently objectively harmful enough to establish an Eighth Amendment excessive force claim); *Reed*, 1999 WL 345492, at *4 (not

selected for publication) (offered as persuasive authority) (inmate's allegations that prison officials grabbed him, tried to ram him into a wall and dragged him while walking him through the prison were insufficient to state a Eighth Amendment excessive force claim); *Rhoten*, 243 Fed. Appx. at 367 (not selected for publication) (offered as persuasive authority) (finding, as a matter of law, that allegations that officers slammed an inmate against a wall, squeezed his nipples and buttocks, and pulled his testicles did not satisfy objective prong of an excessive force claim). Because the use of pressure techniques was a *de minimus* use of force, and because Plaintiff admits that the pressure techniques caused no lasting harm, summary judgment in favor of Defendant Hanson is proper.

D. No Genuine Issue of Material Fact Exists That Defendant Espinoza Did Not Violate Plaintiff's Constitutional Rights By Allegedly Applying Handcuffs More Tightly Than Necessary

36. Similar to the above, Plaintiff cannot demonstrate that Defendant Sgt. Espinoza (or any other defendant) violated his Eighth Amendment rights "by applying handcuffs more tightly than necessary." (See p. 10 of the Complaint.) (Doc. 1) As stated by the United States Supreme Court in *Whitley*, the infliction of pain in the course of a prison security measure "**does not amount to cruel and unusual punishment simply because it may appear in retrospect that the degree of force authorized or applied for security purposes was unreasonable.**" *Whitley*, 475 U.S. at 319. As wrist restraints were applied in pressing circumstances while Plaintiff was engaged in an ongoing physical conflict with CDOC staff who were then attempting to effectuate a reasonable order, Defendant Sgt. Espinoza submits that there is no evidence that suggests that his application of handcuffs was intended for any other

purpose but to restrain an inmate who was actively resisting and refusing to comply. Moreover, as Defendant Sgt. Espinoza secured Plaintiff with wrist restraints for the legitimate purpose of restoring order, Plaintiff's claim pertaining to the application of the handcuffs is merely a "**dispute over the reasonableness of a particular use of force**," and is therefore outside the scope of the Eighth Amendment. *Id.* at 322. As no genuine issue of material fact exists that Defendant Sgt. Espinoza applied handcuffs to effectuate a reasonable order and not maliciously or sadistically to cause pain, Defendant Sgt. Espinoza is entitled to summary judgment.

E. No Genuine Issue of Material Fact Exists That Defendant Sullivan Did Not Violate Plaintiff's Constitutional Rights By Allegedly Dropping Him or by Pressing His Head Against the "Ground"

37. Plaintiff's allegation that Defendants subjected him to cruel and unusual treatment by "dropping him on his face from approximately 2-3 feet in the air after he was handcuffed, shackled and otherwise subdued" cannot be supported as there is no evidence of malicious or sadistic intent. Immediately preceding the moment Plaintiff claims to have been dropped, Plaintiff received verbal directives to walk with the staff downstairs. (See 88:22-89:5 of Plaintiff's Deposition attached hereto as **Exhibit B**.) In response to the order, Plaintiff proclaimed: "[y]ou carry me," and then "became defiant" with CDOC staff. (See 89:4-11 of Plaintiff's Deposition attached hereto as **Exhibit B**.) The surveillance footage illuminates Plaintiff's admitted defiance by showing that Plaintiff kicked his legs out from underneath himself when CDOC staff lifted him to his feet, potentially causing weight shift and balance issues regarding their ability to effectively support Plaintiff's weight among the CDOC employees holding him. (See 4:36-4:52 of Upper Vestibule Video Footage attached

hereto as **Exhibit D-1**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.) In response to Plaintiff's active resistance, CDOC staff attempted to corral Plaintiff's flailing legs as he was lowered back to the ground. When questioned as to whether he believed that he was intentionally dropped, Plaintiff states, "**I don't know [] if it was intentional or not[.]**" (See 101:10-14 of Plaintiff's Deposition attached hereto as **Exhibit B**.) In light of Plaintiff's admission that he does not know whether he was intentionally dropped, and the surveillance footage demonstrating that Plaintiff kicked his legs out from underneath himself making it more difficult to support his weight, Defendants contend that they are entitled to summary judgment on this issue as Plaintiff cannot produce evidence that he was intentionally dropped, let alone dropped as a result of malicious or sadistic intent. See *Serna*, 455 F.3d at 1152.

38. Plaintiff then claims that "**immediately**" after the above sequence of events, Defendant Sgt. Sullivan "put his hands [] on the back of [Plaintiff's] head and was pushing [his] head to the ground." (See 101:23-25 of Plaintiff's Deposition attached hereto as **Exhibit B**.) In the context of the undisputed facts — that Plaintiff verbally and physically resisted restraint and refused to comply, both on his feet and on the ground, and then "became defiant" and thrashed his legs as CDOC staff attempted to again bring him to his feet — it cannot be said that Defendant Sgt. Sullivan, by allegedly holding Plaintiff's head to the ground, acted with "**no legitimate purpose**" and in a manner that is "**repugnant to the conscience of mankind**." *Serna*, 455 F.3d at 1152; *Cochran*, 339 F.3d at 1212. As the alleged conduct "immediately"

followed Plaintiff's continued physical and verbal "defia[ce]," there is no genuine issue of material fact that by restraining Plaintiff's movement during an ongoing physical confrontation by allegedly "pushing [Plaintiff's] head to the ground," Defendant Sgt. Sullivan's alleged behavior was consistent with the legitimate purpose of restraining Plaintiff's movements and restoring order and maintaining institutional security. (See 89:11, 101:23 of Plaintiff's Deposition attached hereto as **Exhibit B.**) (See 4:36-4:52 of Upper Vestibule Video Footage attached hereto as **Exhibit D-1**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.) Therefore, Defendant Sullivan is entitled to summary judgment. See e.g., *Cruz v. Webb*, 211 F.3d 1277 (10th Cir. 2000) (not selected for publication) (offered as persuasive authority) (granting summary judgment for prison guards who kneeled on prisoner's back and pushed his head against a wall momentarily knocking him unconscious, as guards used physical force they considered necessary to maintain discipline.)

F. No Genuine Issue of Material Fact Exists That Defendant Sgt. Benavidez Did Not Violate Plaintiff's Constitutional Rights By Allegedly Bending Plaintiff's Wrist and Pulling His Arm

39. Plaintiff alleges that Defendant Sgt. Benavidez subjected him to cruel and unusual punishment by bending Plaintiff's wrists and pulling his arm. (See p. 15 of Plaintiff's Complaint.) (Doc. 1) According to Plaintiff's Complaint, "the person" who allegedly bent Plaintiff's wrist released his hand "[w]hen [Plaintiff] yelled," but later began "pulling on [his] arm near the elbow." (See p. 11 of Plaintiff's Complaint.) (Doc. 1) Defendant Sgt. Benavidez submits that because bending a wrist (assuming for the sake of argument here that this did occur), but stopping upon Plaintiff's verbal

complaint, and pulling on an arm, are actions that are not "**repugnant to the conscience of mankind**," these types of alleged harm are excluded from the cruel and unusual punishment inquiry as *de minimis*. See *Saleh v. United States*, 2011 WL 2682728, at *6 (D. Colo. 2011) (not selected for publication) (offered as persuasive authority) (pulling prisoner's hand behind his back causing pain was both *de minimis* and not of a nature that is repugnant to mankind); see *Marshall v. Milyard*, 415 Fed. Appx. 850, 852 (10th Cir. 2011) (not selected for publication) (offered as persuasive authority) (grabbing prisoner's arm and digging into it with fingernails is *de minimis* force for the purpose of an Eighth Amendment claim). Because there is no issue of material fact that Defendant Sgt. Benavidez's alleged use of force was *de minimis*, and because it cannot be shown that he used it maliciously or sadistically, summary judgment for Defendant Sgt. Benavidez is proper.

G. Defendants Sgt. Espinoza, Sgt. Clinkinbeard, Officer Hanson, Sgt. Sullivan, and Sgt. Benavidez Are Immune From Suit Because No Genuine Issue of Material Fact Exists That They Did Not Violate Plaintiff's Eighth Amendment Rights

40. With respect to Plaintiff's allegations against Defendants Sgt. Espinoza, Sgt. Clinkinbeard, Officer Hanson, Sgt. Sullivan, and Sgt. Benavidez, the undisputed evidence demonstrates that the decisions to use force were made in tense, uncertain, and rapidly evolving circumstances in which Plaintiff was verbally and physically resisting and failing to comply with direct and reasonable orders. It is "**abundantly clear**" that Defendants had the authority to use reasonably necessary force to compel Plaintiff's compliance with their valid orders, so long as such measures were not undertaken maliciously or sadistically. See *Hope*, 536 U.S. at

761. As there is no genuine issue of material fact that Defendants did not act maliciously or sadistically, but rather acted for the legitimate purpose of restoring order and maintaining institutional security, Plaintiff's claims are a mere "**dispute over the reasonableness of a particular use of force or the existence of arguably superior alternatives**" and do not implicate the Eighth Amendment. See Whitley, 475 U.S. at 322; see also Hunter, 238 Fed. Appx. at 339 (not selected for publication) (declining to second guess "split second judgments" about necessary force made in exigent circumstances). Because Plaintiff cannot demonstrate that Defendants Sgt. Espinoza, Sgt. Clinkinbeard, Officer Hanson, Sgt. Sullivan, or Sgt. Benavidez violated his Eighth Amendment right to be free from cruel and unusual treatment, Defendants are entitled qualified immunity from suit on Plaintiff's claims. See Baptiste, 147 F.3d at 1255.

H. Defendants Lt. Holloway, Lt. C. Williams, and Capt. Cordova Are Entitled to Summary Judgment Because There is No Issue of Material That Defendants Were Not Required to Intervene

41. Plaintiff alleges that Defendants Lt. Holloway, Lt. C. Williams, and Capt. Cordova, as supervisors are liable for failing to intervene while Plaintiff was being tased and subject to pressure techniques, failing to check the tightness of the handcuffs, and for allowing Plaintiff's head to be pressed against the floor. (See pp. 13-16 of Plaintiff's Complaint.)(Doc. 1)
42. Supervisors are liable under § 1983 only for their own culpable involvement in the violation of a person's constitutional rights. Serna, 455 F.3d at 1151. To establish supervisor liability under § 1983, a plaintiff must establish "**that the supervisor acted knowingly or with 'deliberate indifference' that a constitutional violation**

would occur.” *Id.* (quoting *Green v. Branson*, 108 F.3d 1296, 1302 (10th Cir.1997)).

Deliberate indifference requires that the official “both be aware of facts from which the inference could be drawn that a substantial risk of serious harm exists, and he must also draw the inference.” *Serna*, 455 F.3d at 1154-55 (quoting *Verdecia v. Adams*, 327 F.3d 1171, 1175 (10th Cir.2003)).

43. Defendants submit that summary judgment on Plaintiff’s “failure to intervene” claims is proper as Plaintiff has failed to establish any underlying violation of Plaintiff’s constitutional rights, as discussed *supra*. See *Broadus v. Timme*, 2012 WL 639310, at *10 (D. Colo. 2012) (not selected for publication) (offered as persuasive authority) (“[e]stablishing a constitutional violation is a necessary predicate to any claim that an officer failed to intervene.”).
44. Defendants Lt. Holloway, Lt. C. Williams, and Capt. Cordova are also entitled to summary judgment as Plaintiff cannot demonstrate that Defendants Lt. Holloway, Lt. C. Williams, or Capt. Cordova acted knowingly or with deliberate indifference that a substantial risk of a constitutional harm existed. See *Serna*, 455 F.3d at 1155. In the current context, Plaintiff is first required to demonstrate that Defendants Lt. Holloway, Lt. C. Williams, and Capt. Cordova were aware of facts from which they could infer that Defendants Sgt. Espinoza, Sgt. Clinkinbeard, Officer Hanson, Sgt. Sullivan, and Sgt. Benavidez were using force without a legitimate purpose and second, that Defendants Lt. Holloway, Lt. C. Williams, and Capt. Cordova actually drew that inference. *Id.* at 1154.
45. Plaintiff cannot demonstrate that Defendants Lt. Holloway, Lt. C. Williams, and Capt. Cordova were aware of facts from which the inference could be drawn that

Plaintiff's Eighth Amendment rights were being violated given that the context of the subject force evidenced a legitimate purpose and none of the actions taken to restrain Plaintiff were unreasonable or "**repugnant to the conscience of mankind.**" Hudson, 503 U.S. at 9-10.

46. Defendants Lt. Holloway, Lt. C. Williams, and Capt. Cordova arrived at the location of the subject use of force following a first responders' call for "an inmate [] resisting staff attempts to get him into wrist restraints." (See Capt. Randy Cordova's Incident Report and Affidavit attached hereto as **Exhibit J.**) (See Sgt. Gary Sullivan's Incident Report attached hereto as **Exhibit I.**) (See Lt. Mark Holloway's Incident Report and Affidavit attached hereto as **Exhibit L.**) As CDOC inmates are required to comply with lawful orders and prison guards possess the fundamental authority to handcuff prisoners Defendants Lt. Holloway, Lt. C. Williams, and Capt. Cordova had no reason to suspect that Plaintiff's constitutional rights were being violated following the first responders' call. See Von Hally, 519 Fed. Appx. at 523 (not selected for publication) (offered as persuasive authority) (handcuffing an inmate while in prison does not offend a constitutional right) (See CDOC AR 150-01(IV)(D)(CLASS II OFFENSES)(25)(a) attached hereto as **Exhibit U.**)
47. When Defendants Holloway, C. Williams, and Cordova arrived at the upper vestibule, they observed CDOC staff on the floor engaged in a physical confrontation with an inmate who continued to resist their attempts to apply wrist restraints. (See 40:4-21 of Capt. Randy Cordova's Deposition attached hereto as **Exhibit V.**) (See 3:00 of Upper Vestibule Video Footage attached hereto as **Exhibit D-1**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.) As

Defendants Lt. Holloway, Lt. C. Williams, and Capt. Cordova were aware that CDOC staff were attempting to apply wrist restraints, and could plainly see that Plaintiff was continuing to physically resist, there are no facts from which Defendants Lt. Holloway, Lt. C. Williams, and Capt. Cordova could infer a constitutional violation as prison staff posses the authority to use reasonable force to enforce an inmate's compliance with valid prison rules and orders. See Hope, 536 U.S. at 761. When CDOC staff used pressure techniques, a taser, and other physical force to attempt to subdue Plaintiff and obtain compliance, Defendants Lt. Holloway, Lt. C. Williams, and Capt. Cordova had no reason to believe that CDOC staff were using force for reasons other than a good faith effort to restore order and discipline following Plaintiff's refusal to obey direct commands. Because there are no facts from which Defendants Lt. Holloway, Lt. C. Williams, and Capt. Cordova could infer that CDOC staff were using force maliciously or sadistically, Plaintiff also cannot establish that Defendants Lt. Holloway, Lt. C. Williams, and Capt. Cordova actually inferred that Plaintiff's constitutional rights were being violated.

48. In addition to having no reason to believe that CDOC staff were using a taser maliciously or sadistically, as liability for failing to intervene is necessarily predicated on having a *reasonable opportunity* to intervene, Defendants cannot be liable for failing to prevent Plaintiff from being tased as they cannot be said to have had an adequate opportunity to do so. See Duncan v. Quinlin, WL 1726802, at *5 (D. Colo. 2015) (not selected for publication) (offered as persuasive authority). According to Plaintiff, he was tased multiple times "in rapid succession." (See p. 10 of Plaintiff's Complaint.) (Doc. 1) Defendants submit that regardless of whether Plaintiff was

tased three (3) or five (5) times, Plaintiff's admission that he was tased "in rapid succession" demonstrates that Defendants did not have a reasonable opportunity to intervene. Without a reasonable opportunity to intervene, Defendants Lt. Holloway, Lt. C. Williams, and Capt. Cordova are entitled to summary judgment on this claim.

49. With respect to Plaintiff's failure to intervene claims as they pertain to Plaintiff's allegation that Defendants refused to loosen Plaintiff's handcuffs, Defendants Lt. Holloway, Lt. C. Williams, and Capt. Cordova are entitled to summary judgment as Plaintiff cannot demonstrate that the refusal to loosen the handcuffs was motivated by a malicious or sadistic intent as the undisputed evidence demonstrates that Plaintiff's handcuffs were not adjusted as result of his explicit and continued refusal to cooperate. Throughout the subject use of force, Plaintiff's restraints were the subject of significant discussion between Plaintiff and CDOC staff. As documented by the body cam video, in response to Plaintiff's complaints regarding his backboard restraints, CDOC staff informed Plaintiff repeatedly that his restraints would be adjusted continent upon his compliance:

(1) Plaintiff: **"You loosen that strap, there sir? [inaudible] on the right side."**

CDOC Staff: **"When you comply, when you comply."**

Plaintiff: **"Will you let go of my arm, man?"**

CDOC Staff: **"When you comply."**

(See 1:15-1:30 of the Body Cam video attached hereto as **Exhibit D-2**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.)

50. After being carried on the backboard to the CTCF clinic for an anatomical evaluation, Plaintiff continued to state his non-compliance. (See Sgt. Jason Espinoza's Incident Report and Affidavit attached hereto as **Exhibit G.**) (See Jerod Robles' Incident Report attached hereto as **Exhibit M.**) (See Capt. Randy Cordova's Incident Report and Affidavit attached hereto as **Exhibit J.**)

(1) CDOC Staff: "**You're telling me you're telling me you're not going to be compliant.**"

Plaintiff: "**I aint tellin' you nothin', I aint said shit yet.**"

CDOC Staff: "**Yeah, you said you're not going to work with these guys, you know I want to loosen your cuffs up get you where you are situated.**"

(See 10:24-10:50 of the Body Cam video attached hereto as **Exhibit D-2**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.)

CDOC Staff: "**Are you going to sit up? [inaudible] You gunna do this anatomical with the nurse?**"

Plaintiff: "**Yeah, she can do an anatomical, yeah, I'm not complying [inaudible] I might stand up. I'm doing everything laying down. [inaudible] You guys going to carry me.**"

CDOC Staff: "**If you continue to be resistant, [inaudible] there should be no use of force but you're being resistant.**"

Plaintiff: "**Why, why should I be helpful to you guys?**"

(See 11:28-11:52 of the Body Cam video attached hereto as **Exhibit D-2**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.)

51. Plaintiff refused to comply with requests to be anatomically examined so Defendant Capt. Cordova ordered that Plaintiff be taken to segregation for a simultaneous strip search and anatomical exam. (See 13:37-14:44 of the Body Cam video attached hereto as **Exhibit D-2**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.) (See Capt. Randy Cordova's Incident Report and Affidavit attached hereto as **Exhibit J.**) (See Sgt. Jason Espinoza's Incident Report and Affidavit attached hereto as **Exhibit J.**) (See Gary Sullivan's Incident Report attached hereto as **Exhibit I.**) (See Lt. Mark Holloway's Incident Report and Affidavit attached hereto as **Exhibit L.**)

(1) Plaintiff: **“Can we take the cuffs off man?”**
CDOC Staff: **“No.”**
Plaintiff: **“No.”**
CDOC Staff: **“So you going to sit up? Let the nurse do her anatomical?”**
Plaintiff: **“How am I going to do the anatomical with these cuffs on?”**
CDOC Staff: **“Well, were going to loosen them, when you get up and get you situated. But I need to know, you’re going to be compliant.”**
(See 13:03-11:36 of the Body Cam video attached hereto as **Exhibit D-2**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.)

(2) CDOC Staff: **“You going to comply?”**
Plaintiff: **“You guys going to tase me again.”**
CDOC Staff: **“You going to strip out for us?”**

Plaintiff: **"You going to loosen the handcuffs?"**

CDOC Staff: **"You going to strip down for us?"**

Plaintiff: **"You going to loosen the handcuffs?"**

CDOC Staff: **"We're going to take you out of those handcuffs."**

Plaintiff: **"I'm asking you reasonably [inaudible] right now [inaudible] that's my that's my [inaudible] right there."**

CDOC Staff: **"If you work with us. . . You going to work with us? Right now you're unpredictable."**

(See 19:03-19:34 of the Body Cam video attached hereto as **Exhibit D-2**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.)

52. In order to complete the strip search of Plaintiff, Defendant Capt. Cordova directed that Plaintiff's wrist restraints be removed and replaced with strip search restraints.

(See Capt. Randy Cordova's Incident Report and Affidavit attached hereto as **Exhibit J.**)(See 22:44 of the Body Cam video attached hereto as **Exhibit D-2**, see also dep. of Capt. Cordova, **Exhibit V**, at pp. 9-10, 4-42, and 73.)

53. Plaintiff's deposition testimony is consistent in that his handcuffs were not adjusted in response to his refusal to comply:

(1) **Q:** **"During this incident, did the officers ever ask you if you were going to comply?"**

Plaintiff: **"They asked me to stand up eventually, and I asked them if they would loosen the cuffs."**

Q: **"Okay. So you made standing up contingent upon their loosening the cuffs."**

Plaintiff: **"Yes. I explained the cuffs were extremely**

tight. [. . .] Somebody said, 'You don't dictate to us. You don't tell us what to do.' So I said, 'Fine. Carry me.'"

(See 85:23 -86:15 of Plaintiff's Deposition attached hereto as **Exhibit B.**)

54. As the undisputed evidence demonstrates that CDOC staff were willing to adjust Plaintiff's restraints upon his compliance, Defendants contend that Plaintiff cannot demonstrate that Defendants' failure to loosen Plaintiff's handcuffs was motivated by malicious or sadistic intent. Instead, the evidence demonstrates that the wrist restraints were not adjusted in order to attempt to maintain the order which had recently been partially restored in part due to the application of the handcuffs. Throughout the course of the subject use of force incident, Plaintiff demonstrated consistent verbal and physical resistance to CDOC orders. On multiple occasions following Plaintiff's complaints regarding the handcuffs, CDOC staff informed Plaintiff that the restraints would be loosened, or even removed, if he cooperated with their commands. The uncontested evidence demonstrates that despite Plaintiff's awareness that CDOC staff would adjust his restraints if he cooperated, Plaintiff continued to be non-compliant and defiant. Because there is no issue of material fact that Plaintiff's restraints were not adjusted in an effort to maintain order as a direct result of his continued refusal to cooperate and comply, Defendants Lt. Holloway, Lt. C. Williams, and Capt. Cordova , by not intervening to adjust the wrist restraints, acted consistent with the legitimate purpose of maintaining institutional security.
55. Because Plaintiff cannot demonstrate that Defendants Lt. Holloway, Lt. C. Williams,

and Capt. Cordova violated his Eighth Amendment right to be free from cruel and unusual treatment, Defendants are immune from suit on Plaintiff's claims. See Baptiste, 147 F.3d at 1255.

V. CONCLUSION

56. Based upon the evidence and case law presented herein, Defendants Sgt. Espinoza, Sgt. Clinkinbeard, Sgt. Benavidez, Lt. Holloway, Lt. C. Williams, and Capt. Cordova request that this Court enter summary judgment in their favor. A proposed Order is attached hereto.

WHEREFORE, Defendants Sgt. Espinoza, Sgt. Clinkinbeard, Sgt. Benavidez, Lt. Holloway, Lt. C. Williams, and Capt. Cordova respectfully pray for an Order granting summary judgment and dismiss with prejudice Plaintiff's claim under the Eighth Amendment against Defendants Sgt. Espinoza, Sgt. Clinkinbeard, Sgt. Benavidez, Lt. Holloway, Lt. C. Williams, and Capt. Cordova, as there are no genuine issues of material fact in dispute and Defendants Sgt. Espinoza, Sgt. Clinkinbeard, Sgt. Benavidez, Lt. Holloway, Lt. C. Williams, and Capt. Cordova are entitled to summary judgment.

Respectfully submitted this 12th day of November, 2015.

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D. Nunez, M. Holloway, K. Topliss, C. Williams, K. Clinkenbeard, J. Espinoza, J. Bufmack, M. Benovedez, and A. Bell

CERTIFICATE OF SERVICE

I hereby certify that, pursuant to Fed.R.Civ.P. 5, on this 12th day of November, 2015, a true and correct copy of the above and foregoing **DEFENDANTS R. CORDOVA, M. HOLLOWAY, C. WILLIAMS, K. CLINKENBEARD, J. ESPINOZA, AND M. BENAWEDEZ'S MOTION FOR SUMMARY JUDGMENT** was served, via ECF, upon the following:

Brett D. Lampiasi, Esq.
P.O. Box 347
Hatfield, MA 01038
Attorney for Plaintiff William R. Stevenson

/s/Diana Domingues
Diana Domingues, Paralegal

Incident # 529889

Linked # Created by

COLORADO TERRITORIAL CORRECTIONAL FACILITY

Created: Feb 29, 2012 08:23 am By: CLINKINBEARD, KAREN M
Closed: By:

Incident Date: 02/29/2012

Approx Time: 06:30 AM

Status: Open

Incident Type: Use of Force

Incident Location: CH 1 Upper Vestibule/Common Areas

Misc. Location Info: **Upper Vestibule**

Summary: Offender Stevenson, William #110913 disobeyed a lawful order to cuff up and a use of force occurred to gain compliance.

Report: 1 by MEYERS, GARY W (gwmeyers) for Incident 529889

Officers Facility: COLORADO TERRITORIAL CORRECTIONAL F

Approximate Time of Incident: **06:30 AM**

Shift: Days

Work Unit: **Custody/Control**

Days Off: **M-T**

Suspected Gang Related:

Evidence:

Docno: Name: Living Unit: Pod Tier Cell Bunk
110913 STEVENSON, WILLIAM R CTCF/SEG **RFP**

<p>Report Rejected: <input type="checkbox"/></p> <p>Report Approved: <input checked="" type="checkbox"/></p> <p>Report Voided: <input type="checkbox"/></p> <p>Parole/Community/ Shift Commander: CORDOVA, RANDY (rzcordov)</p> <p>Date Approved: 02/29/12 12:47 PM</p>	<p>Report Needs Approval <input checked="" type="checkbox"/></p> <p>Submitted: 02/29/12 11:52 AM</p> <p>Duty Officer's Initiation of Investigation</p> <p>Charge: <input type="checkbox"/> Duty Officer: _____</p> <p>Informational: <input type="checkbox"/> Reviewed: _____</p>
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Detailed Report on following Page

Incident# 529889**Report 1 detail by MEYERS, GARY (gwmeleys) for Incident 529889**

On 02/29/12 at approximately 6:30AM I, Officer Meyers was indirectly involved with a use of force involving Offender Stevenson, William #110913. Offender Stevenson was observed receiving a manila envelop from Offender Milligan, Michael #52081 in the upper vestibule in CH-1. The contents of the folder are unknown. While in the upper control center I gave several loud verbal commands to bring the item to the control center. Stevenson refused these direct orders and went on to state, "This is legal shit man and it's none of your fucking business". After several more verbal commands Offender Stevenson emptied the folder and attempted to pass it on as the ordinal. At that time I called for cell house staff to search the Offender for contraband. Officer Hanson and Sgt Clinkinbeard were the first to respond. Both Officers gave several direct orders to step into the vestibule. Offender Stevenson complied. Once in the vestibule staff attempted to counsel Stevenson about his refusal to consent to a search. Offender Stevenson became verbally noncompliant and became passive aggressive when asked to move towards the wall so wrist restraints could be applied. At that time Offender Stevenson raised both hands above his head and refused to comply with any of the staffs directives. When Officer Hanson attempted to place wrist restraints on Stevenson's Left wrist, Stevenson sat on the ground and begun to pull his body away so that staff couldn't get restraints on. It should be noted that once Offender Stevenson's hands went above his head, first responders were called to assist. Both Officers attempted to apply restraint until responding staff could arrive. Sgt Espinoza, along with responding staff arrived to assist with Offender. Once there was sufficient staff I retrieved ankle restraints so they could be applied. It should be noted that there were 13 uniformed Officers in the vestibule. After wrist and ankle restraints were applied Offender was secured in the prone position on the floor. Offender Stevenson refused to stand even after given direct orders to do so. Eventually Stevenson stood with the assistants of staff. Once on his feet, Stevenson attempted to assault staff by using a left knee strike. Once Offender Stevenson elevated his left leg his right leg came out from under him and he was assisted to the ground once again by responding staff. This behavior continued until Offender Stevenson was placed on the back board and carried out of the cell house. It should be noted that facility operations were delayed because of the staff required to assist with this issue. EOR

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-00649-CBS

WILLIAM R. STEVENSON,

Plaintiff,

v.

R. CORDOVA, Captain at Colorado Territorial Correctional Facility in his individual and official capacities,

D. NUNEZ, Captain at Colorado Territorial Correctional Facility in his individual and official capacities,

M. HOLLOWAY, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,

K. TOPLISS, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,

C. WILLIAMS, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,

H. WILLIAMS, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,

K. CLINKENBEARD, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,

J. ESPINOZA, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,

G. SULLIVAN, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,

J. HANSON, Corrections Officer at Colorado Territorial Correctional Facility in his individual and official capacities,

J. SOTO, Corrections Officer at Colorado Territorial Correctional Facility in his individual and official capacities,

J. BUFMACK, Nurse at Colorado Territorial Correctional Facility in his individual and official capacities,

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1	M. BENOVEDEZ, Sergeant at Colorado Territorial	1	EXHIBIT	DESCRIPTION	PAGE
2	Correctional Facility in his individual and	2	A	Plaintiff's Response to	16
3	official capacities,	3		Defendant's First Set of	
4	A. BELL, Case Manager at Colorado Territorial	4		Interrogatories Dated	
5	Correctional Facility in his individual and	5		February 5, 2015	
6	official capacities,	6	B	Plaintiff's Responses to	152
7	Defendants.	7		Defendant's First Request	
8	-----	8		For Production of Documents	
9	DEPOSITION OF WILLIAM RAYMOND STEVENSON	9		Dated February 6, 2015	
10	SEPTEMBER 15, 2015	10	C	Complaint of Unnecessary,	59
11	1:00 p.m.	11		Unreasonable and Excessive	
12	-----	12		Force, Dated March 14, 2014,	
13	PURSUANT TO NOTICE, the deposition of WILLIAM	13		Numbered STEVENSON-00674	
14	RAYMOND STEVENSON, #110913, was taken on behalf of	14		Through STEVENSON-00679;	
15	the Defendants, pursuant to the Federal Rules of	15		Department of Corrections	
16	Civil Procedure, at 275 West Highway 50, Canon	16		DOC Employee/Contract Worker	
17	City, Colorado, this date at 1:01 p.m., before	17		Conduct Complaint, Numbered	
18	Janice Doyle, a Certified Court Reporter and a	18		STEVENSON-00673	
19	Notary Public.	19	C-1	Department of Corrections	60
20		20		DOC Employee/Contract Worker	
21		21		Conduct Complaint, Numbered	
22		22		STEVENSON-00673	
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1	APPEARANCES	1	EXHIBIT	DESCRIPTION	PAGE
2	For the Plaintiff:	2	D	Addendum, Correction of	59
3	BRETT LAMPIASI, ESQ.	3		3/14/12 Excessive Force	
4	P.O. Box 347	4		Complaint Dated March 17,	
5	Hatfield, Massachusetts 01038	5		2012, Numbered STEVENSON-00671	
6	(413) 336-3008	6		Through STEVENSON-00672	
7	(413) 322-8391	7	E	Colorado Department of	169
8	Fax (413) 425-0255	8		Corrections Clinical Services	
9	E-mail: brett@blamplaw.com	9		Anatomical Form Dated 2/29/12,	
10	For the Defendants:	10		Numbered STEVENSON-00015	
11	CRAIG W. CAIN, ESQ.	11		Through STEVENSON-00014,	
12	Cain & White, LLP	12		STEVENSON-00016, STEVENSON-00012	
13	1555 Quail Lake Loop, Suite 100	13		Through STEVENSON-00013	
14	Colorado Springs, Colorado 80906	14			
15	(719) 575-0010	15			
16	Fax (719) 575-0020	16			
17	E-mail: ccain@cainwhitelaw.com	17			
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21	DEPOSITION WITNESS:	21			
22	WILLIAM RAYMOND STEVENSON	22			
23	Examination by Mr. Cain	23			
24		24			
25		25			

1 Whereupon, the following proceedings were
2 had:
3 IT WAS STIPULATED AND AGREED that the
4 within proceedings were taken pursuant to the
5 Federal Rules of Civil Procedure.

6 (Exhibit Nos. A, B, C, D, and E were
7 marked for identification by the court reporter.)

8 WHEREUPON,
9 WILLIAM RAYMOND STEVENSON,
10 the witness herein, having been first duly sworn
11 by the notary public, was examined and testified
12 as follows:

13 EXAMINATION
14 BY MR. CAIN:

15 Q All right. Good afternoon, sir.
16 A Good afternoon.
17 Q My name is Craig Cain. I'm with the
18 law firm of Cain and White. My partner is
19 Jennifer White, who you may or may not have been
20 in contact with when receiving some documents. We
21 are representing a number of defendant -- Colorado
22 Department of Corrections defendants, including

6 in the last 24 hours?
7 A (Nodded.)
8 Q Is that a "yes"?
9 A Yes.
10 Q And just a few more ground rules.
11 Let me ask you: Have you had your deposition
12 taken before, sir?
13 A No.
14 Q Basically, your attorney may have had
15 a chance to discuss it with you, but he's probably
16 told you and I want to warn you off the bat
17 there's something called attorney-client privilege
18 you may be aware of. So, basically, discussions
19 between you and your attorney I don't want you
20 relaying to me. All right?

21 A (Nodded.)
22 Q If I ask you a question that you
23 believe is asking you to tell me something you
24 discussed with your attorney, it's probably not
25 it, because, again, I don't want to violate that
privilege. Do you understand?
A Yes.
Q All right. And as you're doing so
far, answer audibly, as the reporter mentioned.
We've got a little bit of a -- the HVAC here is

7 Randy Cordova, Donald Nunez, Mark Holloway,
8 Kenneth Topliss, T-O-P-L-I-S-S, Carl Williams,
9 Henry Williams, Karen Clinkenbeard,
10 C-L-I-N-K-B-E-A-R-D, I believe, Jason Espinoza,
11 Jason Soto, Jody Bufmack, Michael Benovedez,
12 B-E-N-A-V-E-D-E-Z [sic], and Aubrey Bell. And I'm
13 here today to take your deposition. All right?

14 A Okay.
15 Q And I'd like to start off by having
16 you identify yourself so we know it's you here
17 today. Could you state your name and spell your
18 last name, please?

19 A My name is William R. Stevenson,
20 S-T-E-V-E-N-S-O-N.

21 Q Okay. And, sir, any reason you feel
22 you could not participate to the best of your
23 ability today?

24 A No.

25 Q Let me ask you: Have you taken any
medications in the last 24 hours that could
potentially affect your ability to participate
today?

26 A Tylenol 3s, but that wouldn't affect
27 my ability.

28 Q Is that all the medication you've had

9 kind of loud, so we'll try to talk over that so
she can hear us both. All right?
A Yes.
Q And as you're doing so far, if you
can wait till I finish my question to give your
answer and I'll afford you the same courtesy by
not talking over you when you're answering. All
right?

A Yes.
Q Because the court reporter can only
take down one of us at a time. Does that make
sense?

A Yes.
Q Now, with regard to the questions I'm
asking you, if you don't understand a question for
any reason, please ask me to rephrase it, and I
will. Okay?

A Okay.
Q Because this is important because
this is a deposition, and it's informal in the
sense that we're just sitting here. We're not in
a courtroom with a judge or a bunch of jurors.
It's just you, me, your attorney, and the
reporter. It's formal in the sense that it is
sworn testimony and that the transcript of this

3 (Pages 6 to 9)

	10	12
1 could be used at hearings involved in this case or 2 the trial itself. Do you understand that?	1 individual besides Jason Soto that was action 2 involved, so --	
3 A Understand.	3 Q And who was that?	
4 Q Okay. So it's important -- if 5 someone hears part of this transcript down the 6 road they hear that I asked a question and you 7 answered it, they're going to assume that you 8 understood that question, otherwise, you would not 9 have answered it. Is that fair?	4 A His name is Robles. Mr. Robles. 5 C.O. Robles.	
10 A That's fair.	6 Q Okay.	
11 Q Okay. And if you need to take a 12 break, let me know. I may ask you to answer the 13 last question that I've asked you or a very 14 short series of questions on the same topic, but I 15 will let you take a break. All right?	7 A Then the other person is Mr. Henry 8 Williams. Information indicates that Mr. Williams 9 was not there also.	
16 A Okay.	10 Q Okay. So you initially thought he 11 might be, but further investigation showed that he 12 was not. Is that what you're saying, in a 13 nutshell?	
17 Q Okay. As far as preparing for this 18 deposition, again, don't tell me any discussions 19 you may have had with your attorney. What did you 20 do to prepare for this deposition?	14 A That's correct.	
21 A Looked over my complaint and some of 22 the discovery material.	15 Q Anyone else there, sir?	
23 Q Okay. And when you say "discovery 24 material," you mean the interrogatory responses or 25 request for production responses?	16 A No.	
11 A Both.	17 Q Okay. Thank you.	
2 Q Okay. Anything else, sir?	18 Okay. What's your date of birth, 19 sir?	
3 A No.	20 A 1/29/62.	
4 Q Now, I read you a long list of names 5 to start this, which, I believe, are still my 6 clients in this case at this point. We have a 7 number of them. I believe it's one, two, three, 8 four, five, six, seven, eight, nine, ten, eleven, 9 twelve. And do you know all of those folks?	21 Q And where were you born?	
10 A Yes, sir.	22 A Seattle, Washington.	
11 Q As of today, do you believe all of 12 those folks should still be in this case or have 13 some of your -- some of your investigation and 14 such indicated that perhaps one or two or more of 15 them should not?	23 Q And did you graduate from high 24 school?	
16 A One, two or more of them should not.	25 A Yes, sir.	
17 Q And who might those be? Do you 18 remember offhand? And I can give you the list to 19 look at that, if that would help you.	11	13
20 A Sure. It would be Jason Soto.	1 Q Any education after that?	
21 Q And you're saying that he would not?	2 A Some college courses, community 3 college.	
22 A He would not.	4 Q Where did you take those?	
23 Q And for what reason, in a nutshell, 24 sir?	5 A I think one was at Edmonds, through 6 Edmonds Community College. There was Centralia 7 Community College.	
25 A Jason Soto. There was another	8 Q In Washington also?	
	9 A Yeah. They are all in Washington 10 state. And I think that's it.	
	11 Q What type of classes did you take 12 there, generally?	
	13 A Culinary arts. I took a janitorial 14 science class, business math, business law. Just 15 -- that's about it.	
	16 Q Okay. And have you attempted to 17 continue your education, either formally or 18 informally, since then?	
	19 A No.	
	20 Q Okay. Do you do any reading?	
	21 A All the time.	
	22 Q What types of things do you read, 23 sir?	
	24 A Study the bible. I like reading 25 religious material.	

