

APPENDIX

TABLE OF CONTENTS

	<u>Page</u>
APPENDIX A—Eighth Circuit’s Opinion (Sept. 20, 2024)	1a
APPENDIX B—District Court’s Order Adopting Magistrate’s Disposition (Jan. 3, 2023).....	14a
APPENDIX C—District Court’s Order Scheduling Evidentiary Hearing (Apr. 29, 2022).....	16a
APPENDIX D—Recommended Disposition from Magistrate Judge (July 20, 2022).....	20a
APPENDIX E—Eighth Circuit’s Order Denying Rehearing (Dec. 23, 2024).....	37a
APPENDIX F—Complaint (Feb. 22, 2021)	39a
APPENDIX G—Transcript of Motion Hearing (June 30, 2022)	52a

1a

APPENDIX A

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

No. 23-1414

ANGELA SCHUNCEY RICHARDSON,

Plaintiff-Appellant,

v.

KRYSTLE REED DUNCAN, CORPORAL,

Defendant-Appellee.

ATTORNEY GENERAL OF ARKANSAS,

Amicus Curiae

Appeal from the United States District Court
for the Eastern District of Arkansas - Central

Submitted: August 30, 2024

Filed: September 20, 2024

Before: COLLOTON, CHIEF JUDGE, MELLODY AND
GRUENDER, CIRCUIT JUDGES.

COLLTON, Chief Judge.

Angela Richardson, an Arkansas inmate, sued Krystle Reed Duncan, a former prison security officer, alleging sexual misconduct in violation of the Eighth Amendment. Duncan defaulted, but the district court¹ concluded that Richardson failed to state a claim because she alleged only consensual sexual encounters with Duncan. Applying our circuit precedent of *Freitas v. Ault*, 109 F.3d 1335 (8th Cir. 1997), to the record in this case, we affirm.

I.

Richardson sued Duncan under 42 U.S.C. § 1983, alleging sexual harassment and sexual assault in violation of the Eighth Amendment. The allegations in Richardson's complaint set forth the following narrative. Richardson was imprisoned at the McPherson Unit of the Arkansas Department of Correction. Duncan was a prison security officer at the unit through January 2019. Between November 2018 and January 2019, Richardson and Duncan developed a relationship. Richardson trusted Duncan and confided in her. Eventually, the relationship included sexual contact: the couple kissed, and Richardson digitally penetrated Duncan's vagina. This behavior allegedly continued for months; Duncan contacted Richardson by email and regular mail, and occasionally deposited money into her account at the

¹ The Honorable Lee P. Rudofsky, United States District Judge for the Eastern District of Arkansas, adopting the report and recommendations of the Honorable Edie R. Ervin, United States Magistrate Judge for the Eastern District of Arkansas.

prison. Richardson spent extra time with Duncan in the medical facilities where Duncan was stationed. Richardson participated in the relationship because she felt safe with Duncan. As Richardson had reported a prior sexual assault and says that she experienced retaliation, she did not tell anyone but a family member about her relationship with Duncan. Richardson allegedly suffered emotional distress when she found out later that Duncan had been “carrying on with other inmates in the past before their release.”

Duncan was fired in January 2019, but she and Richardson corresponded by letter thereafter. Richardson suffered emotional distress after learning that Duncan had been sexually involved with other inmates. Richardson allegedly felt that she was “just another victim.” In late 2020, Richardson told prison officials about her sexual contact with Duncan, and this litigation followed.

Duncan never answered Richardson’s complaint or otherwise participated in this litigation. The clerk of court entered Duncan’s default, *see* Fed. R. Civ. P. 55(a), and a magistrate judge then held a hearing under Federal Rule of Civil Procedure 55(b)(2). That rule authorizes the court to “establish the truth of any allegation by evidence” and to “determine the amount of damages.”

After the hearing, the magistrate judge recommended vacating the clerk’s entry of default and dismissing Richardson’s complaint without prejudice for failure to state a claim upon which relief can be granted. *See* 42 U.S.C. § 1997e(c)(1); 28 U.S.C. § 1915(e)(2)(B)(ii). The magistrate judge concluded

that Richardson’s complaint asserted only consensual sexual activity with Duncan: Richardson did not allege facts to support a belief the Duncan “would have used her position to harm” Richardson if she had declined a sexual relationship, and Richardson did “not allege that she communicated to [Duncan], by conduct or words, that she was not a willing participant in their relationship.” On that basis, the judge recommended that the complaint did not adequately allege either the objective or subjective component of a claim under the Eighth Amendment. The magistrate judge recommended alternatively that if the district court found that a default judgment should be granted, then it should award only nominal damages, such as one dollar. The district court adopted the recommendation to dismiss the complaint for failure to state a claim.

Richardson appeals. Because Duncan did not appear, this court invited the Attorney General of Arkansas to submit a brief *amicus curiae* regarding the issues in the appeal. We review the district court’s decision *de novo*. *Rinehart v. Weitzell*, 964 F.3d 684, 687 (8th Cir. 2020).

II.

Richardson argues on appeal that she stated a claim under § 1983 and the Eighth Amendment. As a general matter, once a prisoner is incarcerated, “only the ‘unnecessary and wanton infliction of pain’ . . . constitutes cruel and unusual punishment forbidden by the Eighth Amendment.” *Whitley v. Albers*, 475 U.S. 312, 319 (1986) (internal quotation omitted). A prisoner alleging a violation must satisfy both an objective and a subjective element. The objective

inquiry asks whether “the alleged wrongdoing was objectively ‘harmful enough’ to establish a constitutional violation.” *Hudson v. McMillian*, 503 U.S. 1, 8 (1992) (quoting *Wilson v. Seiter*, 501 U.S. 294, 303 (1991)).

When assessing whether alleged wrongdoing was objectively “harmful enough,” we analyze the general requirement of “infliction of pain” with “due regard for differences in the kind of conduct against which an Eighth Amendment objection is lodged.” *Id.* (quoting *Whitley*, 475 U.S. at 320). For example, “routine discomfort” is generally insufficient to state a conditions-of-confinement claim, *id.* at 9, and *de minimis* uses of force that cause “no discernible injury” are almost never excessive. *Wilkins v. Gaddy*, 559 U.S. 34, 38 (2010) (internal quotation omitted).

In *Freitas v. Ault*, this court addressed alleged sexual abuse by a prison official against an inmate. Sexual activity between a correctional officer and an inmate is improper and serves no legitimate penological purpose. In Arkansas, it is a felony for a corrections officer to engage in sexual contact with a prisoner. Ark. Code § 5-14-127(a)(2). With respect to the objective component of a constitutional claim, however, *Freitas* held that “welcome and voluntary sexual interactions, no matter how inappropriate, cannot as matter of law constitute ‘pain’ as contemplated by the Eighth Amendment.” 109 F.3d at 1339. *Freitas* aligns with the observation of the Tenth Circuit in a similar case that “not all misbehavior by public officials, even egregious misbehavior, violates the Constitution.” *Graham v. Sheriff of Logan Cnty.*, 741 F.3d 1118, 1125 (10th Cir. 2013).