	14	16
1 Q Okay.	1 I've worked in food service and as an OCA.	
2 A Some legal stuff because I'm working	2 Q I think I know, but for the record,	
3 on my case.	3 what's an OCA?	
4 Q Okay. Is this the only case you have	4 A Offender care aid.	
5 going right now?	5 Q Okay. And are you presently working	
6 A No.	6 as an OCA?	
7 Q What's the other case?	7 A Yes, sir.	
8 A Criminal.	8 Q Who's your immediate supervisor	
9 Q Okay. Do you know what court? Is	9 there?	
10 that in federal court also in Colorado?	10 A Her name is Martin, Sergeant Martin.	
11 A No.	11 Q And how long have you been in this	
12 Q Where is that? Do you know?	12 facility?	
13 A That's in appellate court, Colorado.	13 A Since 2009.	
14 Q Appellate?	14 Q Okay. A little background. I'm	
15 A Court of appeals.	15 going to show you what is marked as Exhibit A.	
16 Q What's the name of that case? I'm	16 I'll represent to you this is a copy of your	
17 assuming your name is in there.	17 interrogatory responses, but certainly take a look	
18 A Yes.	18 at that and verify that I'm correct there.	
19 Q Okay. Have you got one or two or	19 MR. LAMPIASI: Thank you.	
20 more as defendants?	20 MR. CAIN: You bet.	
21 A There's a civil case that I'm working	21 THE WITNESS: Yes, interrogatory	
22 on, too, that's against an attorney here in	22 responses.	
23 Colorado, so --	23 Q BY MR. CAIN: Okay. And I notice on	
24 Q Okay.	24 page 8 you signed those. That's your signature,	
25 A That's it.	25 sir?	
	15	17
1 Q Is that -- has that been filed --	1 A Yes.	
2 A Yes.	2 Q Okay. And you had read over these	
3 Q -- in a court?	3 and at least contributed to these or maybe wrote	
4 What court is that filed in?	4 them in their entirety?	
5 A That was in Denver District Court.	5 A Yes.	
6 Q Okay. And I'm assuming your name is	6 Q Did you write them in their entirety?	
7 that.	7 A Yes.	
8 A Yes.	8 Q Okay. Going back to page 1, I'd like	
9 Q So if we did a name search for you,	9 to follow up and get a little bit of information	
10 that would probably pop up.	10 about some of the folks that have been listed as	
11 A Most definitely.	11 people who may have information related to this	
12 Q Okay. Any other cases that you're	12 lawsuit. Okay? At the bottom of the first page,	
13 involved in, sir?	13 we've got Michael Mulligan. It says a former CTCF	
14 A No.	14 inmate. Says Mr. Mulligan -- Milligan,	
15 Q And are you married?	15 M-I-L-L-I-G-A-N. Let's see. One's Mulligan;	
16 A No.	16 one's Milligan. Do you know which one it is?	
17 Q Have you been married in the past?	17 A I think it's Mulligan with a U.	
18 A No.	18 Q Okay. M-U-L-L-I-G-A-N?	
19 Q Children?	19 A Yes.	
20 A I have two kids that I'm aware of.	20 Q Okay. This says, "Handed plaintiff	
21 Q Okay. And have you had any	21 his grievances back and has relevant information	
22 employment, any jobs while you've been in the	22 concerning the issues raised in the pleadings."	
23 facility down here?	23 Now, does this relate to some	
24 A Since I've been at this facility,	24 activity that took place the morning of this	
25 I've worked as a recreation staff in the gym.	25 subject incident?	

	18	20
1 A The information that he has, the 2 relevant information?	1 Q Okay. And against the captain, you 2 mean captain who, for the record?	
3 Q Or the actual -- it says, "Handed 4 plaintiff his grievances back."	3 A It was Captain Nunez.	
5 When did that take place?	4 Q Okay. And did anybody read through 5 those grievances other than Mr. Mulligan prior to 6 the start of this incident that we're here for 7 today?	
8 A Yes. That happened the morning of 9 the incident, sir.	8 MR. LAMPIASI: Object to the form.	
10 Q Okay. And can you tell me, in a 11 nutshell, his involvement that morning?	9 Q BY MR. CAIN: That you're aware of.	
12 A He handed me the grievances back. He 13 came over and gave them to me.	10 A No.	
14 Q Were they your grievances?	11 Q And I'll get to that later, but I 12 want to go through some of these names. I 13 appreciate that information. Michael -- top of 14 the next page, "Michael Jones is a former CTCF 15 inmate." It says, "Mr. Jones witnessed the 16 excessive use of force and has relevant 17 information concerning the issues raised in the 18 pleadings."	
16 A Yes, sir.	19 Okay. Now, I'm assuming when it says 20 "witnessed the use of excess force," does this 21 mean the use of excessive force that you believe 22 took place on February 29th, 2012?	
17 Q How had he gotten those then?	23 A Yes, sir.	
18 A I had given them to him to read, as I 19 mentioned in the complaint.	24 Q Okay. And how did Mr. Jones witness 25 this? Where was he? How was this set up, sir?	
20 Q Okay. And was he a friend of yours 21 at that time?		19
22 A Yes, sir.	20 A He was inside the door on the -- in	21
23 Q Still a friend?	21 the pod, 34 left.	
24 A I haven't been in contact with him.	22 Q And I notice -- I've watched the	
25 Q Since when?	23 video concerning this. Have you watched that	
26 A Since he left the facility in about 27 2010, maybe.	24 video also, sir?	
28 Q All right.	25 A Yes.	
	26 Q Okay. So it's -- it's your belief	
	27 that he witnessed at least some of that	
	28 interaction, your interaction with the officers	
	29 that morning?	
1 A It was 2012 he left this facility.	30 A Yes.	
2 Q Okay.	31 Q Okay. Have you -- did you talk to	
3 A Yeah.	32 him afterwards to verify what he had or had not	
4 Q So about the same year as this 5 incident --	33 seen?	
6 A Yeah.	34 A Yes.	
7 Q -- that we're here for?	35 Q Okay. What's your -- best of your	
8 Okay. And as far as having your 9 grievances, do you know why he had your grievances 10 that morning?	36 memory as to how much of that he saw, what he did 11 see, what he told you?	
11 A Yes, sir. I gave them to him for him 12 to read over the night and handed them back that 13 following morning.	37 A I believe that that was attached --	
14 Q Any particular reason for doing that?	38 his statement was attached as an exhibit here.	
15 A The grievances were against Captain 16 Nunez, and I gave them the grievances to read just 17 in case something happened to me. I was turning 18 them in to my case manager that morning.	39 Q Okay. To the complaint?	
19 Q Were you concerned about something 20 happening to you?	40 A Yes, sir.	
21 A Possibly.	22 Q Okay.	
22 Q Why?	23 A And -- no, not to the complaint but	
23 A Just the complaints were against a 24 captain here, and I didn't feel comfortable 25 without anyone knowing what was going on, so --	24 to the interrogatory responses.	

	22	24
1 Q Okay. Okay. And I'm -- I will check 2 that. I'm sorry. I do not have that with me 3 today. In fact, I'm remembering that now. Had 4 you written that or had he written that statement?	1 A Yes. He was a witness as well. 2 Q And what's your understanding as to 3 what he saw, sir?	
5 A We had went over the statement 6 together --	4 A He saw most of the incident that took 5 place from the beginning until the door was 6 covered.	
7 Q Okay.	7 Q Okay. A similar amount of the 8 incident as Mr. Nowak?	
8 A -- and wrote it at the same time.	9 A Yes, sir.	
9 Q Okay. And with regard -- and when's 10 the last time you spoke with Mr. Jones?	10 Q And which side was he on? Do you 11 remember?	
11 A I don't recall.	12 A He was on 34 right.	
12 Q Okay. Jeff Nowak. Indicates he's a 13 former CTCF inmate and similar endorsement of his 14 testimony as Mr. Jones. Did you attach a 15 statement of his also to the interrogatory 16 responses?	13 Q 34 right?	
17 A He was transferred from the 18 institution before we could get a statement from 19 him.	14 A Uh-huh.	
20 Q Okay. Did you talk to him after this 21 incident of February 29th, 2012, regarding what he 22 saw?	15 Q Okay. Did you talk to him once about 16 this incident? Twice or more?	
23 A Yes.	17 A Mr. Nowak, at least twice.	
24 Q What's your understanding based on 25 your discussions with him of what he saw of that	18 Q I'm sorry. Mr. Allen I'm asking.	
	19 A Oh, Mr. Allen.	
	20 Q Yes.	
	21 A Yes.	
	22 Q And I'm sorry if I -- I meant Mr.	
	23 Allen, where was he then? Was he 34 right or --	
	24 A He was on 34 right.	
	25 Q He was 34 right as was Mr. Nowak?	
	23	25
1 incident?	1 A As was Mr. Nowak.	
2 A He was at the door on the 34 right 3 side, 34 right pod --	2 Q Okay. And so you said you talked to 3 Mr. Allen more than once?	
4 Q Okay.	4 A Yes.	
5 A -- and witnessed what happened.	5 Q About how many times, do you think?	
6 Q Okay. All the way until you were 7 taking out of -- taken out of sight of that pod?	6 A To Mr. Allen, about twice.	
8 A No. They witnessed until the officer 9 stood in front of the door, in front of the 10 window.	7 Q Okay. Michael Jetters. It says he's 8 former CTCF. Apparently, he's at AVCF, unit 5, at 9 this point, or at least at the time these 10 interrogatories were responded to. Is that your 11 understanding?	
11 Q Okay.	12 A Yes. I need to make a correction 13 here.	
12 A And they closed the door.	14 Q Sure.	
13 Q Okay. Do you remember which officer 14 that would have been that stood in front?	15 A I mentioned Michael Jones as writing 16 a report. Jones didn't do a statement. It was 17 Michael Jeeters [sic] --	
15 A According to the video, it was 16 Sergeant Walker on the right -- 34 right pod, and 17 Lieutenant Williams -- Carl Williams stood in 18 front of the window on 34 left pod.	18 Q Okay.	
19 Q Okay. Shawn D. Allen. He's endorsed 20 to testify similarly. Did he have a statement 21 attached to this interrogatory response?	19 A -- who actually --	
22 A No. He left before he could give a 23 statement, as well, before I could obtain one.	20 Q Okay.	
24 Q But you discussed it with him 25 afterwards?	21 A -- who prepared a statement. Jones 22 was on 34 left --	
	23 Q Okay.	
	24 A -- and witnessed the incident until 25 the doors were closed. And captain -- or Sergeant	

	26	28
1	-- Lieutenant Williams -- excuse me -- stood in	1
2	front of the door.	2
3	O So similar amount of time to Nowak	3
4	and Allen, just on the other side?	4
5	A On the other side.	5
6	Q Well, Michael Jetters, J-E-T-T-E-R-S,	6
7	then --	7
8	A Uh-huh.	8
9	Q -- he -- you've indicated that he --	9
10	you have a statement of his attached to the	10
11	interrogatories --	11
12	A I believe I did --	12
13	Q -- you did originally?	13
14	A -- yes, sir.	14
15	Q Okay. I'll double check that. That	15
16	kind of rings a bell for one of the Michaels.	16
17	A Okay.	17
18	Q And did he write that statement? Did	18
19	you assist him? Or how did that statement come	19
20	into being?	20
21	A We sat down and discussed what	21
22	happened, and he told me what he saw, and I wrote	22
23	the statement.	23
24	Q Okay. And did what he see -- was he	24
25	able to witness this incident a similar amount of	25
	27	29
1	time as Jones, Nowak, and Allen?	1
2	A Yes, sir.	2
3	Q And which side was he on?	3
4	A Jetters [sic] was 34 right as well.	4
5	Q Okay. And how many times do you	5
6	think you discussed this incident with Michael	6
7	Jeeters or Jetters, however they pronounce it?	7
8	A About four times.	8
9	Q Okay. Do you know when he left here?	9
10	A I don't recall when he left, but he	10
11	returned and then he left again. So --	11
12	Q Okay. And the most recent leaving	12
13	was approximately?	13
14	A About 2/13, I believe.	14
15	Q Okay. William Gilmore. Says he	15
16	witnessed the excessive use of force and has	16
17	relevant information concerning the issues raised	17
18	in the pleadings. Did you attach a statement of	18
19	William Gilmore's to this?	19
20	A No.	20
21	Q Did you discuss with Mr. Gilmore what	21
22	he saw that day?	22
23	A I did.	23
24	Q And generally, what did he see based	24
25	on your memory?	25

8 (Pages 26 to 29)

	30	32
1	sir.	1 A Mr. Horton. The other two, no.
2	A He may have recalled me speaking with	2 Q Okay. And when did you discuss this
3	the nurses regarding my injuries, may recall	3 with Mr. Horton?
4	speaking to Captain Cordova regarding additional	4 A In segregation during that period of
5	photographs, the number of TASER holes in my back.	5 time and in population here.
6	Q Okay.	6 Q Okay. How many times in pop -- well,
7	A May recall me asking for pictures in	7 how many times in segregation during -- I'm
8	addition.	8 assuming late February, sometime March 2012?
9	Q Okay. It says, "Mr. Staples is a	9 A Yes, sir.
10	former CTCF inmate."	10 MR. LAMPIASI: Object to the form.
11	When did he leave? Do you remember?	11 Q BY MR. CAIN: How many times do you
12	A Would have been 2013, I believe.	12 think you discussed that with him?
13	Q All right. And the nurses that you	13 A Well, probably we spoke about three
14	believe he may have overheard speaking with, who	14 different occasions in segregation, a few in
15	might those be?	15 population.
16	A Nurse Rudnick [phonetic], Nurse	16 Q When's the last time in population
17	Bufmack.	17 you would have discussed this with him, ballpark?
18	Q Okay.	18 A I don't recall.
19	A Nurse Grieb, I believe.	19 Q Within the last year?
20	Q Do you know how to spell that last	20 A Yes, it's been within the last year.
21	name?	21 Q So that's probably 2015?
22	A G-R-I-E-B.	22 A Yeah.
23	Q Okay. Anything else that Mr. Staples	23 Q Okay. Arthur W. Smith, again, he's a
24	may have overheard that you believe is relevant to	24 current CTCF inmate. He was -- well, before I get
25	this case that you can think of right now?	25 to him, I note a number of the folks previously
	31	33
1	A I can't recall at this point.	1 are listed as former CTCF inmates. Do you have
2	Q Okay. Ezekiel Trujillo. Says he's a	2 any reason to believe that those folks were moved
3	former CTCF inmate, and his endorsement is similar	3 out of here for any reason related to this case or
4	to Mr. Staples. Same tier in segregation and may	4 just simply simple turnover?
5	have overheard conversations you had with staff	5 A I'm not sure. I don't know.
6	that might be relevant to this case, you believe.	6 Q Do you have any reason to believe
7	Would he have potentially overheard essentially	7 that they were moved out of here for any reason
8	similar statements you may have made to the people	8 related to this case?
9	you mentioned with regard to Mr. Staples?	9 A I'm not sure.
10	A Yes.	10 Q Arthur W. Smith is a current CTCF
11	MR. LAMPIASI: Object to the form.	11 inmate. Mr. Smith was plaintiff's cellmate from
12	Excuse me.	12 April 4th, 2012, to May 30th, 2013, and has
13	Q BY MR. CAIN: Okay. Arvel Horton,	13 relevant information concerning the issues raised
14	H-O-R-T-O-N. Now, he's a current CTCF inmate, so	14 in the pleadings. What information do you think
15	he's still here as of today?	15 Arthur Smith might have, sir?
16	A Yes.	16 A Information relating to the damage
17	Q And, again, with the knowledge he may	17 that was done to my hands.
18	have, would that -- would he potentially have	18 Q Done to your what?
19	overheard similar conversations as your	19 A My hands.
20	descriptions concerning Mr. Staples and	20 Q Okay. And what damage was that?
21	Mr. Trujillo?	21 A I had damage to the back of my hands
22	A Yes, sir.	22 in the bones and --
23	Q Have you had a conversation with	23 Q Were the bones actually broken or
24	Mr. Staples, Mr. Trujillo, or Mr. Horton as to	24 bruised or do you know?
25	what they may have overheard specifically?	25 A I believe they were fractured.

	34	36
1	Q Fractured. Okay. And what caused	1 your cellmate from April 4th, 2012, to May 30th,
2	them to be fractured?	2 2013. So this was, oh, a little over a month or
3	A The excessive force, I believe.	3 so after this incident, correct?
4	Q From what?	4 A Yes, sir.
5	A Bending of my wrist while I was	5 Q Who had been your cellmate prior to
6	handcuffed.	6 that?
7	Q Okay.	7 A I believe it was Gilmore. William
8	A Pulling on the elbow.	8 Gilmore was my celly. Was it Gilmore?
9	Q I'm sorry?	9 Q Who is referenced on page 2 of
10	A Pulling on my elbow.	10 Exhibit A?
11	Q Okay.	11 A Yes. But no, it wasn't Gilmore. I
12	A Bending my wrist while handcuffed	12 had moved from 34 right pod over to the left side.
13	very forcefully, sir.	13 I don't recall who the cellmate was prior to him.
14	Q Okay. You said handcuffed very	14 Q Okay. Would you have talked to that
15	forcibly?	15 cellmate about injury to your hands or were you
16	A While I was handcuffed, they were	16 still in --
17	doing the bending and the pulling very forcefully.	17 A The injury.
18	Q Forcefully. Okay. So the area of	18 Q The injury that you're claiming from
19	the broken bones would be around where the	19 the February 29th, 2012, incident, would you have
20	handcuffs were then?	20 told your prior cellmate about that?
21	A They were in the -- in the carpal	21 A No.
22	bones in the back of my hand.	22 Q Why not?
23	Q Top of your back of your hands.	23 A We weren't cellmates at that time.
24	A Yes, sir.	24 Q Okay.
25	Q Correct?	25 A The injury took place afterwards.
	35	37
1	Okay. Did you have anybody verify	1 Q Okay. I guess what I'm asking is:
2	that these bones were fractured or broken?	2 So when did you get out of segregation from this
3	A There was X-rays.	3 incident?
4	Q Who took those X-rays?	4 A That was March 29th.
5	A I don't know who the technician was,	5 Q Okay. So the only cellmate -- the
6	but it was part of the treatment that I received a	6 first cellmate you had after this incident was
7	month later.	7 Arthur Smith.
8	Q Okay. And they indicated to you that	8 A Yes, sir.
9	the bones were actually fractured.	9 Q Is that correct?
10	A I believe that it came back and said	10 Okay. Because in segregation, you're
11	discoloration or -- I don't recall what the	11 kind of there by yourself.
12	specific report said.	12 A Yes, sir.
13	Q Okay. Do you know if anybody	13 Q Correct.
14	specifically told you that you had fractured bones	14 Okay. Who is your present cellmate?
15	in your hands, wrists due to this incident of	15 A His name is Tony Johnson, I believe.
16	February 29th, 2012?	16 Just moved him.
17	A No.	17 Q Okay. Let's go to -- looking at the
18	Q It's just your suspicion at this	18 bottom of page 2 of Exhibit A, your interrogatory
19	point.	19 responses and then going to -- actually to the top
20	A Yes.	20 of page 3 and interrogatory number 3, it's asking
21	Q Okay. Anything else that Arthur	21 you to describe in detail the nature and extent of
22	Smith, information he might have related -- you	22 the alleged injuries to your wrists. Now, you
23	believe is related to this case?	23 might remember that -- looks like Nicole Gellar,
24	A No.	24 the assistant attorney general, was on the case at
25	Q Do you know why -- it says he was	25 the time these interrogatories were propounded and

	38	40
1	you responded to them.	1 back and forward?
2	A Uh-huh. Yes.	2 A Yes, sir.
3	Q Okay. Did you ever meet her?	3 Q Okay. And it says scratches. What
4	A No.	4 were the scratches caused by and where were they?
5	Q Okay. So interrogatory number 3	5 A I had scratches on my wrists.
6	talks about your injuries. Your response was	6 Q Top of your wrists?
7	plaintiff suffered -- I'm assuming you mean from	7 A Both sides, actually.
8	this February 29th, 2012, incident. Plaintiff	8 Q On the top of your wrists? That's
9	suffered unnecessary pain, swelling, scratches,	9 where you were indicating, I thought. I just
10	cuts, deep indentations, scarring, decreased	10 wanted you --
11	mobility, pain in both hands, injury to his carpal	11 A Yes.
12	bones in the back of both hands, and nerve damage.	12 Q -- to confirm that.
13	Is that still your position today, sir?	13 A Yes.
14	A Yes.	14 Q Okay. And also, cuts. Same place?
15	Q Okay. Well, let's take a look at	15 A Yeah. They were on the arm from here
16	this. Unnecessary pain. That's certainly	16 (indicating) to here (indicating).
17	subjective. The swelling. Was that documented,	17 Q Top of the arm?
18	the swelling?	18 A Both sides, sir.
19	MR. LAMPIASI: Object to form.	19 Q Okay. And you believe that was
20	THE WITNESS: I believe so.	20 caused by the handcuffs?
21	Q BY MR. CAIN: Okay. And where was	21 A Yes.
22	the swelling? Why don't you describe it to me.	22 Q So were the handcuffs actually
23	A It was in my wrist.	23 sliding up and down the wrist or lower arm?
24	Q All the way around?	24 A At one point, yes, sir.
25	A My hands were swollen, sir.	25 Q Okay. At what point was that that
	39	41
1	Q Okay. And you believe that was	1 they were sliding up and down the wrists? Do you
2	caused by the handcuffs?	2 remember specifically or --
3	A Yes, sir.	3 A I remember when they picked me up by
4	Q Okay.	4 the handcuffs is when the --
5	A And the bending and pulling as well.	5 Q Okay. And who picked you up by the
6	Q Okay. And when you say bending and	6 handcuffs?
7	pulling, I'm trying to get a sense of that. Can	7 A I don't recall.
8	you give me an example of how they -- how your	8 Q Okay. So they picked up -- picked
9	wrist was bent and pulled, your hand, causing	9 you up holding onto the handcuffs only?
10	injury?	10 A What do you mean by "only"?
11	A Well, the handcuffs are placed on	11 Q Sure. It sounds -- when you say
12	this area here (indicating).	12 picked you up by the handcuffs, I'm getting the --
13	Q Around your wrist?	13 I'm hearing that they grabbed between the
14	A And they were tight.	14 handcuffs and lifted you without lifting any other
15	Q Okay.	15 part of your body. Or was it just partially, or
16	A And while the handcuffs were on,	16 how would you describe it?
17	there was various officers that would -- that was	17 MR. LAMPIASI: Object to form.
18	bending the wrist back as far as they could.	18 THE WITNESS: I can't recall. I
19	Bending this way (indicating) and bending back and	19 remember them picking me up by using the
20	also pulling on the -- on the elbow at various	20 handcuffs.
21	times.	21 MR. CAIN: Okay.
22	Q Okay.	22 THE WITNESS: So that's how my wrists
23	A And in the tape you could hear me	23 got scraped up.
24	complain about that, sir.	24 Q BY MR. CAIN: And you can't say
25	Q Okay. So actually bending your hand	25 whether they were picking you up solely by

	42	44
1	grabbing your handcuffs or at least somebody's	1 left from the cuts.
2	hand was on the handcuffs along with hands on	2 Q Okay. So they -- over the three
3	other parts of your body?	3 years or so, they've gone away --
4	A No.	4 A Yes, sir.
5	MR. LAMPIASI: Object to form.	5 Q -- gradually?
6	THE WITNESS: No. I believe they --	6 A Yes.
7	Q BY MR. CAIN: You believe?	7 Q Okay. And I do notice today you have
8	A I believe they picked me up by the	8 your left hand in a bandage. Is that due to
9	handcuffs.	9 anything related to this February 29th, 2012,
10	Q And not lifting any other portion of	10 incident?
11	your body? Just the handcuffs?	11 A Yes, sir.
12	A Yeah, not at that time.	12 Q Okay. Why don't you tell me what --
13	Q Okay. And the handcuffs then slid up	13 how that is related.
14	and caused injury up your arm?	14 A We had surgery. It was considered a
15	A Abrasions and scrapes.	15 carpal tunnel surgery. That was during the
16	Q Okay. On both arms, then. They	16 incident. I reported that this (indicating), the
17	slipped up both arms?	17 handcuff here on the left hand (indicating) was
18	A Yes, sir.	18 tight, and it damaged the nerve on this hand
19	Q And what is scratching? I haven't	19 (indicating).
20	been in a whole lot of handcuffs. So what is	20 Q On your left hand?
21	scratching on the handcuffs? I thought they were	21 A On my left hand, yes, sir.
22	relatively smooth.	22 Q Down to the base of your thumb, it
23	MR. LAMPIASI: Object to form.	23 looked like you were pointing at. In that area?
24	THE WITNESS: I'm not understanding	24 A Yeah. You can tell instantly that
25	the --	25 was.
	43	45
1	MR. CAIN: Sure.	1 Q Okay. And was that because the
2	THE WITNESS: -- question.	2 handcuff rode up onto the thumb and caused injury,
3	Q BY MR. CAIN: What part of the metal	3 or how would you describe it?
4	of the handcuff is actually causing you	4 MR. LAMPIASI: Object to the form.
5	scratching? I thought they were somewhat smooth.	5 THE WITNESS: It was just tight in
6	A Yeah, but when they are tight, they	6 that area.
7	are tight, and they are not smooth, and they are	7 Q BY MR. CAIN: Okay. And so did they
8	scratching your skin, sir.	8 do what's called a carpal tunnel release surgery,
9	Q So they dig into your skin.	9 or what's your understanding?
10	A Yes.	10 A I understand that they did a carpal
11	Q And also in that interrogatory	11 tunnel release, sir.
12	response on page 3 of Exhibit A, you refer to deep	12 Q And when was that done?
13	indentations. Was that similarly caused by the	13 A I believe it was September the 3rd, I
14	handcuffs, you believe?	14 believe.
15	A Yes, by the handcuffs.	15 Q Of 2015?
16	Q And were those deep indentations on	16 A Yes, sir.
17	the top, on the bottom, sides, or --	17 Q Okay. And who did that?
18	A All the way around.	18 A It was Dr. Romero at the St. Mary's
19	Q All the way around both wrists?	19 Hospital in Pueblo.
20	A Yes, sir.	20 Q St. Mary-Corwin?
21	Q Okay. Also says scarring. Where do	21 A Corwin, yes, sir.
22	you have scarring on those wrists because of this	22 Q Okay. How's it been doing?
23	February 29th, 2012, incident, sir?	23 A I'm getting some feeling back in my
24	A You can't see them now because of my	24 fingertips. I have no feeling in my thumb.
25	skin coloration, but there was definitely scars	25 Q Okay. How long have you been having

	46	48
1	tingling or numbness in your fingertips or thumb	1 atrophy?
2	on the left hand?	2 A Yes.
3	MR. LAMPIASI: Object to form.	3 Q Okay. And so kind of in the palm,
4	THE WITNESS: 2005, I believe.	4 the heel of the left hand?
5	Q BY MR. CAIN: Okay. It started then?	5 A Yes.
6	A (Nodded.)	6 Q That muscle got smaller?
7	Q That's a "yes" for the record?	7 A Yes.
8	A Yes.	8 Q Okay.
9	Q I could tell you nodded your head,	9 A Just on the left hand. I'm
10	but that's fine.	right-handed.
11	A I'm sorry. I got it.	11 Q Okay. And you said you could
12	Q Do you know why this started in 2005?	12 immediately -- you immediately knew that you
13	Did you relate it to any particular activity? Any	13 damaged the nerve. How? Describe why you
14	particular injury?	14 immediately knew you damaged the nerve.
15	A You know, I thought it was related to	15 A You could just -- you could feel it.
16	exercise, to weightlifting, but there was a	16 Q What did it feel like?
17	incident, another handcuffing incident that took	17 A Just numbness, tingling. Just -- I
18	place in Washington. I was examined at the	18 don't know how to describe it, but you could tell
19	hospital, and they said that I had carpal tunnel.	19 that there was -- that there was additional damage
20	And I believe it was as a result of that. And I	20 here (indicating).
21	had also been giving massages under the table and	21 Q Okay. And have you received any
22	that may have contributed.	22 relief since the surgery on the left hand at all?
23	Q Okay. With regard to -- you say you	23 Has it gotten any better?
24	giving or getting massages?	24 A Since the surgery?
25	A Giving massages.	25 Q Yes, sir.
	47	49
1	Q Okay. And so that could have	1 A On the left thumb?
2	contributed to the carpal tunnel in your left	2 Q On the left, yes.
3	hand?	3 A No.
4	A Possibly, yes.	4 Q How about the left wrist and hand, in
5	Q And are you left- or right-hand	5 general?
6	dominant, sir?	6 A The hand, I'm getting feeling and
7	A I'm right-handed.	7 stuff back in my -- in my fingertips now. We
8	Q And with regard to that left hand,	8 discussed that with the doctor.
9	did these symptoms change at all at the time of or	9 Q Okay.
10	immediately after this February 29th, 2012,	10 A And said it might take time, might
11	incident?	11 come back, might not.
12	A My left hand got progressively worse.	12 Q Okay. How about the right wrist? Do
13	Q Okay. And when you say progressively	13 you feel that your -- you had carpal tunnel
14	worse, was worse an hour later, a day later, a	14 starting at least back in 2004 or '5 in the right
15	week later, a month later, or how did that	15 side, too, correct?
16	progress?	16 A Yes, sir.
17	A I could tell instantly that there was	17 Q Okay. And was that exacerbated at
18	damage to the nerve, and then over time, I started	18 all by this February 29th, 2012, incident, do you
19	losing feeling. That's what I mean by	19 believe?
20	progressive.	20 A The right, I don't know if it totally
21	Q Okay.	21 exacerbated or not, but after the incident, I had
22	A So over time, I started losing	22 problems with the right as well.
23	feeling, and then the muscle in this area here	23 Q Okay. Has that -- have those
24	(indicating) was just gone.	24 problems kind of gone back to where they were
25	Q So I guess -- have you heard the word	25 before this February 29th, 2012, incident?

	50	52
1	MR. LAMPIASI: Object to foundation.	1
2	Q BY MR. CAIN: To the right?	2
3	MR LAMPIASI: Objection. Foundation.	3
4	Q BY MR. CAIN: From your perspective.	4
5	A For awhile, I experienced a lot of	5
6	pain and discomfort.	6
7	Q Okay. But as you sit here today, is	7
8	the right hand pretty similar to what it would	8
9	have been back in 2011, 2010, 2009?	9
10	MR. LAMPIASI: Object to form.	10
11	THE WITNESS: No, it's not. It's	11
12	worse.	12
13	Q BY MR. CAIN: Can you tell me how	13
14	much worse it is?	14
15	A There's more tingling. There's more	15
16	numbness. There's more just lack of -- I don't	16
17	know how to describe it. The strength is gone.	17
18	Q Okay. When you say numbness and	18
19	tingling in the right hand, where is it? What	19
20	part of the hand? What part of the fingers?	20
21	A It's the fingers. The whole hand.	21
22	The whole hand, it tingles. It goes numb. I	22
23	don't have any feelings in the fingertips at all	23
24	in these fingers (indicating).	24
25	Q Okay. And so it's all five fingers?	25
	51	53
1	All four fingers and the thumb?	1
2	A No. Just the four fingers.	2
3	Q Just the four fingers? And all the	3
4	way down to the tips?	4
5	A As far as the numbness?	5
6	Q Yes.	6
7	A No. The numbness is in the	7
8	fingertips and no feeling in the fingertips.	8
9	Q Okay.	9
10	A The experience, like numbness and	10
11	electrical shocks, tingling.	11
12	Q Okay. In the fingertips or	12
13	throughout that hand?	13
14	A It's throughout the hand.	14
15	Q The right hand?	15
16	A Yes.	16
17	Q Okay. Are you still getting what	17
18	feels to you like electrical shocks in the left	18
19	hand since the surgery?	19
20	A Yes, since the surgery. I discussed	20
21	that with the doctor.	21
22	Q Okay. Did the doctor indicate that	22
23	he wanted to go ahead and do surgery on your right	23
24	hand?	24
25	A He did.	25

	54	56
1	Q No problem. No problem. Just a	1 A Definitely positive.
2	little jocularity halfway through the deposition	2 Q Okay. And so it's your understanding
3	is a little bit of a relief.	3 following that he simply called for someone --
4	So he was -- he had called her	4 well, let me back up. You then put the grievances
5	regarding the -- what you had mentioned were the	5 back in the envelope?
6	grievances that were in an envelope?	6 A I took the envelope and the
7	A Yes.	7 grievances, put the grievances in the envelope,
8	Q That Mr. Mulligan was giving back to	8 and took them upstairs to my cell.
9	you?	9 Q Okay. Why did you do that?
10	A Yes.	10 A Because I didn't want them to be
11	Q Okay. And had he asked for those	11 confiscated. I figured that if he took those --
12	or --	12 they were against a powerful captain here -- that
13	A Yes, he had. I had pulled them out	13 they would come up missing.
14	of the envelope, and I told him that they were	14 Q Okay. Had you ever had grievances
15	grievances, that I was gonna be turning those in	15 come up missing before?
16	to my case manager that day. And I pulled them	16 A I haven't, no.
17	out, and I held them up to the window and showed	17 Q Okay. You've talked to other people
18	him that they were grievances. And he told me to	18 that have?
19	give them to him, that they were going into	19 A Yes, sir.
20	contraband. And I said, "Well, I'm going to turn	20 Q Okay. And are you certain they
21	these into my case manager." And I said, "If you	21 actually had that happen or was it just kind of
22	want to write me up for disobeying a direct order,	22 hearsay from them?
23	you're more than welcome."	23 A You never know what people say in
24	And I showed him the envelope, and I	24 here.
25	tried to hand him the envelope through the small	25 Q Okay. So you went up to your cell.
	55	57
1	window, and that was it. So -- and I went and	1 You put the envelope with the grievances in it in
2	took that stuff up the stairs and put it in my	2 your cell. And then did you come back out of your
3	cell.	3 cell?
4	Q Okay. Let me ask you this: You say	4 A Yes, I did.
5	you tried to hand him the envelope?	5 Q Why?
6	A Yes, sir.	6 A I came -- I was brushing my teeth and
7	Q Okay. And did he respond to your	7 washing my face. And so when I was coming down
8	attempts to try to hand him the envelope that you	8 the stairs, that's when Mrs. Clinkenbeard and the
9	could see?	9 other officer, Hanson, approached me.
10	A He wanted everything. And since I	10 Q Okay. And they approached you and
11	didn't give him everything, he didn't take the	11 said what?
12	envelope.	12 A Asked me to step out in the hall, and
13	Q Okay. And everything, to your	13 she asked me why I had used profane language
14	understanding, being the envelope and the	14 against C.O. Meyers.
15	grievances inside?	15 Q Okay.
16	A Yes, sir.	16 A I told her I hadn't.
17	Q Was there anything else inside that	17 Q You're positive of that?
18	envelope?	18 A Yes, sir.
19	A No, sir.	19 Q Okay.
20	Q You're positive of that.	20 A In fact, I offered her to go in and
21	A I showed it to him.	21 ask any of the inmates that were in the pod.
22	Q Are you positive that there was	22 Q Okay. And then in your interrogatory
23	nothing else inside --	23 response you say, "She now claims the plaintiff
24	A Yes, sir.	24 refused lawful orders to allow staff to search for
25	Q -- the envelope?	25 contraband."

	58	60
1	Did she bring that up?	1
2	A No. She never mentioned searching me	2
3	for contraband.	3
4	Q Okay.	4
5	A No.	5
6	Q As far as from your perspective, did	6
7	she have any reason to believe that you might have	7
8	some sort of contraband given your actions that	8
9	morning?	9
10	MR. LAMPIASI: Object to form.	10
11	Foundation.	11
12	THE WITNESS: No. I was dressed in	12
13	sweat pants and a T-shirt and some shower thongs.	13
14	I didn't have anything. Where would I hide a	14
15	nine-and-a-half-by-thirteen-inch envelope?	15
16	Q BY MR. CAIN: Okay. Well, would it	16
17	be typical for you to be getting envelopes or	17
18	other items from another inmate at that time of	18
19	the morning?	19
20	A No.	20
21	Q Okay. Let's go ahead and jump from	21
22	this interrogatory response to another exhibit	22
23	here, which is -- my understanding is a little bit	23
24	more detailed statement by you of what happened on	24
25	February 29th, 2012, from your perspective.	25
	59	61
1	A Okay.	1
2	Q I'll show you what has been marked as	2
3	Exhibit C, as in cat.	3
4	MR. LAMPIASI: Thank you.	4
5	Q BY MR. CAIN: And I'm going to show	5
6	you also -- I believe there was an addendum that	6
7	you had done to that.	7
8	A Yes, sir.	8
9	Q And that is Exhibit D. Kind of go	9
10	through those.	10
11	MR. LAMPIASI: I'm sorry. B is	11
12	March --	12
13	MR. CAIN: C --	13
14	MR. LAMPIASI: C?	14
15	MR. CAIN: -- is the first one and	15
16	the addendum is Exhibit D.	16
17	MR. LAMPIASI: Thank you.	17
18	Q BY MR. CAIN: Okay. Sir, looking at	18
19	Exhibit C, is this your writing? And take a look	19
20	at it and make sure. My understanding is it is,	20
21	but, by all means, check me on that.	21
22	A That's a lot more neater than my	22
23	writing.	23
24	Q Okay. Is it your testimony that	24
25	somebody else wrote that?	25

	62	64
1	MR. CAIN: We'll let the record	1 understanding, why did she come up and see you
2	reflect we took a little bit of a break.	2 rather than Mr. Meyers come out to see you?
3	O BY MR. CAIN: Back at it, sir. So we	3 MR. LAMPIASI: Object. Foundation.
4	took a look at Exhibit C-1 is the cover sheet,	4 THE WITNESS: I don't know.
5	essentially, for the D.O.C. conduct complaint.	5 Q BY MR. CAIN: Okay. Was he in a
6	And then it says, see attached, a six-page	6 position where he can come out or does he have to
7	complaint. And is Exhibit C, in fact, what was	7 stay where he is?
8	attached as the six-page complaint?	8 MR. LAMPIASI: Object to foundation.
9	A Yes.	9 Q BY MR. CAIN: Per your understanding.
10	Q Okay. And so all the writing on C-1	10 A I don't know --
11	here was done by you on this form, sir?	11 MR. LAMPIASI: Same objection.
12	A Yes, sir.	12 THE WITNESS: I don't know if he
13	Q And then this letter is yours, C?	13 could have came out. He probably could have came
14	A Yes.	14 out.
15	Q Okay. Let's go ahead and take a look	15 Q BY MR. CAIN: Okay. He was on duty
16	that. That's dated March 14th, 2012. Were you	16 that morning?
17	still in segregation at the time you wrote that?	17 A Yes, sir.
18	A I was.	18 Q Okay. And he was -- is it your
19	Q Okay. So I guess the good news is	19 understanding his duty would have been to watch
20	you had nobody to interrupt you. That's about the	20 you at that point?
21	only good news in segregation. Okay. It says,	21 A Yes.
22	"On February 29th, 2012, in unit 1 at	22 MR. LAMPIASI: Object to foundation.
23	approximately 7:00 a.m. Sergeant Clinkenbeard told	23 Go ahead.
24	me to cuff up."	24 THE WITNESS: Sorry. Yes.
25	And was that in -- and why did she	25 Q BY MR. CAIN: Okay. And do you know
	63	65
1	tell you to cuff up, your understanding?	1 what Officer Clinkenbeard's duty was that morning?
2	A She was -- she asked me if I had	2 A She was the sergeant of the unit.
3	sworn at Mr. --	3 Q So was she in a position of observing
4	Q Meyers?	4 unit one that morning or was she somewhere else?
5	A Mr. Meyers. And I told her no. She	5 A She was in the unit.
6	asked me if I had -- if I had not given him an	6 Q Okay.
7	envelope, you know, and I told her -- I said,	7 A He said that he called her and she
8	"Yes, I didn't give him an envelope and I took it	8 came up, so she was in the unit.
9	up to my cell." And at that point, she told me to	9 Q And when you say put this folder
10	turn around and cuff up. And that's when I asked	10 through a window, I've not been in this particular
11	her, "To turn around and cuff up for what?"	11 unit that you're talking about, so if you could
12	She said, "You're going to seg."	12 help me a little bit. Was he in kind of a
13	And I said, "Seg for what?"	13 glassed-in area where he was viewing unit one at
14	She said, "Well, you disrupted the	14 that time?
15	facility."	15 A Yes. He was viewing our pod.
16	And I said, "No, I haven't disrupted	16 Q Viewing the pod?
17	the facility."	17 A Yes, sir.
18	She said because she had to stop what	18 Q And she was on a different floor, as
19	she was doing downstairs and come up to tend to	19 far as you knew?
20	this, that I had disrupted the facility, and to	20 A Yes. Her office was on the first
21	turn around and cuff up. And I told her -- I	21 floor downstairs.
22	said, "Look, we need to talk to the shift	22 Q So as far as you knew, her duty was
23	commander so we can get this straight." And I	23 not to be watching that pod in that morning.
24	requested to see the shift commander.	24 MR. LAMPIASI: Object to form.
25	Q Okay. Now, why did she -- your	25 Foundation.

	66	68	
1	THE WITNESS: I don't know. I know	1	A Just harassment-type stuff.
2	they look at the cameras all the time and see	2	Q Can you give me an example?
3	what's going on.	3	A Just shaking our cell down, taking
4	Q BY MR. CAIN: She wasn't in that	4	stuff. I can't remember. Just the day prior,
5	glassed-in area with --	5	there was an incident with Mr. Meyers. I -- it's
6	A No, sir.	6	been so long, I can't recall.
7	Q -- Officer Meyers?	7	Q Okay. When you say shake down the
8	A No, sir.	8	cell, what do you mean?
9	Q Okay. Then going back to your	9	A Well, just shaking down our cell.
10	six-page letter attached to your complaint, sir,	10	It's coming in, searching, taking items.
11	it says, "I refused" -- I'm assuming her request	11	Q Actually taking items?
12	to cuff up -- because you felt she was being	12	A Yeah.
13	totally unreasonable and requested to see a	13	Q What type of items?
14	supervisor or shift commander.	14	A I can't recall everything, but he
15	A Yes, sir.	15	used to shake down everything. He was a frequent
16	Q Do you know who the -- her supervisor	16	cell shaker down.
17	or the shift commander was that morning?	17	Q Okay. And when you say taking items
18	A The unit supervisor or lieutenant, I	18	or -- taking items that you're not supposed to
19	was -- I forget his name. I don't recall his	19	have in the cell?
20	name, but the shift commander was Captain Cordova.	20	A I guess.
21	Q Captain who?	21	Q Or some gray areas? Or how would you
22	A Cordova.	22	describe that?
23	Q Okay. Do you know if he was	23	A I don't know.
24	contacted about this incident prior to -- well,	24	Q Okay.
25	one, do you know if he was contacted regarding	25	A He was a shaker down. He liked
	67	69	
1	this incident at all that day?	1	taking stuff, whether it was, you know, authorized
2	A According to the reports, yes, he was	2	or not.
3	called.	3	Q Okay. Can you remember specifically
4	Q As far as you know, do you know if he	4	anything unauthorized that he took that he should
5	was contacted prior to Officer -- Sergeant	5	not have from you?
6	Clinkenbeard asking you to cuff up?	6	A I can't recall.
7	A I don't think so.	7	Q Okay. So -- and other than that --
8	Q Okay. Now, with regard to Sergeant	8	you said shake down the cells -- what other types
9	Clinkenbeard, you knew her before this day?	9	of problems had you had with him?
10	A Yes.	10	A I can't -- just personality kind of
11	Q Had you had any problems with her	11	thing. We just didn't get along at all.
12	before this day?	12	Q Okay. Can you put it in -- I know
13	MR. LAMPIASI: Object to the form.	13	sometimes it's difficult to put in words, but can
14	MR. CAIN: I'm sorry. Is that "no"?	14	you put into words why you think you did not get
15	A No.	15	along with him? Any particular things he did?
16	Q Okay. How about Meyers? Had you	16	Idiosyncrasies? Anything like that?
17	known him prior to this day? And this day, of	17	MR. LAMPIASI: Object to form.
18	course, again, being February 29th, 2012.	18	THE WITNESS: Meyers was just a
19	A Yes.	19	gung-ho officer. Not too many people cared for
20	Q You knew him prior to this day.	20	him, not even the staff, so --
21	A Yes.	21	Q BY MR. CAIN: When you say gung-ho,
22	Q Had any problems with him prior to	22	kind of a by-the-book type of guy?
23	that day?	23	A Yeah.
24	A Yes.	24	Q Kind of a Boy Scott I've heard people
25	Q What type of problems had you had?	25	refer to him.

	70	72
1 A I don't know.	1 Q Did you do it for them because they	
2 Q Okay. Don't know what a Boy Scout	2 weren't maybe as tall as some of the others?	
3 is?	3 A No. I was just waiting for the shift	
4 A I know Boy Scott.	4 commander. I wanted to speak to a shift	
5 Q But you're not going to call him a	5 commander. I had that right.	
6 Boy Scout.	6 Q Okay. And why did you think you had	
7 A Right.	7 that right?	
8 Q But pretty gung-ho, you said.	8 A Because the policy allows you to	
9 A Yes, sir.	9 request to speak to a shift commander.	
10 Q Okay. Had you ever had to grieve him	10 Q Okay. Does the policy allow you to	
11 for anything prior to this February 29th --	11 put your hands up in the air out of reach of the	
12 A No, sir.	12 correctional officers?	
13 Q -- 2012 date?	13 MR. LAMPIASI: Object. Foundation.	
14 Okay. Just -- there's a lot of folks	14 THE WITNESS: No. Like I said, I was	
15 in the facility and you might have talked to him	15 just waiting to talk to the shift commander.	
16 last if you had the choice. Is that what you're	16 MR. CAIN: Okay.	
17 saying?	17 THE WITNESS: I thought it was	
18 MR. LAMPIASI: Object to form.	18 unreasonable.	
19 THE WITNESS: No.	19 MR. CAIN: Okay.	
20 Q BY MR. CAIN: Okay. Did you ever	20 THE WITNESS: Why would she handcuff	
21 talk to him about anything?	21 me?	
22 A No.	22 Q BY MR. CAIN: But you did put your	
23 Q Okay. Ever try to get to know him at	23 hands up in the air, and you just happened to have	
24 all? Talk to him about any subject at all?	24 two females that weren't the tallest folks in the	
25 A No.	25 facility, correct?	
	71	73
1 Q Just didn't like his attitude?	1 MR. LAMPIASI: Object to the form.	
2 A Yeah.	2 THE WITNESS: Yes.	
3 Q That's a "yes"?	3 Q BY MR. CAIN: And you figured they	
4 A That's a "yes." Sorry.	4 wouldn't be able to reach your wrists given their	
5 Q Okay. Now, back to Clinkenbeard,	5 height. I mean, that's just physics, correct?	
6 Sergeant Clinkenbeard. She's female, correct?	6 MR. LAMPIASI: Object to form.	
7 A Yes.	7 THE WITNESS: Not really. They are	
8 Q And we're going back to your	8 not that much shorter than I am.	
9 statement, Exhibit C, next line, when she and C.O.	9 Q BY MR. CAIN: Okay. But do you think	
10 Hanson -- what does C.O. mean, for the record?	10 they could reach your wrists if you had them	
11 A Correctional officer.	11 straight up in the air?	
12 Q Hanson. And what is Correctional	12 A No.	
13 Officer Hanson's first name? Do you know? Did	13 Q Okay. Then it says you -- "I raised	
14 you know?	14 my hands straight in the air out of their reach,	
15 A It was Jessica.	15 went to the corner, knelt down, and laid flat on	
16 Q Okay. "So when she and Jessica	16 my stomach with my arms beneath me."	
17 Hanson pursued me, I raised my hands straight in	17 Why did you do that?	
18 the air out of their reach."	18 A I didn't want to touch anyone, and I	
19 And why did you do that?	19 didn't want to be cuffed. And I just kept asking	
20 A I was asking to wait until the shift	20 to see the shift commander.	
21 commander arrived.	21 Q Okay. Then it says "why" -- or while	
22 Q Had you ever done that before in	22 lying. I guess you meant while?	
23 response to an officer at the facility trying to	23 A Yes, sir.	
24 cuff you, put your hands up in the air?	24 Q "While lying in this passive	
25 A No.	25 position, I waited for someone with authority to	

	74	76
1	arrive and question what was going on."	1 A A little.
2	Next paragraph, "When other staff	2 Q Did you holler?
3	arrived, including several lieutenants and a	3 A Can't holler. You can't holler. You
4	captain, no one asked a single question."	4 can't move. You're just -- you're paralyzed when
5	Did you tell the lieutenants and a	5 you're Tased.
6	captain what was going on?	6 Q But after the voltage stops, did you
7	A I didn't get a chance to tell anyone	7 holler?
8	anything.	8 A I kept asking to talk to the shift
9	Q Okay.	9 commander.
10	A I was just -- I was Tased.	10 Q And who was the shift commander at
11	Q Okay. Let's -- it says instead you	11 that time? Do you know?
12	were immediately dog-piled by several officers.	12 A It was Mr. Cordova at that time.
13	What does dog-piled mean to you?	13 Q Okay. And how did they respond? Or
14	A I was just kind of jumped on.	14 did anyone respond?
15	Q Okay. And would it be out of the	15 A No.
16	ordinary to have an inmate such as yourself lying	16 Q No one responded to your request to
17	on the floor?	17 talk to the shift commander?
18	MR. LAMPIASI: Object to the form.	18 A Not at that time, no.
19	Q BY MR. CAIN: Prior to their	19 Q Okay. And your memory is that
20	dog-piling on you?	20 Sergeant Espinoza was one of the officers who
21	MR. LAMPIASI: Same objection.	21 Tased you?
22	THE WITNESS: Would it be -- could	22 A Yes.
23	you repeat the question?	23 Q Okay. And has your further
24	Q BY MR. CAIN: Sure. Around this	24 investigation confirmed that Sergeant Espinoza was
25	time, February 29th, 2012, in the morning, would	25 one of the officers who Tased you?
	75	77
1	it be out of the ordinary to be seeing an inmate	1 MR. LAMPIASI: Object to the form.
2	such as yourself lying on the floor in a hallway	2 THE WITNESS: I believe that he may
3	like you were?	3 have been the only one. I'm not sure. There may
4	A Probably would be out of the	4 have been more.
5	ordinary.	5 Q BY MR. CAIN: Okay. Was it your
6	Q Okay. Had you ever seen anyone else	6 understanding that one of the officers may have
7	lie in the hall -- in that hallway?	7 attempted, but his TASER didn't Tase? I thought
8	A No.	8 one of the officers perhaps tried, but the TASER,
9	Q Okay. So you're saying they	9 for some reason, did not work.
10	dog-piled you. And since you were lying on your	10 MR. LAMPIASI: Object.
11	stomach with your arms beneath you, the weight of	11 Q BY MR. CAIN: Do you remember that?
12	the officers initially trapped my arms so I could	12 MR. LAMPIASI: Object to the form.
13	not move. Is that your memory?	13 Excuse me.
14	A Yes, initially.	14 THE WITNESS: Do not remember.
15	Q Could you talk at that point?	15 Q BY MR. CAIN: Okay. You do not
16	A I was being Tased. I couldn't talk	16 remember that?
17	at all.	17 A That the TASER didn't work?
18	Q Well, how soon after they dog-piled	18 Q Yes.
19	you were you Tased?	19 A No, I don't recall that at all.
20	A It was instantly.	20 Q And your statement, Exhibit C, then
21	Q Okay. And how did you respond to	21 says, "This was unnecessary, unreasonable and
22	being Tased?	22 excessive." And I assume you are referring to the
23	A When you're being Tased, you can't	23 Tasing?
24	respond. You're frozen.	24 A Yes.
25	Q Does it hurt?	25 Q Why do you believe it was

	78	80
1	unnecessary, unreasonable and excessive?	1 foundation. Answer.
2	A Well, I was Tased rapidly back to	2 THE WITNESS: No. There was -- I'm,
3	back to back to back.	3 what, 6:30, 7:00 in the morning. I got on a
4	Q Okay.	4 T-shirt and some sweat pants. And the envelope
5	A I couldn't speak.	5 that I had was nine by thirteen, and I put it in
6	Q Okay.	6 my cell, and I told her that I put it in my cell.
7	A Couldn't move.	7 So what reason would she have to have -- or think
8	Q And prior to that, just to get your	8 that I had some contraband?
9	full explanation, why did you lay down on the	9 Q Was it your understanding that she
10	floor?	10 had heard that you had received something from
11	MR. LAMPIASI: Object to form.	11 Mr. Mulligan?
12	THE WITNESS: I laid down on the	12 A She said that it was an envelope.
13	floor because I was -- I wanted to wait till the	13 She specifically said envelopes. I told her that
14	shift commander arrived. I didn't want to touch	14 there was grievances in the envelope and I put
15	anyone, and I didn't want to be handcuffed at that	15 them in my cell.
16	time.	16 Q Okay. And did she ask to see that
17	Q BY MR. CAIN: Why did you not want to	17 envelope?
18	touch anyone?	18 A She never asked.
19	A In situations like this, they can	19 Q And this was shortly after you had
20	claim that you assaulted them.	20 received that envelope back from Mr. Mulligan,
21	Q Did you feel the need to touch	21 correct?
22	anyone?	22 A Yes. This was after I put it in my
23	A No, sir.	23 cell and came down the stairs.
24	Q Okay. And why didn't you allow	24 Q And just prior to that, you had
25	yourself to be cuffed?	25 received that from Mr. Mulligan, then took it up
	79	81
1	A Well, because I felt that it was	1 to your cell, correct?
2	unnecessary that I be cuffed. I hadn't done	2 A No. I showed it to the officer at
3	anything wrong.	3 the window first.
4	Q Why not allow yourself to be cuffed	4 Q And then took it to your cell.
5	and then talk to the shift commander?	5 A Yes, sir.
6	A Well, if I didn't feel that I did	6 Q Okay. Going back to Exhibit C, it
7	anything wrong, I didn't feel there was no need to	7 says, in this position on the floor with the
8	cuff me. And I didn't have any contraband or	8 weight on your back, you couldn't move your arms
9	anything on me. It was just -- I felt it was	9 if you wanted to. The officers had to know this.
10	unreasonable.	10 Eventually, your right arm was freed and cuff, and
11	Q Okay. And you feel that there's no	11 then the other -- but at first in the position I
12	way that officer Clinkenbeard or Officer Hanson	12 was lying, I could not immediately bring my left
13	could have believed you had any contraband on you.	13 arm back. Is that in response to their request to
14	Is that what you're saying?	14 bring your left arm back to cuff it?
15	MR. LAMPIASI: Object to the form.	15 A Well, yeah. They were asking me to
16	Q BY MR. CAIN: Would that have been	16 cuff up at that time.
17	possible?	17 Q Okay.
18	MR. LAMPIASI: Same objection.	18 A Yes.
19	THE WITNESS: The question is --	19 Q And did you voluntarily give them
20	would you repeat that?	20 your right arm or did they take your right arm to
21	Q BY MR. CAIN: Sure. At that time,	21 cuff it?
22	did you have -- did you believe that Officer	22 A I don't recall.
23	Clinkenbeard or Officer Hanson could have thought	23 Q Did they ask you to present your arms
24	validly that you might have contraband on you?	24 to be cuffed at that point?
25	MR. LAMPIASI: Object to the form and	25 A Yes.

	82	84
1	Q And what was your response?	1
2	A I didn't have a response. They just	2
3	kept saying cuff up. Cuff up.	3
4	Q Did you offer your right arm for them	4
5	to cuff it?	5
6	A At first, I couldn't do anything	6
7	because I was frozen, and then the body weight was	7
8	on me.	8
9	Q But did you offer your right arm to	9
10	be cuffed just prior to their actually cuffing	10
11	your right arm or did they take it?	11
12	A No. I was still asking to see the	12
13	shift commander.	13
14	Q Okay. Top of the next page, you say	14
15	-- with regard to your left arm, did you	15
16	voluntarily offer up your left arm to be cuffed at	16
17	that time?	17
18	A Top of the next page.	18
19	Q Page 2.	19
20	A I'm on page 2. I don't see where	20
21	you're at.	21
22	Q I'm asking you, on the bottom of page	22
23	1, you said, given the position you were lying in,	23
24	I could not immediately bring my left arm back.	24
25	Correct?	25
	83	85
1	A Uh-huh.	1
2	Q That's a "yes"?	2
3	A Yes.	3
4	Q And the next page says, "When the two	4
5	cuffs went on." I'm assuming in between that that	5
6	they put the cuff on your left arm.	6
7	A Yes.	7
8	Q I'm asking: Did you voluntarily	8
9	offer your left arm to be cuffed?	9
10	A I believe I did at that point.	10
11	Q Are you sure? Is that what the video	11
12	reflects that you saw or do you remember?	12
13	A Yeah. I don't -- I think once the --	13
14	one of the -- the cuffs were on. I don't think I	14
15	was resisting the cuffs after that point.	15
16	Q Are you sure?	16
17	A I was still asking to see the -- talk	17
18	to the shift commander.	18
19	Q Are you sure or don't remember, or	19
20	how would you describe it?	20
21	MR. LAMPIASI: Object to the form.	21
22	THE WITNESS: I don't recall. I	22
23	don't know.	23
24	Q BY MR. CAIN: Don't recall?	24
25	A No, I don't recall.	25

	86	88
1	eventually, and I asked them if they would loosen	1 to segregation, so --
2	the cuffs.	2 Q BY MR. CAIN: Had you ever been
3	Q Okay. So you made standing up	3 cuffed and taken to the nurse prior?
4	contingent upon their loosening the cuffs.	4 A Yes.
5	A Yes. I explained that the cuffs were	5 Q At that facility?
6	extremely tight.	6 A No, not at this facility.
7	Q Okay.	7 Q Okay. So you've been cuffed and
8	A Then I asked them to loosen them.	8 taken to the nurse at other facilities. And when
9	Q And they said stand up first,	9 they got you to the nurse, would they have then
10	essentially.	10 taken the cuffs off in those other facilities for
11	MR. LAMPIASI: Object to the form.	11 your examination?
12	THE WITNESS: Somebody said, "You	12 A I don't think so. I think they leave
13	don't dictate to us. You don't tell us what to	13 the cuffs on until you get to your segregation
14	do."	14 cell.
15	So I said, "Fine. Carry me."	15 Q You're sure about that.
16	Q BY MR. CAIN: Okay. Did it cross	16 A Yeah, I'm sure.
17	your mind that perhaps standing up and not having	17 Q Okay. So basically, going back to
18	them carry you would have gotten those cuffs off	18 this morning of December -- February 29th, 2012,
19	sooner?	19 they are asking you to stand up and walk. And you
20	A Probably not. I don't think so.	20 basically told them, you're going to have to carry
21	Q Why not?	21 me.
22	A They weren't trying to -- just --	22 A They asked me to stand up and walk.
23	they weren't trying to take the cuffs off. They	23 I asked them to loosen the cuffs. They said,
24	weren't trying to loosen them.	24 "Stand up and walk."
25	Q What was -- what was your	25 I said, "Loosen the cuffs, please,
	87	89
1	understanding why they wanted you to stand up and	1 you know."
2	walk?	2 And then, "You don't dictate to us.
3	A So they could take me to the hole,	3 You don't tell us what to do."
4	probably. I don't know.	4 So that's when I said, "Well, fine.
5	Q Did you know that?	5 You carry me."
6	A I assumed. I assumed at that point.	6 Q Okay.
7	I was trying to prevent that. That's why I asked	7 A I had been reasonable up to that
8	to see the shift commander. Once they cuff you,	8 point.
9	you're -- you're pretty much going to segregation,	9 Q And at that point you became
10	sir.	10 unreasonable?
11	Q Always?	11 A I became defiant at that point.
12	A Ninety percent of the time.	12 Q Okay.
13	Q You didn't go straight to segregation	13 A Just like, you don't care about me.
14	this day. You went to see a Nurse Bufmack, didn't	14 Q And again, it never occurred to you
15	you?	15 that if you would have complied and stood up and
16	A They always take you to the nurse	16 walked, they might have addressed the cuff issue.
17	first and then --	17 MR. LAMPIASI: Object to the form.
18	Q Okay.	18 Q BY MR. CAIN: Loosened it? Taken
19	A -- they take you to segregation.	19 them off?
20	Q So you knew you were probably going	20 MR. LAMPIASI: Same objection.
21	to the nurse first on this day, February 29th,	21 THE WITNESS: You asked that
22	2012?	22 question. I don't think they would have.
23	MR. LAMPIASI: Object to form.	23 Q BY MR. CAIN: Have you ever had
24	THE WITNESS: I had that experience.	24 correctional officers loosen cuffs in response to
25	I don't know or not. I knew I was probably going	25 your request that they loosen cuffs before?

	90	92
1	A No.	1 A January 10th. I don't recall that
2	Q Have you ever had officers put your	2 one.
3	cuffs on too tight before this incident?	3 Q In January -- January of 2004, would
4	A Yes.	4 you have been in the Sterling facility?
5	Q Did you ask them to loosen them?	5 A Yes.
6	A Yes.	6 Q Okay. Going back to December 23rd,
7	Q Did they?	7 2003, you had to be carried. Do you remember
8	A No.	8 that?
9	Q They've never done that?	9 A Yes.
10	A That was the incident that I was	10 Q Was that Sterling also?
11	discussing. No.	11 A Yes.
12	Q And how many prior incidents have you	12 Q Were the folks being unreasonable at
13	had in facilities where you were cuffed?	13 that point?
14	MR. LAMPIASI: Object to the form.	14 A Yes.
15	THE WITNESS: I don't recall the --	15 Q Okay.
16	specifically how many.	16 A That's why I requested them to carry
17	Q BY MR. CAIN: Okay. Had you ever	17 me.
18	been cuffed prior to this February 29th, 2012,	18 Q Okay. I'm assuming they asked you to
19	incident at this facility?	19 stand up and walk, and you said, no, carry me.
20	A No, I don't believe so.	20 MR. LAMPIASI: Object to form.
21	Q Are you sure?	21 THE WITNESS: I don't recall.
22	A No, I don't -- I don't think so.	22 Q BY MR. CAIN: Do you know why they
23	Q Okay. Did you have an incident back	23 would have to carry you? Was it another too tight
24	on March 30th, 2004, where you were -- refused to	24 handcuff issue?
25	stand up, refused to cuff up and had to be Tased?	25 A No, I don't recall that, but I recall
	91	93
1	A March 30th, 2004?	1 just some unreasonableness and -- and so, carry
2	Q Yes.	2 me.
3	A Yes.	3 Q Okay. In this response, when you
4	Q What facility was that at?	4 feel that they are unreasonable, you just say
5	A That was at Sterling, sir.	5 carry me, I guess I've heard the term passive
6	Q Okay. In a nutshell, what happened	6 resistance. Have you heard that term before?
7	there? What was that incident about?	7 A Yes.
8	A I don't recall. I'd have to be	8 Q Was that your intent there?
9	refreshed.	9 Basically, if you're going to move me anywhere,
10	Q Okay. Were your wrists injured in	10 you're just going to have to carry me?
11	that incident?	11 A Only --
12	A Not in that incident, no.	12 MR. LAMPIASI: Object to the form.
13	Q January 16th, 2004, did you force the	13 THE WITNESS: Only if there was
14	staff to carry you at an incident in early 2004?	14 unreasonableness in there, in what was going on
15	A I did. They were being unreasonable.	15 would I do that. And it's only been in that
16	Q Okay. Just as you believed they were	16 situation.
17	March 30th, 2004?	17 Q BY MR. CAIN: Okay. And has that
18	A March 30th.	18 helped the situation in the past for you?
19	Q That we just talked about where you	19 MR. LAMPIASI: Object to the form.
20	refused to stand up, refused to cuff up, and had	20 THE WITNESS: I don't know if it's
21	to be Tased.	21 helped or not.
22	MR. LAMPIASI: Object to the form.	22 Q BY MR. CAIN: Did you file actions
23	THE WITNESS: Yes.	23 over those incidents?
24	Q BY MR. CAIN: January 10th, 2004, you	24 A I wasn't injured in those incidents.
25	refused to stand up. Do you remember that?	25 Q Did you file any civil rights

	94	96
1	violation actions?	1
2	A No.	2
3	Q Okay. Let's go back to page 2 of	3
4	Exhibit C, sir.	4
5	A Okay.	Foundation.
6	Q And you said you told them to loosen	5
7	up the cuffs because you have bilateral -- severe	6
8	bilateral carpal tunnel and nerve damage. And	7
9	their response was to stand up? Asked you to	8
10	stand up again?	9
11	A No. There was no response at that	THE WITNESS: At the time they were
12	time.	-- I was being Tased and I couldn't move, really.
13	Q You said after you were cuffed and	MR. CAIN: Okay.
14	subdued. What do you mean by subdued?	THE WITNESS: You know, I was trying
15	A I was handcuffed. I was shackled and	to -- I was hurting.
16	surrounded by, the reports say, 13 officers.	BY MR. CAIN: You just said that you
17	Subdued.	were moving because you were hurting. And I'm
18	Q While they were doing this, were you	just curious, if you're -- if you're acquiescing
19	moving your arms, moving your legs in an attempt	to being cuffed, why are you moving at all?
20	to get anybody off of you or to stand up?	MR. LAMPIASI: Object to the form.
21	MR. LAMPIASI: Object to the form.	THE WITNESS: Why am I moving at all?
22	THE WITNESS: At what point, sir?	MR. CAIN: Yes, sir.
23	Q BY MR. CAIN: Prior to your being	THE WITNESS: Well, I was in pain. I
24	subdued.	was hurting, so --
25	A Prior to the handcuffs going on or	BY MR. CAIN: Okay. Did any of the
		officers tell you not to move while they were
		placing the handcuffs and shackles on you?
		A No. They just was repeating to cuff
		up. Cuff up.
		Q What does cuff up mean to you?
		A It means you allow them to put cuffs
	95	97
1	prior to the shackles going on?	on you.
2	Q Yes.	Q And is it easier to put cuffs on your
3	A Well, I was moving because I was in	hands and feet if you're not moving?
4	pain.	A Well --
5	Q In pain where?	MR. LAMPIASI: Object. Foundation.
6	A My back, my wrists, my -- primarily,	THE WITNESS: -- someone's bending
7	my back and my wrists.	your wrists and pulling your arms and Tasing you,
8	Q And were you moving your legs and	you know, that's pretty painful. You're gonna --
9	your arms?	your body's gonna move somewhat, you know, between
10	A My body was moving.	the paralyzation.
11	Q Okay.	BY MR. CAIN: Okay. And were they
12	A I wasn't kicking anyone.	trying to cuff you as you were being Tased or was
13	Q Okay. But as far as this moving, do	the attempt to cuff and shackle after the Tasing
14	you think it would have been possible to interpret	had stopped?
15	that as you were struggling to get up?	A I believe they were trying to cuff me
16	MR. LAMPIASI: Objection.	while I was being Tased.
17	Foundation.	Q Are you sure about that?
18	THE WITNESS: No. At that point,	A Oh, yeah, I'm sure about that. And
19	what you're talking about, I wasn't even asked to	then the ankle shackles came later.
20	get up.	Q Okay. Were you moving your legs when
21	MR. CAIN: Well --	they were trying to put the ankle shackles on?
22	THE WITNESS: Prior to the	A No.
23	handcuffing, I wasn't asked to get up.	Q You're positive about that?
24	Q BY MR. CAIN: Well, if you weren't	A I'm positive.
25	asked to get up and you were struggling, do you	Q Okay. And you said after you were

	98	100
1	cuffed and subdued, "someone intentionally pressed	1 dropping me --
2	on the back of my head with both hands while at	2 Q Okay.
3	the same time putting the full weight of their	3 A -- and that's how I got on the
4	body using their knee on my neck and back,	4 ground.
5	pressing my two front teeth hard into the concrete	5 Q Okay.
6	floor."	6 A And then that's when they were
7	How do you know they were	7 pressing my face to the concrete floor, sir.
8	intentionally doing this?	8 Q Now, how -- to drop you, obviously,
9	A How do I know they were intentionally	9 you had to be up in the air. Did they lift you up
10	doing it? Well, I'm shackled and I'm handcuffed,	10 or did you stand up?
11	and someone was -- had their hands on the back of	11 A You remember, I told you they picked
12	my neck and they were pushing really hard and the	12 me up by the handcuffs --
13	weight of their body is on me. And there's	13 Q Okay.
14	nothing on the ground but my two front teeth.	14 A -- and that's how I got those -- them
15	Q Okay.	15 scrapes.
16	A So, I mean, that's intentional.	16 Q Okay. The handcuffs slid up and
17	Q And --	17 scraped your arm?
18	A Seems pretty intentional to me.	18 A Yes.
19	Q Are you sure you had been shackled at	19 Q Okay. Did you assist your getting up
20	that time?	20 by using your legs to stand up or was this solely
21	A Oh, yes, I was handcuffed and	21 them lifting you up?
22	shackled at that time.	22 A It was solely them lifting me.
23	Q And were you -- was your body moving	23 Q Your legs, you were just -- you were
24	prior to this person getting on your back as you	24 limp.
25	were laying there?	25 A I -- yeah. They mentioned that in
	99	101
1	A This was -- and there's a part here	1 their reports that I kept going limp.
2	when I -- I have to explain this here.	2 Q Okay. And why did you go limp?
3	Q Sure.	3 A Because I wanted them to carry me.
4	A Because this is the part where I was	4 Q Because you thought they were being
5	dropped when they picked me up by the handcuffs.	5 unreasonable.
6	Yes, I was dropped, and that's how my face got on	6 A I thought they were being
7	the floor, and I inadvertently -- I didn't put	7 unreasonable.
8	that in this. This is in my grievance. But when	8 Q Okay. And you said they dropped you.
9	I was writing this, they were rushing me to get	9 A Yes, sir.
10	this done.	10 Q Do you think they intentionally
11	Q Who was rushing you?	11 dropped you?
12	A Mrs. Aldrich and the staff that kept	12 A I don't know --
13	coming to the cell and asking me if I was done	13 Q Do you know?
14	with the report, done with the report, done with	14 A -- if it was intentional or not. I
15	the report.	15 know that the person that was on this side
16	Q How many times did they come in?	16 (indicating) --
17	A At least four times.	17 Q Your right side?
18	Q Well, after this particular portion	18 A Right side. And let go and my face
19	of the report that you say that you forgot to put	19 hit the ground. Excuse me.
20	that in, you wrote four more pages afterwards.	20 Q Did anybody respond to that saying,
21	Didn't you?	21 sorry or whoops or anything like that? Did you
22	A I sure did.	22 hear it?
23	Q Five more pages. Anyway, let's go	23 A Immediately, Sergeant Sullivan put
24	back to --	24 his hands in -- on the back of my head and was
25	A I put that in my grievance about them	25 pushing my face to the ground.

	102	104
1	Q And you knew that was Sullivan.	1 pressure was released and I was finally able to
2	A Yes.	2 talk, I immediately complained about the cuffs and
3	Q Okay. And you still believe that was	3 asked that they be loosened." You say no one
4	Sullivan?	4 responded.
5	A I'm positive that was Sullivan.	5 And then you say, "They wanted me to
6	Q Any idea why he would have done that	6 stand and walk." I'm assuming they told you that
7	at that time?	7 they wanted you to stand and walk?
8	MR. LAMPIASI: Objection.	8 A Yeah, yeah.
9	Foundation.	9 Q Okay. And that's a "yes"?
10	THE WITNESS: I can't -- I don't know	10 A Yes, sir.
11	what was in his mind. He was intending to hurt	11 Q And then it says, "I said that I
12	me.	12 would walk if they would loosen the cuffs."
13	Q BY MR. CAIN: Had you ever had any	13 A Yes, sir.
14	run-ins or issues with Sergeant Sullivan prior to	14 Q And Sullivan stated, "There's no
15	this?	15 negotiating here."
16	A No. He was my boss.	16 Is that what he said?
17	Q When you say your boss, at what job?	17 A Yes, sir, that's what he said.
18	A OCA boss at the time.	18 Q And what was your understanding as to
19	Q So hadn't had any problems with him	19 what he meant by no negotiating?
20	at all prior to this.	20 A Just like that other person said.
21	A Not with him.	21 You don't dictate to us.
22	Q Pretty good relationship?	22 Q Okay.
23	A Not really. It was just a working	23 A You don't tell us what to do.
24	relationship.	24 Q Well, negotiating isn't dictating.
25	Q He was a fair boss? Fair to you?	25 Negotiating is, hey, you do something; I'll do
	103	105
1	A Hadn't been in OCA long at that time,	1 something. Correct?
2	but I guess he was fair.	2 A Yeah, yeah.
3	Q Okay. And the teeth, you say, "My	3 Q Okay. That's a "yes"?
4	teeth grinding on the floor." I think there's an	4 A Yes.
5	allegation that one of the teeth were -- one of	5 Q Okay. So, I mean, that could be
6	your teeth was chipped or more?	6 interpreted that, you know, hey, we're not
7	A Actually, both were chipped.	7 negotiating here. Basically, we need you to stand
8	Q Okay. And how did you find -- well,	8 up, correct?
9	is that documented in any of the reports? I've	9 A Yes.
10	just seen where one tooth was chipped.	10 Q Okay. But your decision was at that
11	A Nurse Bufmack recorded that the right	11 point you were just going to let them carry you.
12	tooth was chipped. And when I was in segregation,	12 MR. LAMPIASI: Object to the form.
13	I think it was Mr. Horton was out in the yard --	13 THE WITNESS: They refused to loosen
14	or on the cell. They have a cage where they have	14 the cuffs. I was reasonably asking them to loosen
15	the yard, and I was showing him my teeth. And he	15 the cuffs. It was painful.
16	said both teeth were chipped. And so the second	16 Q BY MR. CAIN: When you say it was
17	anatomical that was done by Nurse Grieb shows that	17 painful, again, I -- certainly, different people
18	also the left tooth was chipped as well. So	18 have different levels of pain. But as you're
19	that's how I knew that both teeth were chipped.	19 being carried in the video, I mean, you're making
20	Q Okay. And you verified that	20 comments such as, "Oh, you guys aren't strong
21	yourself?	21 enough to carry me all the way. You didn't hurt
22	A Yeah, in the mirror. That was one of	22 me, did you?"
23	the reasons I wanted pictures.	23 And when you get outside, I think you
24	Q Okay. Going down to the next	24 talked to someone else out there. I don't know if
25	paragraph, paragraph two, it says, "When the	25 it was another inmate and say something like --

27 (Pages 102 to 105)

	106	108
1	let's see if I can find that. Said, "I made them	1 A Benovedez was one of the persons.
2	carry me because I ain't gonna walk."	2 Q Okay.
3	Do you remember saying that?	3 A And the other person, I thought, was
4	MR. LAMPIASI: Object to form.	4 Mr. Soto and turns out to be Mr. Robles.
5	Foundation.	5 Q Okay.
6	THE WITNESS: I don't recall that.	6 A They look very much alike.
7	MR. CAIN: Okay.	7 Q Okay. Is it okay if I tell them you
8	THE WITNESS: I may have.	8 said that?
9	Q BY MR. CAIN: When's the last time	9 A Yes, you can.
10	you watched that video, sir? Watched and listened	10 Q Just kidding you. Dressed up in
11	to the video, the body camera portion of it?	11 their uniforms, I imagine a lot of them look
12	A I really haven't had a real good	12 pretty similar.
13	opportunity to listen to the complete video.	13 Okay. Going to the next paragraph,
14	Q Okay. You don't deny that you said	14 you, again, refer to someone in the middle kept
15	that? You're just saying you don't remember at	15 purposely bending your wrists causing severe pain.
16	this point.	16 Which wrist was that? Do you remember?
17	MR. LAMPIASI: Excuse me. Object to	17 A That's when I was actually strapped
18	the form.	18 down to the board.
19	THE WITNESS: Yeah. I don't recall	19 Q Okay.
20	making that statement.	20 A And I believe -- yeah, when I looked
21	Q BY MR. CAIN: Okay. Was your pain --	21 back, that's when I saw Benovedez. I didn't know
22	during this time, the handcuffs, how would you	22 who he was at the time.
23	rate that pain on zero to ten pain scale, zero	23 Q And arm was -- which wrist was that?
24	being no pain, ten being the worst pain you can	24 Do you remember?
25	imagine?	25 A Yeah, that was on the left.
	107	109
1	A I would say it was a nine, and when	1 Q Okay. And was that person grabbing
2	they were bending and pulling on the handcuffs, it	2 your hands and just lifting your wrist up, you
3	was off the scale.	3 said, or down or hand up or down?
4	Q So you screamed?	4 A There was -- there was the bending,
5	A I'm a man. I'm not gonna -- you	5 the -- have you seen that video? I'm sure you
6	know, I was --	6 have.
7	Q Did you holler?	7 Q Yes.
8	A I was complaining, you know.	8 A Those cuffs were so tight. And the
9	Q Okay.	9 forceful bending, this is what they -- what this
10	A I did complain.	10 individual was doing. And it was -- it was
11	Q Okay. Let's go to the top of page 3	11 hurting. And then when I complained about it,
12	of your Exhibit C, sir.	12 stopped, they would put pressure on the elbow,
13	A Yes, sir.	13 which was pulling on the elbow.
14	Q It says, "Since they refused to	14 Q Okay. And you had interpreted that
15	loosen the cuffs and I refused to walk, someone	15 as intentionally trying to hurt you rather than
16	suggested that I be carried on the gurney board."	16 just kind of lifting you?
17	And so they put you on the gurney	17 MR. LAMPIASI: Object to the form.
18	board, correct?	18 THE WITNESS: Yes.
19	A Yes, sir.	19 Q BY MR. CAIN: Why?
20	Q And in that paragraph, you believe	20 A Why would someone do that? I'm
21	that someone was intentionally pulling on your	21 already handcuffed? What's the purpose in --
22	arms and putting additional pressure on your	22 Q Well --
23	wrists?	23 A -- bending my wrist and pulling my
24	A Yes, sir.	24 elbow when I'm handcuffed and subdued.
25	Q Do you know who that was?	25 Q Do you know if they just weren't

	110	112
1 holding onto your hand wrist to help transport you 2 on the board?	1 correct? 2 A No, I don't think that was the 3 conversation at all. I was just asking them to 4 loosen the cuffs.	
3 A I'm already -- 4 MR. LAMPIASI: Object -- 5 THE WITNESS: -- on the board. 6 MR. LAMPIASI: -- to the form.	5 Q They didn't say, are you going to 6 comply? 7 A Well, yeah -- 8 MR. LAMPIASI: Object to the form. 9 THE WITNESS: -- he did say that. 10 MR. LAMPIASI: Excuse me. Go ahead.	
7 Excuse me. 8 Q BY MR. CAIN: Right. But the 9 board -- 10 MR. LAMPIASI: Object to the form. 11 Sorry. 12 MR. CAIN: But the board's got to 13 move. 14 THE WITNESS: But there's no reason 15 for them to hold my hand when I'm strapped down on 16 the gurney plus strapped down on the backboard. 17 And where am I going? I'm not going anywhere. 18 I'm handcuffed and laying on my belly. 19 Q BY MR. CAIN: So you were on the 20 gurney at that point? 21 A I'm on the backboard and the gurney. 22 Q Okay. Bottom of page 3, it says, 23 "Once at medical, Cordova" -- that's Captain 24 Cordova? 25 A Yes, sir.	11 Q BY MR. CAIN: In fact, I think one of 12 the officers said, you know, if you tell me you're 13 going to comply, I'll take your word as a 14 gentleman. 15 MR. LAMPIASI: Object. 16 Q BY MR. CAIN: Do you remember him 17 saying that? 18 MR. LAMPIASI: I'm sorry. Objection. 19 Foundation. 20 Q BY MR. CAIN: So you do -- 21 MR. LAMPIASI: Form too. 22 Q BY MR. CAIN: You do remember him 23 saying that? 24 A Yes, I do recall that. 25 Q Okay. Let's jump to the top of page	
111	113	
1 Q "Asked if I was going to cooperate 2 with the anatomical." Your response, "I asked if 3 they were going to loosen the cuffs." 4 A Yes. 5 Q "He asked again if I would 6 cooperate." 7 And I remember that from the film 8 kind of going back and forth. You really never 9 did say you were going to cooperate, did you? 10 MR. LAMPIASI: Object to the form. 11 THE WITNESS: Actually, before they 12 went to medical, I was -- and you can see this on 13 that tape. I was prepared to cooperate in 14 medical, and you can hear that just prior to 15 someone saying, well, let's do it in segregation. 16 So, yes, I was prepared to cooperate then and 17 there in medical, and that's on that -- on the 18 tape. 19 Q BY MR. CAIN: Okay. But then you say 20 they went to segregation, so you did not want to 21 cooperate at that point. 22 A Well, as soon as I got there, I asked 23 them to loosen the cuffs. 24 Q And we're back to, if they didn't 25 loosen the cuffs, you weren't going to cooperate,	1 4, sir. Okay. The middle paragraph says, 2 "Someone suggested that the anatomical and the 3 strip be conducted at the same time in 4 segregation." 5 Do you remember who suggested that? 6 A I thought it was Holiday. I don't 7 know -- Holloway. I don't know if it was him or 8 not. 9 Q In fact, in your statement, you say, 10 "I believe this was Lieutenant Holloway." 11 A Yeah. 12 Q Does that kind of refresh your memory 13 as to who might have? 14 A Yes. 15 Q Because you would have done this back 16 in March 14th, 2012, correct -- 17 A Yeah. 18 Q -- this statement? 19 A (Nodded.) 20 Q Then you say, "After being wheeled to 21 the segregation strip cell, the same scenario took 22 place. Since they grudgingly refused to loosen 23 the cuffs, I refused to participate in the strip." 24 Correct? 25 A Yes.	