Richardson contends that the Supreme Court's decision in *Wilkins* undermines *Freitas*. *Freitas* and *Wilkins*, however, involved different types of claims under the Eighth Amendment. *Freitas* addressed the significance of a prisoner's consent in the context of a claim of alleged sexual harassment or abuse by a prison official. Although physical or psychological harm resulting from sexual abuse can satisfy the objective component of an Eighth Amendment claim, *Freitas* concluded that where a prisoner consents to sexual encounters, there is no infliction of "pain" as contemplated by the Eighth Amendment. *Id.* Therefore, the prisoner in that case could not satisfy the objective component of a claim alleging cruel and unusual punishment.

Wilkins, by contrast, reaffirmed the holding of *Hudson* that a claim of excessive force does not fail simply because a prisoner suffers only *de minimis* injury. 559 U.S. at 38-39. The proper inquiry for that type of claim focuses on the force used by a prison official. A prisoner may suffer "pain" as contemplated by the Eighth Amendment if a prison official applies excessive force, even if the prisoner's physical injury is not serious. *Id.* at 37-38.

Freitas did not analyze an alleged use of excessive force. The decision did not reject the prisoner's claim based on a requirement of more than *de minimis* injury. The court concluded, rather, that a prisoner who engages in a consensual sexual encounter suffers no "pain" or harm at all under the Eighth Amendment. 109 F.3d at 1339. *Freitas* cited the Supreme Court's decision in *Hudson* on excessive force, but nonetheless held that no constitutional

violation occurred in a case of consensual sexual activity. *Wilkins* and its reaffirmance of *Hudson* thus did not abrogate our circuit precedent in *Freitas*.

Richardson argues that even accepting the rule in *Freitas*, her complaint alleged nonconsensual sexual abuse that violated the Eighth Amendment. Before entering a default judgment, a court must “ensure that ‘the unchallenged facts constitute a legitimate cause of action.’” *Marshall v. Baggett*, 616 F.3d 849, 852-53 (8th Cir. 2010) (internal quotation omitted). “Conceptually, then, a motion for default judgment is like a reverse motion to dismiss for failure to state a claim.” *Surtain v. Hamlin Terrace Found.*, 789 F.3d 1239, 1245 (11th Cir. 2015) (per curiam). In a lawsuit by a prisoner, moreover, the district court shall on its own motion dismiss an action that fails to state a claim. 42 U.S.C. § 1997e(c)(1). To state a claim in light of *Freitas*, Richardson must allege facts that are sufficient to make out a plausible claim of sexual abuse or harassment that was not consensual. See *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 569 (2007).

We conclude that Richardson failed to state a claim in her complaint because she did not allege that her sexual contact with Duncan was not consensual. Richardson alleged that she confided in Duncan, and that her feelings for Duncan led to sexual activity. Richardson asserted that she told only a family member about the encounters, and that she allegedly faced retaliation after reporting a past sexual assault. But Richardson did not allege that Duncan used force, intimidation, or threats of retaliation to procure sexual activity. Richardson alleged that she “went along with the relationship due to her weakness and

feeling safe with Officer [Duncan],” but did not assert that Duncan protected her from unsafe conditions elsewhere in the prison in exchange for sex. Richardson did allege that Duncan placed money in her prison account at times, but did not allege that Duncan traded money for sex or that any gifts or privileges influenced her participation in the sexual encounters. *See Graham*, 741 F.3d at 1124.

As the district court recognized, any relationship between a corrections officer and an inmate is fraught with potential for coercion due to the imbalance of power. Any inmate might subjectively fear potential retaliation from a prison official. But *Freitas* accepted that sexual interactions nonetheless could be “welcome and voluntary,” and thus rejected a *per se* rule that prisoners are incapable of voluntary consent. 103 F.3d at 1339. To state a plausible constitutional claim, therefore, a prisoner who recounts sexual contact that is outwardly consensual must allege at least some manifestation of resistance by the prisoner or some act of coercion by the corrections official. Richardson’s complaint makes no such allegation, so it is insufficient to state a claim. *Cf. Hale v. Boyle County*, 18 F.4th 845, 855 (6th Cir. 2021) (per curiam) (inmate asserted that court security officer provided “privileges and favors in exchange for sex”); *Rafferty v. Trumbull County*, 915 F.3d 1087, 1096 (6th Cir. 2019) (inmate alleged that she complied with sexual advances because corrections officer “intimidated” her); *Wood v. Beauclair*, 692 F.3d 1041, 1048 (9th Cir. 2012) (“Wood’s statements and conduct demonstrate objective manifestations of his unwillingness to engage in any type of sexual act.”).

Richardson also relies on statements that she made in the evidentiary hearing convened by the magistrate judge under Rule 55(b). We have not addressed whether a plaintiff may use such a hearing to supplement the allegations of her complaint. The rule provides that the court may conduct a hearing to “establish the truth of any allegation by evidence”—that is, any allegation in the plaintiff’s complaint—but does not refer to adding new allegations that would effectively amend the complaint. Allowing a plaintiff to amend a complaint by way of a hearing under Rule 55(b) would raise concerns about notice and procedural fairness to a defaulting defendant. *See Wooten v. McDonald Transit Assocs., Inc.*, 775 F.3d 689, 699-703 (5th Cir.), *withdrawn and superseded on reh’g*, 788 F.3d 490 (5th Cir. 2015).

We need not resolve here whether a court considering a motion for default judgment must limit its consideration to the plaintiff’s complaint. Even if we consider Richardson’s testimony at the evidentiary hearing, we conclude that it is insufficient to state a claim upon which relief can be granted.

At the hearing, Richardson paraphrased the allegations in her complaint and provided new details of her relationship with Duncan. She explained that she felt safe with Duncan, confided in Duncan, and developed positive feelings for her. These feelings led to the sexual encounters. Richardson testified that she sometimes did not like the way the sexual activity made her feel, but she went along with it, and Duncan did not force her to participate. Richardson testified that after the first sexual encounter, she “felt like” she was “trapped” and “had to do it” because Duncan

“knew so much” about her past negative experiences with other prison officials. But Richardson did not allege that she communicated her reservations or expressed any reluctance or resistance to Duncan. She testified that she sometimes felt like she “wasn’t even in prison” when she was around Duncan, and felt “so safe around her.” She believed that Duncan was “in [her] corner” and seemed like a “super hero.” Richardson stated that Duncan initiated the sexual encounters, but did not allege that Duncan took any coercive action or made any threat of retaliation. Therefore, even considering the hearing testimony for the sake of analysis, we conclude that Richardson failed to state a claim under the Eighth Amendment.

The judgment of the district court is affirmed.

MELLOY, Circuit Judge, dissenting.

I respectfully dissent. I would remand for either the reinstatement of the default judgment or the opportunity for the plaintiff to have a counseled hearing to address the issue of whether she truly entered into a consensual sexual relationship with the defendant.

As a preliminary matter it is important to note that the record before us is fairly sparse. It consists of the plaintiff’s pro se, handwritten complaint which the majority notes must be accepted as true for purposes of the default judgment. The complaint is supplemented by the hearing conducted by the magistrate judge at which the plaintiff was not represented and neither the defendant nor the State of Arkansas participated. At a minimum, I would

remand to allow the plaintiff to have a counseled hearing at which she could more fully explain the allegations of her complaint in which she does allege that she was the victim of sexual harassment and sexual assault.