	114	116	
1	Q Okay. Then at the bottom of that	1	MR. LAMPIASI: Object to the form.
2	paragraph it says, "The cuffs were finally	2	Q BY MR. CAIN: -- while you were lying
3	replaced with other more loose-fitting cuffs as	3	down, correct?
4	part of the strip procedure. Relief at last. By	4	A Yes.
5	this time, I was furious."	5	MR. LAMPIASI: Same objection.
6	Do you know why they replaced your	6	Q BY MR. CAIN: Do you consider that
7	cuffs with the more loose-fitting cuffs?	7	cooperating? Just lying down there?
8	A Why couldn't they replace the	8	A Well, I did make it easy for them.
9	loose-fitting cuffs when I requested them to begin	9	That's -- one of the officers said that I did
10	with? They could have put some loose-fitting	10	comply with the strip.
11	cuffs on. I guess it was time, you know.	11	Q What about --
12	Q But at that point you started	12	A Even though I was voicing that I
13	cooperating, correct?	13	didn't want to comply, I complied.
14	MR. LAMPIASI: Objection.	14	Q Would have been a lot easier if you
15	Foundation.	15	would have sat up and taken off your shirt and
16	THE WITNESS: Did I start	16	pants yourself, though, correct?
17	cooperating? It was like I never did not want to	17	A A lot easier for them to loosen those
18	cooperate. I just wanted them to loosen the	18	handcuffs earlier on.
19	cuffs.	19	Q Okay.
20	Q BY MR. CAIN: Okay. But is it your	20	A I wouldn't have been upset. But I
21	memory that once you began cooperating as part of	21	wasn't, you know --
22	the strip that they -- that is when they replaced	22	Q You weren't what?
23	the cuffs with looser-fitting cuffs?	23	A I wasn't, you know, threatening
24	A No.	24	towards them. I wasn't trying to hurt or harm
25	MR. LAMPIASI: Object to the form.	25	anyone.
	115	117	
1	THE WITNESS: No. They just -- they	1	Q Okay.
2	just did it, and that's shown on the video. I	2	A I don't know why they got something
3	wasn't, you know --	3	like that. That wasn't the point.
4	Q BY MR. CAIN: You weren't	4	Q Do you -- sorry. I didn't mean to
5	cooperating?	5	interrupt you. Go ahead.
6	A No. It had nothing to do with not	6	A I was just being defiant because they
7	cooperating. They just kept saying cooperate, you	7	were being defiant.
8	know.	8	Q Okay. And you feel that as long as
9	Q Or comply. Those were the words	9	you weren't trying to hurt them, then you were
10	being used.	10	cooperating.
11	A Comply with what? I'm shackled,	11	MR. LAMPIASI: Object to form.
12	subdued, handcuffed. Comply with what? I was	12	Foundation.
13	gonna hurt anyone.	13	THE WITNESS: Well, I wasn't --
14	Q Right. Were you willing to comply	14	again, I wasn't not truly not cooperating.
15	with the strip and the anatomical?	15	Q BY MR. CAIN: So you were
16	MR. LAMPIASI: Object to the form.	16	cooperating.
17	THE WITNESS: I complied with most of	17	MR. LAMPIASI: Object to form.
18	the strip, yes.	18	THE WITNESS: During the strip, yes,
19	Q BY MR. CAIN: Well, I just remember	19	I was.
20	the film, and basically you lying there and	20	Q BY MR. CAIN: By lying there and
21	they're having to pull your clothes off. You	21	letting them take your clothes off.
22	didn't sit up or stand up to undress so they could	22	MR. LAMPIASI: Same objection.
23	do the anatomical. They essentially kind of had	23	THE WITNESS: Yes.
24	to take your clothes off you --	24	Q BY MR. CAIN: Had you ever gone
25	A Yeah.	25	through a strip like that or strip before?

	118	120
1	A Yes.	1
2	Q And did you lie there and have them	2
3	pull your clothes off or did you take your clothes	3
4	off yourself in those other incidents?	4
5	A One incident, I made them take my	5
6	clothes off.	6
7	Q But the other one, you took your	7
8	clothes off yourself?	8
9	A Yes.	9
10	Q Then we get to Nurse Bufmack at the	10
11	bottom of page 4. Had you dealt with Nurse	11
12	Bufmack prior to this incident, sir?	12
13	A I don't recall.	13
14	Q Do you remember having any issues	14
15	with Nurse Bufmack before this incident? Any	15
16	problems at all?	16
17	A No.	17
18	Q Okay. The top of page 5, sir, if you	18
19	could turn to that in Exhibit C.	19
20	A Uh-huh.	20
21	Q Looks like after you requested that	21
22	additional photos be taken and the anatomical	22
23	corrected, you said, moments later, he -- I	23
24	believe Holloway -- returned to your cell and told	24
25	me that Nunez said there would be no additional	25
	119	121
1	photos or medical exams. We've done our part. We	1
2	documented. Do you remember that?	2
3	A Yes. Those were his words.	3
4	Q Okay. And you thought that was	4
5	unreasonable?	5
6	A Yes.	6
7	Q Okay. Did you feel that Nurse	7
8	Bufmack had not done a proper job?	8
9	A Yes.	9
10	Q In fact, going back to page 4 -- I	10
11	apologize for that. After you saw Nurse Bufmack	11
12	-- and you saw her on February 29th, 2012,	12
13	correct?	13
14	A Yes.	14
15	Q The same day of this incident?	15
16	A Yes.	16
17	Q And then on March 2nd, 2012, you	17
18	state, when the injuries were more pronounced and	18
19	visible and no one could see the swelling -- and	19
20	one could see the swelling and indented rings	20
21	around your wrists, you asked for a second	21
22	anatomical. Correct?	22
23	A Yes. That was after I had showed --	23
24	there was several nurses, officers, and another	24
25	inmate that counted the holes in my back.	25

	122	124
1	A I mean, I thought maybe that that	1 at least even said ouch or anything like that? Or
2	might have been what it was from.	2 were you simply saying, hey, that's too tight. It
3	Q Okay. Going back to page 5, sir, in	3 hurts?
4	the middle paragraph of Exhibit C, it says, "On	4 MR. LAMPIASI: Object to the form.
5	March 7th, 2012, after complaining to Captain	5 THE WITNESS: I complained about them
6	Cordova, a second anatomical was conducted by	6 -- there was a lot of complaints on that tape.
7	Nurse Mary."	7 There are few times where I complained about them
8	Do you know Mary's last name?	8 bending and pulling my wrists, so --
9	A That's Mrs. Grieb.	9 MR. CAIN: Okay.
10	Q And that was G-R?	10 THE WITNESS: Elbow.
11	A G-R-I-E-B, I believe.	11 Q BY MR. CAIN: And I remember on that
12	Q Okay. And Cordera and Gallegos were	12 tape, and I made a note, when they were taking you
13	there for that anatomical?	13 out, you said, "Oh, you guys aren't strong enough
14	A Yes.	14 to carry me all way. You didn't hurt me, did
15	Q Okay. And at the bottom it says, "I	15 you?"
16	would also like photos of the chipped tooth."	16 Again, you say you don't remember
17	At that time, were you thinking only	17 saying that or --
18	one tooth was chipped?	18 MR. LAMPIASI: Object to the form.
19	A That's because Nurse Bufmack said it	19 THE WITNESS: You didn't hurt me, did
20	was one tooth. Yes.	20 you?
21	Q Could you feel that it was chipped?	21 Q BY MR. CAIN: Let me start the first
22	A Yes.	22 part. "Oh, you guys aren't strong enough to carry
23	Q You couldn't feel both of them were	23 me all the way."
24	chipped.	24 Do you remember saying that?
25	A No, I couldn't.	25 A I might have. I don't recall that.
	123	125
1	Q Okay.	1 Q Okay. That could be kind of
2	A I could feel the grinding, though.	2 interpreted as kind of busting their chops. Have
3	Q Was your lip cut from that?	3 you ever heard that expression?
4	A Yes.	4 A Uh-huh.
5	Q Was it bleeding?	5 Q Do you know why you would have been
6	A No, it wasn't bleeding.	6 busting their chops at that point?
7	Q Okay. Let's go to your addendum,	7 A Yeah.
8	which is Exhibit D, as in dog, sir.	8 Q Why?
9	A Yes.	9 A If I said that, they were refusing to
10	Q Why did you do this addendum? And	10 loosen the cuffs, man.
11	this is dated March 17th, 2012, three days later,	11 Q But the thing about kind of -- kind
12	correct?	12 of attacking their manhood saying they can't carry
13	A Yes. I received the report of	13 you, was there a reason for you doing that?
14	Captain Cordova on the -- I think it was 3/15.	14 MR. LAMPIASI: Object to the form.
15	Q Okay.	15 Q BY MR. CAIN: I may be overstating
16	A 3/15 or 3/16. And as I was reading	16 that. But basically, it probably could be seen as
17	his report, my memory was jarred.	17 kind of busting their chops and kind of dissing
18	Q Okay.	18 them a little bit. Do you see how that could be
19	A I think he said that I complained	19 interpreted as dissing them a little bit?
20	only two times, and I was, like, no, no, no.	20 A Sure.
21	There was way more than two times. And then -- so	21 MR. LAMPIASI: Object to the form.
22	I took inventory.	22 Q BY MR. CAIN: So why --
23	Q And, in fact, talking about the	23 MR. LAMPIASI: Go ahead. Was there a
24	complaining, do you remember a time on the tape	24 question? I'm sorry.
25	where you actually, you know, cried out in pain or	25 MR. CAIN: Yeah.

	126	128
1	Q BY MR. CAIN: I guess the question	1 talk to me."
2	is: So why did you do that? Why did you bust	2 Now, when he knelt down to talk to
3	their chops?	3 you, were you on the floor? Were you on the
4	MR. LAMPIASI: Same objection.	4 gurney? Or where were you, sir?
5	THE WITNESS: I don't know.	5 A I was on the floor when Captain
6	MR. LAMPIASI: I'm sorry. Can I get	6 Cordova knelt down to talk to me. But actually,
7	a quick drink of water?	7 Cordova spoke to me twice.
8	MR. CAIN: Certainly. By all means.	8 Q Okay. When was the first time?
9	You want to take another break? That's fine.	9 A The first time was on the -- on the
10	(Recess taken from 3:05 p.m. to	10 -- on the floor.
11	3:07 p.m.)	11 Q About how long after this incident
12	MR. CAIN: Okay. We'll let the	12 started?
13	record reflect we took a little bit of a break.	13 A I don't know how long it was. It
14	Q BY MR. CAIN: Okay. Sir, back to	14 shows him kneeling down on video.
15	your addendum, Exhibit D, as in dog, I'll go	15 Q Okay.
16	through and see what kind of questions I had about	16 A I don't know exactly when that is.
17	that. Oh, you do reference being dropped. "That	17 Q So the first time he knelt down to
18	person on my right dropped me and I landed on my	18 talk to you when you were on the floor, correct?
19	face from about two to three feet."	19 A Yes, sir.
20	That's what it states, correct?	20 Q What was discussed? What was he
21	A Yes, sir.	21 saying? What did you say back?
22	Q Do you know how many people were	22 A I was telling him at that time -- I
23	lifting you up at that time when you got dropped?	23 was discussing the cuffs, to loosen the cuffs and
24	A I thought it was four.	24 about my hands. And I believe I was telling him
25	Q Okay. Could it have been three?	25 about the unreasonableness of the whole situation
	127	129
1	A No. I remember two in the front and	1 with Ms. --
2	two in the back. I remember the hands on the	2 Q Okay. So from the get-go, you're
3	body.	3 saying it was unreasonable and telling Cordova
4	Q Were the two female officers part of	4 that.
5	lifting you up?	5 A Yes, sir.
6	A No, I don't believe so.	6 Q And how did he respond?
7	Q Okay. But you remember -- your	7 A I don't remember him responding at
8	memory is whoever was holding your right shoulder	8 all.
9	-- I think you stated before -- you believe	9 Q Do you know why he would have knelt
10	dropped you.	10 down to talk to you if he wasn't going to talk to
11	A Yes. My right side.	11 you?
12	Q Or at least they're letting go for	12 MR. LAMPIASI: Objection.
13	whatever reason resulting in you going down,	13 Foundation.
14	correct?	14 THE WITNESS: I don't know. There's
15	A Yes, sir.	15 two incident reports that says he knelt down to
16	Q Were you moving at all prior to you	16 talk to me for several minutes.
17	being dropped?	17 Q BY MR. CAIN: You remember him
18	A I wasn't, because I wanted them to	18 kneeling down to talk to you the first time,
19	pick me up and carry me.	19 correct?
20	Q Jump to the next page of your	20 A Yes.
21	addendum, Exhibit D. In the second paragraph, you	21 Q But your testimony is that you only
22	state, "The fourth time I complained about the	22 talked to him; he didn't talk back.
23	cuffs being too tight and the third time I	23 A Yeah, he didn't -- he didn't -- he
24	requested they be loosened was when I spoke	24 wanted me to stand up and walk after I got through
25	directly to Captain Cordova as he knelt down to	25 talking to him.

	130	132
1 Q Okay.	1 remember what he was telling me. That I was --	
2 A But I was complaining to him.	2 that they were gonna take me to medical and so	
3 Q Okay. So the first time he kneeled	3 forth.	
4 down to talk to you while you were on the floor,	4 Q Okay. But you got the impression	
5 he was basically saying, hey, why don't you get up	5 somehow that he was wanting you to stand up,	
6 and walk. Is that your memory?	6 correct?	
7 MR. LAMPIASI: Objection.	7 A I was --	
8 THE WITNESS: No. I was complaining	8 MR. LAMPIASI: Object to the form.	
9 to him about what was going on and about the cuffs	9 THE WITNESS: No. I was already on	
10 being too tight and requested that they be	10 the gurney at that point.	
11 loosened.	11 Q BY MR. CAIN: I just thought you had	
12 Q BY MR. CAIN: I just heard you say,	12 -- a few minutes ago you had mentioned that he was	
13 though, that he was wanting you to get up and	13 wanting you to get up and walk.	
14 walk. How did you know that?	14 A Yeah. That was the initial kneeling	
15 A That was at the end. That was at the	15 down.	
16 end.	16 Q Okay.	
17 Q Okay. Well, we've got the first	17 A At the end of me talking to him.	
18 kneeling down. And there's a second kneeling down	18 Q Okay.	
19 when you're on the gurney, is that correct?	19 A Yes.	
20 A That was when I was on the gurney,	20 Q The initial kneel down, when he	
21 and I don't see that on the -- on the -- on the	21 kneeled down.	
22 video.	22 A Yes, sir.	
23 Q Okay. Were you out of the building	23 Q Okay. And the second time he kneeled	
24 then or did he do that when you were on the gurney	24 down, he indicated -- you said pinky rule and is	
25 and still in the first building?	25 this what you train your officers to do, something	
	131	133
1 A Still in the first building.	1 like that. Correct?	
2 Q Unit one?	2 A Yes.	
3 A Yes.	3 Q And then he said, well, we're going	
4 Q Do you remember him kneeling down and	4 to take you over to medical.	
5 talking to you at that time?	5 A I don't remember what all was said at	
6 A I was on -- the gurney was on the	6 that point.	
7 floor, and I was put on the gurney, yes.	7 Q Okay.	
8 Q Okay. So you were already on the	8 A But he did indicate --	
9 backboard, and the backboard was being put on the	9 Q Was he hollering at you?	
10 gurney?	10 A No.	
11 A No. I was still on the floor --	11 Q Was he somewhat calm?	
12 Q Okay.	12 A Yeah. He wasn't hollering.	
13 A -- at that time. And the video	13 Q Okay. Okay. When he says taking you	
14 didn't pick that up. But when they brought the	14 over to medical, did you know why they were taking	
15 gurney -- excuse me. When they brought the	15 you over to medical?	
16 backboard, they set it on the floor and put me on	16 A I don't know what was in his mind.	
17 the backboard. And he spoke to me again at that	17 Q Okay. So that second time when he	
18 time.	18 kneeled down to talk to you, how long was that	
19 Q What did he say at that time?	19 discussion in time?	
20 A I was complaining to him about them	20 A It wasn't as long as the first time.	
21 -- I asked him -- talked about the pinky rule, and	21 Q Okay.	
22 that's when someone else was bending my wrist.	22 A I don't recall exactly how long it	
23 And I asked him if that's how you train your boys	23 was.	
24 to -- you know, use excessive force.	24 Q The first time, ballpark, how long	
25 And he was telling me that -- I don't	25 was the first time he kneeled down? How long did	

	134	136
1	you speak?	1 of force.
2	A The first time, it was awhile. I	2 Q Do you know what those injuries were?
3	don't remember exactly how long. Some report says	3 A Scratches.
4	several minutes, but it wasn't that long.	4 MR. LAMPIASI: I'm sorry. Object to
5	Q Okay. Minute or two minutes, maybe?	5 foundation.
6	A Probably a minute or so.	6 Q BY MR. CAIN: If you know.
7	Q Okay.	7 A I don't recall. I think it was a
8	A Yeah.	8 scratch and a strained arm or something.
9	Q And the second time was maybe not	9 Q Okay. And do you know how those were
10	quite a minute?	10 caused?
11	A It wasn't that long. It was -- I	11 A No.
12	kept asking -- I remember talking and asking to	12 Q Okay. And down to the bottom of page
13	see the shift commander.	13 4 of Exhibit A, your interrogatory responses --
14	Q All right. I'm going to jump back to	14 A Page 4. Okay.
15	your interrogatories, sir. Do you have those,	15 Q And you -- down there you say H.
16	Exhibit A, I believe?	16 Williams will be dismissed.
17	A Yes, sir.	17 A Yes.
18	Q And let me go to page 3 and your	18 Q Is that because you determined that
19	response to interrogatory number 4. Let me know	19 H. Williams was really not involved in this?
20	when you're there.	20 A Yes.
21	A Uh-huh.	21 Q Okay. Thank you. Okay. Let's go to
22	Q Are you there?	22 page 6, please. At the bottom, there's
23	A Yep.	23 interrogatory number 20, and there's a response,
24	Q Okay. Down towards the bottom of	24 and it's a pretty long paragraph. And down here
25	that second paragraph, down about here	25 at the very bottom couple of lines, I want to
	135	137
1	(indicating). I'll kind of point it out --	1 direct your attention there, sir.
2	A Okay.	2 A Okay.
3	Q -- since it's kind of long. It says,	3 Q It says, the last sentence, "It is
4	"After they refused repeated requests to loosen	4 believed that Bell, Wolfe, and others conspired at
5	the cuffs and plaintiff refused to walk as a	5 various points to keep plaintiff from exhausting."
6	result, as staff picked up him up to carry him, he	6 Do you have any specific evidence
7	made no attempt to assault staff by using a left	7 that they were conspiring or is that just your
8	knee strike as alleged by correction officer	8 thought at this point?
9	Meyers."	9 MR. LAMPIASI: Object to form.
10	So you don't know what he's talking	10 THE WITNESS: I believe -- that I had
11	about with regard to a left knee strike?	11 turned that report in on the 29th, and there was
12	A No, sir.	12 -- it hadn't even been assigned to be investigated
13	Q And you're certain you were never	13 with no response within the 30-day period. Mr.
14	kicking your legs when you were down on the	14 Bell indicated that he thought that I wasn't going
15	ground?	15 to sue. Or the report hadn't been investigated by
16	A I may have been moving, but as far as	16 the time even after that was found out not to be
17	kicking, trying to intentionally, you know, no,	17 true. It was to be investigated by a certain
18	sir. Never.	18 time. It wasn't.
19	Q So legs may have been moving, but you	19 Then when the step three came, it
20	weren't intentionally trying to kick anyone.	20 just ended up disappearing. So all these
21	A No, sir.	21 different things, there's more than that that led
22	Q Okay. Do you know if any of the	22 me to believe that. But --
23	officers were hurt in this incident?	23 MR. CAIN: Okay.
24	A There was a report that said two	24 THE WITNESS: -- these things
25	officers received injuries as a result of the use	25 together led me to believe that somebody was

	138	140
1	trying to keep me from exhausting. Mr. Bell and	1 report, and that's it. You don't go to
2	Mr. Wolfe were involved.	2 segregation, sir.
3	Q BY MR. CAIN: You're looking --	3 Q Do you know anybody that's ever gone
4	you're considering the circumstances, correct?	4 to segregation for disobeying a direct order?
5	A Yes, sir.	5 A No.
6	Q You've never heard Bell or Wolfe	6 Q Had you ever been in segregation
7	conspiring with anybody or talking to anybody	7 before at this facility?
8	about, you know, losing your reports.	8 A Prior to that, I believe once, I
9	A No, I never heard that.	9 believe.
10	Q You're just considering all the	10 Q Just once. Are you sure?
11	evidence personally.	11 A I can't recall.
12	A Circumstances, evidence, yes.	12 Q Okay. Well, the time you do remember
13	Q Okay. Jumping down to interrogatory	13 going to segregation, what led to that, sir?
14	number 21 at the bottom of that page, it says,	14 A I think they said that that was a
15	"Explain in detail why you refused to comply with	15 facility disruption or something, I believe.
16	the orders of staff members immediately preceding	16 Q Do you remember the facts of that,
17	the use of force incident giving rise to your	17 generally?
18	claims."	18 A I think it was Captain Nunez.
19	And your response was: "Plaintiff	19 Q Okay.
20	was told by Sergeant Clinkenbeard that he was	20 A Yeah. There was a guy that got
21	going to segregation even though he had done	21 killed. Key chain. I can't recall everything,
22	nothing wrong to deserve going to segregation."	22 but I do remember going to segregation.
23	And basically, the second part of that sentence is	23 Q I mean, that's -- it's usually rather
24	your interpretation, correct?	24 serious when you get sent to segregation, isn't
25	A Well, I hadn't done anything wrong.	25 it?
	139	141
1	That's not a segregation offense. Yes.	1 A Not really.
2	Q But Sergeant Clinkenbeard is not	2 Q Okay.
3	saying, I'm taking you to segregation even though	3 A Not around here. And that's one of
4	you did nothing wrong. The doing nothing wrong	4 the reasons I didn't want to get cuffed up.
5	was your interpretation.	5 Because once you get cuffed up and you go to the
6	MR. LAMPIASI: Object to the form.	6 captain's office, you're going to -- 90 percent
7	THE WITNESS: Yes. I believed that I	7 you're going to seg.
8	disobeyed a direct order.	8 Q Okay. But, again, going back to that
9	MR. CAIN: Okay.	9 other incident, you don't remember what it was.
10	THE WITNESS: Normally, they give you	10 Well, let me ask this: Did you not obey a direct
11	a report for disobeying a direct report.	11 order with regard to that other incident when you
12	MR. CAIN: Okay.	12 went to segregation?
13	THE WITNESS: For me not giving him	13 A I don't recall that.
14	the report, I was disobeying a direct order. That	14 Q You don't recall what you did?
15	didn't -- you know, that's not a segregationable	15 A Yeah, I can't remember all the
16	offense.	16 details.
17	Q BY MR. CAIN: Okay. And you know	17 Q Do you remember any details other
18	that for a fact.	18 than somebody getting killed?
19	A Yeah. You get a write-up. That's	19 A Something about a key and --
20	it.	20 Q Did they --
21	Q That's because you've gotten written	21 A I can't recall.
22	up before for that type of conduct and not been	22 Q Did they suspect you might have had
23	sent to segregation?	23 the key?
24	A That's just general knowledge around.	24 MR. LAMPIASI: Object to form.
25	You know, people disobey a direct order, you get a	25 Foundation.

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1 THE WITNESS: No. It was my key. I 2 remember something about my key. I can't recall 3 the details.	1 segregation. I don't remember all the details, so 2 that's what I was explaining to you.	
4 MR. CAIN: Okay.	3 Q Okay.	
5 THE WITNESS: I remember Mrs. Worthy 6 [phonetic] asking for a key or something, but 7 after that, I don't remember exactly what 8 happened, sir.	4 A I was hoping maybe you had something.	
9 Q Okay. Did you feel that you had done 10 something wrong to warrant going to segregation 11 that last time --	5 Q I'm just seeing it says pre 6 segregation and anatomical done, but I do not have 7 that. So, again, you don't remember why you went 8 to segregation December 30th, 2010?	
12 MR. LAMPIASI: Objection.	9 A No.	
13 Q BY MR. CAIN: -- or was it just a 14 mistake?	10 Q What type of conduct does it normally 11 take to rise to the level of a person like 12 yourself going to segregation?	
15 MR. LAMPIASI: Objection. 16 Foundation.	13 MR. LAMPIASI: Objection. 14 Foundation.	
17 THE WITNESS: You're talking about 18 the --	15 Q BY MR. CAIN: To your knowledge, sir.	
19 MR. CAIN: The previous time, not 20 this time.	16 A Facility disruption, fighting, stuff 17 like that.	
21 THE WITNESS: No, I don't think I did 22 anything wrong or anything.	18 Q Okay.	
23 Q BY MR. CAIN: Okay. But the 24 circumstances were such that they were suspicious 25 that you had done something wrong, correct?	19 MR. LAMPIASI: I'm sorry. I need to 20 ask for a break.	
	21 MR. CAIN: Sure.	
	22 MR. LAMPIASI: We're getting into a 23 potential attorney-client issue --	
	24 MR. CAIN: Sure.	
	25 MR. LAMPIASI: -- that we need to	
	143	145
1 A I don't recall, sir. I'll just say I 2 can't recall.	1 discuss.	
3 Q Well, they didn't just arbitrarily 4 pick you out of the crowd and say, you're going to 5 segregation that prior time, did they?	2 MR. CAIN: Sure. No problem. 3 (Recess taken from 3:26 p.m. to 4 3:30 p.m.)	
6 A I don't --	5 Q BY MR. CAIN: Okay. With regard to 6 that incident, I'm not sure if I have any more 7 information to go on that. So we'll just 8 potentially -- it may be in the record somewhere. 9 Records are records.	
7 MR. LAMPIASI: Objection. Form.	10 Okay. Going back to page 6 of 11 Exhibit A, sir.	
8 THE WITNESS: If you could refresh my 9 memory, maybe I could --	12 A Uh-huh.	
10 Q BY MR. CAIN: Let's see if I have 11 that one offhand. Do you remember when that prior 12 incident would have been? Approximately what 13 year?	13 Q Response to interrogatory number 21, 14 you state, second sentence, "It has been 15 plaintiff's experience that once a person is 16 handcuffed and marched to the shift commander's 17 office and the staff speaks to them first, it's a 18 done deal. He is going to segregation, no 19 questions asked, whether he deserves to or not."	
14 MR. LAMPIASI: Object to the form.	20 Now, one, I guess, of course, you 21 weren't marched. I guess they were marching. You 22 were kind of rolling, correct? So had you 23 actually been in a situation before where you were 24 handcuffed and marched to the shift commander's 25 office and it was a done deal and you went to	

37 (Pages 142 to 145)

	146		148
1	segregation? Is that the December 2010 time?	1	Q But they are at least removed from
2	A No. This is just from past	2	the population --
3	experience dealing with other people.	3	A Yeah.
4	Q So hearing it anecdotally from other	4	Q -- sometimes.
5	inmates?	5	And did you always see what caused --
6	A Yes.	6	what led to them being marched out?
7	Q Okay. And the next sentence, "And	7	A Not totally, not all of them.
8	that is especially so at this facility where the	8	Q Okay.
9	various shift commanders routinely and arbitrarily	9	A Sometimes.
10	lock inmates in prehearing confinement," open	10	Q Okay. Let me go through and see what
11	paren, "RFP, remove from population," close	11	other questions I have from the interrogatories.
12	parens, whether one poses an imminent and	12	Give me a second. Okay. Going down to
13	substantial threat to the security of the	13	interrogatory number 23, your response about six
14	institution or other offenders, D.O.C. employees,	14	or seven lines into it, are you there, sir?
15	or to himself."	15	A Six or seven lines.
16	Is that, again, based on personal	16	Q Where it says, "It has also been
17	experience or anecdotal evidence from other	17	revealed by the incident report of defendant
18	inmates?	18	Sullivan that he also applied a TASER but did not
19	A This one is both, actually. I was	19	activate it. The only knowledge you have of that
20	RFP'd one time in this situation here. I didn't	20	is from his report?
21	pose an imminent threat to anyone.	21	A Yes.
22	Q So you're saying this -- well, I'm	22	Q And you say "imagine that." I take
23	sorry. I kind of interrupted you. Go ahead.	23	that to mean that you have a credibility issue
24	A No. You're fine.	24	with that statement.
25	Q So you're saying the RFP that you're	25	A Is that a question?
	147		149
1	referring to, your experience, is this December --	1	Q Yes.
2	February 29th, 2012, incident. Correct?	2	A I didn't know if he did or not. I
3	A That, and other people's	3	know I was Tased a lot of times, so --
4	experiences --	4	Q But you don't know if one person did
5	Q Okay.	5	it or two.
6	A -- yes, sir.	6	MR. LAMPIASI: Objection to the form.
7	Q So besides this, you're relying upon	7	THE WITNESS: Correct.
8	hearing it from other folks, other inmates,	8	Q BY MR. CAIN: Okay. Do you know for
9	correct?	9	a fact that defendant Sullivan Tased you?
10	A Seeing it, yes.	10	A For a fact, I don't.
11	Q Okay. Now, seeing, I mean, did you	11	Q Okay. And going down about five
12	see everything that happened or did you just kind	12	lines from the bottom of that same paragraph, sir,
13	of see it towards the end of it when they're	13	you say, "Sullivan caused additional injury when
14	hauling them out?	14	he sadistically let go of plaintiff, dropping him
15	A Well, you seem them haul them out and	15	face first on the concrete and then sadistically
16	they go and they never come back.	16	pressing his face into the ground to cause
17	Q Okay.	17	unnecessary pain."
18	A So --	18	One, are you certain that it was
19	Q Did you see why they -- well, you're	19	Sullivan that was on your right shoulder who led
20	not suggesting they kill them and put them in a	20	-- who dropped you or for some reason released
21	hole, are you? We hope not?	21	your left -- your right shoulder --
22	A I hope not.	22	A Yeah.
23	Q So you're not suggesting that you	23	Q -- causing you to go to the ground?
24	know that happens.	24	A It was Sullivan, Mr. Sullivan.
25	A No.	25	Q You're positive of that.

	150	152
1	A I'm positive of that.	1 move. My face is on the ground (indicating).
2	Q Now, how do you know he was sadistic	2 What am I gonna do at this point?
3	and -- sadistic kind of involves -- indicates an	3 O Well, let me -- okay. You showed me
4	intent to be pretty mean and nasty, wouldn't you	4 that a couple times. I think I get that sense.
5	say?	5 But when you were dropped to the ground, did your
6	A Yes, sir.	6 teeth immediately go into the floor or was that
7	Q Okay. Do you know that he had that	7 later when the knee was on your back or neck?
8	in his mind when you left his grasp for one reason	8 A No. I tried to break the -- my
9	or another?	9 forehead hit the ground because I didn't want my
10	A It -- it -- when I'm on the -- on the	10 teeth to hit the ground.
11	ground subdued, you know, I'm handcuffed, I'm	11 Q Okay. So your forehead hit the
12	shackled, he's -- the intent was in his motion,	12 ground first?
13	his -- what he was doing and how he was doing it.	13 A First, yes, sir.
14	I mean, I can't explain, but --	14 Q Okay. And were you doing any moving
15	Q Okay.	15 between the time your forehead hit the ground and
16	A -- he was hurting me.	16 the knee was put in your back or neck?
17	Q When he had you on the ground, you	17 A No.
18	say?	18 MR. LAMPIASI: Object to form. Go
19	A Yes, after I was dropped.	19 ahead.
20	Q And you're just assuming that he was	20 THE WITNESS: No, sir.
21	-- sadistically let you drop prior to that,	21 Q BY MR. CAIN: Okay. And you're
22	correct?	22 positive of that.
23	A I don't know if that was sadistic,	23 A Yes, sir.
24	that part or not. But him pressing my face, I	24 Q I'm going to show you what has been
25	can't say sadistic for sure, dropping me. But	25 marked as Exhibit B, as in boy. I'll represent to
	151	153
1	once I was on the ground, there was no need to	1 you that these are your responses to request for
2	press my face to the --	2 production of documents done by the prior counsel.
3	Q Okay.	3 Have you seen these before, sir?
4	A -- ground.	4 A Yes.
5	Q And once you were on the ground, are	5 Q Okay. Let's go to the second page,
6	you positive that you were not moving at all once	6 please.
7	you got onto the ground?	7 A Okay.
8	A I don't believe I was moving at all	8 Q And request for production number 4,
9	at that point.	9 it says, "Please produce a copy of any and all
10	Q Are you sure?	10 grievances that you have filed involving
11	A I don't even think the video shows	11 defendants or any of the staff asserting that
12	that.	12 you've been retaliated against." Response number
13	Q But do you remember whether you were	13 4, "Retaliation is a legal theory which need not
14	moving or not when you hit the ground?	14 be asserted in a grievance to exhaust. Such facts
15	A No. That's what I remember	15 in this case were unknown and did not exist at the
16	(indicating). Just my two front teeth being on	16 time of filing the grievance."
17	the ground.	17 Just on the subject of retaliation,
18	Q But prior to the knee going into your	18 do you think any of the folks, any of the
19	back or neck and your teeth going into the ground,	19 defendants, my clients here, anything they did was
20	you don't remember if you were moving around after	20 motivated by any retaliation against you with
21	you fell to the ground trying to get up or moving	21 regard to this February 29th, 2012, incident?
22	around at all?	22 A Yes.
23	A No. I couldn't move.	23 Q And why don't you tell me why first.
24	Q Why?	24 Who and why?
25	A Well, if you ever -- I just couldn't	25 A Mr. Aubrey Bell, case manager.