Turning to the merits, I agree with the majority that *Wilkins v. Gaddy*, 559 U.S. 34 (2010), does not call into question our court's holding in *Freitas v. Ault*, 109 F.3d 1335 (8th Cir. 1997). However, I believe that even under the holding of *Freitas*, the plaintiff has made sufficient allegations to warrant reinstatement of the default judgment in this case. It is true that *Freitas* discussed whether the sexual relationship in that case constituted the infliction of "pain." However, *Freitas* then went on to discuss whether the relationship in that case was truly voluntary. The court specifically noted, "The record contains no evidence . . . supporting his claim that he succumbed to Ms. Howard's advances because she was his boss and he feared the possible negative consequences of reporting her actions." *Freitas*, at 109 F.3d 1339.

In this case, however, I believe there are at least three factors which mitigate against finding a truly voluntary sexual relationship.

First, the plaintiff alleges in her complaint that the defendant put money into her prison account. The magistrate judge made reference to that allegation at the evidentiary hearing but did not develop the record as to the amount or frequency of deposits. Similarly, the hearing did not explore any representations or threats that might have accompanied the deposit of funds. I find it very difficult to conclude a sexual

relationship is truly voluntary in a prison setting when a prison guard pays money for sex.

Second, *Freitas* specifically mentioned there was no credible allegation that Freitas was reluctant to report the relationship with the prison guard. 109 F.3d at 1336. In contrast, in the present case, the plaintiff specifically alleged in her complaint and developed at the evidentiary hearing her reluctance to report the relationship. She said she did tell other family members but was fearful of reporting the relationship to prison authorities because of a fear of retaliation. She alleged and testified that she had previously reported a sexual relationship with a guard and felt that she had been the victim of retaliation as a result. Taking the allegations in the complaint as true, as we must in the context of a default judgment, the plaintiff made a credible allegation that she was reluctant to report the relationship

Finally, the plaintiff alleges that the defendant made her feel safe. The allegations and testimony indicate that the defendant made references to the fact that she would “protect” the plaintiff. Plaintiff testified in support of her allegation that the defendant told her the staff was out to get her and the defendant would protect her. Specifically, the defendant would allow the plaintiff to come to the prison infirmary early in the evening and spend the entire night in the infirmary, away from other prisoners and prison staff. The clear implication being that if the relationship terminated, the plaintiff would no longer have the benefit of the defendant’s protection.

Taking these factors together, I believe that there is more than sufficient evidence in the allegations of the complaint and the evidentiary record to find the relationship was not truly voluntary and to support the entry of a default judgment.

14a

APPENDIX B

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION

Case No. 4:21-CV-00134-LPR

ANGELA SCHUNCEY RICHARDSON

ADC# 712575

PLAINTIFF

v.

KRYSTLE REED DUNCAN

DEFENDANT

ORDER

The Court has received a Recommendation from Magistrate Judge Edie R. Ervin and Plaintiff's objections. After carefully considering the objections and making a de novo review of the Recommendation and the record in this case, the Court concludes that the Recommendation should be, and hereby is, approved and adopted as this Court's findings in its entirety.

IT IS THEREFORE ORDERED that:

(1) The Clerk's entry of default against Defendant Krystle Reed Duncan (Doc. 29) is VACATED.

(2) Plaintiff Richardson's Motion for a Default Judgment (Doc. 27) is DENIED.

(3) Plaintiff Richardson's Complaint (Doc. 2) is DISMISSED without prejudice, and the Clerk is instructed to close the case.¹

(4) The Court recommends pursuant to 28 U.S.C. § 1915(a)(3) that this dismissal constitute a "strike" and certifies that an *in forma pauperis* appeal of this Order or the accompanying Judgment would not be taken in good faith.

Dated this 3rd day of January 2023.

/s/ Lee P. Rudofsky
Lee P. Rudofsky
United States District Judge

¹ In addition to the reasons provided by Judge Ervin, see also *Marshall v. Baggett*, 616 F.3d 849, 855 (8th Cir. 2010) and *Murray v. Lene*, 595 F.3d 868, 871 (8th Cir. 2010).

APPENDIX C

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION

Case No. 4:21-CV-00134-LPR

ANGELA SCHUNCEY RICHARDSON

ADC# 712575

PLAINTIFF

v.

KRYSTLE REED DUNCAN

DEFENDANT

ORDER

Before the Court is Plaintiff Angela Schuncey Richardson's motion, filed April 19, 2022, for a default judgment against Krystle Reed Duncan. *Doc. 27*. On April 25, 2022, the Clerk entered Defendant Duncan's default (*Doc. 29*), pursuant to Rule 55(a) of the Federal Rules of Civil Procedure and the Court's Order. *Doc. 28*. The Court now schedules and evidentiary hearing on Ms. Richardson's motion and provides her notice about the purpose of the hearing.

Ms. Richardson, an inmate at the McPherson Unit of the Arkansas Division of Correction (“ADC”), filed this *pro se* lawsuit under § 1983 against former ADC staff member Krystle Reed Duncan. *Doc. 2*. Ms. Richardson claims that Defendant Reed sexually harassed and assaulted her from mid-November 2018 until sometime in 2019. *Id.* She sues Defendant Reed in her individual and official capacities, seeking \$350,000 in compensatory damages; \$150,000 in punitive damages; and “a policy to make inmates feel comfortable [about] breaking the silence instead of retaliatory actions and false disciplinaries.” *Id. at 6*.

Given Defendant Reed’s default, the *factual* allegations in the complaint, other than those relating to damages, are taken as true. *Murray v. Lene*, 595 F.3d 868, 871 (8th Cir. 2010). However, the Court remains obligated to ensure that Ms. Richardson’s factual allegations provide a basis for Defendant Reed’s liability. *Id.* (quoting 10A C. Wright, A. Miller & M. Kane, Federal Practice and Procedure § 2688 at 63 (3d ed.1998)) (“[I]t remains for the court to consider whether the unchallenged facts constitute a legitimate cause of action, since a party in default does not admit mere conclusions of law.”).

In her complaint, Ms. Richardson alleges that she had a months-long relationship with Defendant Reed, while Defendant Reed worked as a correctional officer. Ms. Richardson alleges that she felt safe with Defendant Reed but labels their encounters as sexual harassment or assault.¹ *Doc. 2 at 1*. Because Ms.

¹ Ms. Richardson brings her claim against Defendant Reed under 42 U.S.C. § 1983, which provides a cause of action for the violation of a constitutionally protected federal right. The

Richardson's complaint is somewhat conclusory and unclear, Ms. Richardson should be prepared to clarify these factual allegations at the hearing.

In addition, if the Court finds liability established, it must determine Ms. Richardson's damages. Because damages in this case are indefinite and not subject to easy computation, Ms. Richardson shoulders the burden to prove her damages to a reasonable degree of certainty. See *Everyday Learning Corp v. Larson*, 242 F.4d 815, 818 (8th Cir. 2001) (noting that when default judgment is entered on a claim for uncertain damages, facts alleged in the complaint are taken as true, except for those relating to damages, which must be proved "to a reasonable degree of certainty," in a supplemental proceeding); see also Fed. R. Civ. P. 55(b)(2) (providing that a court may conduct a hearing to determine the amount of damages). Accordingly, Ms. Richardson should be prepared to present evidence in support of her request for money damages at the hearing.

IT IS THEREFORE ORDERED that an evidentiary hearing on Plaintiff's motion for default judgment (*Doc. 27*) is scheduled to begin in this case on ***Thursday, June 30, 2022 at 10:30 A.M.***, Courtroom # 389B, Richard Sheppard Arnold United States

Eighth Circuit has held that a § 1983 claim alleging sexual harassment or abuse of an inmate by a corrections officer "can, in certain circumstances, constitute the 'unnecessary and wanton infliction of pain,' forbidden by the Eighth Amendment." *Freitas v. Ault*, 109 F.3d 1335, 1338 (8th Cir. 1997) (internal citations omitted). This is the only claim before the Court.

19a

Courthouse, 600 West Capital Avenue, Little Rock,
Arkansas.

DATED this 29th day of April, 2022.

/s/ Edie R. Ervin

UNITED STATES MAGISTRATE JUDGE

APPENDIX D

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION

Case No. 4:21-CV-00134-LPR

ANGELA SCHUNCEY RICHARDSON

ADC# 712575

PLAINTIFF

v.

KRYSTLE REED DUNCAN

DEFENDANT

RECOMMENDED DISPOSITION

I. Procedure for Filing Objections:

This Recommendation has been sent to United States District Judge Lee P. Rudofsky. Any party may file written objections to all or part of this Recommendation. Any objections filed must: (1) specifically explain the factual and/or legal basis for your objection; and (2) be received by the Clerk of this Court within fourteen (14) days of the date of this Recommendation. If no objections are filed, Judge Rudofsky can adopt this Recommendation without

independently reviewing all of the evidence in the record. By not objecting, the parties may waive the right to appeal questions of fact.

II. Introduction

Angela Schuncey Richardson, an inmate at the McPherson Unit of the Arkansas Division of Correction (“ADC”), filed this *pro se*¹ lawsuit under § 1983, alleging that former ADC staff member Krystle Reed Duncan (“Defendant Reed”)² sexually harassed and assaulted her in violation of the Eighth Amendment. *Doc. 2*.

Before the Court is Ms. Richardson’s motion for a default judgment, filed April 19, 2022.³ *Doc. 27*. On

¹ Ms. Richardson never requested counsel. The Court considered appointing an attorney to assist her at the hearing but concluded that none of the relevant factors supported that measure. See *Patterson v. Kelley*, 902 F.3d 845, 850 (8th Cir. 2018) (listing factors including factual and legal complexity of issues, ability of the plaintiff to investigate facts and present claims, and existence of conflicting testimony).

² In her complaint and other filings, Ms. Richardson refers to Defendant Duncan as “Krystal Reed,” and the Court will do the same.

³ In an order entered April 11, 2022 (*Doc. 26*), the Court found that Defendant Reed received service of the complaint and a summons on October 21, 2021, and failed to file a timely answer or response make an appearance in the case. In the same order, the Court provided Ms. Richardson an opportunity to seek an entry of default and a default judgment, pursuant to Rule 55 of the Federal Rules of Civil Procedure.

On April 19, 2022, Ms. Richardson filed the motion for default judgment now before the Court (*Doc. 27*), and on April 25, the Clerk entered Defendant Reed’s default, as directed by

June 30, 2022, the Court held an in-person hearing, during which Ms. Richardson clarified her complaint allegations and provided testimony in support of her claim for money damages.⁴

After careful consideration, and for reasons that follow, the Court recommends that the Court: (1) direct the Clerk to vacate entry of default against Defendant Reed; (2) deny Ms. Richardson’s motion for default judgment; and (3) dismiss this action without prejudice. Alternatively, if the Court finds that Ms. Richardson is entitled to a default judgment in her favor, it is recommended that the Court award her nominal damages, such as \$1.00.

III. Default Judgment Standard

Given Defendant Reed’s default, Ms. Richardson’s well-pleaded factual allegations, other than those relating to damages, are taken as true. *Sampson v. Lambert*, 903 F.3d 798, 805–06 (8th Cir. 2018) (quoting *Nishimatsu Constr. Co. v. Houston Nat’l Bank*, 515 F.2d 1200, 1206 (5th Cir. 1975) (“A default judgment is unassailable on the merits but only so far as it is supported by well-pleaded allegations,

the Court. *Docs.* 28, 29. In an Order entered April 29, 2022 (*Doc.* 30), the Court scheduled a default judgment hearing and advised Ms. Richardson that she would have an opportunity at the hearing to clarify her factual allegations and present evidence in support of her request for money damages.

⁴ Rule 55(b)(2) of the Federal Rules of Civil Procedure permits a court to conduct a hearing “when, to enter or effectuate judgment, it needs to: (a) conduct an accounting; (b) determine the amount of damages; (c) establish the truth of any allegation by evidence; or (d) investigate any other matter.”

assumed to be true.”). The Court, however, must ensure that Ms. Richardson’s factual allegations provide a basis for Defendant Reed’s liability. *Murray v. Lene*, 595 F.3d 868, 871 (8th Cir. 2010) (quoting 10A C. Wright, A. Miller & M. Kane, Federal Practice and Procedure §2688 at 63 (3d ed. 1998)) (“[I]t remains for the court to consider whether the unchallenged facts constitute a legitimate cause of action, since a party in default does not admit mere conclusions of law.”).

IV. Complaint Allegations

Ms. Richardson claims that Defendant Reed, sued in both her individual and official capacities,⁵ sexually harassed and assaulted her from mid-November 2018 until sometime in January 2019 in violation of her

⁵ Ms. Richardson alleges *no* facts to support an official capacity claim against Defendant Reed. First, an official-capacity claim for money damages is barred under Eleventh Amendment sovereign immunity. *Will v. Michigan Dep’t of State Police*, 491 U.S. 58 64-70 (1989); *Brown v. Mo. Dep’t of Corr.*, 353 F.3d 1038, 1041 (8th Cir. 2004).

Second, although Richardson seeks prospective injunctive relief in the form of a new prison policy, this case does not fit the exception under *Ex parte Young*, 209 U.S. at 159-60 (1908). *Young* permits prospective injunctive relief against a state official to prevent a continuing violation of federal law, but the official sued must have the authority to execute actions required by the injunction. *Id.* at 157 (explaining that the state official sued must have “some connection with the enforcement of the [challenged] act, or else [the suit] is merely making him a party as a representative of the state, and thereby attempting to make the state a party”). Defendant Reed, a former ADC employee, does not qualify.

Eighth Amendment right to be free from cruel and unusual punishment.⁶

Ms. Richardson’s factual allegations, assumed true by reason of Defendant Reed’s default,⁷ are these. In “weak moments of her incarceration . . . due to suffering from hate, discrimination, malice, retaliation, sexual assaults, and sexual harassment [at] the hands of ADC prison staff officials[,]” Ms. Richardson confided and trusted Defendant Reed and Nurse Houston (not a party) “about it all.” *Doc. 2 at 3*.