39 (Pages 150 to 153)

	154	156
1	Q	And how do you spell his last name?
2	A	B-E-L-L.
3	Q	Okay. And why -- what gave rise to
4		him wanting to -- well, why don't you just put it
5		this way. Please explain why you say that.
6	A	Mr. Bell added ten points on my
7		custody review score saying that I had a staff
8		assault.
9	Q	Based on this incident?
10	A	Based on this incident.
11	Q	Okay.
12	A	The conviction in that case had been
13		either reversed or dismissed. At the time Mr.
14		Bell made the classification referral was on March
15	-- in March of 2013, the COPD conviction had been	
16		reversed or dismissed May 3rd of 2012. Mr. Bell
17		was aware that that had been dismissed. I think
18		he received notification from Mrs. Aldrich --
19	MR. LAMPIASI:	Excuse me.
20	THE WITNESS:	Bless you -- on the
21		15th of May --
22	MR. CAIN:	Okay.
23	THE WITNESS:	-- of 2012. And so
24		once you are classified as assaultive behavior
25		towards staff, there's this internal thing that
	155	157
1		goes on where they consider you a high-risk
2		offender. And so when I found that part out,
3		that's one reason. When I found that out that
4		Mr. Bell had requested, I just had a feeling that
5		he was not supportive of me and that he was doing
6		things. So I requested a copy of the
7		classification referral, and I saw that ten points
8		on there. And I asked him to -- you know, he
9		initially said, "Oh, I didn't put that on there."
10		I said, "Mr. Bell, you the one that
11		generated this report." So I asked him to correct
12		it, wrote him a letter, wrote him a second letter.
13		He didn't correct it. So I wrote to Mrs.
14		Aldrich. Didn't hear nothing from her, so I wrote
15		to the lady, Mrs. Butler, and it was reversed
16		after that.
17		But once you're classified as a
18		high-risk offender, you're treated differently.
19		You don't -- you know, it's just --
20	Q	How?
21	A	How? The staff treats you different,
22		man. It's just a known thing. I can't explain
23		it. You don't get jobs. You're kind of marked.
24		You're labeled. You're watched. You know, that
25		sort of thing, once you're classified as high
1		risk.
2		The second thing was the incident
3		report for the paraphernalia, the water bag, he
4		tried to say that was escape paraphernalia. And I
5		explained to Mr. Bell that that was not escape
6		paraphernalia and what I used the water bag for.
7		And Mrs. Jance [phonetic] had written an incident
8		report for just possession of unauthorized
9		possession. And then Bell somehow had his
10		incident report added onto her report, which is
11		never heard of, you know.
12	Q	Never heard of by who?
13	A	There's -- when the incident report
14		came out -- comes out, it's only one staff that
15		writes the report, and their signature is it.
16		This incident report had Mrs. Jance's report at
17		the top and then Bell's report was included at the
18		bottom of the incident report. And that's --
19		anyway, that was reversed on appeal, I believe
20		because of that reason.
21		But that's the reason I believe that
22		Mr. Bell -- Mr. Bell retaliated against me,
23		because of the -- the incident. It was a number
24		of things that had taken place. The grievance
25		came up missing. Then I get this, the charge was
1		dismissed. Mr. Bell knew that the charge was
2		dismissed. Then he adds this ten points on, which
3		has me closed out, my custody, and has me labeled
4		as a high-risk offender.
5		If you have escape or escape
6		paraphernalia that also labels you as a high-risk
7		offender, according to D.O.C. policy. So it was
8		my understanding -- and I complained about Mr.
9		Bell losing the grievance, about him not
10		correcting the custody score. And so I believe
11		that based on, you know, those issues that that
12		was the purpose for his retaliation.
13	Q	And you believe this was all
14		intention on Mr. Bell's part to try to get back at
15		you.
16	A	Of course I did.
17	Q	Okay.
18	A	He said that he was gonna correct it
19		before he left, and he never did. He retired
20		before it even got fixed.
21	Q	And how did both of those things --
22		well, how did either of those things affect you?
23		Did you get changed to a different unit?
24		Different cell block?
25	A	Well, if I hadn't have caught that,

	158	160
1	sir -- I don't mean to cut you off.	1
2	Q That's fine.	2
3	A If I hadn't caught it, no telling	3
4	what the effect would have been --	4
5	Q Okay.	5
6	A -- you know, later on.	6
7	Q So you headed it off at the pass.	7
8	A Yes.	8
9	Q So nothing actually bad happened	9
10	because you feel you stopped it.	10
11	A But the retaliation was there. I	11
12	believe that -- yeah, I do believe that I stopped	12
13	it.	13
14	Q And you believe you were retaliated	14
15	because of this February 29th, 2012, incident?	15
16	A I believe so, yes, sir.	16
17	Q Okay.	17
18	A And because I complained about the	18
19	grievance. Step three grievance, I gave it to	19
20	him. Disappeared. Where did it go?	20
21	Q All right. Let's go to request for	21
22	production number 5 on Exhibit B, your response,	22
23	"Although plaintiff was indeed denied timely and	23
24	adequate medical care and such can be inferred	24
25	from the pleadings, plaintiff's claim relates to	25
	159	161
1	defendant Bufmack and others conspiring to cover	1
2	up, hide and minimize the excessive use of force,	2
3	the facts of which were not known and, therefore,	3
4	did not exist at the time of filing the	4
5	grievance."	5
6	You say, "The evidence which sets the	6
7	conspiracy in motion," open bracket, "to cover up,	7
8	hide, and minimize," close bracket, is found on	8
9	Bates labeled Stevenson 00926 e VID 00003 at,"	9
10	apparently, "30 minutes to 30 minutes to 59	10
11	seconds where defendant Bufmack could be seen and	11
12	heard minimizing the extent of injury to	12
13	plaintiff's back and wrists. And such evidence is	13
14	also found in the glances between defendant	14
15	Espinosa and Benovedez," B-E-N-O-V-E-D-E-Z, "who	15
16	are captured on video looking at each other at the	16
17	very moment defendant Bufmack can be heard	17
18	minimizing the injury to plaintiff's back caused	18
19	by the TASER and which plaintiff believes is, no	19
20	doubt, the reason defendant Nunez refused to later	20
21	on authorize a more accurate anatomical when	21
22	requested and, no doubt, the reason black and	22
23	white photos of plaintiff's injuries were produced	23
24	by you instead of color photos so the actual	24
25	injury could remain hidden."	25
	hit with both of those that each one is going to	
	leave a mark?	
3	A Yes, sir.	
4	Q So if you have six marks, that would	
5	mean you got hit three times.	
6	A Yes.	
7	Q If that's true, correct?	
8	A Yes.	
9	Q Okay. But you're saying that there	
10	were more marks? Somebody later interpreted --	
11	saw more marks, correct? Nurse Mary?	
12	A No, it wasn't Mary. It was -- it was	
13	so many nurses. I have them listed --	
14	Q Okay.	
15	A -- there in my --	
16	Q Right.	
17	A -- part of the discovery, too, all	
18	the nurses that came.	
19	Q But you're saying when you were seen	
20	later, another nurse saw not six but ten TASER	
21	marks?	
22	A Yeah. Not only the nurse. First it	
23	was Mr. Horton.	
24	Q Okay.	
25	A Then it was, I think, Nurse Rudnick	

	162	164
1	and C.O. -- another C.O. Because when the nurses	1
2	come by, they are with an officer.	2
3	Q Okay.	3
4	A And then there was another nurse and	4
5	another officer. And then I showed them to	5
6	Mr. Holloway.	6
7	Q Okay.	7
8	A Then Captain Cordova.	8
9	Q And how long was that after Nurse	9
10	Bufmack saw you?	10
11	A That was the next day, second day,	11
12	the third day. And then on the seventh day, I	12
13	told Mr. Cordova.	13
14	Q Okay. And so you're certain that	14
15	Nurse Bufmack should have seen ten marks showing	15
16	up at the time she looked at you?	16
17	MR. LAMPIASI: Objection.	17
18	Foundation.	18
19	Q BY MR. CAIN: Or do you know whether	19
20	perhaps some of those weren't showing yet?	20
21	A At the time, I didn't know if they	21
22	were not showing. But from looking at the	22
23	pictures that were taken the day of the incident,	23
24	you could see there were more.	24
25	Q You think it's clear there were ten?	25
	163	165
1	A And in the video, you can also see	1
2	more.	2
3	Q Okay.	3
4	A So either ten or more.	4
5	Q Okay. Has anybody ever said there	5
6	were more than ten?	6
7	A No. Everyone said that they counted	7
8	ten.	8
9	Q Okay.	9
10	A But from looking at the pictures, I	10
11	counted more.	11
12	Q And do you know if what you saw, more	12
13	than ten, could have been marks left by the straps	13
14	or are you sure that they are TASER marks, or do	14
15	you know?	15
16	A They are TASER marks.	16
17	Q Okay.	17
18	A And the people that looked at them,	18
19	the nurses and the other staff and the inmate, the	19
20	prongs -- count the prongs.	20
21	Q But they never said -- nobody other	21
22	than you has said there were more than ten.	22
23	MR. LAMPIASI: Objection.	23
24	Foundation.	24
25	Q BY MR. CAIN: That you're aware of.	25

42 (Pages 162 to 165)

	166	168
1	to release of his entire medical file because the	1
2	entire file is not relevant to matters involved in	2
3	the current litigation. He does, however, consent	3
4	to release of medical information," open bracket,	4
5	"which you already have," close bracket, "limited	5
6	in scope and relating only to carpal tunnel and	6
7	the examination, diagnosis, and treatment for	7
8	injuries sustained as a result and after the use	8
9	of excessive force occurring on February 29th,	9
10	2012."	10
11	And, again, having come into this	11
12	case after -- as the second counsel, I'm just	12
13	trying to understand that. Is there -- perhaps	13
14	you or your attorney could indicate on the record	14
15	whether you're aware that -- is there some sort of	15
16	log been done with regard to some of your medical	16
17	records that were produced to prior counsel that I	17
18	assume that I have? Can anybody speak to that?	18
19	A Privilege?	19
20	MR. LAMPIASI: I'll jump in here.	20
21	MR. CAIN: Sure.	21
22	MR. LAMPIASI: I don't think there	22
23	was a privilege log done. We can talk about this.	23
24	MR. CAIN: Okay.	24
25	MR. LAMPIASI: I'm very familiar with	25
	167	169
1	what Mr. Stevenson's obligations are in terms of	1
2	producing medical records and the scope of that	2
3	production.	3
4	MR. CAIN: Right.	4
5	MR. LAMPIASI: And I'll advise him on	5
6	that. And if there's something that you feel like	6
7	you'd have to -- that you would like to have and	7
8	don't have --	8
9	MR. CAIN: Okay.	9
10	MR. LAMPIASI: -- and if it's within	10
11	the bounds of the rules, then we'll sign what you	11
12	have to sign --	12
13	MR. CAIN: Okay.	13
14	MR. LAMPIASI: -- to complete those	14
15	logs.	15
16	MR. CAIN: Okay. That's fine. I	16
17	just wanted to follow up on that and make sure	17
18	we're at least discussing it. If there's	18
19	something we have to fight over, that's fine. But	19
20	I just like to do that beforehand. I always err	20
21	on the side of -- we'll have it, you know,	21
22	reviewed by the court if there's an issue.	22
23	MR. LAMPIASI: Well, I can assure you	23
24	one thing. We're never going to fight about it.	24
25	MR. CAIN: Okay.	25
	released that information to you without first	1
	obtaining a HIPAA release without a court order,	2
	subpoena, or request for discovery and since we	3
	already have plaintiff's medical records," open	4
	bracket, "illegally," close bracket, "he did not	5
	understand why you are trying to obtain a signed	6
	medical release now."	7
	And that's just kind of follow-up,	8
	and that sounds like something we can talk about	9
	similar to what we just discussed.	10
	MR. LAMPIASI: Sure.	11
	Q BY MR. CAIN: Because I don't think	12
	you're referring to me, because I wasn't on here	13
	at the time. So --	14
	A No.	15
	Q Any discussions you might have had	16
	with Ms. Gellar -- but I just want to follow up	17
	and make sure we're -- everybody at this point	18
	knows what they are willing to disclose or not	19
	willing to disclose so we can address it. Okay?	20
	A Uh-huh.	21
	Q That's a "yes"?	22
	A That's a yes.	23
	Q Okay. Exhibit E, as in egg, my	24
	understanding these are documents from the	25

43 (Pages 166 to 169)

	170	172
1 anatomicals. Have you seen these before, sir?	1 deep indentations. I had scrapes. I had cuts.	
2 And I'm assuming there's no --	2 It was more than just two superficial abrasions.	
3 A Yes.	3 Q Were one or both of your wrists	
4 Q -- issue as to whether these should	4 bleeding at the time of this examination?	
5 be produced in this case. Because I believe these	5 A They were not bloody, bleeding, no.	
6 are from February 29th, 2012, and also March 7th,	6 Q Were they bleeding at all? Let me	
7 2012, so these would seem to be certainly relevant	7 qualify bleeding. Outside the skin.	
8 to the issues involved in this case.	8 A No.	
9 A Yes.	9 Q Number four, indentation of skin. Do	
10 Q Okay. Have you seen these before,	10 you agree with that? And I'm assuming she means	
11 sir?	11 the wrist. No. She's -- on the diagram, she's	
12 A Yes.	12 saying the ankles, correct?	
13 Q Okay. Let's look at the first page,	13 A Ankles, yeah.	
14 Stevenson 00015. And this was done by Nurse	14 Q And how would you have -- how did you	
15 Bufmark [sic]. Is that your memory, that she	15 describe those? Would you have described them as	
16 would have seen you that day, sir?	16 indentations of skin on the ankles?	
17 A Yes.	17 A Yeah. Those were deep indentations,	
18 Q List of injuries, six small, raised,	18 yeah.	
19 red bumps less than one centimeter each on back.	19 Q Any bleeding beyond -- outside the	
20 And those are the bumps you believe that -- you've	20 skin?	
21 testified that other folks found ten similar bumps	21 A Not there. But, sir?	
22 rather than six. Correct?	22 Q Yes, sir.	
23 A Yes.	23 A Could I back up to --	
24 Q Okay. And you believe there may be	24 Q By all means.	
25 more than ten.	25 A Just to three.	
	171	173
1 A Yes.	1 Q Sure.	
2 Q Okay. Number two, chipped right	2 A As far as the wrists, the -- there	
3 front tooth, two superficial, nonbleeding	3 were scrapes on the wrists and rings from the --	
4 lacerations on lower lip. Do you agree that -- do	4 from the cuffs. And this (indicating) on both	
5 you agree with that, although you believe there	5 wrists, you can see in the picture the deep	
6 might have been two teeth chipped?	6 indentation here (indicating). And this is the	
7 A Yes. Two teeth chipped and more than	7 damage that was done here to this (indicating), my	
8 two superficial lacerations.	8 nerve here (indicating).	
9 Q And why do you say more than	9 Q You're pointing to the base of your	
10 superficial? Well, let me ask you this: Would	10 left thumb, correct?	
11 you agree that they were nonbleeding?	11 A Yes. On the outside.	
12 A Excuse me. I'm sorry about that.	12 Q Okay.	
13 Q Sure.	13 A Yeah.	
14 A I'm referring to -- I'm jumping	14 Q And the other wrist, you're pointing	
15 ahead. I'm thinking about the wrist here. But,	15 to the inside of the wrist, correct?	
16 yeah, two superficial, nonbleeding abrasions on	16 A Yeah. As far as being visible,	
17 the lower lip.	17 that's -- I had them both. I had scrapes on both	
18 Q Okay. And she said -- okay. And	18 of these wrists (indicating). On the camera, you	
19 then number three, it says, "Superficial abrasions	19 can see the scrapes here (indicating), and it was	
20 times two both wrists."	20 -- I'm just saying it was more than two	
21 Do you agree with that?	21 superficial abrasions.	
22 A No.	22 Q Okay. And also under comments she	
23 Q And tell me why you do not agree with	23 references that this is a presegregation	
24 that.	24 anatomical, essentially regarding a claim of use	
25 A Two superficial abrasions. I had	25 of force incident in cell house with staff.	

	174	176
1	Complains up above plus neck pain. Where were you	1
2	having neck pain, sir?	2
3	A At the base of my neck and just	3
4	through the back of the -- through the back of the	4
5	neck.	5
6	Q Okay. I'm assuming you're not a	6
7	doctor. I'm not either. Not a medical doctor,	7
8	correct? Neither one of us are?	8
9	A No.	9
10	Q But tell me why do you -- what do you	10
11	believe caused this neck pain in this incident, if	11
12	you know?	12
13	A Well, the pain came from the head	13
14	being pressed to the ground.	14
15	Q Okay. You mentioned you believe	15
16	there was a knee in the back of your neck or upper	16
17	back in that area?	17
18	A It was something.	18
19	Q Okay. And that's what you believed	19
20	caused the neck pain?	20
21	A Yeah, that force.	21
22	Q Okay.	22
23	A The force.	23
24	Q How long did that neck pain last	24
25	after this incident?	25
	175	177
1	A It was --	1
2	Q Days? Weeks? Couple of months?	2
3	A It was weeks. About two weeks.	3
4	Q Okay. Had you ever had neck pain in	4
5	that area before this incident?	5
6	A No, sir.	6
7	Q Never fallen, hurt yourself in any	7
8	way that you're aware of --	8
9	A Never.	9
10	Q -- that you can remember?	10
11	A Never injured my neck, no.	11
12	Q Okay. And never had pain in the	12
13	neck. Correct?	13
14	A No.	14
15	Q That's a "no"?	15
16	A No.	16
17	Q And I guess the way I asked it, it's	17
18	correct that you never had pain in your neck prior	18
19	to this incident. Correct?	19
20	A Correct.	20
21	Q Okay. I didn't want to get into	21
22	double negatives. Okay. Let's go to the next	22
23	page. Bottom right of Exhibit E, as in egg,	23
24	Stevenson 00014. Under list injuries, circle area	24
25	and -- above and number according to description.	25

	178	180
1 A That's impossible.	1 A So he did authorize the second	
2 Q Well, in her comments, "Post strip	2 anatomical at my request too.	
3 out anatomical. Inmate refuses to get off floor	3 Q Nurse Grieb, had you ever -- did you	
4 and come to door." Is that true?	4 know her before this? Have --	
5 A Yes.	5 A No.	
6 Q Why did you refuse?	6 Q -- anything to do with her?	
7 A Well, like I said, I just had an	7 A No.	
8 anatomical. She just had completed it. They	8 Q Okay. Under list injuries, it says,	
9 picked me up, put me on the stretcher, marched me	9 "One, healing scratch marks, left wrist,	
10 around the corner and down the hall less than 50	10 multiple."	
11 feet, 60 feet at the most. And nobody touched me	11 Is that consistent with your memory?	
12 or bothered me or assaulted me, so --	12 A Yes.	
13 Q Okay. Let's go to the next page,	13 Q "Two, healing scratch marks, right	
14 Stevenson 00016. It looks like it's kind of a	14 wrist, multiple."	
15 summary of the prior report. And the next page --	15 Consistent with your memory?	
16 MR. LAMPIASI: Object to --	16 A Yes, sir.	
17 MR. CAIN: I'm sorry?	17 Q "Three, left front tooth appears	
18 MR. LAMPIASI: I'm sorry. I'll	18 small chip out of distal edge."	
19 withdraw that.	19 Is that consistent with your memory?	
20 Q BY MR. CAIN: Take a look --	20 A At the time, I didn't know that the	
21 MR. LAMPIASI: I thought you were	21 tooth was chipped until it was, like, March 2nd.	
22 about to ask a question.	22 But, yeah.	
23 MR. CAIN: Sure.	23 Q Okay. Now --	
24 Q BY MR. CAIN: And take a look at the	24 A The left tooth, anyway.	
25 next one, Stevenson 00012. Mary Grieb, G-R-I-E-B,	25 Q Yeah. Because I thought -- hadn't	
	179	181
1 is that another nurse, sir?	1 Nurse Bufmark [sic] talked about chipped right	
2 A Yeah, that's Mary Grieb.	2 tooth?	
3 Q Grieb. This appears to have been	3 A Exactly.	
4 dated March 7th, 2012, at 9:20 a.m. Do you	4 Q Now this says chip, left tooth,	
5 remember seeing her about that time? Is that	5 correct?	
6 consistent with your memory?	6 A Exactly.	
7 A Yes.	7 Q Okay. And do you know why there's no	
8 Q Okay. And this says under comments,	8 reference to a chipped right tooth here, just the	
9 "Anatomical requested by shift commander, Captain	9 left tooth?	
10 Cordova and offender." What led to that?	10 A I --	
11 A On the 7th, I showed Mr. Cordova the	11 MR. LAMPIASI: Objection.	
12 marks on my hands and back, and at that time, they	12 Foundation.	
13 were scabbed, so they were healing. Healing	13 THE WITNESS: I don't know why she	
14 marks. So it must have been some blood or	14 wouldn't record both of them.	
15 something, but anyway, I had him count the TASER	15 MR. CAIN: Okay.	
16 marks on my back, and I told -- asked him if I	16 THE WITNESS: Minimization.	
17 could get another anatomical and some photographs.	17 Q BY MR. CAIN: Well, do you think she	
18 And he looked at it, and he said, "Okay. I'll	18 was intentionally minimizing something?	
19 have you taken down to medical."	19 A I take that back. No.	
20 Espinoza and Sergeant Williams came	20 Q Okay.	
21 and took me to medical. And while I was down	21 A I'm just --	
22 there, Ms. Cordova and Profura [phonetic] that	22 Q Number 4, left anterior ankle, small,	
23 went in with me with the anatomical. And this is	23 approximately four-millimeter diameter healing	
24 with Mrs. Grieb produced [sic].	24 surface scratch. Is that consistent with your	
25 Q Okay.	25 memory?	

	182	184
1	A Yes, sir.	1 MR. LAMPIASI: What do you need?
2	Q And I'm just wondering, going up to	2 THE WITNESS: I was gonna mention
3	the left tooth, you see the little man's head	3 that they didn't take pictures of my teeth.
4	there with -- where it says front tooth, left, and	4 Q BY MR. CAIN: So nobody ever took
5	3?	5 pictures of your teeth?
6	A Yes.	6 A Nobody ever took pictures of my
7	Q Are you certain when she says left	7 teeth, no. I requested it.
8	tooth that she meant left from her perspective or	8 Q Could you see the chips to your teeth
9	your perspective or do you know?	9 from the front or did you have -- would that have
10	A It was both teeth, sir.	10 to be inside your mouth to see those?
11	Q But you don't know why she didn't put	11 A You could see them from the front,
12	both teeth.	12 because they were identified from the other
13	A No.	13 people. That's how I knew I had two chipped
14	Q Okay. Going back to the list of	14 teeth, because somebody told me.
15	injuries, multiple, open paren, ten, close paren,	15 Q And who was that that told you?
16	healing marks on back. And that's referring to	16 A That was Arvel Horton was the first
17	the diagram up there in what they believed at that	17 person.
18	time was showing ten -- ten marks rather than six	18 Q And you're positive neither one of
19	TASER marks?	19 those chips were there prior to this incident of
20	A Yes.	20 February 29th, 2012?
21	Q Okay. And the next page, Stevenson	21 A No. The medical records show that
22	00013, under objective, it says, "Anatomical	22 they weren't.
23	completed at request of shift commander, Captain	23 Q Okay. Do you have medical records
24	Cordova, and offender. See anatomical for further	24 prior to that showing no chips?
25	information. Offender requested pictures be taken	25 A Yes.
	183	185
1	of healing surface. Scratch marks on wrists,	1 Q Okay. What dentist had you seen
2	ankle and back. Offender was referred to security	2 prior to this incident of February 29th, 2012?
3	staff to obtain pictures, if appropriate."	3 A The last -- it was the dentist at
4	Is that accurate?	4 D.R.D.C. October 28th -- or October 10th, I
5	A I requested pictures, yes, sir.	5 believe, 2008 --
6	Q And did you, in fact, have security	6 Q Okay.
7	staff obtain additional pictures?	7 A -- was the last dentist.
8	A They refused.	8 Q And you said -- for the record, what
9	Q Okay. Who did you talk to? Who	9 is D.R.D.C.?
10	refused?	10 A That's the Denver reception center.
11	A I asked -- when I was down there, I	11 Q Okay.
12	asked Mr. Cordova. Because he came through the	12 A Department of Corrections.
13	medical, and he said -- he said that pictures had	13 Q Alrighty. Let me go back and just
14	already been taken, so --	14 cover a few things, and we'll be wrapping up here
15	Q Okay.	15 pretty quickly. With regard to -- how many times
16	A -- I took that as a refusal.	16 have you been directed to cuff up since you've
17	Q And had pictures been taken that day,	17 been at this facility total?
18	March 7th, 2012?	18 A Directed to cuff up. I don't -- two,
19	A No. Pictures had been taken on March	19 three times.
20	2nd.	20 Q Okay.
21	Q March 2nd, 2012.	21 A I'm not sure.
22	A No, no. Excuse me. February 29th.	22 Q Does that include this February 29th,
23	Excuse me.	23 2012 --
24	Q Okay.	24 A Yes.
25	A February 29th.	25 Q What were the other two times? Do

	186		188
1	you remember?	1	Q I'm sorry? So no incidents that you
2	A We were talking about that other one	2	can think of where they've actually treated you
3	up there. I know I went to segregation.	3	differently. You just feel they're looking at you
4	Q Okay.	4	differently.
5	A But I remember --	5	A No. There's been incidents, but I
6	Q Okay.	6	don't know if it's related to this or not --
7	A -- them putting handcuffs on me.	7	Q Okay.
8	Q Okay.	8	A -- so I can't say for sure.
9	A And the other times, I remember	9	Q Was there a February 12th, 2012,
10	Mr. Espinoza came and got me to speak to an	10	event involving a book --
11	inspector general, and they wanted me to cuff up.	11	A Yes.
12	Cuff up for what? I did.	12	Q -- and Officer Nunez? I thought you
13	Q Okay.	13	said something about you had some issues with
14	A But that's all I remember.	14	Nunez.
15	Q Do you know why you spoke to the	15	A Yes.
16	inspector general?	16	Q Was that due to that book?
17	A Yeah, that was regarding a different	17	A Yes.
18	complaint.	18	Q Why don't you tell me in a nutshell
19	Q A complaint you had made?	19	what happened there.
20	A Yeah.	20	A The chaplain had gave me a book
21	Q Yes? Okay. Had you ever been --	21	called Dealing With People You Can't Stand. Case
22	let's set this February 29th, 2012, incident	22	manager McBride after -- I think there was a
23	aside. Other than that, have you ever been	23	shake-down and the book came up missing or
24	involved in a physical altercation with prison	24	confiscated from my cell. And I went to McBride
25	staff?	25	and -- because his name was on the shake-down
	187		189
1	A No, not -- I never touched,	1	slip. And I had another book in my pocket, and I
2	physically assaulted no staff ever. No.	2	knew they were gonna say that I had -- was over
3	Q Okay. Any inmates?	3	the limit, which I wasn't over the limit.
4	A No.	4	And so I said, "Mr. McBride, I'd like
5	Q And going beyond just Colorado	5	to give you this book in exchange for this other
6	Territorial, any other places you've been	6	book that was taken." I told him the name of the
7	incarcerated, any physical altercations with	7	title. He said the book had been put in the
8	prison staff or inmates?	8	contraband room and that he'd go get it and
9	A No, not that I can recall.	9	exchange it. Week went by, two weeks went by,
10	Q Okay. Generally, how would you	10	month goes by. No book. So I went back to him
11	describe your relationship with prison staff at	11	finally, and he said that the book had been
12	this facility?	12	misplaced. They didn't know where it was.
13	A Before the lawsuit, I thought it was	13	So I contacted Mrs. Aldrich. She
14	fine. Now it's kind of strained. I don't know.	14	said they were going to order the book for me from
15	Q Okay. How is it different? How	15	Barnes and Nobles [sic]. Well, that took -- they
16	would you -- can you give me some examples of	16	had to get the money or something. The book was
17	strained?	17	ordered. Captain Furton [phonetic] was the
18	A Just a lot of stress, I guess.	18	captain at that time. One of the captains, he
19	Seeing the people involved. Just --	19	ordered the book. They paid for it. It came
20	Q Do they treat you differently? Can	20	through the property room.
21	you give me examples?	21	And when I went to go get it from the
22	A Just the looks. Just the looks.	22	property room, it was Sergeant Poole [phonetic]
23	Q So looks but no actual objective	23	told me that I had to send the book out or have it
24	treating you differently, correct?	24	destroyed. I said "Well, for what? You know,
25	A Yeah.	25	it's a brand new book. You know, it was purchased

	190	192
1	for me in replacement." He said -- and I asked	1 Q Okay.
2	him -- I said, "Well, who told you that?"	2 A I think he was --
3	He said, "It was Nunez that told me."	3 Q So you think he did something
4	So when I saw Nunez a week later, I	4 improper?
5	asked him -- I said, "Hey, man. What's -- you	5 A Not only that, but when I requested
6	know, why won't you allow me to have my book?	6 the photographs and additional anatomical, I wrote
7	Because I asked Mr. Poole to save it until we got	7 to Mr. Nunez several times, logged him into the
8	to the bottom of it, not to destroy."	8 legal mail log, never ever got a response from
9	And Nunez kept referring to a policy,	9 him. And finally, I accused him when he didn't
10	this policy. The policy said that he couldn't	10 respond of intentionally trying to cover up and
11	give it to you. The policy said. So I continued	11 hide. Why wouldn't he want me to have another
12	to ask Mr. Nunez, "Well, what policy are you	12 anatomical and pictures?
13	referring to, sir?"	13 Q So that's the main beef you have with
14	And throughout our conversation, we	14 Nunez with regard to not allowing this follow-up
15	spoke for a good 15 minutes. And at the end, he	15 anatomical and pictures?
16	never referred to the policy, so at the end when	16 A I believe so.
17	we stood up to leave, I said, "Man, can you tell	17 Q Just kind of a few questions with
18	me what policy you're referring to? You keep	18 regard to the defendants that are in this. Karen
19	referring to a policy saying that the chaplain	19 Clinkenbeard, Sergeant Clinkenbeard, is it your
20	didn't have authority to give me this book."	20 contention that she injured you at all or you just
21	So he -- right in my face, "You keep	21 -- is it just that you have problems with her
22	it up, Stevenson. You're right on the verge of a	22 decision to cuff you?
23	write-up."	23 MR. LAMPIASI: Object to the form.
24	You know, I was like, "Write-up for	24 THE WITNESS: Mrs. Clinkenbeard used
25	what, man? I'm trying to resolve this and get my	25 these pressure techniques, which I thought was
	191	193
1	book back, you know."	1 excessive under the circumstances when I was
2	And he just dismissed me and walked	2 laying prone on the floor, you know.
3	off. So that was the purpose of the grievances,	3 Q BY MR. CAIN: Okay. And going --
4	you know. First, he deprived me of property	4 just backing up a little bit, I want to kind of go
5	without due process, and then he threatened me	5 through that just to find out what kind of
6	with a write-up when I'm trying to resolve the	6 allegations you're making against a few of these
7	issue and get my book back.	7 people specifically. So you're there with her and
8	And then I wrote a letter to the	8 Officer Hanson, correct?
9	warden. The warden had that captain -- Major	9 A Yes.
10	Hildebrand [phonetic] investigate it. And the	10 Q Okay. And they -- you put your hands
11	book was returned, what, a year and a half later,	11 up. She says she wants to cuff you, put your
12	you know. It shouldn't have never been taken.	12 hands up. And then you walk over to the wall and
13	And then come to find out the policy that he was	13 fall down to your knees, correct?
14	referring to didn't even exist.	14 A Pretty much, yes.
15	Q Do you know if he had made that	15 Q You weren't injured at that point?
16	decision or somebody above him made the decision?	16 A No.
17	A I'm not sure. And that's what the	17 Q Okay. And then how long after that
18	grievances were about.	18 did Clinkenbeard use these pressure point
19	Q So then why is Nunez a defendant in	19 techniques?
20	this case?	20 A It was like immediately once I laid
21	A Nunez investigated, I guess, the	21 down on the floor.
22	grievance, and Nunez never ever once came and	22 Q Okay.
23	spoke to me. Never interviewed any of the	23 A You know, she's --
24	witnesses, denied the grievance, and I don't think	24 Q And what type of pressure point
25	that it should have been denied.	25 techniques did she use and where?

	194	196
1	MR. LAMPIASI: Objection.	1
2	Foundation.	2
3	THE WITNESS: The head and neck area.	3
4	Q BY MR. CAIN: And did that cause you	4
5	pain?	5
6	A Yeah. It was uncomfortable. It was	6
7	painful.	7
8	Q Okay. Did you cry out or say ouch	8
9	or --	9
10	A I just resisted, you know, just kind	10
11	of relaxed and took it.	11
12	Q Okay. Did that cause any lasting	12
13	pain?	13
14	A No.	14
15	Q Okay. And Ms. Hanson, you don't have	15
16	her as a defendant here. Why? She didn't do	16
17	anything like that?	17
18	A Mrs. Hanson, I didn't know.	18
19	Q I'm not suggesting you should have	19
20	her as a defendant. I'm just --	20
21	A Yeah.	21
22	Q My understanding is you have not.	22
23	A Yeah. I didn't know, really, what	23
24	all she had done, you know.	24
25	Q Okay. She just kind of came in to	25
	195	197
1	assist Ms. -- or Officer Clinkenbeard. Is that	1
2	your understanding?	2
3	A Yes.	3
4	Q And she didn't use any pressure point	4
5	techniques on you.	5
6	A It was said that she did, so -- but	6
7	personally, I don't know if she did or not.	7
8	Q Don't know if Ms. Hanson did?	8
9	A Yeah.	9
10	Q As far as Ms. Clinkenbeard -- or	10
11	Officer Clinkenbeard, you actually saw her use the	11
12	handholds on you, correct?	12
13	A Yes, yes.	13
14	Q Okay. Randy Cordova, in a nutshell,	14
15	what did he do wrong regarding you?	15
16	A Mr. Cordova just ignored my pleas to	16
17	loosen the cuffs --	17
18	Q Okay.	18
19	A -- and didn't really supervise the	19
20	staff that were pressing my face to the floor and	20
21	bending my wrist and pulling on my elbows and --	21
22	Q Captain Cordova himself, he didn't	22
23	really lay a hand on you during that time, did he?	23
24	A No. He was aware that the cuffs were	24
25	too tight and refused to loosen them.	25

	198	200
1	Q Okay. Karen Clinkenbeard, we've	1 guilt for staff assault, the ten points on the
2	discussed her. And after that initial -- your	2 custody score, these things kind of infer that
3	initial contact with her and her using the	3 there was -- there was some meeting of the mind,
4	handholds on your neck, she was pretty much out of	4 you know.
5	it after that is your understanding?	5 Q Anything in addition that you can
6	A As far as the excessive force, I	6 think of?
7	think that there was -- there was a conspiracy	7 A I'll quit. No.
8	here to cover this stuff up and especially accuse	8 Q So nothing in addition you can think
9	me of kicking staff. I didn't kick anyone.	9 of right now?
10	Wouldn't kick anyone.	10 A As far as?
11	Q Okay.	11 Q That -- the circumstances that you
12	A And so --	12 believe support this conspiracy amongst those
13	Q With regard -- you're saying she was	13 folks you mentioned.
14	involved in that conspiracy?	14 A Yeah. Just, you know, there's -- not
15	A Yes, sir.	15 wanting to take pictures of my teeth, not wanting
16	Q Who else do you believe was involved	16 to do another anatomical, not wanting to take
17	in that conspiracy?	17 additional pictures, not responding to my letters
18	A I believe it was her and Topliss and	18 to Nunez, the minimization of the amount of holes
19	Cordova and Nunez, Bufmack, Espinoza and	19 in my back, the minimization of the -- saying
20	Benovedez.	20 superficial abrasions on my wrists when there was
21	Q And what evidence do you have of	21 far more than that. Just all these things tied
22	conspiracy?	22 together.
23	A It's all circumstantial, sir.	23 There was a review done by a Lisa
24	Q You're not aware of somebody --	24 Montoya that said that there was absolutely no
25	overhearing them saying, hey, let's get together	25 injuries. Just all this stuff taken together is
	199	201
1	and cover this up.	1 -- makes you believe that there was a conspiracy
2	A No, sir.	2 to attempt to cover up the excessive force.
3	Q Anything like that?	3 Q Okay. Jason Espinoza, Sergeant Jason
4	A No, sir.	4 Espinoza, why is he involved in this lawsuit, sir?
5	Q Okay. And the circumstantial --	5 And that wasn't one you said shouldn't be. Who
6	circumstances are simply -- give me some examples	6 was the other guy that you said shouldn't be?
7	of the circumstances that you believe support a	7 A That was Soto and Mr. Henry Williams.
8	conspiracy amongst those folks to cover this up.	8 Q So let's talk about Jason Espinoza.
9	A One is -- well, there are several.	9 Why is he involved in this lawsuit, sir?
10	Q Sure.	10 A Jason Espinoza can be seen in the
11	A What I should have been written up	11 video Tasing me and -- he Tased me.
12	for, disobeying a direct order for Mr. -- not	12 Q And you believe it was unreasonable
13	giving the reports to Mr. Meyers. That appears	13 for him to Tase you given the circumstances he was
14	nowhere in this incident report. There was never	14 faced with.
15	any -- any request for me to search -- for them to	15 A Yes. He should have stopped and
16	search me. None of their incident reports state	16 asked some questions or something first, and there
17	that.	17 was no need for him to continue to Tase me in the
18	Then all of a sudden in their	18 manner that he did. I initially thought it was
19	admissions and interrogatories, oh, he refused the	19 four times. It's five, more. I don't know.
20	search. No, I never refused a search. There was	20 Q Okay.
21	never any request for them to search. Mr. Cordova	21 A The evidence shows more.
22	says that I kicked my legs. I never kicked	22 Q When you say he should have asked
23	anyone. And when I asked in admissions, who did I	23 questions, what should he have asked?
24	kick, you know, he says, I don't know.	24 A Well, if there's a situation like
25	The incident report of the finding of	25 that, you know, and there's supervisors that's

1 coming. Hey, what's going on here? What's the
2 problem? You know, what -- hey, what's -- what's
3 happening here? Nobody asked a single thing.

4 Q And there's Jody Bufmack. Have you
5 pretty much given me all the reasons why she's
6 involved in this lawsuit? Is there anything else
7 that you haven't already told me?

8 A I just think that she was -- she
9 mentioned in one of her reports -- you didn't go
10 over that, but she mentioned that I complained
11 about back, neck, and wrist pain. And I think
12 that she was aware that -- of my pain. And I put
13 in a kite to see medical for March 1st, the very
14 next day, you know, to get treatment.

15 Q Of 2012?

16 A 2012. And I didn't see nobody.
17 Nobody saw me until April the 4th, you know.
18 April the 4th. No, the 5th. Excuse me. It was
19 April 5th when I was first seen by medical staff.
20 And I believe that Ms. Bufmack was indifferent,
21 you know. I think she knew that I was hurt and
22 just didn't care.

23 She said she was going to return to
24 examine me and never returned. That's another
25 reason I thought there might have been a

1 that that had been reversed. He made in his
2 chronological log that he received a disposition
3 charge showing that the charge had been either
4 reversed or dismissed. I can't remember. But he
5 added those points knowing that, refused to
6 correct it, which has me classified as closed
7 custody and a high risk.

8 Then he accused me of having escape
9 paraphernalia, wrote an incident report on that.
10 Again, high risk. And I believe that he
11 retaliated against me because of the -- my
12 complaints that he intentionally lost my
13 grievance, step three. Had something to do with
14 it. And my other complaints about the custody
15 score and stuff too.

16 Q Okay.

17 A All of a sudden I've got escape
18 paraphernalia. I never had escape paraphernalia,
19 so --

20 Q When Sergeant Clinkenbeard originally
21 said she was going to cuff you, if you would have
22 allowed her to cuff you and walked over to
23 medical, do you think you would have been injured?

24 MR. LAMPIASI: Objection. Form.
25 Foundation.

1 conspiracy.

2 Q She was going to return what day?

3 A I saw her on the 3rd of March and I
4 showed her my back.

5 Q Okay.

6 A I showed her my wrists. And she said
7 that she was gonna return and do another
8 examination. And she admits that I asked her and
9 she admits that she didn't return. Why?

10 Q Michael Benovedez, B-E-N-A-V-E-D-E-Z
11 [sic], Sergeant Michael Benovedez, why is he in
12 this lawsuit, sir?

13 A He was identified as one of the
14 people that was bending my wrists and pulling my
15 elbows after I had already been handcuffed,
16 shackled, and strapped to a backboard. And I
17 think that that was unreasonable and unnecessary.
18 He injured me.

19 Q And Aubrey Bell you had mentioned
20 before. Anything in addition to -- any additional
21 reasons why Aubrey Bell should be a -- case
22 manager Aubrey Bell should be a defendant in this
23 case?

24 A I believe that he retaliated against
25 me by adding the points onto my score when he knew

1 Q BY MR. CAIN: Do you think you would
2 have experienced any of these injuries you're
3 claiming?

4 MR. LAMPIASI: Same objection.

5 THE WITNESS: No.

6 Q BY MR. CAIN: All right. With regard
7 to -- and just to say clarify, from the time you
8 went down on the floor on your knees and then onto
9 your stomach, you talked about the time that you
10 were lifted up and then dropped back on the floor.
11 But I want to clarify between when Sergeant
12 Clinkenbeard first said I'm going to cuff you to
13 the time you got to medical. Did you ever stand
14 up on your own accord?