Thereafter, Defendant Reed began sending messages to Ms. Richardson through another inmate. In addition, Defendant Reed, who worked as the “posting security officer in medical” (*Doc. 7 at 1*), allowed Ms. Richardson to “remain in medical on her shifts nearing 9 hours.” *Doc. 2 at 1*.

⁶ Ms. Richardson’s complaint also refers to a “failure to protect,” but the pleading fails to allege any facts to support a plausible failure to protect claim against Defendant Reed, the sole defendant.

⁷ As a defaulting party, Defendant Reed is deemed to have admitted the *existing*, well-pleaded factual allegations in the operative complaint, as opposed to any new allegations made after her default. Richardson did not seek to amend her complaint. Any requested amendment, if granted, would have required that the entry of default be vacated. See *Allied World Insurance Company v. CMM Mechanical, LLC*, No. 4:17-cv-00835-KGB, 2022 WL 831878, at *1 (E.D. Ark. Feb. 25, 2022) (citations omitted) (“However, when Allied World filed its first amended complaint on January 30, 2019, that action rendered moot Allied World’s original complaint and rendered moot the Clerk’s defaults entered as to that original complaint.”).

“Feelings” between Defendant Reed and Ms. Richardson “led into sexual misconduct such as: kissing & the plaintiff penetrating officer Reed[']s vagina.” *Doc. 2 at 1*. The relationship “continued for months with e-mails . . . and [Defendant] Reed placing money on [Ms. Richardson’s] books at times.” *Id.*

Ms. Richardson “went along with the relationship due to her weakness and feeling safe with [Defendant] Reed.” *Id. at 1-2*. Ms. Richardson told no person, other than a family member, about the relationship because in the past, when she reported incidents of “sexual assault,” she received inhumane treatment, retaliation, and false disciplinaries and incident reports.⁸ *Id. at 2*. “Being such a targeted inmate[, Ms. Richardson] could not break the silence.” *Id.*

Ms. Richardson “soon [found] out that [Defendant] Reed was also carrying on with other inmates in the past before their release.” *Id.* Ms. Richardson was “just another victim.” *Id.* Her hair started falling out, and she suffered emotional distress and mental anguish. *Id.* Ms. Richardson “still suffers from anxiety from . . . [Defendant] Reed and other prison officials.” *Id.* In addition, Ms. Richardson was “unjustly placed

⁸ Ms. Richardson’s allegations regarding retaliation and false disciplinaries are part of a separate action: *Richardson v. Payne, et al.*, No. 4:22-cv-00160-LPR-PSH. In that case, Ms. Richardson alleges that she received a false disciplinary for accessing a computer in the infirmary. *Id.*, *Doc. 4 at 8*. According to Richardson’s allegation in that case, Defendant Reed was working in the infirmary at the time of “the alleged incident” and admitted that Richardson did not access the medical computer. *Id.*

in segregation,” the subject of another case filed by her against Warden John Herrington. *Id.*

Ms. Richardson “has found healing steps through praying[,] being that her security concerns [have been] ignored.” *Id.* She “is hated at . . . McPherson by multiple staff [members]” and speaking out about unconstitutional violations has [caused her to suffer] hardships.” *Id.*

Grievance papers attached to the complaint indicate that the ADC ended Defendant Reed’s employment in January 2019.⁹ *Id.* at 8 (Director’s Decision). The grievance papers also show that in January 2020, approximately one year after Defendant Reed left the ADC, Ms. Richardson filed a grievance regarding Defendant Reed’s “sexual misconduct.” *Id.* at 7. Ms. Richardson’s grievance stated that she and Defendant Reed “engaged in sexual misconduct,” that Defendant Reed “came on” to her, and that she “gave in to [Defendant] Reed by trusting her in due time [because] she knew that ADC staff targeted [her].” *Id.*

Ms. Richardson’s grievance was forwarded to the McPherson Unit’s Prison Rape Elimination Act (PREA) coordinator for investigation. *Id.* The Director’s decision, dated April 3, 2020, stated:

Your allegations were forwarded to Internal Affairs for Investigation. These allegations were sustained; however, the staff member in question has not been employed by ADC since January 2019. You are in no imminent danger

⁹ During the hearing, Ms. Richardson stated that she believed Defendant Reed was not terminated until after Valentine’s Day, 2020.

from this ex-staff member. In January 2019 you were interviewed in Pine Bluff by Internal Affairs, regarding a different issue with the same ex-staff member. At that time, and no time until you called the PREA hotline on 12-29-2019, did you report sexual misconduct with this ex-staff member. I have recommended this investigation be forwarded to the State Police for any action deemed necessary.

Id.

In response to Ms. Richardson's appeal, the Warden's decision stated:

After review of your appeal and supporting documentation, I find that on 3/9/20, this investigation was sent to Arkansas State Police for further investigation. Once the investigation has been completed, you will be notified of the result. Therefore, I will not determine the merit of your appeal at this time.

Id. at 8.

V. Hearsay Testimony

At the June 30 hearing, Ms. Richardson clarified that Defendant Reed never raped her or applied physical force against her. She explained, however, that because she told Defendant Reed about her problems, she believed that Defendant Reed "knew too much" and that she had to "go along" with the relationship or suffer reprisal. According to Ms. Richardson's assessment of the relationship, Defendant Reed didn't really care about Ms.

Richardson's problems, but used them as leverage to get her to participate in an inappropriate physical relationship.

In addition to testimony, Ms. Richardson presented letters that Defendant Reed wrote her in March 2019, after her employment at the ADC had ended. Ms. Richardson explained that Defendant Reed wrote the letters under the pseudonym "Lexi Ford." Contrary to Ms. Richardson's portrayal of Defendant Reed as uncaring and manipulative, her letters to Ms. Richardson professed love and provided words of encouragement and sympathy. In addition, the letters reference written communications that Defendant Reed received from Ms. Richardson, indicating that the two remained on good terms after Defendant Reed left her job at the ADC.¹⁰

Regarding damages, Ms. Richardson testified that she experienced anxiety and depression during the alleged sexual abuse, that she lost hair, and would take her mind elsewhere just to get through it. She further testified that she struggles with depression to this day. However, Ms. Richardson also acknowledged that she suffered from depression before her relationship with Defendant Reed and had taken Buspar or buspirone for that pre-existing condition. In addition, Ms. Richardson recognized other sources of her depression, unrelated to Defendant Reed, including alleged sexual abuse by a prison nurse, the

¹⁰ Notably, Ms. Richardson did not offer the multiple letters that she apparently wrote to Defendant Reed.

subject of a separate lawsuit,¹¹ and mistreatment by ADC officials.

Ms. Richardson testified that she has not sought out mental health treatment for emotional suffering because she feels dirty, like a prostitute, and she avoids visiting the prison's medical unit, where she spent time with Defendant Reed. Ms. Richardson stated that she no longer takes Buspar for her depression, but medication prescribed for her ankle pain, nortriptyline, has the added benefit of easing her anxiety.

VI. Discussion

A. Ms. Richardson's Factual Allegations, as Clarified, Fail to State an Eighth Amendment Claim

In *Freitas v. Ault*, 109 F.3d 1335, 1338 (8th Cir.1997), the Eighth Circuit recognized that the

¹¹ In *Richardson v. Porchia*, No. 1-16-cv-00154-KGB/JTK (E.D. Ark), Ms. Richardson alleged that during her incarceration at ADC's Hawkins Center for Women, Defendant Courtney Porchia, a nurse, sexually abused her in the prison's medical unit. United States Magistrate Judge Kearney held an evidentiary hearing and found Ms. Richardson's testimony not credible. *Id.*, *Doc 140 at 14*. In addition, Judge Kearney credited testimony that Ms. Richardson falsely accused Defendant Porchia of sexual abuse to obtain a transfer to the McPherson Unit. *Id.* Based on his findings, Judge Kearney recommended dismissal of Ms. Richardson's claims. *Id.*, *Doc. 140 at 16*. On March 31, 2022, United States District Judge Baker adopted Judge Kearney's findings as to the merits of Ms. Richardson's claims and dismissed the case. *Doc. 150*.

sexual abuse of a prisoner by a correctional officer may amount to an Eighth Amendment violation:

[B]ecause the sexual harassment or abuse of an inmate by a corrections officer can never serve a legitimate penological purpose and may well result in severe physical and psychological harm, such abuse can, in certain circumstances, constitute the ‘unnecessary and wanton infliction of pain’ forbidden by the Eighth Amendment.

To prevail, “an inmate must . . . prove, as an objective matter, that the alleged abuse or harassment caused “pain” and, as a subjective matter, that the officer in question acted with a sufficiently culpable state of mind.”¹² *Id.* at 1338 (citing *Hudson v. McMillian*, 503 U.S. 1, 8 (1992)).

The objective component of an Eighth Amendment claim asks “whether the alleged wrongdoing is objectively ‘harmful enough’ to establish a constitutional violation.” *Hudson*, 503 U.S. at 2. The objective component “is contextual and responsive to ‘contemporary standards of decency.’” *Id.* (quoting *Estelle v. Gamble*, 429 U.S. 97, 103 (1976)). In the context of alleged sexual assault, the Eighth Circuit has held a consensual relationship between a

¹² As Judge Baker noted in *Richardson v. Porchia*, No. 1:16-cv-00154-KGB-JTK, *Freitas* sets out the standard for an inmate’s Eighth Amendment claim alleging sexual harassment or abuse, and that standard is not altered or replaced by the Prison Rape Elimination Act (PREA). *Id.* at Doc. 150 at 2. Judge Baker also noted that PREA does not provide a private cause of action. *Id.*

correctional officer and an inmate, no matter how inappropriate, cannot satisfy the objective component of an Eighth Amendment claim. *Freitas*, 109 F.3d at 1338-39 (“Without deciding at what point unwelcome sexual advances become serious enough to constitute ‘pain,’ we hold that, at the very least, welcome and voluntary sexual interactions, no matter how inappropriate, cannot as matter of law constitute ‘pain’ as contemplated by the Eighth Amendment.”).

Although the imbalance of power between Defendant Reed and Ms. Richardson is a factor to consider,¹³ Ms. Richardson fails to allege facts to

¹³ Given the imbalance of power between inmate and custodian, federal courts have questioned whether, consistent with the Eighth Amendment, an inmate can, as a legal matter, consent to a sexual relationship with a prison employee. At least one district court has held that consent is not a valid defense to a prisoner’s sexual assault claim. *Carrigan v. Davis*, 70 F. Supp. 2d 448, 452-53 (D. Del. 1999) (concluding “as a matter of law, that an act of vaginal intercourse and/or fellatio between a prison inmate and a prison guard, whether consensual or not, is a per se violation of the Eighth Amendment). Some courts employ a burden-shifting framework, where sexual conduct is presumed nonconsensual, but the defendant may rebut the presumption by showing that the conduct involved “no coercive factors.” *Hale v. Boyle Cnty.*, 18 F.4th 845, 854 (6th Cir. 2021); *Wood v. Beauclair*, 692 F.3d 1041, 1046-48 (9th Cir. 2012).

However, the Eighth Circuit has neither adopted a per se rule that an inmate can never consent to sexual contact with a prison employee, nor sanctioned a burden-shifting framework that presumes non-consent. Instead, the law of this Circuit holds that “welcome and voluntary sexual interactions, no matter how inappropriate, cannot as a matter of law constitute ‘pain’ as contemplated by the Eighth

support her stated belief that had she not “gone along” with a sexual relationship, Defendant Reed would have used her position to harm her.

Ms. Richardson’s theory of sexual abuse, based on her subjective thoughts, is simply not corroborated by the facts alleged in her complaint. She does not allege that Defendant Reed used her position to threaten, intimidate, or pressure her into a sexual relationship. Accepting Ms. Richardson’s factual allegations as true, she fails to plead facts sufficient to establish the objective component of an Eighth Amendment claim. See *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 557 (2007) (“Where a complaint pleads facts that are ‘merely consistent with’ a defendant’s liability, it ‘stops short of the line between possibility and plausibility of ‘entitlement to relief.’”).

Ms. Richardson’s allegations also fall short under the subjective component of an Eighth Amendment claim. This prong is satisfied when “the official knows of and disregards an excessive risk to inmate health or safety; the official must 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.” *Farmer v. Brennan*, 511 U.S. 825, 837 (1994). Ms. Richardson does not allege that she communicated to Defendant Reed, by conduct or words, that she was not a willing participant in their

Amendment[.]” *Freitas v. Ault*, 109 F.3d 1335, 1339 (8th Cir. 1997), and that unsubstantiated assertions that the plaintiff succumbed to the defendant’s sexual advances for fear of “possible” negative consequences will not suffice. *Id.*

relationship. Nor does she allege facts suggesting that Defendant Reed perceived that Ms. Richardson believed that she had no choice but to go along with their sexual encounters. Further, the letters submitted by Ms. Richardson are a further indication that Defendant Reed perceived their relationship as mutual and consensual.

In sum, while Defendant Reed's alleged conduct may warrant condemnation,¹⁴ it does not rise to the level of inflicting cruel and unusual punishment. See *Farmer*, 511 U.S. at 838 ("But an official's failure to alleviate a significant risk that he should perceived but did not, while no cause for condemnation, cannot under our cases be condemned as the infliction of punishment.")

Because Ms. Richardson's factual allegations fail to state an Eighth Amendment claim, her motion for a default judgment should be denied, and her complaint dismissed without prejudice. See 42 U.S.C.A. § 1997e(c) ("The court shall on its own motion . . . dismiss any action brought with respect to prison conditions under section 1983 . . . by a prisoner . . . if the court is satisfied that the action . . . fails to state a

¹⁴ Many states, including Arkansas and Iowa, where the Plaintiff in *Freitas* was incarcerated, have criminalized sexual contact between inmates and prison staff, regardless of consent. See, e.g. Ark. Code. Ann. § 5-14-127(a)(2) (defining sexual assault in the fourth degree, a class D felony, to include when a person "employed" by the ADC "engages in sexual contact" with a prisoner or detainee); I.C.A. § 709.16 (making it an "aggravated misdemeanor for a prison "officer, employee, contractor, vendor, volunteer, or agent" to "engage in a sex act" with a prisoner). However, a criminal violation does not equal a violation of the Eighth Amendment.

claim upon which relief can be granted . . .”); see also 28 U.S.C. § 1915(e)(2)(B)(ii) (requiring that the court “dismiss the case at any time” it determines that an *in forma pauperis* complaint fails to state a claim on which relief may be granted).