15 A No.

16 Q That's a "no"?

17 A No. Never did.

18 Q Okay.

19 A I did that intentionally.

20 Q Okay. The TASER marks, have those
21 left scarring on your back or do you know what
22 their status is right now?

23 A They disappeared, but they were there
24 for awhile.

25 Q About how long did --

	206	208
1	A They are gone now.	1 electrical shocks, the tingling, and so forth.
2	Q -- that take?	2 Said that would eventually go away. But he was
3	A About 45 days, I think, afterwards.	3 saying that this may never come back (indicating),
4	Q And with regard to your face being	4 you know.
5	pressed against the concrete that you mentioned,	5 Q The thumb, the base of the thumb?
6	that was only one time. First, you went down and	6 A Base of the thumb.
7	hit your forehead, and then you believe your face	7 Q And that's the numbness or what is
8	-- your teeth were pushed into the floor one time?	8 that?
9	A Yeah. Well, what do you mean one	9 A That's no feeling. It's like it's
10	time?	10 dead.
11	Q Well, was that only one incident or	11 Q In your left thumb.
12	did they move you a little and then they put your	12 A Yeah, in the left thumb.
13	face back into the floor?	13 Q Okay.
14	A No. After they -- after I was	14 A And the atrophy in the thumb, he said
15	released here (indicating) this far off the	15 that might come back. He said don't even expect
16	ground, and I just knew my face was getting ready	16 it, so --
17	to hit the ground, and I couldn't break my fall	17 Q Okay. Are there any particular
18	because I'm handcuffed. So I just -- my forehead	18 things you can't do now after this February 29th,
19	hit. And then once I was on the ground, that's	19 2012, incident that you could do before?
20	when the pressure came in my -- my face was	20 A There's -- there's a lot of things
21	pressed. My teeth were on the ground. One	21 that I couldn't do when my hands were injured, you
22	incident, I believe.	22 know, when bones and stuff were hurting. I
23	Q Have you had any work done on those	23 couldn't do push-ups. I couldn't pour coffee. It
24	chipped teeth or are they still in the same	24 would hurt to brush my teeth. I couldn't pull
25	condition?	25 myself up on my bunk. And that's -- my celly,
	207	209
1	A No. There was -- the dentist saw me	1 Arthur Smith, he's very well aware of that, you
2	on April -- I think it was like the 19th or	2 know.
3	something, and she restored the two chipped teeth.	3 And so now, it's just -- I can't feel
4	Q Okay. And how did she do that? Did	4 to tie my shoes. I can't --
5	she just kind of grind them off or did she put a	5 Q With either hand?
6	-- patch them somehow, or what's your	6 A -- untie knots. You know, at first,
7	understanding?	7 it was with both hands. You know, now I'm getting
8	A Composite, I guess. Put some	8 the feeling and stuff back in here (indicating).
9	composite on the corners and grinding them down.	9 Q In your left hand?
10	Q Okay. What permanent injuries do you	10 A Yeah, my left hand.
11	think you've experienced from the February 29th,	11 Q Okay.
12	2012, incident, if any?	12 A I can't -- I can't write. Remember I
13	A Man, I think I have some. I'm gonna	13 was talking about the writing? My writing is
14	have a mental breakdown. The -- just the Tasing	14 terrible now. I can't even grip this pen.
15	thing. Just -- just, it was just crazy. I think	15 Q With your right hand?
16	the most permanent damage I have is to this thumb	16 A With the right hand. And I can't
17	here, sir (indicating).	17 write prolonged, you know, legibly. So it's just
18	Q That you just had surgery on	18 a lot of stuff.
19	recently?	19 Q Okay. Now, in -- let me go back a
20	A Yeah. The feeling still hasn't come	20 little bit. You said with regard to climbing into
21	back. I was explaining that to Dr. Romero. I	21 your bunk. You were having problems doing that
22	told him that I'm getting some feeling and stuff	22 before this incident or after?
23	here (indicating).	23 A No, it was after the incident.
24	Q Fingers?	24 Q Did you ever have any problems
25	A In the fingers, but still feeling the	25 climbing into your bunk and falling before this

	210	212
1	accident?	1 here, you know? I can -- on the tape, you know,
2	A No.	2 I'm telling Cordova while I'm in medical, look,
3	Q Before -- and when I say "accident,"	3 man. I hadn't done anything wrong. You know, I
4	I mean the incident of February 29th, 2012.	4 just -- I wanted to talk to you.
5	A Have I had an incident of falling?	5 There was no need to cuff me up or --
6	Q Problems climbing up into your --	6 you know, she could see that I didn't have --
7	A No.	7 there was nothing on me. What am I -- what am I
8	Q It's all been after this incident --	8 -- I don't have anything. I told her I just put
9	A Yes, sir.	9 it in my cell, you know. I wasn't being -- even
10	Q -- that you have problems climbing	10 though I was being voiceperous [phonetic], I don't
11	into your bunk, that type of thing?	11 have -- you know, I wasn't trying to hurt or harm
12	A Yeah. And that lasted -- if I could	12 or any of that stuff anybody. You know, I been in
13	say, that lasted -- it took these bones	13 situations. Never have I assaulted any staff like
14	(indicating) to heal, it was like a year and	14 that, you know, and I wouldn't do that.
15	something.	15 So I just feel that it's like they
16	Q The bones on the top of your hand?	16 didn't care, you know. I complained about my
17	A Yes, sir.	17 wrist and my hand and the cuffs being too tight
18	Q Okay. And with regard to push-ups,	18 and the damage it already had. It's like nobody
19	can you do push-ups now?	19 cared. They didn't want to hear it. And so
20	A I can now.	20 that's what made me kind of just turn off.
21	Q You can now?	21 But even when I turned off, I wasn't
22	A A little bit.	22 -- I might have said some smart, snide things, but
23	Q Did you ever have any problems doing	23 I wasn't trying to hurt or harm or any of that
24	push-ups before this incident of February 29th,	24 stuff. I wasn't, you know, being -- I don't know
25	2012?	25 how to say it. I just -- I think what they did
	211	213
1	A Before?	1 was wrong, and I think that they tried to hide and
2	Q Before.	2 cover it up. And I think most of the evidence,
3	A No.	3 you know, tends to show that.
4	Q Okay.	4 I don't think it was right. The
5	A No.	5 force was excessive. They didn't have to bend my
6	Q Okay.	6 wrists. They didn't have to pull on my elbow.
7	A I -- yeah, I could do some certain	7 They could have loosened those cuffs at any time
8	things.	8 after I was subdued, you know, and I asked them
9	Q Okay. Okay. Anything else from this	9 to. They didn't do it, so I just -- okay. Well,
10	incident? You know, this is my chance to talk to	10 if you're not gonna do it, then you carry me.
11	you. You're not my client. I can't sit down and	11 That's the punishment you're gonna have,
12	talk to you like your attorney can. So anything	12 basically. I'm sorry for that, but, hey, I was
13	else that you'd want me to know, as the attorney	13 like, wow, man. It was just unbelievable. It was
14	on the other side of this, to try to evaluate	14 unbelievable.
15	what's going on with your case that we haven't	15 Q I think that's all the questions I
16	already discussed? Not to say we haven't	16 have. Obviously, I'm representing the defendants
17	discussed a lot.	17 in this case, but --
18	A We've discussed a lot.	18 A Yeah.
19	Q Okay.	19 Q -- do you feel the questioning here
20	A I just -- what can I say? You know,	20 today has been at least respectful?
21	I don't -- I feel what was done to me was wrong.	21 A Yeah.
22	I received injuries and, you know, got hurt as a	22 Q Okay. Well, I appreciate your
23	result. The whole situation could have been, you	23 participation here today, even though you kind of
24	know, avoided. I just asked Mrs. Clinkenbeard,	24 had to as a party in this suit. So, thank you
25	hey, can we wait till the shift commander gets	25 very much.

<p>1 J.D. Reporting Services Inc. 2 P.O. Box 15756 3 Colorado Springs, Colorado 80935 4 (719) 494-8488 5 September 29, 2015 6 Brett Lampiast, Esq. 7 P.O. Box 347 8 Hatfield, Massachusetts 01038 9 Re: William R. Stevenson v. R. Cordova, et al. 10 Deposition of: WILLIAM RAYMOND STEVENSON 11 The deposition in the above-entitled matter is 12 ready for reading and signing. Please attend to 13 this matter by complying with ALL blanks checked 14 below: 15 _____ arranging with us at the number listed 16 below to read and sign the deposition in 17 our office. 18 _____ having the witness read your copy and sign 19 amendment sheets, if any (original 20 signature page enclosed). 21 _____ reading enclosed deposition, signing 22 signature page and correction sheets, if 23 any. 24 _____ within 35 days of the date of this 25 letter. 26 _____ by _____ due to trial date of _____. 27 Please be sure that the signature page and 28 amendment sheets, if any, are signed before a 29 notary public and returned to our office. If this 30 matter has not been taken care of within said 31 period of time, the deposition will be filed 32 unsigned pursuant to the Rules of Civil Procedure. 33 J.D. Reporting Services Inc. 34 cc: Counsel of Record</p>	218
<p>1 J.D. Reporting Services Inc. 2 P.O. Box 15756 3 Colorado Springs, Colorado 80935 4 (719) 494-8488 5 Craig W. Cain, Esq. 6 Cain & White, LLP 7 1555 Quail Lake Loop, Suite 100 8 Colorado Springs, Colorado 80906 9 Re: William R. Stevenson v. R. Cordova, et al. 10 Dear Mr. Cain: 11 Enclosed is the deposition of: WILLIAM RAYMOND 12 STEVENSON 13 _____ Previously filed. Forwarding signature 14 page and amendment sheets. 15 _____ Previously filed. Signature page and 16 amendment sheets were not returned within 17 35 days. 18 _____ Signed, no changes. 19 _____ Signed, with changes, copy enclosed. 20 _____ Unsigned, notice duly given September, 21 29, 2015, pursuant to the Rules of Civil 22 Procedure. 23 _____ No signature required. 24 _____ Signature waived. 25 _____ To be signed in court. 26 _____ Signature pages/amendment sheets to be 27 returned to court on date of trial. 28 _____ Sent by Federal Express on September 29, 29 2015. 30 J.D. Reporting Services Inc. 31 cc: Counsel of Record</p>	219

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3: 20	64: 12	143: 15	worse	91: 10	22: 8	140: 20	65: 11
6: 11	64: 24	149: 7	47: 12	95: 6, 7	26: 22	141: 15	68: 18
7: 13	66: 1	152: 20	47: 14	97: 7	28: 22	143: 21	70: 5
27: 15	69: 18	154: 20	47: 14	107: 23	28: 24	143: 25	70: 16
27: 19	70: 19	154: 23	50: 12	108: 15	59: 25	148: 3	75: 9
36: 7	72: 14	164: 21	50: 14	119: 21	62: 17	149: 22	75: 23
215: 3	72: 17	164: 24	165: 6	120: 22	99: 20	158: 12	75: 24
215: 12	72: 20	165: 5	165: 7	124: 8	155: 12	161: 22	76: 4, 4
216: 4	73: 2, 7	176: 11	165: 10	159: 13	155: 12	171: 16	76: 5
217: 4	74: 22	176: 18	worst	171: 20	155: 13	172: 13	79: 14
217: 6	77: 2	176: 20	106: 24	172: 3	155: 14	172: 17	82: 21
218: 6	77: 14	181: 13	worthy	173: 2	191: 8	172: 18	87: 9, 9
218: 7	78: 12	181: 16	142: 5	173: 3	192: 6	173: 13	88: 15
219: 6	79: 19	184: 2	wouldnt	173: 5	204: 9	173: 16	88: 20
219: 8	80: 2	192: 24	7: 23	173: 18		174: 21	93: 9
will...	83: 22	194: 3	73: 4	183: 1	X	176: 11	93: 10
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23: 17	90: 15	217: 4	197: 11	write	218: 13	186: 20	97: 23
23: 17	91: 23	217: 21	198: 10	17: 6	218: 17	187: 25	105: 18
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136: 16	93: 13	wi tn...	wow	28: 25	219: 21	194: 21	106: 15
136: 19	93: 20	20: 15	213: 13	54: 22		194: 23	112: 12
179: 20	94: 22	20: 20	wrap...	60: 6	Y	195: 9	129: 2
197: 16	95: 18	21: 8	185: 14	209: 12	yard	200: 14	130: 19
197: 17	95: 22	23: 5, 8	wrist	209: 17	103: 13	206: 9	134: 20
197: 23	96: 5, 8	25: 24	34: 5	writes	103: 15	207: 20	135: 13
201: 7	96: 15	27: 16	34: 12	156: 15	yeah	208: 12	138: 3
willing	96: 17	196: 4	38: 23	156: 15	13: 9	209: 10	138: 4
85: 19	97: 6	wi tn...	39: 9	139: 19	19: 3, 6	210: 12	138: 10
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169: 20	106: 6	137: 4	40: 23	191: 6	42: 12	213: 21	142: 17
window	106: 8	138: 2	49: 4	writing	43: 6	year	143: 4
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23: 18	109: 18	wond...	108: 16	44: 24	44: 24	146: 22	
54: 17	110: 5	182: 2	59: 19	53: 25	32: 19	146: 24	
55: 1	110: 14	wont	108: 23	68: 12	32: 20	146: 25	
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wishes	114: 16	47: 25	110: 1	209: 13	81: 15	210: 14	147: 19
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with...	115: 17	words	131: 22	22: 4, 4	88: 16	44: 3	149: 25
178: 19	117: 13	69: 13	172: 11	60: 13	97: 18	143: 24	150: 20
 witness	117: 18	69: 14	173: 14	60: 19	100: 25	yep	152: 21
3: 19	117: 23	115: 9	173: 15	103: 22	103: 22	134: 23	155: 17
6: 12	124: 5	119: 3	180: 9	104: 8	104: 8	youd	155: 18
16: 21	124: 10	work	180: 14	156: 7	104: 8	167: 7	155: 23
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26: 25	129: 14	77: 17	212: 17	138: 22	106: 19	8: 23	155: 25
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-00649-CBS

WILLIAM R. STEVENSON,

Plaintiff,

v.

R. CORDOVA, Captain at Colorado Territorial Correctional Facility in his individual and official capacities,

D. NUNEZ, Captain at Colorado Territorial Correctional Facility in his individual and official capacities,

M. HOLLOWAY, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,

K. TOPLISS, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,

C. WILLIAMS, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,

K. CLINKENBEARD, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,

J. ESPINOZA, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,

G. SULLIVAN, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,

J. HANSON, Corrections Officer at Colorado Territorial Correctional Facility in his individual and official capacities,

J. BUFMACK, Nurse at Colorado Territorial Correctional Facility in his individual and official capacities,

M. BENOVEDEZ, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities, and

A. BELL, Case Manager at Colorado Territorial Correctional Facility in his individual and official capacities,

Defendants.

AFFIDAVIT OF KAREN CLINKINBEARD

STATE OF COLORADO §
COUNTY OF Fremont §
§

BEFORE ME, the undersigned official, on this day personally appeared KAREN CLINKINBEARD and first being duly sworn according to law, upon her oath, deposed and said:

My name is Karen Clinkinbeard and I have been working for the Colorado Department of Corrections for 9 years. I am over eighteen (18) years of age and am fully competent and duly authorized to make this affidavit. The matters to which I testify in this affidavit are true and correct and based upon my personal knowledge.

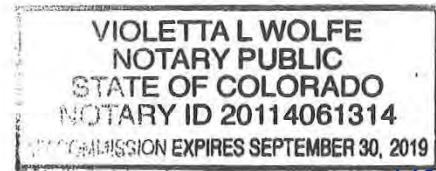
1. Attached hereto as **Exhibit 1** is a true and correct copy of my incident report and statement related to the use of force incident involving Plaintiff, William R. Stevenson, which occurred on February 29, 2012, incident number 529889. This incident report and statement accurately reflect what I witnessed regarding that incident.

DATED this 12th day of November, 2015.


KAREN CLINKINBEARD

SUBSCRIBED AND SWORN to before me this 12th day of November, 2015.


Notary Public
My Commission Expires: Sept. 30, 2019



Incident # 529889

Linked # Created by

COLORADO TERRITORIAL CORRECTIONAL FACILITYCreated: Feb 29, 2012 08:23 am By: CLINKINBEARD, KAREN M
Closed:

Incident Date: 02/29/2012

Approx Time: 06:30 AM

Status: Open

Incident Type: Use of Force

Incident Location: CH 1 Upper Vestibule/Common Areas

Misc. Location Info: Upper Vestibule

Summary: Offender Stevenson, William #110913 disobeyed a lawful order to cuff up and a use of force occurred to gain compliance.

Report: 1 by CLINKINBEARD, KAREN M (kmclinki) for Incident 529889

Officers Facility: COLORADO TERRITORIAL CORRECTIONAL F

Approximate Time of Incident: 06:30 AM

Shift: Days

Work Unit:Custody/Control

Days Off: Fr/Sa

Suspected Gang Related: Evidence:

Docno:	Name:	Living Unit:	Pod	Tier	Cell	Bunk
110913	STEVENSON, WILLIAM R	CTCF/SEG				RFP

Report Rejected: <input type="checkbox"/>	<u>Report</u> Needs Approval <input checked="" type="checkbox"/>
Report Approved: <input checked="" type="checkbox"/>	Submitted: 02/29/12 12:52 PM
Report Voided: <input type="checkbox"/>	
<u>Parole/Community/Shift Commander:</u> CORDOVA, RANDY (rzcordov)	<u>Duty Officer's Initiation of Investigation</u>
Date Approved: 02/29/12 01:05 PM	Charge: <input type="checkbox"/> Duty Officer: <input type="checkbox"/> Informational: <input type="checkbox"/> Reviewed: <input type="checkbox"/>

Detailed Report on following Page

Report 1 detail by CLINKINBEARD, KAREN (kmclinki) for Incident 529889

On February 29, 2012 at approximately 6:30 a.m. I, Sgt. Clinkinbeard, responded to a call from CH-1 Upper Control calling for block staff to report upstairs. When arriving I was informed offender Stevenson, William #110913 was seen receiving a manila envelope from another pod and when asked to relinquish the item he refused. C/O Hanson and myself entered 3/4 Left and asked offender Stevenson to step out into the Upper Vestibule. He complied and started explaining his side of the story. He admitted to receiving the item, but said he had grievances in the envelope so he will not give them up. I tried to explain to him that any item passed in a facility between offenders, may be confiscated and turned in as evidence if staff observe. Stevenson stated that wasn't going to happen and he will not turn it over. I told him to turn around so restraints could be applied and he became passive resistive. He stepped back and threw his hands straight up saying he would not cuff up. Officer Meyers called for first responders and C/O Hanson and myself guided offender Stevenson to face the wall. I had the offender by his right shoulder and upper arm and he was presenting defensive resistance. He dropped to his knees and then face down. I tried loud verbal commands and Mandibular Angle with pressure to get the offender to put his hands behind his back for restraints to be applied. Officer Hanson had his left arm, and I maintained control of the head and right arm. Sgt. Espinoza arrived giving verbal directive to cuff up or he would tase Stevenson. Stevenson refused three orders of to do so when Sgt. Espinoza tased him. The offender still refused saying he's done to much time for that to bother him. Sgt. Sullivan took over control of the head. Ankle and wrist restraints were applied. Staff attempted to stand Stevenson up, but he refused to walk and struggled. The offender went back to the ground. I helped maintain control of the left leg at this point, my left hand on the tibia and right hand at the ankle. The offender was lifted and placed on a backboard and straps secured. No further force occurred within CH-1. Offender was taken to Medical for an anatomical, CH-3 and RFP'd.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-00649-CBS

WILLIAM R. STEVENSON,

Plaintiff,

v.

R. CORDOVA, Captain at Colorado Territorial Correctional Facility in his individual and official capacities,

D. NUNEZ, Captain at Colorado Territorial Correctional Facility in his individual and official capacities,

M. HOLLOWAY, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,

K. TOPLISS, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,

C. WILLIAMS, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,

K. CLINKENBEARD, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,

J. ESPINOZA, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,

G. SULLIVAN, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,

J. HANSON, Corrections Officer at Colorado Territorial Correctional Facility in his individual and official capacities,

J. BUFMACK, Nurse at Colorado Territorial Correctional Facility in his individual and official capacities,

M. BENOVEDEZ, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities, and

A. BELL, Case Manager at Colorado Territorial Correctional Facility in his individual and official capacities,

Defendants.

EXHIBIT D-1 TO DEFENDANTS R. CORDOVA, M. HOLLOWAY, C. WILLIAMS, K. CLINKINBEARD, J. ESPINOZA, AND M. BENADEVÉZ'S MOTION FOR SUMMARY JUDGMENT

UPPER VESTIBULE VIDEO FOOTAGE

EXHIBIT D-1

This exhibit is conventionally submitted on DVD, and concurrently served upon counsel for the parties, pursuant to DISTRICT OF COLORADO ECF CIVIL PROCEDURES VERSION 6.0, at Section 4.8(f).

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-00649-CBS

WILLIAM R. STEVENSON,

Plaintiff,

v.

R. CORDOVA, Captain at Colorado Territorial Correctional Facility in his individual and official capacities,

D. NUNEZ, Captain at Colorado Territorial Correctional Facility in his individual and official capacities,

M. HOLLOWAY, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,

K. TOPLISS, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,

C. WILLIAMS, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,

K. CLINKENBEARD, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,

J. ESPINOZA, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,

G. SULLIVAN, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,

J. HANSON, Corrections Officer at Colorado Territorial Correctional Facility in his individual and official capacities,

J. BUFMACK, Nurse at Colorado Territorial Correctional Facility in his individual and official capacities,

M. BENOVEDEZ, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities, and

A. BELL, Case Manager at Colorado Territorial Correctional Facility in his individual and official capacities,

Defendants.

EXHIBIT D-2 TO DEFENDANTS R. CORDOVA, M. HOLLOWAY, C. WILLIAMS, K. CLINKINBEARD, J. ESPINOZA, AND M. BENADEVEDZ'S MOTION FOR SUMMARY JUDGMENT

BODY CAM VIDEO

This exhibit is conventionally submitted on DVD, and concurrently served upon counsel for the parties, pursuant to DISTRICT OF COLORADO ECF CIVIL PROCEDURES VERSION 6.0, at Section 4.8(f).

Incident # 529889

Linked # Created by

COLORADO TERRITORIAL CORRECTIONAL FACILITYCreated: Feb 29, 2012 08:23 am By: CLINKINBEARD, KAREN M
Closed: By:

Incident Date: 02/29/2012

Approx Time: 06:30 AM

Status: Open

Incident Type: Use of Force

Incident Location: CH 1 Upper Vestibule/Common Areas

Misc. Location Info: Upper Vestibule

Summary: Offender Stevenson, William #110913 disobeyed a lawful order to cuff up and a use of force occurred to gain compliance.

Report: 1 by HANSON, JESSICA R (jrhanson) for Incident 529889

Officers Facility: COLORADO TERRITORIAL CORRECTIONAL F/

Approximate Time of Incident: 06:30 AM

Shift: Days

Work Unit: Custody/Control

Days Off: thu/fri

Suspected Gang Related: Evidence:

Docno: Name:

110913 STEVENSON, WILLIAM R

Living Unit:

CTCF/SEG

Pod Tier Cell Bunk

RFP

Report Rejected: <input type="checkbox"/>	<u>Report</u> Needs Approval <input checked="" type="checkbox"/>
Report Approved: <input checked="" type="checkbox"/>	Submitted: 03/03/12 08:06 AM
Report Voided: <input type="checkbox"/>	
<u>Parole/Community/Shift Commander:</u> CORDOVA, RANDY (rzcordov)	<u>Duty Officer's Initiation of Investigation</u>
Date Approved: 03/05/12 12:52 PM	Charge: <input checked="" type="checkbox"/> Duty Officer: FAZZINO, ROBERT K. (ctrkf) Informational: <input type="checkbox"/> Reviewed: 03/06/12 07:10 AM

Detailed Report on following Page

Incident# 529889**Report 1 detail by HANSON, JESSICA (jrhanson) for Incident 529889**

On February 29, 2012 at approximately 0630 I was called by Officer Meyers to report to the Upper Vestibule of CHI to deal with Offender Stevenson # 110913 regarding passing property to another Offender. Sgt. Clickenbeard and I ordered Offender Stevenson out to the Upper Foyer. Sgt. Clinkenbeard began counseling him on passing property and disobeying orders. Offender Stevenson began to become verbally abusive and refused to comply. Sgt. Clickenbeard told Offender Stevenson that he was going into cuffs. I attempted to place wrist restraints on Offender Stevenson, at which point he put his arms above his head and said he was not going to cuff up. I took hold of his left arm and Sgt. Clickenbeard took hold of his right arm and we attempted to direct him to the wall. Offender Stevenson turned around. I ordered Offender Stevenson to comply and cuff up or I would use OC. Offender Stevenson fell on his knees. I again attempted to place wrist restraints on him, at which point he layed face down on the floor in a prone position and locked all of his limbs. I ordered Offender Stevenson again to comply at which point he responded." Fuck you." First Responders were called to the scene. I was able to place Offender Stevenson in wrist restraints with the help of the First Responders. Offender Stevenson refused to comply and stand up to be escorted after many direct orders from staff. He began to stand up and began to become physically aggressive again, at which point we directed him to the floor for his safety and ours. I was holding his left leg when he continued to attempt to kick at staff and continued to refuse orders to comply and cooperate. Offender Stevenson kept responding, " Fuck you, I am not standing up for you! You will have to carry me!" Offender Stevenson was then placed on a backboard for his safety and put on a gurney and taken to the infirmary for an anatomical exam.

AR Form 300-16RDD (07/15/10)

DEPARTMENT OF CORRECTIONS
DOC EMPLOYEE/CONTRACT WORKER CONDUCT COMPLAINT

Date: _____ Person Receiving Allegation: _____

Subject of Allegation: _____

Name: _____ Position: _____ DOB: _____

Home Address: _____ Phone: _____

Business Address: _____ Phone: _____

COMPLAINANTName: William R. Stevenson Position: INMATE DOB: 1-29-62Home Address: P.O. Box 1010, CANON CITY, CO 81215 Phone: N/ABusiness Address: N/A Phone: N/A**SECOND COMPLAINANT**

Name: _____ Position: _____ DOB: _____

Home Address: _____ Phone: _____

Business Address: _____ Phone: _____

Allegations: UNNECESSARY, UNREASONABLE AND EXCESSIVE FORCE.Date, Time, and Place of Occurrence: 2/29/12, 7:00AM, CTCF-CH1, MEDICAL, SEGREGATION.Injuries: Yes No _____ Photos: Yes No _____ (Some)

Witness: _____

Details of Allegation: SEE ATTACHED 6 PAGE COMPLAINT.Name/Signature of Complainant(s) William R. Stevenson /

Name/Signature of Person Completing Report _____

Distribution: Original-Inspector General 2nd Copy-Investigating Officer 4th Copy – Use of Force packet
 1st Copy-Appointing Authority 3rd Copy-Complainant(s)Attachment "D"
 Page 1 of 1

WILLIAM R. STEVENSON, Doc # 110913

COMPLAINT OF UNNECESSARY, UNREASONABLE AND EXCESSIVE FORCE
MARCH 14, 2012

ON FEBRUARY 29, 2012, IN UNIT 1, AT APPROXIMATELY 7:00 AM SGT. CLINKENBEARD TOLD ME TO CUFF UP. I REFUSED BECAUSE I FELT SHE WAS BEING TOTALLY UNREASONABLE, AND REQUESTED TO SEE A SUPERVISOR OR SHIFT COMMANDER. WHEN SHT AND C/O HANSON PURSUED ME, I RAISED MY HANDS STRAIGHT IN THE AIR OUT OF THEIR REACH. WENT TO THE CORNER, KNELT DOWN, AND LAYED FLAT ON MY STOMACH WITH MY ARMS BENEATH ME. WHILE LYING IN THIS PASSIVE POSITION, I WAITED FOR SOMEONE WITH AUTHORITY TO ARRIVE AND QUESTION WHAT WAS GOING ON.

WHEN OTHER STAFF ARRIVED, INCLUDING SEVERAL LIEUTENANTS AND A CAPTAIN, NO ONE ASKED A SINGLE QUESTION. INSTEAD, I WAS IMMEDIATELY DOG-PILE'D BY SEVERAL OFFICERS, AND SINCE I WAS LYING ON MY STOMACH WITH MY ARMS BENEATH ME, THE WEIGHT OF THE OFFICERS INITIALLY TRAPPED MY ARMS SO I COULD NOT MOVE. IN THIS POSITION, I WAS TADED FIVE TIMES IN RAPID SUCCESSION, I BELIEVE BY TWO DIFFERENT INDIVIDUALS, ONE BEING SGT. ESPINOZA. THIS WAS UNNECESSARY, UNREASONABLE AND EXCESSIVE. IN THIS POSITION, WITH THE WEIGHT ON MY BACK, I COULDNT MOVE MY ARMS IF I WANTED TO. THE OFFICERS HAD TO KNOW THIS. EVENTUALLY, MY RIGHT ARM WAS FREED AND CUFFED, AND THEN THE OTHER, BUT AT FIRST, IN THE POSITION I WAS LYING IN, I COULD NOT IMMEDIATELY BRING MY LEFT ARM BACK.

WHEN THE CUFFS WENT ON, THEY WERE PUT ON EXTREMELY TIGHT RIGHT FROM THE BEGINNING. I COULD FEEL THE EXTRA EFFORT. THE STEEL CUT DEEP INTO MY SKIN AND TOUCHED BONE ON EACH SIDE. THERE WAS NO ROOM TO MOVE. WITHIN SECONDS I COULD FEEL THE CIRCULATION IN MY HANDS AND FINGERS BEING CUT OFF. THIS WAS ESPECIALLY PAINFUL BECAUSE I ALREADY SUFFER MODERATE TO SEVERE BI-LATERAL CARPAL TUNNEL AND NERVE DAMAGE IN BOTH HANDS, AND WEAR WRIST SPLINTS. THIS WAS UNNECESSARY, UNREASONABLE AND EXCESSIVE.

AFTER I WAS CUFFED AND SUBDUED, SOMEONE INTENTIONALLY PRESSED ON THE BACK OF MY HEAD WITH BOTH HANDS, WHILE AT THE SAME TIME PUTTING THE FULL WEIGHT OF THEIR BODY (USING THEIR KNEE) ON MY NECK AND BACK, PRESSING MY TWO FRONT TEETH HARD INTO THE CONCRETE FLOOR.

AS HE SHIFTED POSITIONS, I COULD FEEL MY TEETH GRINDING ON THE FLOOR. I BELIEVE THIS WAS SGT. SULLIVAN. AGAIN, THIS WAS UNNECESSARY, UNREASONABLE AND EXCESSIVE.

WHEN THE PRESSURE WAS RELEASED AND I WAS FINALLY ABLE TO TALK, I IMMEDIATELY COMPLAINED ABOUT THE CUFFS AND ASKED THAT THEY BE LOOSENERED. NO ONE RESPONDED. THEY WANTED ME TO STAND AND WALK. I SAID THAT I WOULD WALK IF THEY WOULD LOOSEN THE CUFFS. SULLIVAN STATED, "THERE'S NO NEGOTIATING HERE." SOMEONE ELSE REPLIED, "YOU DONT DICTATE TO US!" I SAID, "FINE, THEN YOU CARRY ME," AND ACCUSED THEM OF USING THE CUFFS AS WEAPONS. THERE WAS NO NEED FOR THE CUFFS TO BE THAT TIGHT. IT VIOLATES THE PINKEY-RULE. IT WAS UNREASONABLE FOR THEM NOT TO LOOSEN THE CUFFS WHEN ASKED. THEY INTENTIONALLY REFUSED.

SINCE THEY REFUSED TO LOOSEN THE CUFFS AND I REFUSED TO WALK, SOMEONE SUGGESTED THAT I BE CARRIED ON THE GURNEY BOARD. WHILE LYING FACE DOWN ON THE FLOOR WAITING FOR SOMEONE TO GET THE BOARD, I COMPLAINED DIRECTLY TO CAPTAIN CORDOVA [AS HE KNEELT DOWN] ABOUT THE CUFFS HURTING AND BEING TOO TIGHT, AND IMQUIRED ABOUT THE PINKY-RULE. WHILE TALKING, SOMEONE WAS INTENTIONALLY PULLING ON MY ARMS AND PUTTING ADDITIONAL PRESSURE ON MY WRISTS. I ASKED CORDOVA, "IS THIS HOW YOU TRAIN YOUR BOYS, TO USE THE CUFFS TO INFIL PAIN?" AGAIN, IT WAS UNREASONABLE FOR HIM NOT TO LOOSEN THE CUFFS, OR DIRECT THAT THEY BE LOOSENED.

WHEN PLACED ON THE GURNEY BOARD AND STRAPED DOWN, I AGAIN ASKED THAT THE CUFFS BE LOOSENED. AT THIS POINT [WITH THE STRAPS ACROSS THE UPPER, MIDDLE AND LOWER PART OF MY BODY] THERE WAS NO WAY THAT I COULD POSSIBLY BE CONSIDERED A THREAT OR EVEN A POTENTIAL THREAT, AND IT WAS UNREASONABLE NOT TO LOOSEN THE CUFFS. WHILE LYING ON THE BOARD, SOMEONE IN THE MIDDLE KEPT PURPOSELY BENDING MY WRIST, CAUSING SEVERE PAIN. WHEN I YELLED, THE PERSON RELEASED MY HAND, BUT WENT BACK TO PULLING ON MY ARM NEAR THE ELBOW, STILL PUTTING PRESSURE ON MY WRISTS AND CAUSING PAIN. I BELIEVE THIS WAS SGT. BENEVEORZ.

SINCE AT MEDICAL, CORDOVA ASKED IF I WAS GOING TO COOPERATE WITH THE ANATOMICAL, I ASKED IF THEY WERE GOING TO LOOSEN THE CUFFS. HE ASKED AGAIN IF I WOULD COOPERATE. I SAID I WOULD COOPERATE IF THEY AGREED TO LOOSEN THE CUFFS AND TAKE PHOTOS OF THE EXCESSIVE FORCE. THIS WENT ROUND AND ROUND.

HERE I WAS, STILL STRAPED TO THE BOARD, SURROUNDED BY AT LEAST EIGHT MALE OFFICERS, AND THEY STILL REFUSED TO LOOSEN THE CUFFS! AGAIN, IN THIS POSITION I POSED NO THREAT OR EVEN A POTENTIAL THREAT TO ANYONE. IT WAS TOTALLY UNREASONABLE FOR THEM NOT TO LOOSEN THE CUFFS.

SOMEONE SUGGESTED THAT THE ANATOMICAL AND THE STRIP BE CONDUCTED AT THE SAME TIME IN SEGREGATION. I BELIEVE THIS WAS LT. HOLLOWAY. AFTER BEING WHEELED TO THE SEGREGATION STRIP-CELL, THE SAME SCENARIO TOOK PLACE. SINCE THEY GRUGINGLY REFUSED TO LOOSEN THE CUFFS, I REFUSED TO PARTICPATE IN THE STRIP. I ACCUSED THEM OF VIOLATING CIVIL RIGHTS, USING EXCESSIVE FORCE, AND INTENTIONALLY MISSUBING THE CUFFS AS WEAPONS. THE CUFFS WERE FINALLY REPLACED WITH OTHER MORE LOOSE FITTING CUFFS, AS PART OF THE STRIP PROCEDURE. RELIEF AT LAST! BUT BY THIS TIME, I WAS FURIOUS.

NEXT, LT HOLLOWAY TOOK PHOTOS, AND NURSE BUFFMACK CONDUCTED THE ANATOMICAL. WHETHER INTENTIONAL OR NOT, BUFFMACK INITIALLY ONLY COUNTED SIX TAZER HOLES, WHEREAS LATER, SEVERAL OTHER NURSES AND SEVERAL OFFICERS COUNTED TEN HOLES. ON MARCH 2, 2012 WHEN THE INJURIES WERE MORE PRONOUNCED AND VISIBLE, AND ONE COULD SEE THE SWELLING AND INDENTED RINGS AROUND MY WRISTS, AND AFTER DETERMINING THAT I HAD BEEN TADED FIVE TIMES NOT THREE, I REQUESTED, VIA LT. HOLLOWAY, THAT ADDITIONAL PHOTOS BE TAKEN AND THE ANATOMICAL CORRECTED.

MOMENTS LATER HE RETURNED TO MY CELL AND TOLD ME THAT "MUNIZ SAID THERE WILL BE NO ADDITIONAL PHOTOS OR MEDICAL EXAMS, THAT WE'VE DONE OUR PART, WE DOCUMENTED." I FELT THAT THIS TOO WAS UNREASONABLE, AND THAT MY LEGITIMATE REQUEST WAS BEING DENIED FOR NO OTHER REASON THAN TO HIDE THE TRUE EXTENT OF INJURY AND ACTUAL FORCE USED. SINCE THEN I HAVE LOGGED AND MAILED SEVERAL WRITTEN REQUESTS BUT HE HAS NEVER RESPONDED TO A SINGLE ONE.

ON MARCH 7, 2012, AFTER COMPLAINING TO CAPTAIN CORDOVA, A SECOND ANATOMICAL WAS CONDUCTED BY NURSE MARY IN MEDICAL, IN THE PRESENCE OF C/O CORDERA AND C/O GALLEGO. I AM NOW REQUESTING THAT ADDITIONAL PHOTOS OF MY WRISTS AND BACK BE TAKEN AS WELL; WHICH WILL MORE ACCURATELY REFLECT THE INJURIES CAUSED, AS THE ORIGINAL PHOTOS, TAKEN WHEN THE INJURIES WERE FRESH, COULD NOT CAPTURE OR ACCURATELY REFLECT THE FULL EXTENT OF THE FORCE USED. I WOULD ALSO LIKE PHOTOS OF THE CHIPPED TOOTH, AS THERE WAS NONE TAKEN.

FOUR TIMES THEY REFUSED TO LOOSEN THE HANDCUFFS. EACH TIME, THEIR REFUSAL WAS UNREASONABLE, ESPECIALLY SINCE I WAS ALREADY SUBDOED, SURROUNDED BY NUMEROUS MALE OFFICERS, (ALL WEIGHING OVER 200 POUNDS) AND/OR STRAPED ACROSS THE BACK, MID-SECTION AND ANKLES TO A GURNEY BOARD. HOW MORE SAFE COULD THEY FEEL?

IT WOULD HAVE BEEN EASY FOR LT. HOLLOWAY AND CAPT. CORDOVA TO EXERCISE THEIR AUTHORITY, AND ORDER THE OFFICERS TO LOOSEN THE CUFFS AND OTHERWISE USE APPROPRIATE FORCE. THIS DID NOT HAPPEN. AS IT STANDS, AS SUPERVISORS, THEY KNEW OF, CONDONED, AND/OR APPROVED OF THE WRONGFUL ACTS - NOT ONLY THE EXCESSIVE TAZING, BUT ALSO THE MISUSE OF THE HANDCUFFS, THE PRESSING MY FACE INTO THE CONCRETE, AND THE INTENTIONAL PULLING AND BENDING OF MY WRISTS WHILE SUBDUED. THE STAFF'S CONDUCT IN THIS CASE WAS RECKLESS, KNOWING, INTENTIONAL, WILLFUL AND WANTON.

AS A RESULT OF THEIR UNREASONABLE REFUSAL TO LOOSEN THE CUFFS, I SUFFERED UNNECESSARY PAIN AND INJURY, RESULTING IN DEEP GASHES AND CUTS TO MY WRISTS (LEAVING PERMANENT SCARS) AND NERVE DAMAGE TO MY LEFT THUMB. NOT TO MENTION SCARS ON MY BACK FROM THE TAZER AND RECURRING NIGHTMARES OF BEING SHOT IN THE BACK AT CLOSE RANGE, AS WELL AS DAMAGE TO MY TOOTH.

I TRUST THAT THE DVD IS COMPLETE AND FAITHFULLY DEPICTS THE ENTIRE INCIDENT AS IT OCCURRED AT EACH STAGE - FROM BEGINNING TO END IN CELL-HOUSE ONE, FROM BEGINNING TO END IN MEDICAL, AND FROM BEGINNING TO END IN SEGREGATION. I WILL NEED TO REVIEW THE DVD TO BE SURE THAT I HAVE CORRECTLY IDENTIFIED EACH OFFENDER AND POINT OUT EACH INSTANCE OF EXCESSIVE FORCE.

William R. Stevenson, #110913

MARCH 14, 2012

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-00649-CBS

WILLIAM R. STEVENSON,

Plaintiff,

v.

R. CORDOVA, Captain at Colorado Territorial Correctional Facility in his individual and official capacities,

D. NUNEZ, Captain at Colorado Territorial Correctional Facility in his individual and official capacities,

M. HOLLOWAY, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,

K. TOPLISS, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,

C. WILLIAMS, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,

K. CLINKENBEARD, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,

J. ESPINOZA, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,

G. SULLIVAN, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,

J. HANSON, Corrections Officer at Colorado Territorial Correctional Facility in his individual and official capacities,

J. BUFMACK, Nurse at Colorado Territorial Correctional Facility in his individual and official capacities,

M. BENOVEDEZ, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities, and

A. BELL, Case Manager at Colorado Territorial Correctional Facility in his individual and official capacities,

Defendants.

AFFIDAVIT OF JASON ESPINOZA

STATE OF COLORADO §
COUNTY OF Fremont §
§

BEFORE ME, the undersigned official, on this day personally appeared JASON ESPINOZA and first being duly sworn according to law, upon his oath, deposed and said:

My name is Jason Espinoza and I have been working for the Colorado Department of Corrections for 17 years. I am over eighteen (18) years of age and am fully competent and duly authorized to make this affidavit. The matters to which I testify in this affidavit are true and correct and based upon my personal knowledge.