B. Damages

Even if Ms. Richardson’s factual allegations establish liability, she must still prove damages by a preponderance of the evidence. See *Everyday Learning Corp. v. Larson*, 242 F.3d 815, 818-19 (8th Cir.2001) (affirming denial of damage award after default where “speculative and not proven by a fair preponderance of the evidence.”). Ms. Richardson seeks \$350,000 in compensatory damages, based solely on mental and emotional suffering, and \$150,000 in punitive damages.¹⁵ *Doc. 2 at 6*.

Compensatory damages, available under § 1983 may include damages for personal humiliation, and mental and emotional suffering the plaintiff has experienced and is reasonably certain to experience in the future. *Rogers v. City of Little Rock, Ark.*, 152 F.3d 790, 798 (8th Cir. 1998). However, given Ms. Richardson’s admission that her depression preexisted her relationship with Defendant Reed and that additional factors contributed to her ongoing anxiety and mental suffering, she has failed to show a causal relationship between her emotional suffering and Defendant

¹⁵ Ms. Richardson also seeks “a policy to make inmates feel comfortable [about] breaking the silence instead of retaliatory actions and false disciplinaries[,]” *Doc. 2 at 6*, but for reasons the Court has explained, see *supra*, footnote 5, her allegations do not support such injunctive relief.

Reed's alleged unconstitutional conduct. Accordingly, if the Court finds that Ms. Richardson's factual allegations are sufficient to establish liability, it is recommended that the Court award nominal damages, such as \$1.00. *Thurairajah v. City of Fort Smith, Arkansas*, 3 F.4th 1017, 1026 (8th Cir. 2021) (citations omitted) (explaining that an award of compensatory damages is mandatory upon a finding of liability under § 1983, but where constitutional violations are not the proximate cause of damages, nominal damages are proper).

Punitive damages may be awarded under § 1983 only with proof of sufficiently serious misconduct. *Coleman v. Rahija*, 114 F.3d 778, 787 (8th Cir. 1997). "Punitive damages are awarded to 'punish the defendant for his [or her] willful or malicious conduct and to deter others from similar behavior.'" *Id.* (quoting *Memphis Community School Dist. v. Stachura*, 477 U.S. 299, 306 n. 9 (1986)).

As the Eighth Circuit has explained:

The focus, in determining the propriety of punitive damages, is on the intent of the defendant and whether the defendant's conduct is of the sort that calls for deterrence and punishment over and above that provided by compensatory awards. Punitive damages are appropriate in a § 1983 case when the defendant's conduct is shown to be motivated by evil motive or intent, or when it involves reckless or callous indifference to the federally protected rights of others.

Coleman, 114 F.3d at 787 (internal quotations and citations omitted). Here, Ms. Richardson presents no

evidence demonstrating that Defendant Reed's conduct warrants an award of punitive damages.

VII. Conclusion

IT IS THEREFOR RECOMMENDED that:

(1) The entry of default against Defendant Krystle Reed Duncan (*Doc. 29*) be VACATED.

(2) Ms. Richardson's motion for a default judgment (*Doc. 27*) be DENIED.

(3) Ms. Richardson's complaint (*Doc. 2*) be DISMISSED WITHOUT PREJUDICE and the Clerk be instructed to close the case.

(4) If the Court finds that a default judgment should be granted, it should award nominal damages, such as \$1.00.

Dated this 20th day of July, 2022.

/s/ Honorable Edie R. Ervin

UNITED STATES MAGISTRATE JUDGE

37a

APPENDIX E

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

No. 23-1414

Angela Schuncey Richardson

Appellant

v.

Krystle Reed Duncan, Corporal

Appellee

Attorney General of Arkansas

Amicus Curiae

American Civil Liberties Union and American Civil
Liberties Union of Arkansas

Amici on Behalf of Petitioner

Appeal from U.S. District Court for the Eastern
District of Arkansas – Central

(4:21-cv-00134-LPR)

ORDER

The petition for rehearing en banc is denied. The petition for panel rehearing is also denied. Judge Melloy assumed inactive senior status on October 5, 2024, and did not participate in the consideration or decision of the petition for panel rehearing. *See* 8th Cir. R. 47E.

Judge Kelly and Judge Erickson would grant the petition for rehearing en banc.

December 23, 2024

Order Enter at the Direction of the Court:

Acting Clerk, U.S. Court of Appeals, Eighth Circuit

/s/ Maureen W. Gornik

APPENDIX F

**FORM TO BE USED BY PRISONERS IN
FILING A COMPLAINT**

UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. 5
1983

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS**

_____ DIVISION

CASE NO. _____

This case assigned to District Judge Rudofsky and to
Magistrate Judge Deere

I. Parties 4:21-cv-00134-LPR-BD

In item A below, place your full name in the first
blank and place your present address in the second
blank. Do the same for additional plaintiffs, if any.

A. Name of plaintiff: Angela Schuncey Richardson
ADC #712575

Address: 302 Corrections One New Port Arkansas
72112

Name of plaintiff:
ADC #

Address:

Name of plaintiff:
ADC #

40a

Address:

In item B below, place the full name of the defendant in the first blank, his official position in the second blank, his place of employment in the third blank, and his address in the fourth blank.

B. Name of defendant: Krystal Reed

Position: Corporal

Place of employment: PO BOX 807 Pine Bluff
Arkansas 71602

Address:

Name of defendant:

Position:

Place of employment:

Address:

Name of defendant:

Position:

Place of employment:

Address:

Name of defendant:

Position:

Place of employment:

Address:

II. Are you suing the defendants in:

- ☐ official capacity only
- ☐ personal capacity only
- ☒ both official and personal capacity

III. Previous lawsuits

A Have you begun other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes ☐ No ☒

B If your answer to A is yes, describe the lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same outline.)

Parties to the previous lawsuit:

Plaintiffs:

Defendants:

Court (if federal court, name the district; if state court, name the county):

VII. Statement of claim

State here (as briefly as possible) the facts of your case. Describe how each defendant is involved. Include also the names of other persons involved, dates, and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. (Use as much space as you need. Attach extra sheets if necessary.)