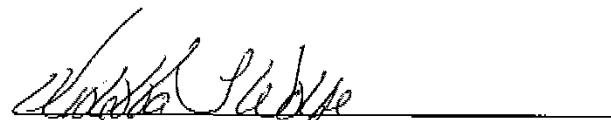
1. Attached hereto as **Exhibit 1** is a true and correct copy of my incident report and statement related to the use of force incident involving Plaintiff, William R. Stevenson, which occurred on February 29, 2012, incident number 529889. This incident report and statement accurately reflect what I witnessed regarding that incident.

DATED this 12th day of November, 2015.

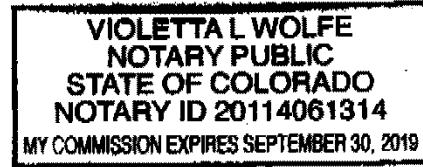


JASON ESPINOZA

SUBSCRIBED AND SWORN to before me this 12th day of November, 2015.



Notary Public
My Commission Expires: Sept. 30, 2019



Incident # 529889

Linked # Created by

COLORADO TERRITORIAL CORRECTIONAL FACILITYCreated: Feb 29, 2012 08:23 am By: CLINKINBEARD, KAREN M
Closed:Incident Date: **02/29/2012**Approx Time: **06:30 AM**

Status: Open

Incident Type: **Use of Force**Incident Location: **CH 1 Upper Vestibule/Common Areas****Misc. Location Info: Upper Vestibule****Summary: Offender Stevenson, William #110913 disobeyed a lawful order to cuff up and a use of force occurred to gain compliance.**Report: 1 by **ESPINOZA, JASON B (ctjbe)** for Incident **529889**Officers Facility: **COLORADO TERRITORIAL CORRECTIONAL F**Approximate Time of Incident: **06:46 AM** Shift: **Days**Work Unit:**Custody/Control** Days Off: **F-S**Suspected Gang Related: Evidence:

Docno:	Name:	Living Unit:	Pod	Tier	Cell	Bunk
110913	STEVENSON, WILLIAM R	CTCF/SEG				RFP

Report Rejected: <input type="checkbox"/>	Report Needs Approval <input checked="" type="checkbox"/>
Report Approved: <input checked="" type="checkbox"/>	Submitted: 02/29/12 12:18 PM
Report Voided: <input type="checkbox"/>	
Parole/Community/ Shift Commander: CORDOVA, RANDY (rzcordov)	Duty Officer's Initiation of Investigation
Date Approved: 02/29/12 12:52 PM	Charge: <input type="checkbox"/> Duty Officer: STEVENSON, WILLIAM R (110913)
	Informational: <input type="checkbox"/> Reviewed: <input type="checkbox"/>

Detailed Report on following Page

Incident# 529889**Report 1 detail by ESPINOZA, JASON (ctjbe) for Incident 529889**

On 2-29-12 at approx. 0646 a.m., I Sgt. Espinoza was working in the south dining hall during offender breakfast. I received a call via pack set from cell house one staff requesting yards to assist with an offender not cuffing up for staff. Officer Moschetti and myself responded from the dining hall and was directed to the upper vestibule in cell house one. On arrival I seen Sgt. Clinkenbeard and Officer Hansen wrestling with Offender Stevenson, William # 110913 on the floor. Offender Stevenson was resisting direct orders from staff to cuff up. I gave Offender Stevenson orders to comply with directives and cuff up. Offender Stevenson continued to resist and stated he was not going to comply. Other staff were giving pressure point tactics to Offender Stevenson with no compliant results from the offender. I directed Offender Stevenson to comply or I was going to use the taser on him. Offender Stevenson continued to wrestle with staff and I did use the Taser X26 on Offender Stevenson's upper back. I directed again for Offender Stevenson to put his hands behind his back. Offender Stevenson had no visual indications that the Taser was working. I checked the taser to make sure it was on and again tried the taser on Offender Stevenson's upper back. Offender Stevenson rolled to one side making the Taser slip off his back. I again used the taser on Offender Stevenson's back and decided the taser was not affective on the offender. I placed the taser back into the holster and used strength techniques to assist in getting Offender Stevenson's right arm behind his back. Hand restraints were placed on the offender and he was instructed to be escorted down the stairs. Offender Stevenson verbally refused to comply with instruction to be escorted and dropped himself to the floor. A back board was used to place the offender on. Staff carried Offender Stevenson down the stairs and he was placed on a gurney in the lower vestibule. Offender Stevenson was then taken on the gurney to the clinic. Offender Stevenson refused to comply with requests to have an anatomical so he was taken to cell house three. Offender Stevenson was carried on the back board into the strip out room. In the cell house three strip out room Offender Stevenson refused to comply with directives to have an anatomical or be strip searched. I assisted other staff in changing out the offender into strip out restraints and the offender then complied for the anatomical and strip out except for the check of his anus. Sgt. Weaver spread Offender Stevenson's butt cheeks to check this area. I had control of Offender Stevenson's left arm during the strip out procedure and anatomical. Once Offender Stevenson was asked to be escorted to the segregation cell he verbally stated he was not and he dropped himself to the floor. Staff placed Offender Stevenson back onto the back board and gurney and he was taken to the segregation cell. Once in the Offenders assigned segregation cell Offender Stevenson refused verbally to staffs request to back up to the cell door and allow staff to take his wrist restraints off. I was assigned the offenders right arm. It was decided to exit the cell in a force cell fashion, exiting one at a time and staging on the door. All restraints were removed. Staff exited and I exited last from the cell. Offender Stevenson remained prone on the floor while staff exited and the cell was secured.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-00649-CBS

WILLIAM R. STEVENSON,

Plaintiff,

v.

R. CORDOVA, Captain at Colorado Territorial Correctional Facility in his individual and official capacities,

D. NUNEZ, Captain at Colorado Territorial Correctional Facility in his individual and official capacities,

M. HOLLOWAY, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,

K. TOPLISS, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,

C. WILLIAMS, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,

H. WILLIAMS, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,

K. CLINKENBEARD, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,

J. ESPINOZA, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,

G. SULLIVAN, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,

J. HANSON, Corrections Officer at Colorado Territorial Correctional Facility in his individual and official capacities,

J. SOTO, Corrections Officer at Colorado Territorial Correctional Facility in his individual and official capacities,

J. BUFMACK, Nurse at Colorado Territorial Correctional Facility in his individual and official capacities,

M. BENOVEDEZ, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities, and

A. BELL, Case Manager at Colorado Territorial Correctional Facility in his individual and official capacities,

Defendants.

AFFIDAVIT OF DOMINIC MOSCHETTI

STATE OF COLORADO
COUNTY OF FREMONT

BEFORE ME, the undersigned official, on this day personally appeared DOMINIC MOSCHETTI and first being duly sworn according to law, upon his oath, deposed and said:

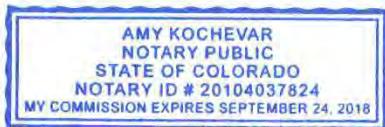
My name is Dominic Moschetti and I have been working for the Colorado Department of Corrections for 4½ years. I am over eighteen (18) years of age and am fully competent and duly authorized to make this affidavit. The matters to which I testify in this affidavit are true and correct and based upon my personal knowledge.

1. Attached hereto as **Exhibit 1** is a true and correct copy of my incident report and statement related to the use of force incident involving Plaintiff, William R. Stevenson, which occurred on February 29, 2012, incident number 529889. This incident report and statement accurately reflect what I witnessed regarding that incident.

DATED this 12th day of November, 2015.

DOMINIC MOSCHETTI
DOMINIC MOSCHETTI

SUBSCRIBED AND SWORN to before me this 12th day of November, 2015.



Notary Public
My Commission Expires: 9-24-18

Incident # 529889

Linked # Created by

COLORADO TERRITORIAL CORRECTIONAL FACILITYCreated: Feb 29, 2012 08:23 am By: CLINKINBEARD, KAREN M
Closed: By:

Incident Date: 02/29/2012

Approx Time: 06:30 AM

Status: Open

Incident Type: Use of Force

Incident Location: CH 1 Upper Vestibule/Common Areas

Misc. Location Info: Upper Vestibule

Summary: Offender Stevenson, William #110913 disobeyed a lawful order to cuff up and a use of force occurred to gain compliance.

Report: 1 by MOSCHETTI, DOMINIC A (damosche) for Incident 529889

Officers Facility: COLORADO TERRITORIAL CORRECTIONAL F

Approximate Time of Incident: 06:30 AM

Shift: Days

Work Unit:Custody/Control

Days Off: M/T

Suspected Gang Related: Evidence:

Docno:	Name:	Living Unit:	Pod	Tier	Cell	Bunk	RFP
110913	STEVENSON, WILLIAM R	CTCF/SEG					

Parole/Community/ Shift Commander: CORDOVA, RANDY (rcordov) Date Approved: 02/29/12 12:54 PM	Report Rejected: <input type="checkbox"/>	Report Needs Approval <input checked="" type="checkbox"/> Submitted: 02/29/12 12:23 PM	
	Report Approved: <input checked="" type="checkbox"/> Report Voided: <input type="checkbox"/>		
Duty Officer's Initiation of Investigation			
Charge: <input type="checkbox"/> Duty Officer: <input type="checkbox"/> Informational: <input type="checkbox"/> Reviewed: <input type="checkbox"/>			

Detailed Report on following Page

Incident# 529889**Report 1 detail by MOSCHETTI, DOMINIC (damosche) for Incident 529889**

On 2/29/12 at approximately 6:30 am I Officer Moschetti Responded to a first responder call for cell house 1 upper vestibule. upon arrival I witnessed Officer Hansen and Sgt. Clinkinbeard attempting to restrain offender Stevenson.# 110913. At that time myself and sgt. Espinoza moved in to assist the other officers. I used both hands to restrain offender Stevenson left wrist. Offender Stevenson was given direct orders to stop resisting, to comply and cuff up. After numerous failed attempts Sgt. Espinoza then applied the taser to offender Stevenson's' back. The taser had little to no affect on the offender. At that time strength techniques were used to cuff the offender. The offender would not walk to the infirmary so he was placed on a backboard. We then strapped him to the backboard and escorted him to the lower clinic for an anatomical. I then returned to food service and assisted in feeding. After feeding was finished I was sent to CCOM to have a cut looked at that I sustained during the incident.

Incident # 529889

Linked # Created by

COLORADO TERRITORIAL CORRECTIONAL FACILITY

Created: Feb 29, 2012 08:23 am By: CLINKINBEARD, KAREN M
Closed: By:

Incident Date: 02/29/2012

Approx Time: 06:30 AM

Status: Open

Incident Type: Use of Force

Incident Location: CH 1 Upper Vestibule/Common Areas

Misc. Location Info: Upper Vestibule

Summary: Offender Stevenson, William #110913 disobeyed a lawful order to cuff up and a use of force occurred to gain compliance.

Report: 1 by SULLIVAN, GARY W (g06067) for Incident 529889

Officers Facility: COLORADO TERRITORIAL CORRECTIONAL F

Approximate Time of Incident: 06:30 AM Shift: Days

Work Unit: Custody/Control Days Off: Sun/Mon

Suspected Gang Related: Evidence:

Docno:	Name:	Living Unit:	Pod Tier Cell Bunk	RFP
110913	STEVENSON, WILLIAM R	CTCF/SEG		

<u>Parole/Community/ Shift Commander:</u> CORDOVA, RANDY (rzcordov) <u>Date Approved:</u> 02/29/12 02:09 PM	Report Rejected: <input type="checkbox"/>	<u>Report</u> Needs Approval <input checked="" type="checkbox"/> Submitted: 02/29/12 01:58 PM
	Report Approved: <input checked="" type="checkbox"/>	
	Report Voided: <input type="checkbox"/>	
<u>Duty Officer's Initiation of Investigation</u> Charge: <input type="checkbox"/> Duty Officer: <input type="checkbox"/> Informational: <input type="checkbox"/> Reviewed: <input type="checkbox"/>		

Detailed Report on following Page

Appellate Case: 17-1053 Document: 01019821571 Date Filed: 06/07/2017 Page: 171

Incident# 529889**Report 1 detail by SULLIVAN, GARY (g06067) for Incident 529889**

On 2/29/2012 at approximately 0630 am first responders was called to ch-1 upper vestibule, when I arrived Sgt Clinkenbeard and officer Hanson was wrestling with an offender identified as Stevenson , William #110109 on the floor. I Sgt Sullivan secured the offender's head and applied the mandible angle I also placed the taser on his shoulder blade close to the base of his neck to gain compliance but did not activate it, giving the offender verbal directions to stop resisting and let the officer's place restraints on him. The offender kept resisting even with other pressure points being applied by other officers. The offender was being passive resistance and would not stand up and walk, we had to place him on a back board and a gurney to transport him to the clinic for an anatomical, He was still combative so we decided to take him to cell house three and strip him out were he was still being combative and non compliant. He finally allowed us to strip him out ,but went limp and would not walk to his cell , we placed him back on the back board and took him to his cell. he still would not comply to verbal orders and stand up and come to the door to be unrestrained. The shift commander implemented a emergent exit strategy to leave the cell. One at a time we exited the cell leaving him on the floor in boxers. The shift commander was on scene. The offender was placed on RFP status in cell house three.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-00649-CBS

WILLIAM R. STEVENSON,

Plaintiff,

v.

R. CORDOVA, Captain at Colorado Territorial Correctional Facility in his individual and official capacities,
D. NUNEZ, Captain at Colorado Territorial Correctional Facility in his individual and official capacities,
M. HOLLOWAY, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,
K. TOPLISS, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,
C. WILLIAMS, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,
K. CLINKENBEARD, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,
J. ESPINOZA, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,
G. SULLIVAN, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,
J. HANSON, Corrections Officer at Colorado Territorial Correctional Facility in his individual and official capacities,
J. BUFMACK, Nurse at Colorado Territorial Correctional Facility in his individual and official capacities,
M. BENOVEDEZ, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities, and
A. BELL, Case Manager at Colorado Territorial Correctional Facility in his individual and official capacities,

Defendants.

AFFIDAVIT OF RANDY CORDOVA

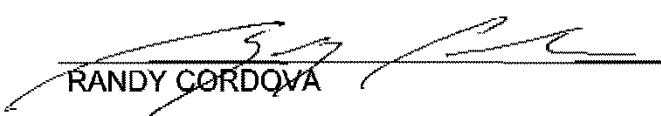
STATE OF COLORADO §
§
COUNTY OF Fremont §

BEFORE ME, the undersigned official, on this day personally appeared RANDY CORDOVA and first being duly sworn according to law, upon his oath, deposed and said:

My name is Randy Cordova and I have been working for the Colorado Department of Corrections for 2 years. I am over eighteen (18) years of age and am fully competent and duly authorized to make this affidavit. The matters to which I testify in this affidavit are true and correct and based upon my personal knowledge.

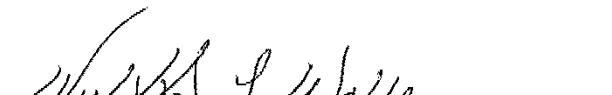
1. Attached hereto as **Exhibit 1** is a true and correct copy of my incident report and statement related to the use of force incident involving Plaintiff, William R. Stevenson, which occurred on February 29, 2012, incident number 529889. This incident report and statement accurately reflect what I witnessed regarding that incident.

DATED this / 2nd day of November, 2015.



RANDY CORDOVA

SUBSCRIBED AND SWORN to before me this / 2nd day of November, 2015.

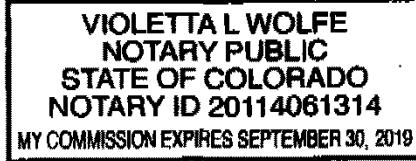


Violetta L. Wolfe

Notary Public

My Commission Expires:

Sept. 30, 2019



Incident # 529889

Linked # Created by

COLORADO TERRITORIAL CORRECTIONAL FACILITY

Created: Feb 29, 2012 08:23 am By: CLINKINBEARD, KAREN M

Closed: _____ By _____

Incident Date: **02/29/2012**

Approx Time: **06:30 AM**

Status: Open

Incident Type: Use of Force

Incident Location: CH 1 Upper Vestibule/Common Areas

Misc. Location Info: Upper Vestibule

Summary: Offender Stevenson, William #110913 disobeyed a lawful order to cuff up and a use of force occurred to gain compliance.

Report: 2 by CORDOVA, RANDY (rzcordov) for Incident 529889

Officers Facility: COLORADO TERRITORIAL CORRECTIONAL F/

Approximate Time of Incident: **06:30 AM**

Shift: Days

Work Unit: Custody/Control

Days Off: FS

Suspected Gang Related:

Evidence:

Docno: Name: Living Unit: Pod Tier Cell Bunk
110913 STEVENSON, WILLIAM R CTCF/SEG **RFP**

<input type="checkbox"/> Report Rejected: <input checked="" type="checkbox"/> Report Approved: <input type="checkbox"/> Report Voided: Parole/Community/ Shift Commander: BERGMAN, DAVID C. (dcbergm Date Approved: 02/29/12 03:36 PM	Report Needs Approval <input checked="" type="checkbox"/> Submitted: 02/29/12 03:32 PM Duty Officer's Initiation of Investigation Charge: <input type="checkbox"/> Duty Officer: _____ Informational: <input type="checkbox"/> Reviewed: _____
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Detailed Report on following Page

Incident# 529889**Report 2 detail by CORDOVA, RANDY (rzcordov) for Incident 529889**

On 2-29-12, a/a 0630, I Captain Randy Cordova responded to cellhouse one for 1st responders call due to an inmate (William Stephenson # 110913) resisting staff attempts to get him into wrist restraints. Upon arrival, staff were on the floor of the upper vestibule wrestling with the inmate. Staff were ordering him to stop resisting and cuff up. At this time, I saw Sgt. Espinoza applying a taser to his upper back and the offender continued to resist as other staff responding engaged. Staff used strength techniques to apply both leg and wrist restraints. At this time, I asked the offender if he was going to walk down the stairs and replied, "no your going to have to carry me." Staff attempted to pick him up and he started to resist, kicking his legs. They placed him back on the floor. I ordered for a back board to be brought up to the vestibule. Staff them placed him on the board utilizing all straps, carried him down the stairs and placed him on a gurney. He was then escorted to the clinic where he continued to say he was wasn't going to be compliant. He then complained the hand cuffs were to tight and that there is suppose to be a pinky distance between his wrist and cuff. I replied, he needed to be compliant, that staff had to wrestle to get them on and that's why they were so tight. I asked him to be compliant with the anatomical and we would adjust them. He replied he wasn't going to comply with nothing. I then ordered the offender be moved to cell house three and to complete the anatomical and strip out at the same time. Upon arrival to cellhouse three, he was carried on the back board into the strip out room. He was asked again if he was going to comply with the strip out and he said no and complained about the cuffs again. I had the cuffs transitioned out utilizing strip out restraints. Staff had to remove his clothing and he became a little more compliant. He then refused to comply with orders to spread his cheeks and allowing his buttocks area to be searched visually. Because the offender refused to comply, staff was given permission to spread his cheeks to check this area. Medical completed an anatomical and pictures were taken of his wrists and back. He was placed in boxers and stated he was still not going to be compliant or walk to his cell. As staff started to walk him out of the cell he went limp onto his knees onto the floor. He was then placed on the back board and on the gurney to be taken to A1R8. He was carried into the cell on the board. He was then removed from the board and leg irons were removed. I asked if he was going to back up to the cell door and allow staff to remove the restraints. He stated he wasn't going to comply. He remained in the prone position, face down stated he was not going to move. Staff exited in a force cell fashion. once the wrist restraints were removed. Staff staged at the door as they exited. The cell was secured without incident. RN, Bufmack attempted to get him to come to the door and recheck him after we carried him to the cell. Inmate Stevenson refused to get up from the floor and talk to medical. All notifications were made. Two staff received injuries as a result of the use of force and were seen by CCOM and returned to work.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-00649-CBS

WILLIAM R. STEVENSON,

Plaintiff,

v.

R. CORDOVA, Captain at Colorado Territorial Correctional Facility in his individual and official capacities,
D. NUNEZ, Captain at Colorado Territorial Correctional Facility in his individual and official capacities,
M. HOLLOWAY, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,
K. TOPLISS, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,
C. WILLIAMS, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,
H. WILLIAMS, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,
K. CLINKENBEARD, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,
J. ESPINOZA, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,
G. SULLIVAN, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,
J. HANSON, Corrections Officer at Colorado Territorial Correctional Facility in his individual and official capacities,
J. SOTO, Corrections Officer at Colorado Territorial Correctional Facility in his individual and official capacities,
J. BUFMACK, Nurse at Colorado Territorial Correctional Facility in his individual and official capacities,
M. BENOVEDEZ, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities, and
A. BELL, Case Manager at Colorado Territorial Correctional Facility in his individual and official capacities,

Defendants.

AFFIDAVIT OF MICHAEL BENAVIDEZ

STATE OF COLORADO §
COUNTY OF Fremont §
§

BEFORE ME, the undersigned official, on this day personally appeared MICHAEL BENAVIDEZ and first being duly sworn according to law, upon his oath, deposed and said:

My name is Michael Benavidez and I have been working for the Colorado Department of Corrections for 17 years. I am over eighteen (18) years of age and am fully competent and duly authorized to make this affidavit. The matters to which I testify in this affidavit are true and correct and based upon my personal knowledge.

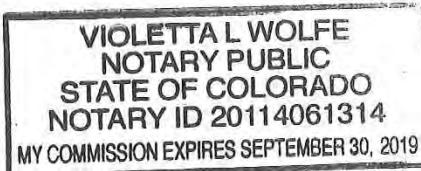
1. Attached hereto as **Exhibit 1** is a true and correct copy of my incident report and statement related to the use of force incident involving Plaintiff, William R. Stevenson, which occurred on February 29, 2012, incident number 529889. This incident report and statement accurately reflect what I witnessed regarding that incident.

DATED this 12 day of November, 2015.

Michael Benavidez
MICHAEL BENAVIDEZ

SUBSCRIBED AND SWORN to before me this 12th day of November, 2015.

Violetta L Wolfe
Notary Public
My Commission Expires: Sep. 30, 2019



Incident # 529889

Linked # Created by

COLORADO TERRITORIAL CORRECTIONAL FACILITYCreated: Feb 29, 2012 08:23 am By: CLINKINBEARD, KAREN M
Closed:Incident Date: **02/29/2012**Approx Time: **06:30 AM**Status: **Open**Incident Type: **Use of Force**Incident Location: **CH 1 Upper Vestibule/Common Areas****Misc. Location Info: Upper Vestibule****Summary: Offender Stevenson, William #110913 disobeyed a lawful order to cuff up and a use of force occurred to gain compliance.**Report: 1 by **BENAVIDEZ, MICHAEL (ctmzb)** for Incident **529889**Officers Facility: **COLORADO TERRITORIAL CORRECTIONAL F**Approximate Time of Incident: **06:30 AM**Shift: **Days**Work Unit: **Maintenance**Days Off: **Sat/Sun**Suspected Gang Related: Evidence:

Docno:	Name:	Living Unit:	Pod	Tier	Cell	Bunk
110913	STEVENSON, WILLIAM R	CTCF/SEG				RFP

Report Rejected: <input type="checkbox"/>	Report Needs Approval <input checked="" type="checkbox"/>
Report Approved: <input checked="" type="checkbox"/>	Submitted: 02/29/12 12:52 PM
Report Voided: <input type="checkbox"/>	Duty Officer's Initiation of Investigation
Parole/Community/ Shift Commander: CORDOVA, RANDY (rcordov)	Charge: <input type="checkbox"/> Duty Officer: <input type="checkbox"/>
Date Approved: 02/29/12 01:09 PM	Informational: <input type="checkbox"/> Reviewed: <input type="checkbox"/>

Detailed Report on following Page

Incident# 529889**Report 1 detail by BENAVIDEZ, MICHAEL (ctmzb) for Incident 529889**

At 0630 am on 02/29/2012 I Sergeant Benavidez responded to a first responder call in Cell House One. When I arrived up the stairs in front of Upper Control Center inmate Stevenson William #110913 was on the floor he was resisting staff while they were trying to restrain him. I fell to my knees and proceeded to hold Stevenson's legs. I had to put my body on his legs to keep him from kicking. I asked Lieutenant Holloway to get some Leg Restraints he did and secured Stevenson's legs. When Stevenson was completely restrained he was asked to walk down the stairwell. Stevenson would not comply and let his body go limp and he went to the ground with staff assistance. Stevenson was then placed on the Medical backboard and I assisted by holding the lower right side of the backboard by his right leg I helped move him down the stairwell. I then again assisted in the Clinic by guiding the Gurney with Stevenson on it over to Cell House Three. Stevenson mentioned many times that he was going to file a lawsuit against staff. He was uncooperative when asked if he would comply with strip out instructions. He did comply with most of the strip out except when it was time to have his buttocks checked. He was stripped out and an anatomical was completed. I was holding on to the right arm of Stevenson when we proceeded to leave the holding cell in Cell House Three. I asked him to walk to a Segregation Cell and he said hell walk your just gonna have to carry me. He then again went limp and was assisted to the floor. We placed him on the backboard and then the Gurney. He was placed on the floor by staff from the Gurney and backboard in cell A 1right 8. I moved out after the restraints were removed in order like a forced cell entry was completed and was staged at the door of the cell. Stevenson did not move while the door closed.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-00649-CBS

WILLIAM R. STEVENSON,

Plaintiff,

v.

R. CORDOVA, Captain at Colorado Territorial Correctional Facility in his individual and official capacities,
D. NUNEZ, Captain at Colorado Territorial Correctional Facility in his individual and official capacities,
M. HOLLOWAY, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,
K. TOPLISS, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,
C. WILLIAMS, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,
H. WILLIAMS, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,
K. CLINKENBEARD, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,
J. ESPINOZA, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,
G. SULLIVAN, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,
J. HANSON, Corrections Officer at Colorado Territorial Correctional Facility in his individual and official capacities,
J. SOTO, Corrections Officer at Colorado Territorial Correctional Facility in his individual and official capacities,
J. BUFMACK, Nurse at Colorado Territorial Correctional Facility in his individual and official capacities,
M. BENOVEDEZ, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities, and
A. BELL, Case Manager at Colorado Territorial Correctional Facility in his individual and official capacities,

Defendants.

AFFIDAVIT OF MARK HOLLOWAY

STATE OF COLORADO
COUNTY OF Fremont

BEFORE ME, the undersigned official, on this day personally appeared MARK HOLLOWAY and first being duly sworn according to law, upon his oath, deposed and said:

My name is Mark Holloway and I have been working for the Colorado Department of Corrections for 16 years. I am over eighteen (18) years of age and am fully competent and duly authorized to make this affidavit. The matters to which I testify in this affidavit are true and correct and based upon my personal knowledge.

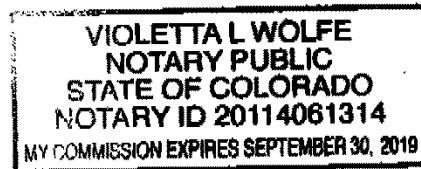
1. Attached hereto as **Exhibit 1** is a true and correct copy of my incident report and statement related to the use of force incident involving Plaintiff, William R. Stevenson, which occurred on February 29, 2012, incident number 529889. This incident report and statement accurately reflect what I witnessed regarding that incident.

DATED this 12th day of November, 2015.

MARK HOLLOWAY

SUBSCRIBED AND SWORN to before me this 12th day of November, 2015.

Notary Public
My Commission Expires



Incident # 529889

Linked # Created by

COLORADO TERRITORIAL CORRECTIONAL FACILITY

Created: Feb 29, 2012 08:23 am By: CLINKINBEARD, KAREN M
Closed: By:

Incident Date: 02/29/2012

Approx Time: **06:30 AM**

Status: Open

Incident Type: **Use of Force**

Incident Location: CH 1 Upper Vestibule/Common Areas

Misc. Location Info: **Upper Vestibule**

Summary: Offender Stevenson, William #110913 disobeyed a lawful order to cuff up and a use of force occurred to gain compliance.

Report: 1 by HOLLOWAY, MARK E (m08363) for Incident 529889

Officers Facility: COLORADO TERRITORIAL CORRECTIONAL F/

Approximate Time of Incident: **06:30 AM**

Shift: Days

Work Unit:Custody/Control

Days Off: **S/M**

Suspected Gang Related:

Evidence:

Docno:	Name:	Living Unit:	Pod	Tier	Cell	Bunk	RFP
110913	STEVENSON, WILLIAM R	CTCF/SEG					

Report Rejected:	<input type="checkbox"/>	Report	Needs Approval <input checked="" type="checkbox"/>
Report Approved:	<input checked="" type="checkbox"/>	Submitted: 02/29/12 01:34 PM	
Report Voided:	<input type="checkbox"/>	Duty Officer's Initiation of Investigation	
Parole/Community/ Shift Commander:	CORDOVA, RANDY (rzcordov)	Charge:	<input type="checkbox"/> Duty Officer:
Date Approved:	02/29/12 01:55 PM	Informational:	<input type="checkbox"/> Reviewed:

Detailed Report on following Page

Incident# 529889**Report 1 detail by HOLLOWAY, MARK (m08363) for Incident 529889**

On Wednesday, February 29th, 2012, at approximately 6:30 AM. I, Lt Holloway responded to a first responded call to Cell House One. When I arrived, I observed inmate Stevenson, William # 110913 prone out on the floor of the upstairs vestibule, he was in hand restraints with staff surrounding him. Inmate Stevenson was non compliant with staff's orders and directives. I retrieved leg restraints from CH1 upper control and placed them on inmate Stevenson. After several minutes of speaking with Captain Cordova, inmate Stevenson was ordered to stand up, which he stated "you all are going to have to carry me, I'm not standing up". Staff aided Stevenson to stand up and I attempted to apply pressure to his mandibular angle to no avail. A backboard from the lower vestibule was retrieved. Inmate Stevenson was lifted up off the floor and placed onto the backboard by staff, all straps where placed on him and tightened. I assisted with carrying inmate Stevenson down the stairs to the lower vestibule, where he was place onto a gurney, the straps where placed over him and tightened and he was escorted to the lower clinic. Once at the lower clinic, inmate Stevenson stated he would not stand up for an anatomical exam. Capt Cordova decided that inmate Stevenson would be taken to segregation and be given the anatomical in conjunction with being stripped out. I was directed to get a camera to document inmate Stevenson's claim of injuries. Once at Cell House Three inmate Stevenson was stripped out by Sgt. Weaver. Stevenson was noncompliant during much of the strip out. He received an anatomical exam by Nurse Bufmack in the strip out room of Cell House Three. I took several pictures during the anatomical exam. Inmate Stevenson was compliant during the exam. After the strip out and anatomical exam, inmate Stevenson's boxers were placed back on him, as he refused to dress himself. Inmate Stevenson was asked if he was going to walk to his cell, at which time he became passive resistant and went down to his knees in the strip out room. Inmate Stevenson was placed onto a backboard and I assisted carrying the inmate out of the strip out room. He was placed back onto the gurney, where he was then escorted to cell A1R8 by staff. Inmate Stevenson was then taken off the gurney and carried into cell A1R8 using the back board, the back board was placed on the floor. Inmate Stevenson was taken off of the back board and placed on the floor and given directives to stand up and come to the cell door so that the restraints could be removed. Inmate Stevenson was be non compliant, and refused to stand up and uncuff at the cell door. Inmate Stevenson just lay on the floor. As restraints were removed, staff exited the cell one at a time in force cell fashion as inmate Stevenson stayed on the floor. Staff reassembled out side the door in force cell fashion until the cell door was secure.

Incident # 529889

Linked # Created by

COLORADO TERRITORIAL CORRECTIONAL FACILITYCreated: Feb 29, 2012 08:23 am By: CLINKINBEARD, KAREN M
Closed: By:Incident Date: **02/29/2012**Approx Time: **06:30 AM**Status: **Open**Incident Type: **Use of Force**Incident Location: **CH 1 Upper Vestibule/Common Areas**Misc. Location Info: **Upper Vestibule**Summary: **Offender Stevenson, William #110913 disobeyed a lawful order to cuff up and a use of force occurred to gain compliance.**Report: **1** by **ROBLES, JEROD A (jarobles)** for Incident **529889**Officers Facility: **COLORADO TERRITORIAL CORRECTIONAL F**Approximate Time of Incident: **06:30 AM** Shift: **Days**Work Unit: **Custody/Control** Days Off: **Th/ Fri**Suspected Gang Related: Evidence:

Docno:	Name:	Living Unit:	Pod	Tier	Cell	Bunk
110913	STEVENSON, WILLIAM R	CTCF/SEG				RFP

Parole/Community/ Shift Commander: CORDOVA, RANDY (rzcordov) Date Approved: 02/29/12 01:03 PM	Report Rejected: <input type="checkbox"/>	Report Needs Approval <input checked="" type="checkbox"/> Submitted: 02/29/12 12:59 PM
	Report Approved: <input checked="" type="checkbox"/>	
	Report Voided: <input type="checkbox"/>	
		Duty Officer's Initiation of Investigation Charge: <input type="checkbox"/> Duty Officer: [REDACTED] Informational: <input type="checkbox"/> Reviewed: [REDACTED]

Detailed Report on following Page

Incident# 529889**Report 1 detail by ROBLES, JEROD (jarobles) for Incident 529889**

On 2/29/12 at approximately 0630 I Officer Robles responded to a First Responder call in the upper vestibule in CH-1. When I arrived I observed staff on the ground with inmate Stevenson, William #110913. At this time I assisted in the restraining process by holding the inmates left leg in place. The inmate was then placed onto a backboard due to him being non-compliant and then onto the cell house gurney. We then escorted the inmate to the lower clinic on a gurney where he refused to be compliant while medical staff attempted to perform an anatomical. From there we escorted the inmate to CH-3 to be stripped out and then in to a segregation cell. After arriving at ch-3, the inmate was brought into the strip out cell while on the backboard by responding staff and then he was stripped out by ch-3 staff. During the strip out procedure the inmate was again non-compliant resulting in cell house 3 staff having to manually remove the inmate's clothes in order to finish the strip out. The inmate was placed back onto the back board and then on to the gurney where he was taken to his cell due to the inmate refusing to walk. Once staff enter the cell, the inmate was placed onto the floor while remaining on the backboard. The inmate was removed from the back board and the leg restraints were removed. The inmate refused to walk to the slider to have the wrist restraints removed by staff forcing staff to remove the restraints in the cell. Once the restraints were removed, staff exited the cell in a stacked formation being cautious and ready to re-enter the cell if need be. All staff exited the cell and the inmate remained lying face down until the cell slider closed. Shift Commander was on scene.

Incident # 529889

Linked # Created by

COLORADO TERRITORIAL CORRECTIONAL FACILITY

Created: Feb 29, 2012 08:23 am By: CLINKINBEARD, KAREN M
Closed: By:

Incident Date: **02/29/2012**

Approx Time: 06:30 AM

Status: Open

Incident Type: **Use of Force**

Incident Location: CH 1 Upper Vestibule/Common Areas

Misc. Location Info: **Upper Vestibule**

Summary: Offender Stevenson, William #110913 disobeyed a lawful order to cuff up and a use of force occurred to gain compliance.

Report: 1 by FONTENOT, VIRGIL L (v07646) for Incident 529889

Officers Facility: COLORADO TERRITORIAL CORRECTIONAL F/

Approximate Time of Incident: **06:30 AM**

Shift: Days

Work Unit: **Custody/Control**

Days Off: Fri/Sat

Suspected Gang Related:

Evidence:

Docno: Name: Living Unit: Pod Tier Cell Bunk
110913 STEVENSON, WILLIAM R CTCF/SEG **RFP**

Report Rejected: <input type="checkbox"/>	Report Needs Approval <input checked="" type="checkbox"/>
Report Approved: <input checked="" type="checkbox"/>	Submitted: 02/29/12 12:07 PM
Report Voided: <input type="checkbox"/>	
Parole/Community/ Shift Commander: CORDOVA, RANDY (rzcordov)	Duty Officer's Initiation of Investigation
Date Approved: 02/29/12 01:07 PM	Charge: <input type="checkbox"/> Duty Officer: _____
	Informational: <input type="checkbox"/> Reviewed: _____

Detailed Report on following Page

Incident# 529889**Report 1 detail by FONTENOT, VIRGIL (v07646) for Incident 529889**

On Wednesday, February 29th, 2012, at approximately 6:30 AM. I, Sgt. Fontenot responded to a first responded call to Cell House One. When I arrived I observed inmate Stevenson, William # 110913 prone out on the floor of the upstairs vestibule, he was in hand restraint and leg irons, being non compliant with staff's orders. After several minutes of speaking with Captain Cordova, inmate Stevenson # 110913 was ordered to stand up, which he stated " you all are going to have to carry me, I'm not standing up". A backboard from the lower vestibule was retrieved. Inmate Stevenson was lifted up off the floor and placed onto the backboard by staff, all straps where placed on him and tightened. I assisted with carrying inmate Steveson #110913 down the stairs to the lower vestibule, where he was place onto a gurney, the straps where placed over him and tightened and he was escorted to the lower clinic. Once at the lower clinic, it was decided that inmate Stevenson # 110913 would be taken to segregation and be given the anatomical there while being stripped out by Captain Cordova. Once at Cell House Three inmate Stevenson # 110913 was stripped out by Sgt. Weaver and given an anatomical by Nurse Jodi Bufmack in the strip out room of Cell House Three, at which time inmate Steveson #110913 was being compliant. After the strip out and anatomical, inmate Stevenson's # 110913 boxers were placed back on him. Inmate Steveson #110913 was asked if he was going to walk to his cell, at which time he became passive resistant and went down to his knees in the strip out room. I retrieved the back board from outside the strip out room and inmate Steveson #110913 was placed onto it and then carried out of the strip out room and placed back onto the gurney, where he was then escorted to cell A1R8. Inmate Steveson #110913 was then taken off the gurney and carried into cell A1R8 using the back board, the back board was placed on the floor. Inmate Steveson #110913 was taken off of the back board and placed on the floor and given directives to come to the cell door so that the restraints could be removed. Inmate Stevenson #110913 was be non compliant about standing up so that the restraints could be removed, he just laid on the floor. Staff assembled in force cell fashion as inmate Steveson #110913 lie on the floor, I had control of his right leg. The leg irons where taken off by Sgt. Weaver, myself and C/O Robles exited the cell. Once all staff exited the cell, staff reassembled out side the door in force cell fashion until the cell door was shut.

Incident # 529889

Linked # Created by

COLORADO TERRITORIAL CORRECTIONAL FACILITYCreated: Feb 29, 2012 08:23 am By: CLINKINBEARD, KAREN M
Closed: By:Incident Date: **02/29/2012**Approx Time: **06:30 AM**Status: **Open**Incident Type: **Use of Force**Incident Location: **CH 1 Upper Vestibule/Common Areas**Misc. Location Info: **Upper Vestibule**Summary: **Offender Stevenson, William #110913 disobeyed a lawful order to cuff up and a use of force occurred to gain compliance.**Report: **1** by **SNOW, CAROL L (clsnow)** for Incident **529889**Officers Facility: **COLORADO TERRITORIAL CORRECTIONAL F**Approximate Time of Incident: **06:30 AM** Shift: **Days**Work Unit: **Custody/Control** Days Off: **thur/fri**Suspected Gang Related: Evidence:

Docno:	Name:	Living Unit:	Pod Tier Cell Bunk
110913	STEVENSON, WILLIAM R	CTCF/SEG	RFP

Parole/Community/ Shift Commander: <u>CORDOVA, RANDY (rzcordov)</u> Date Approved: <u>02/29/12 12:51 PM</u>	Report Rejected: <input type="checkbox"/>	Report Needs Approval <input checked="" type="checkbox"/>
	Report Approved: <input checked="" type="checkbox"/>	Submitted: <u>02/29/12 12:19 PM</u>
	Report Voided: <input type="checkbox"/>	Duty Officer's Initiation of Investigation
	Charge: <input type="checkbox"/> Duty Officer: <u>CLINKINBEARD, KAREN M</u>	
	Informational: <input type="checkbox"/> Reviewed: <u>02/29/12 12:51 PM</u>	

Detailed Report on following Page

Incident# 529889**Report 1 detail by SNOW, CAROL (clsnow) for Incident 529889**

On 2-29-2012 at approximately 630 I C/O Snow was a first responder to a call from cell house 1. When I arrived offender Stevenson # 116913 was already placed in wrist and leg restraints on the ground out in the upper vestibule . He was being argumentative with staff and refusing to cooperate . He was refusing to walk on his own therefore being passively resistive by going limp. I was then instructed to retrieve the back board and did so. Offender Stevenson # 110913 was then placed upon the backboard taken downstairs put on the gurney then taken to medical. I then reported back to the dinning hall to assist with the completion of breakfast.

Incident # 529889

Linked # Created by

COLORADO TERRITORIAL CORRECTIONAL FACILITY

Created: Feb 29, 2012 08:23 am By: CLINKINBEARD, KAREN M
Closed: By:

Incident Date: 02/29/2012

Approx Time: 06:30 AM

Status: Open

Incident Type: Use of Force

Incident Location: CH 1 Upper Vestibule/Common Areas

Misc. Location Info: Upper Vestibule

Summary: Offender Stevenson, William #110913 disobeyed a lawful order to cuff up and a use of force occurred to gain compliance.

Report: 1 by WEAVER, ANDREW L (alweaver) for Incident 529889

Officers Facility: COLORADO TERRITORIAL CORRECTIONAL F/

Approximate Time of Incident: 07:10 AM

Shift: Days

Work Unit: Custody/Control

Days Off: Fri/Sat

Suspected Gang Related: Evidence:

Docno:	Name:	Living Unit:	Pod Tier Cell Bunk
110913	STEVENSON, WILLIAM R	CTCF/SEG	RFP

Parole/Community/ Shift Commander:	Report Rejected: <input type="checkbox"/>	<u>Report</u> Needs Approval <input checked="" type="checkbox"/> Submitted: 02/29/12 12:26 PM
	Report Approved: <input checked="" type="checkbox"/>	
	Report Voided: <input type="checkbox"/>	
Charge:	<input type="checkbox"/>	Duty Officer:
Informational:	<input type="checkbox"/>	Reviewed:

Detailed Report on following Page

Incident# 529889**Report 1 detail by WEAVER, ANDREW (alweaver) for Incident 529889**

On 02/29/2012 at approximately 0710hrs I, Sergeant Weaver, assisted in processing Offender Stevenson, William 110913 into Segregation for Removal From Population. Stevenson arrived in the cellhouse secured to a backboard with velcro straps and being carried by Sergeant Sullivan, Sergeant Fontenot, Sergeant Benavidez, Sergeant Espinoza, and Officer Robles. Stevenson was wearing hand and leg restraints in addition to his t-shirt, sweatpants, boxers and socks. Stevenson was placed in stripout restraints before staff and I assisted in removing his clothes. Stevenson was verbally non-compliant through the stripout process making statements such as "I'm not going to lift my foot, you do it.", but Stevenson did physically comply with my directions until the last step of the stripout process. When I directed Stevenson to separate the cheeks of his bottom so I could verify he did not have any contraband Stevenson stated that he was not going to comply and that staff would have to spread the cheeks of his bottom. Stevenson refused three direct orders to spread the cheeks of his bottom before I, after approval from Captain Cordova, spread Stevenson's cheeks for him. It should be noted that Stevenson kept repeating, "you do it" after each direct order to spread his cheeks. At this time Nurse Bufmack looked at Stevenson's body while talking to Stevenson to complete an anatomical form and Lieutenant Holloway took photos of various parts of Stevenson's body. After the stripout process was completed, Stevenson refused to put his boxers back on. I assisted Stevenson in putting his boxers back on after the stripout restraints were removed. When directed to move from the holding cell to his Segregation cell, Stevenson stated that he was not going to go anywhere unless staff carried him. At this time Stevenson was placed on the backboard and secured with straps before being carried to cell A1R8. Once in the Segregation cell Stevenson was removed from the back board. I removed the leg restraints from Stevenson while Captain Cordova was talking with him. Stevenson indicated that he was not going to come to the cell door to be uncuffed once staff left the room. Captain Cordova directed me to remove the handcuffs and staff then left the cell one at a time and stood at the cell door. Stevenson was given his socks, jumpsuit, and shoes after being placed in the cell.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-00649-CBS

WILLIAM R. STEVENSON,

Plaintiff,

v.

R. CORDOVA, Captain at Colorado Territorial Correctional Facility in his individual and official capacities,
D. NUNEZ, Captain at Colorado Territorial Correctional Facility in his individual and official capacities,
M. HOLLOWAY, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,
K. TOPLISS, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,
C. WILLIAMS, Lieutenant at Colorado Territorial Correctional Facility in his individual and official capacities,
K. CLINKENBEARD, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,
J. ESPINOZA, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,
G. SULLIVAN, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities,
J. HANSON, Corrections Officer at Colorado Territorial Correctional Facility in his individual and official capacities,
J. BUFMACK, Nurse at Colorado Territorial Correctional Facility in his individual and official capacities,
M. BENOVEDEZ, Sergeant at Colorado Territorial Correctional Facility in his individual and official capacities, and
A. BELL, Case Manager at Colorado Territorial Correctional Facility in his individual and official capacities,

Defendants.

AFFIDAVIT OF JODY BUFMACK

STATE OF COLORADO §
COUNTY OF Fremont §

BEFORE ME, the undersigned official, on this day personally appeared JODY BUFMACK and first being duly sworn according to law, upon her oath, deposed and said:

My name is Jody Bufmack and I have been working for the Colorado Department of Corrections for ____ years. I am over eighteen (18) years of age and am fully competent and duly authorized to make this affidavit. The matters to which I testify in this affidavit are true and correct and based upon my personal knowledge.

1. Attached hereto as **Exhibit 1** are a true and correct copies of my two (2) incident reports and statements related to the use of force incident involving Plaintiff, William R. Stevenson, which occurred on February 29, 2012, incident number 529889. These two (2) incident reports and statements accurately reflect what I witnessed regarding that incident.

DATED this 12 day of November, 2015.

Jody Bufmack
JODY BUFMACK

SUBSCRIBED AND SWORN to before me this 12 day of November, 2015.



Marian E. Hermes
Notary Public
My Commission Expires: 6-27-2016

Incident# 529889

Report 1 detail by BUFMACK, JODY (jkbbufmac) for Incident 529889

At approximately 0730 I, Jody Bufmack Rn performed an anatomical in Cell House 3 in the strip out cell on offender Stevenson 110913 due to him being involved in a use of force incident with staff. He was uncooperative with security staff but cooperative with the anatomical. The yellow copy of the anatomical was given to Captain Cordova.

Incident # 529889

Linked # Created by

COLORADO TERRITORIAL CORRECTIONAL FACILITY

Created: Feb 29, 2012 08:23 am By: CLINKINBEARD, KAREN M
Closed: By:

Incident Date: 02/29/2012

Approx Time: 06:30 AM

Status: Open

Incident Type: Use of Force

Incident Location: CH 1 Upper Vestibule/Common Areas

Misc. Location Info: Upper Vestibule

Summary: Offender Stevenson, William #110913 disobeyed a lawful order to cuff up and a use of force occurred to gain compliance.

Report: 2 by BUFMACK, JODY K (jkbufmac) for Incident 529889

Officers Facility: COLORADO TERRITORIAL CORRECTIONAL F/

Approximate Time of Incident: 07:45 AM

Shift: Days

Work Unit: Clinical Services

Days Off: Sun, Mon, Tues Wed

Suspected Gang Related:

Evidence:

Docno: Name: Living Unit: Pod Tier Cell Bunk
110913 STEVENSON, WILLIAM R CTCF/SEG RFP

<input type="checkbox"/> Report Rejected: <input checked="" type="checkbox"/> Report Approved: <input type="checkbox"/> Report Voided: Parole/Community/ Shift Commander: CORDOVA, RANDY (rzcordov) Date Approved: 02/29/12 01:05 PM	<p>Report Needs Approval <input checked="" type="checkbox"/> Submitted: 02/29/12 08:55 AM</p> <p>Duty Officer's Initiation of Investigation</p> <p>Charge: <input type="checkbox"/> Duty Officer: <input type="checkbox"/> Informational: <input type="checkbox"/> Reviewed: <input type="checkbox"/></p>
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Detailed Report on following Page

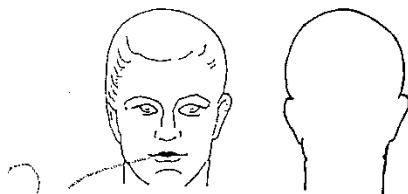
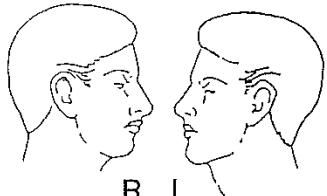
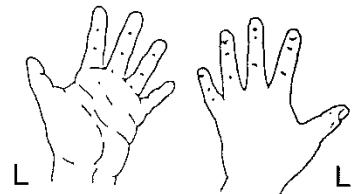
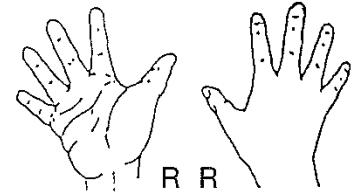
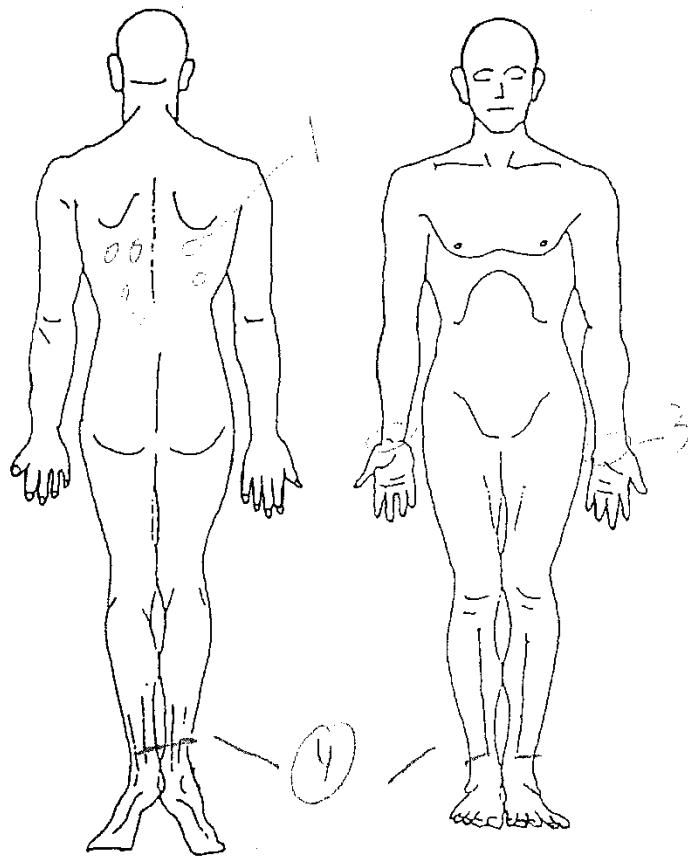
Appellate Case: 17-1053 Document: 01019821571 Date Filed: 06/07/2017 Page: 197

Incident# 529889

Report 2 detail by BUFMACK, JODY (jkbufmae) for Incident 529889

At approximately 0745 I, Jody Busmack RN attempted to perform a post use of force Anatomical on offender Stevenson 110913 in the Segregation unit at the cell door. Inmate Stevenson 110913 refused to get off the floor and come to the door so I could assess him. He was lying on his stomach on the floor voicing his displeasure, and was in no acute distress.

**COLORADO DEPARTMENT OF CORRECTIONS
CLINICAL SERVICES
ANATOMICAL FORM**



LIST INJURIES:

Circle area above and number according to description.

1. 6 Small raised red bumps < 1cm each on Back
2. Chipped (R) Front teeth 2 Superficial non bleeding fractures on tip
3. Superficial abrasions x 2 both wrists
4. Indentation of skin . pedal pulse strong, rag. 2 abrasions
- 5.
- 6.

COMMENTS: Pre Seg anatomical & use of force incident in Cell house with staff. Q. of abuse plus ¹⁸ Neck pain

W. B. B. (Bufmack)
Health Provider Name

Stevenson, William
Patient's Name

Date: 2-27-12

Time: 0705

110 913
DOC Number

Facility: CTCF

Living Unit: CHI

COLORADO TERRITORIAL CORRECTIONAL FACILITY

NEW ARRIVAL INMATE ORIENTATION HANDBOOK



Pamela J. Plouffe

Pamela J. Plouffe, Warden
July 1, 2010

EXHIBIT T

INMATE ORIENTATION HANDBOOK

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4.	VISITING PROGRAM	5
5.	INDIGENT ASSISTANCE	6
6.	CANTEEN	7
7.	CASE MANAGEMENT AND RE-ENTRY	7
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MISSION

The mission of the Colorado Territorial Correctional Facility (CTCF) is to:

Protect the general public by confining inmates within the standards of Levels III, IV, and V security status by meeting and maintaining the highest correctional standards possible within available resources.

Provide Community Standard Medical and Mental Health care for inmates assigned to CTCF and support the needs of all other Department of Corrections facilities by providing on-site medical and mental health services at CTCF.

Provide temporary housing, release, and intake functions for the entire Department of Corrections as well as private correctional facilities.

Provide meaningful, needs-specific academic, vocational and cognitive based life skills, educational programs and volunteer programs to facilitate inmates' reintegration into less secure facilities and/or society.

Provide centralized support functions (i.e., Business Offices, Purchasing, Time Release, Clinical Services, and Business Technologies/Communications) that benefit the entire Department of Corrections.

Develop, support and empower professional correctional staff to manage the diverse inmate population; manage the various support functions provided by CTCF; and become members of an effective team in achieving the mission of CTCF.

FOREWORD

This handbook is intended to orient inmates with the programs and operations of CTCF. A variety of information, rules, and guidance can be found throughout this handbook which will prove useful to inmates during their period of incarceration at CTCF. It is each inmate's responsibility to read and become familiar with the contents of this publication. The information contained inside will assist in understanding what will be expected of each inmate and is designed to provide an orderly and safe environment for inmates, staff, and visitors of this facility.

It is impossible to cover every aspect of the facility in this handbook. Therefore, inmates are encouraged to ask any staff member for more specific information not covered. Substantial modifications to existing regulations and procedures; announcements of new regulations and procedures; or operational and schedule changes may be posted on the cable TV system (Channel 14).

Written policy and procedure governing the control of personal property (AR/IA 850-6) and funds belonging to inmates (AR/IA 200-2) are reviewed annually and updated as needed and are available for review in the General Library [4-4292].

1. COPD

Inmates are responsible to read the Code of Penal Discipline Handbook (AR/IA 150-1, COPD). Inmates are further advised to be aware of and comply with posted operational rules governing conduct and behavior within specific areas of Colorado Territorial Correctional Facility and for becoming familiar with the non-restricted DOC ARs and facility IA/OMs which are available for inmate review in the General Library. The DOC provides written guidelines to ensure inmates comply with the expectations of reasonable behavior and to ensure the welfare and safety of all persons living and working within the institutions.

2. Mail and Packages

Outgoing Mail: All first-class letters must have the proper postage applied. Inmates may write as many letters as they wish. All outgoing letters may be sealed, but the envelope must have the full return address and "Department of Corrections" stamped in the upper left hand corner of the envelope. For example:

Department of Corrections
(Full Committed Name and DOC Number)
P.O. Box 1010-(Cellhouse Number)
Canon City, CO 81215-1010

Excluding weekends and holidays, both incoming and outgoing CTCF mail and packages are picked up and delivered to the Canon City branch of the United States Post Office daily. Both incoming and outgoing mail are held no longer than 48 hours and packages no more than 72 hours.

Restricted Inspection Outgoing Mail: Outgoing mail to the courts must be taken to movement control for logging the time and date of mailing. Other restricted inspection mail must be submitted to cellhouse staff by 1300 hours Monday through Friday for stamping and logging.

Incoming Mail: All incoming mail and packages come through the facility mailroom and will be inspected for contraband. Mail is picked up by the cellhouse staff after 1400 each regular working day (holidays excluded) and will be distributed per cellhouse procedure. A list of inmates receiving mail is posted in the cellhouse Monday through Friday and mail distribution takes place after 1530 in the cellhouse. The names of inmates with incoming packages will be posted daily in the cellhouse after 1400. If an inmate's name appears on the incoming package list, he may pick up the package at the CTCF property room by showing his DOC ID card. Items received through the mail will be inscribed and added to the inmate's property list (A copy of the mailing slip will serve as a permit prior to being sent the new cell permit). All CTCF non-privileged letters and packages are opened and inspected to intercept cash, checks, money orders, and contraband items. Approved certified checks and money orders removed from incoming mail by mail room staff is sent to inmate accounts where they are added to the inmate's account. The envelope from which checks or money orders are taken is marked with the amount, date and staff member initials. Electronic money orders are accepted from Western Union, Money Gram, and JPay. Funds will be recorded by Inmate Accounts and receipts will be printed each business day by the mailroom and forwarded to the cellhouses. Rejected items in letters/packages may be returned to the sender at the expense of the inmate or disposed of at the discretion of staff. Inmates will not be allowed to receive money from other inmates or other inmate's families; former inmates or their families; volunteers, DOC employees or former volunteers and DOC employees.

Incoming Restricted Inspection Mail: Mail (courts, attorneys/agent of record, elected public government officials/buildings, confining authority, paroling authority, administrators of the offender grievance system, ADA Inmate Coordinator, and/or legitimate health-care providers or facilities/physicians/hospitals or clinics) sent to inmates shall be opened only in the presence of the inmate addressee, unless waived in writing and only for the purpose of inspecting this mail for contraband. If contraband is discovered or if it is determined that the mail is not restricted in nature and contains other extraneous material, the inmate may be charged with a disciplinary violation.

Forwarding Mail: After the inmate paroles or discharges, first-class letters and packages will be forwarded if an address is known. If not, they will be returned to the sender.

Packages: All packages shipped out or received go through property. Incoming packages will be inventoried, and logged.

Reference: IA 300-38, 750-1

Identification/Dress Code/Allowable Items for Visitors:

Visitors to the facility are expected to present a valid picture ID upon their arrival, and must be dressed in appropriate, conservative clothing. No camouflage, orange or solid green clothing; no gray sweat clothing; no gang-related or obscene designs or messages; no provocative, suggestive or revealing clothing; no hats except for religious hats or headgear will be permitted. Further clarification regarding approved visiting attire is available in AR 300-1, Offender Visiting Program. Inmates are responsible to ensure their visitors are knowledgeable of the dress code requirements. Visitors may bring the following items into the visiting room: one plastic, one-piece comb (no rat-tail); Canteen Services debit card; wedding ring; (1) religious medal; (1) medical alert tag; photo identification card; and car keys/ keyless remote. Prescription medication needed by visitors will be checked at the visiting entrance and placed in the visitor locker. No items are to be exchanged between visitors and inmates other than vending machine items.

Children:

Visitors must supervise and maintain control over their minor children. No physical discipline is permitted on DOC property. Minor children must be listed on the cumulative visitor's record, but will not be counted toward the eleven approved visitors.

Special Visits:

Special visits (for example, family emergencies) are arranged through the case manager at least ten days prior to the visit by completing a Special Visit Request form to be approved by the Custody Control Manager.

Visitors will be excluded from the visiting list with authorization from the Administrative Head if they:

- a. Are the victim of the sex offender they are attempting to visit, except under circumstances approved in advance and in writing by the sex offender treatment staff;
- b. Are under the age of eighteen (18) visiting an offender who has been convicted at any time of sexual assault on a child, incest, or aggravated incest unless approved in advance and in writing by the sex offender treatment staff;
- c. Are victims of the offender or are children under the age of eighteen (18) years of age, if such visits would be contrary to the rehabilitation of the offender as documented by mental health staff who will evaluate the offender and make recommendations regarding visits which may be detrimental to the offender's rehabilitation.

Disabled Accommodations:

Inmates with disabilities which require assistance to access visiting via the outside elevator will notify the movement control officer for staff assistance.

Pens, paper, and magnifying sheets will be provided for communication purposes when necessary.

Inmates who may need extra consideration for restroom breaks should refer to Administrative Regulation 300-1 regarding appropriate procedures.

Reference: CTCF IA 300-1

5. Indigent Assistance

Definition: An unemployed inmate declaring indigence in accordance with DOC AR 850-14, whose available account balance in the preceding thirty (30) days has been reduced below the following, qualifying, designated dollar amount or has not reached the specified amount:

1. For basic hygiene items, \$4.60;
2. For personal letters (social correspondence to family and friends) \$4.60, one personal letter per week with postage not to exceed \$2.00 per month.

Legal Photocopies: Through the CTCF law library, an indigent inmate shall be allowed a reasonable number of copies of legal documents related to his own active legal case as outlined in DOC Administrative Regulation 750-1, "Legal Access."; Legal Mail:

Restricted Inspection Mail. CTCF will pay the postage for mail addressed to a court, state licensed attorney or the authorized paralegal of a licensed attorney, or a state/federal government official in order to ensure timely mailing. However, the postage will be charged against the inmate's DOC account. An indigent inmate shall be responsible to clearly mark the envelope as restricted inspection mail, and it will be appropriately processed.

what the parole board expects of them. The inmate's institutional record, cellhouse ratings, job ratings, disciplinary record, programs participation, and criminal recidivism will have a significant bearing on the parole board's decision.

Earned Time: Definition: Earned Time (ET). Time that may be deducted from the inmate's sentence provided certain conditions are met; not to exceed ten (10) days per calendar month. Any conviction of COPD violation will result in no consideration for ET for the following time frames: Class I: The month of the conviction and the following two months; Class II: The month of the conviction and the following month; Class III: The month of the conviction.

An inmate's behavior within the cellhouse along with cell cleanliness will be rated by the case manager based upon first-hand knowledge as well as information provided by staff familiar with the inmate's attitude, behavior, work habits, etc. The maximum award is two days per month.

Employment/academic/vocational supervisor will ensure work evaluations are completed monthly via Master Program Scheduling (MPS). The evaluation scale is rated from "1" to "5" with "5" being the lowest. The maximum award is two days per month.

The case manager will evaluate the overall compliance of the inmate with his diagnostic program and/or needs assessment, his program participation, his participation in self help groups and recommend zero to one day for MGT or zero to five days for ET. The case manager will also award one day (ET only) for not contacting or harassing a witness or a victim. The case manager will review with the inmate the MGT/ET awards and explain their denial of any MGT/ET withheld. Earned time awarded for participation in the academic/vocational program will be awarded by the academic/vocational program in accordance with C.R.S. 17-22.5-302.

Re-Entry: The Pre-Release Specialist will pull PED and MRD lists at least once per month and will coordinate with case management to determine eligibility based on individual needs.

Reference: CTCF IA 250-65, 500-1, 550-1, 600-1

8. Clinical Services (medical, dental, optometry, co-payment procedures)

Primary Health Services: Primary health services includes emergency services, sickline, physician extenders (referral to a staff physician), nursing services, dental services, optometric services (prescription glasses), mental health services, routine physical examinations, pharmacy services, referral to outside health agencies and consultants, infirmary care/acute care hospitalization, and a comprehensive, confidential health record.

Med Lines, insulin med lines, and self med-card exchange and pickup are posted in CTCF Operational Schedule (IA 300-55 A).

Segregation inmates are seen by clinical services twice a day for meds.

Sickline: Sicklines are conducted every weekday. To be seen on sickline, the inmate must obtain a request for sickline slip from the cellhouse staff and submit it at the "kite" box located next to the medication window. After receiving the request, the medical department will schedule an appointment for the first available time. The inmate will receive an appointment slip from the cellhouse staff. Inmates should report to medical appointments at the movement time prior to the appointment.

Emergency Services: If an inmate has been injured or if an inmate feels seriously afflicted, he should immediately contact the nearest staff member for possible escort to the infirmary.

CRS 17-1-113. CRS 17-1-113 provides that inmates must pay a co-pay charge for certain medical services. The exact conditions and services covered by this law shall be posted by medical services. All inmates are responsible to read and become familiar with the charges that they may encounter. Further information concerning the specific charges may be directed to the medical staff. Primary health services are provided at no cost to the inmate.

Pharmacy Services: Aspirin, Tylenol, Gelusil, etc. are available from canteen services. Inmates with chronic medication problems may be eligible for the self-medication program. It will be the responsibility of any inmate on the self-medication program to take the medication as prescribed. Unused or outdated medications are to be returned to medical services. Unauthorized medications and/or medications not in their issued, labeled container(s) are unauthorized and considered contraband. Authorized glucose tabs, inhalers, and nitro tablets may be carried on an inmate's person in limited quantities. Otherwise, meds must be secured in the inmate's cell.

10. Prison Rape Elimination Procedures

The Colorado Department of Corrections has policies and procedures addressing sexual assault/rape, sexual abuse, and sexual misconduct while inmates are under the jurisdiction/custody of the CDOC as outlined in Administrative Regulation 100-40, Prison Rape Elimination Procedure. Inmates have the right to be safe from sexual assault and can help prevent such incidents. Inmate housed at CTCF may report any act of sexual abuse, assault/rape or sexual misconduct to any staff member, contract or volunteer, or the Office of the Inspector General without fear of retaliation. Incidents may also be reported by calling the confidential pre-programmed CIPS number at 1-877-DOC-TIPS-0 or toll free at 1-877-DOC-TIPS. Counseling is available. [4-4281-1]

11. Grievance Procedure

General: Grievance forms are available from the case manager. A grievance is a formal complaint concerning an incident or condition. Most valid grievances can be resolved quickly through direct contact with the staff who is responsible in the particular area of the problem. Informal remedy is the recommended course of action and inmates should work with their case manager to accomplish this. Staff awareness and prompt attention to these routine requests will minimize the use of formal grievance procedures.

The purpose of the inmate ADA grievance procedure is to provide inmates a legitimate method of settlement or request for accommodation under ADA when an inmate has been unable to resolve issues related to his disability. Inmates may file an emergency grievance based upon a denial that he has a qualifying disability pursuant to ADA or failure to accommodate a qualifying disability. The Office of the AIC is the official custodian of all ADA grievances.

All medical co-pay issues may only be resolved through the grievance process.

Reference: CTCF IA 850-4

12. American's With Disabilities Act

Inmates who contend they have a qualifying disability must submit the fully completed Request for Accommodation (DC Form 850-4C and 850-4D) and signed and witnessed Medical Release to the office of the ADA Inmate Coordinator (AIC). The office of the AIC in conjunction with the Chief Medical Officer or his designee will determine on a case-by-case basis what accommodations if any, will be made. CTCF has been designated to house inmates with qualifying disabilities requiring special placement pursuant to the Montez Remedial Plan. Inmates with diabetes, permanent mobility, hearing or vision impairments and other disabilities or compound conditions severe enough to require special housing and programming may be assigned to CTCF.

Schedules of routine movements will be posted in the cellhouses for inmates with hearing disabilities so that they can participate in routine movements and activities. If there are any unusual announcements, they will be personally notified by the living unit staff or an inmate messenger. Inmates with hearing impairments will be personally notified of an alarm by a staff member. Hearing impaired inmates will be given all orientation materials in written form. A staff member who can communicate with the inmate will be made available for the inmate to clarify any comprehension issues they may have. A professional sign language interpreter may be obtained if necessary.

Sight-impaired inmates will be provided orientation material in verbal format and video titler messages will be provided in verbal format. Sight-impaired inmates will be provided a sighted Offender Care Aide (OCA) to assist with their daily needs when necessary.

Copies of the Montez Remedial Plan and subsequent stipulations are available for review in the general library and a copy may be obtained by writing to the Office of the AIC, 2165 S. Circle Drive, Colorado Springs, Colorado 80906

13. Legal Access/Law Library

Access: General population inmates are required to submit a DOC Form 144 "Request for Legal Assistance" to be scheduled for legal access. Assistance will be provided by the facility legal assistant.

Legal assistance forms are available from the cellhouse staff. Properly completed forms are to be deposited in the drop-off slot next to the law library door.

all purchase receipts, money orders receipts, etc. indicating the purchase of any inventoried items. Inmates coming from other facilities are not allowed any "grand fathered" property. The property inventory sheet must be posted in the cell as this is the cell permit.

Canteen Catalog: Electrical appliances will be inventoried. Serial numbers of the property and the inmate's DOC number will be etched on a pre-registered blue tag. The tag will be placed on a permanent area of the appliance.

Reference: CTCF IA's 850-6

18. Searches and Contraband Control

Definition: Contraband may be defined as any item, article, instrument, or substance not issued by the facility, not purchased through the canteen or other approved sources, or authorized for issue by a staff member. Authorized items may be considered contraband when found in excess of expressed limits or defined as contraband by regulations or rules, or when the original design or condition has been altered or modified.

Shakedowns: Any DOC staff member has the absolute right to search an inmate, cell, or job area at any time. Frequent random searches are conducted throughout the facility. For this reason, inmates should carefully examine their cell when they first move in, to check for items that may have been left or damage done by a previous occupant. Inmates will be held responsible for everything in their cell.

Disposition of Contraband: Property defined as contraband may be disposed of as follows:

1. If the item is determined not to be contraband, it may be returned to the inmate.
2. The item may be declared contraband, and if so will be disposed of. If this option is used, it will be at the inmate's expense. A Confiscated Inmate Property/Disposition Option form (IA 850-6A) or a Notice of Rejection/Disposition of Mail slip (DC 300-38D) or a shakedown slip will act as written notice that the inmate has 10 days from that date to provide property control officer with desired disposition. If the inmate who is allowed this option fails to comply with the specified time limits, the contraband will be disposed of according to Nos. 3 and 4 below.
3. The disposition of the contraband may be left to the facility. If the item is determined to be of some useful value, it will be disposed of by donation to local charities.
4. The contraband may be destroyed by the facility or rendered useless.
5. Contraband used as evidence in COPD or legal proceedings will not be destroyed until conclusion of the administrative/legal proceedings. Disposition of these items will be in accordance with IA 850-6 and IA 300-6.

Reference: CTCF IA's 300-6, 300-38, 850-6

19. Inmate Assignments and Pay

Work/Program Assignment: Initial job/program referrals, including referral to a mental health program, will be made by the case manager through master program scheduling (MPS). Information concerning job referrals is available from the cellhouse staff or the prospective work/program supervisor. A list of assignments available at CTCF is posted in the general library and job descriptions with physical requirements are available for review. Inmates must be compliant with program requirements in accordance with Administrative Regulation 600-5, Restriction of Offenders' Privileges in Correctional Facilities. Inmates will have ten working days from the date of being assigned a permanent case manager to become compliant. If the inmate fails to become compliant, the Restriction of Privileges process will be initiated by the inmate's case manager.

Inmate Pay: It is the policy of CTCF to provide work, vocational, and academic assignments to all inmates in order to improve job skills and develop good work habits. All inmates are paid on a monthly basis. Those inmates assigned jobs or paid programs will be paid for the days they worked or participated in assigned programs for the month. Those inmates unassigned to either jobs or programs will be paid 23 cents per day. All inmate pay is input and processed on the last day of each month, but will not be posted and available for use for up to eight (8) days.

Reference: IA 300-23, 850-3

notification. Upon hearing this warning or seeing the flashing of the pod lights, inmates are to proceed to their cell and remain there until the count has been cleared. Not being in the proper location for the count is a serious disciplinary infraction.

If a routine count cannot be cleared for any reason or if the shift commander has reason to suspect the existence of a problem, the control center will call for a head count. When a head count is called, all inmates will, regardless of their job assignment, report immediately to their assigned cell for count and be prepared to stand and present their DOC ID to counting staff.

Reference: CTCF IA 300-4

22. Emergency Notifications

Should the facility be notified of a family emergency, the volunteer chaplain or duty administrative head will be notified and will in turn notify the inmate. Should the inmate become aware of a family emergency, the inmate may consult the appropriate case manager, who will attempt to assist upon verifying the emergency. It is imperative the inmate keeps his case manager apprised of any emergency. Should an inmate have a problem within the facility, it is the inmate's responsibility to notify any staff member of the problem immediately. Emergency escorted leave is explained in DOC Administrative Regulation 300-17.

Reference: CTCF IA 300-17, 800-7

23. Food Service

Three meals are served each day. Times are posted in Offender Movement Schedule, IA 300-55 A.

There are two dining rooms, the South and the North.

The first three rows of tables in the North dining room as well as some first row seats in the South dining room are reserved for physically challenged inmates and seating in this area is restricted. OCA's or food service workers will assist physically challenged inmates as needed with trays, etc. Seating is on a row by row basis for the remainder of the population as directed by staff. Inmates will have approximately 20 minutes to complete their meal and must leave the dining hall and return to their cellhouse or work assignment when they finish their meal.

Inmates must dress in DOC approved clothing, no sweat suits, shorts, or shower shoes allowed. Posted operational rules are posted in each dining room.

The food service department follows the approved DOC Six-Week Cycle Menu. Menus are posted in the cellhouses as well as in the dining rooms. The DOC menu provides a meatless alternate entree. Anyone wanting an alternate entree must request the substitute prior to receiving a tray. Both dining rooms contain an information center. Inmates can obtain menu and nutritional information.

Reference: CTCF IA 300-55, 1550-2

24. Identification Cards

Inmates must have a DOC identification card in their possession as prescribed by DOC ARs and CTCF IAs. An inmate ID card will be needed during formal counts, to pick up packages, canteen, to check out library books and athletic equipment, for notary services, to receive medication, and for attendance at some programs. If an inmate does not have a permanent ID card, he should contact his case manager for immediate replacement. A fee will be charged for replacement of lost, damaged, or destroyed ID cards.

25. Programs

Religious: CTCF has volunteer led weekly programs for the following faith groups:

Protestant - Prison Fellowship, Turning Points Bible Study, Grace Fellowship, Chapel Services

Catholic - Renewal Bible Study, Monthly Catholic Mass (when possible)

Jehovah Witness - Saturday Service, Wednesday Book Study

Latter Day Saints - Sunday Service

There are also weekly services for American Indians, Muslims, Orthodox Jews, and Messianic Jews. Other volunteer programs that are offered on a more limited basis include; Promise Keepers, Kairos, Shekinah Ministries, Heritage Christian Center, various

1. Be assigned to CTCF for at least six (6) consecutive months.
2. Have no Class I convictions of the Code of Penal Discipline (COPD) for 12 months, or Class II convictions of the Code of Penal Discipline for the past six months, to include probated sanctions.
3. Have a job assignment and be in compliance with recommended programs or be actively engaged in required programs.
4. Have standard or above work evaluation ratings for ninety (90) days prior to assignment and maintain "1" or "2" ratings.
5. Overall behavior, classification, and security status indicating whether the inmate will conduct himself in a responsible manner.
6. Has not been terminated from the Hobby Shop for abuse of the program.
7. Inmates who are unable to participate in programs, work assignments, or other prerequisites due to a qualifying disability shall not be refused a hobby permit solely on these grounds.

The only allowable craft for cellhouse hobby work is drawing/sketching. Criteria to participate in cellhouse hobby work are:

1. Be assigned to CTCF for at least 90 days.
2. Have no Class I or Class II conviction of the COPD in the past 90 days, to include probated sanctions.
3. Be employed or classified as medically unassigned as determined by the classification committee.
4. Have standard or above work evaluation ratings for ninety (90) days prior to approval and maintain "1" or "2" work rating.
5. Have overall behavior, classification and security status indicating inmate will conduct himself in a responsible manner.
6. Inmates who are unable to participate in programs, work assignments, or other prerequisites due to a qualifying disability shall not be refused a cellhouse hobby permit solely on these grounds.

Reference: CTCF IA's 300-9, 1000-2

Academic School: A student is referred to educational programs, which are paid work assignments, by his case manager. Students must enroll in either one full day program or two half day programs to complete a full day work assignment. Those wishing to work on GED skills independently may check out study materials from the library. GED qualification testing is conducted by the school on alternating months with the Official GED test.

Classes available are: Adult Basic Education (ABE).
General Education Development (GED).
Healthy Living
Community Reintegration

Vocational Programs: Basic Janitorial
Advanced Janitorial
Culinary Arts
Basic Computer Operations
Cosmetology

Reference: CTCF IA's 500-1, 1050-1

26. Security Threat Groups

It is the policy of the DOC to prohibit and eliminate any offender participation in security threat groups. Any display or possession of security threat group colors, symbols, signs or insignias, and/or recruitment efforts is unauthorized and shall be interpreted under the Code of Penal Discipline (COPD) with the appropriate violation.

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Cell Keys: Inmates assigned to cellhouses requiring cell keys to be issued will be responsible for the key. Any lost or stolen keys must be reported to the cellhouse staff immediately. The inmate is financially responsible for any lost or intentionally damaged key/locks.

Cell Inspections: Cell inspections are conducted daily in the cellhouses and an inmate need not be present during the search of their cell. Inmates are responsible for items found in their cell, in their lockers, or on their shelves or bunks.

Bulletin Boards: All posted/displayed material must be on and within the borders of the brown painted squares located on the wall and secured with tape. The posting of loose or altered photos from magazines/newspapers is prohibited. Only one Calendar no larger than 12"x 12" folded once, per inmate is allowed.

Medical Lay-in: An inmate on a medical lay-in shall remain in his assigned cell for the duration of the lay-in except for scheduled medical, dental, and mental health appointments. Unless the medical lay-in specifically prescribes meals be sent to the cellhouse, the inmate will also be allowed out of cell for meals.

Issuance of Cell Cleaning Supplies: Each cellhouse has designated times when cleaning supplies are available to maintain cell cleanliness. All cell cleaning supplies are rated "0" and are not toxic, caustic, corrosive, or hazardous.

Segregation: All segregation inmates will be housed in Cellhouse 3 on the segregation tiers.

1. Punitive segregation is a sanction imposed on an inmate by the hearing officer/board as a result of a guilty finding under the COPD.
2. Removal from population inmates have been removed from the general population of the facility pursuant to DOC Administrative Regulation 600-1 for reasons identified therein.
3. Administrative segregation inmates have been reviewed and recommended for administrative segregation in accordance with DOC Administrative Regulation 600-2 and are awaiting transfer to a maximum security facility.

Inmates assigned to a segregation status will have their property searched and inventoried by the property officer and property allowed in segregation will be returned to the inmate. Tokens, soda pop, and soda pop bottles are considered contraband in the segregation wing. Purchase of canteen items in segregation is limited. Posted operational rules are posted in the segregation wings.

Reference: CTCF OM 650-101

30. Reading Material

Magazines and Newspapers: Reading material may be denied if it contains any diagram, formula, or instructions for the creation of weapons, chemicals, or controlled substances or intoxicants ; any publication which advocates hatred or contempt of other persons; any publication produced or distributed by security threat groups, or depicting association or membership in security threat groups; sexually explicit material, if Mental Health or the Sex Offender Treatment Program have directed the inmate not to subscribe or to possess as they are contrary to rehabilitation goals; or materials primarily devoted to bestiality, pedophilia, sadism, masochism, or necrophilia, discharge of bodily fluids, penetration, sexual intercourse, oral sex or masturbation may be prohibited. Periodicals must be new, rather than used, and sent from a subscription or authorized book store.

Newspapers will be ordered on a monthly basis, and the cost of the subscription will be deducted from the inmate's account by a newspaper order form supplied by the cellhouse staff. Once submitted, a subscription cannot be canceled for that month. The order must be placed by the 17th of each month and will begin on the first of the following month. Subscriptions must be to daily newspaper publications; no weekend-only newspaper subscriptions will be allowed.

Reference: IA 300-26, 300-38