Comes now the plaintiff "Angela Schuncey Richardson" is acting as a pro se inmate. She claims that constitutional rights have been violated due to the following: Sexual Assault, Sexual harassment, and Failure to protect. In the mid month of November

2018 – until 2019. The plaintiff was in weak moments of her incarceration time due to suffering from Hate, discrimination, malice, retaliation, sexual assaults, sexual harassment under the hands of ADC prison staff officials. (View pending cases no. 1:16-cv-00154 KGB-JTK 1:18-cv-00032 DPM____). The Plaintiff confined trust in Officer Reed and Nurse Haston about it all. Officer Reed soon started sending the plaintiff messages from inmate Finley, Nautica. It times giving notes at pillcall to the plaintiff. Officer Reed soon started allowing the plaintiff to remain in medical leave all her shifts nearly 9 hours. Officer Reed in the plaintiff feelings led into sexual misconduct such as kissing & the plaintiff penetrating Officer Reed vagina. It continued for months with e-mails, Officer Reed P.O. Box via mail, placing money on the plaintiff books at times. The plaintiff went along with the relationship due to her weakness and feeling safe with Officer Reed. Being that the plaintiff reported a past sexual assault that turned into inhumane treatment, retaliation, false disciplinings and incident reports. She did not tell anyone but a family member what was going on with Officer Reed. The plaintiff soon finds out that Reed was also carrying on with other inmates in the past before their release. She was just another victim. Being such a targeted inmate the plaintiff could not break the silence. The plaintiff hair started falling out, emotional distress, mental anguish and depression. The plaintiff still suffers from anxiety from Nurse Reed and other prison officials. The plaintiff was unjustly placed in segregation in which another claim will be filed under her Due Process Rights in regards to this incident with a separate Defendant (Warden

John Herrington). The State Police spoke with the plaintiff one time and no information in regards to the sexual assaults and failure to protect. The plaintiff stopped communicating with Krystal Reed eventually. At times being so numb to the past treatment there were moments that I felt doing this was just another day through another day. The plaintiff has found healing steps through praying being that security concerns are ignored. She is hated at the McPherson by multiple staff. To speak out about her unconstitutional violations results to hardship in prison. The plaintiff 14th, 8th, and other amendment rights were violated.

Respectfully submitted

- ☐ Docket Number:
- ☐ Name of judge to whom case was assigned:
- ☐ Disposition: (for example: Was the case dismissed? Was it appealed? Is it still pending?)
- ☐ Approximate date of filing lawsuit:
- ☐ Approximate date of disposition:

IV. Place of present confinement: McPherson Unit
New Part Arkansas 72112

V. At the time of the alleged incidents, were you:
(check appropriate blank)

— in jail and still awaiting trial on pending criminal charges

X serving a sentence as a result of a judgment of conviction

__ in jail for other reasons (e.g., alleged probation violation, etc.) explain: _____

VI. There is a prisoner grievance procedure in the Arkansas Department of Corrections. Failure to complete the grievance procedure may affect your case in federal court.

A. Did you present the facts relating to your complaint in the state prisoner grievance procedure?

Yes X No __

B. If your answer is YES, attach copies evidencing completion of the final step of the grievance appeal procedure. FAILURE TO ATTACH THE REQUIRED COPIES MAY RESULT IN THE DISMISSAL OF YOUR COMPLAINT.

C. If your answer is NO, explain why not: _____

VII. Relief

State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.

To design and create a policy to make inmates feel comfortable by breaking the silence instead of retaliatory actions, and false disciplinaries. I am asking for compensation damages amount of \$350,000 and 150,000 punitive damage.

45a

I declare under penalty of perjury (18 U.S.C. § 1621) that the foregoing is true and correct.

Executed on this 4th day of February, 2021.

/s/ Angela S. Richardson

Signature(s) of plaintiff(s)

UNIT LEVEL GRIEVANCE FORM

(Attachment I)

Unit/Center McPherson

Name Angela Richards

ADC# 712575 **Brks#** 7 **Job Assignment** _____

_____ (Date) STEP ONE: Informal Resolution

1-6-20 (Date) STEP TWO: Formal Grievance (All complaints/concerns should first be handled informally.) If the issue was not resolved during Step One, state why: This is not resolved

1-4-20 (Date) EMERGENCY GRIEVANCE (An emergency situation is one in which you may be subject to a substantial risk of physical harm: emergency grievances are not for ordinary problems that are not of serious nature). If you marked yes, give this completed form to the designated problem solving staff, who will sign the attached emergency receipt. In an Emergency, state why: PREA allegations should be reported to the Warden immediately.

Is this Grievance concerning Medical or Mental Health Services? _____ If yes, circle one: medical or mental

BRIEFLY state your one complaint/concern and be specific as to the complaint, **date**, place, name of personnel involved and how **you** were affected. (Please Print): I am grieving officer Crystal Reed in regards sexual misconduct. According to policy, I am allowed to report a PREA at anytime. According to policy, Reed and I engaged in sexual misconduct here at the McPherson Unit. Crystal Reed came on to me and sent inmate Finley, Nautcia to awake me several times in the course of her intentions to be in a relationship eventually along with sexual encounters. Due to my vulnerability, I gave in to Reed by trusting her in due time being that she knew what AOC staff targeted me. I did not feel comfortable reporting Reed due to past retaliation by breaking silence of sexual harassment, sexual misconduct and sexual assault by a staff member. In the month of January 2019, Feb 2019, (view statement, mailroom letter, emails and grievances written as well). This must be addressed being that my reports are ignored verbally. In which is policy violation and unconstitutional. Instead of protection, it's failed to protect.

Date 1-4-20 (Received Feb. 21, 2020)

/s/ Angela Richardson Inmate Signature

If you are harmed, threatened because of your use of the grievance process, report it immediately to the Warden or designee.

**THIS SECTION TO BE FILLED OUT BY
STAFF ONLY**

This form was received on 1/5/20 (date), and determined to be **Step One** and/or an Emergency Grievance Yes (Yes Or No). This form was forwarded

47a

to medical or mental health? No (Yes Or No). If yes,
name of the person in that department receiving this
form: _____ Date _____

Sgt. Case @ 5 pm PRINT STAFF NAME (PROBLEM
SOLVER)

106580 ID NUMBER /s/ Sgt. Case Staff Signature

1/5/20 Date Received

Describe action taken to resolve complaint, including
dates:

This has been forwarded to the PREA Compliance
Coordinator of the MCP Unit. And is being
investigated. LT was notified as well.

/s/ Sgt. Case 1/5/20 Staff Signature & Date
Returned

/s/ Angela Richardson 1/5/20 Inmate Signature &
Date Received

This form was received on _____ (date) pursuant to
Step Two. Is it an Emergency? _____ (Yes or No).

Staff Who Received Step Two Grievance:

Date: _____

Action Taken: _____ (Forwarded to
Grievance Officer/Warden/Other) Date: _____

If forwarded, provide name of person receiving this
form: _____ Date: _____

DISTRIBUTION: YELLOW & PINK – Inmate
Receipts; **BLUE** – Grievance Officer, **ORIGINAL** –
Given back to Inmate after Completion of Step One
and Step Two.

IGTT430

3GD

Attachment VI

INMATE NAME: Richardson, Angela S.

ADC #: 712575 GRIEVANCE#:MCP20-00027

**CHIEF DEPUTY/DEPUTY/ASSISTANT
DIRECTOR'S DECISION**

On 11/21/19, you stated the following complaint: "I Am grieving officer Krystal Reed IN regards to sexual miscoNduct. According to policy I am allowed to report a PREA at anytime According to policy Reed and I eNgaged in sexual misconduct here at the McPhersoN unit. CrystAl REEd cAme oN to me and sent inmate Finley, Nautcia to awake me several time In the course of her intentioNs to be in a relatioNship eventually alony with sexual encounters. Due to my vulnerability. I gAve in to Reed by trusting her in due time being that she knew that ADC StAff targeted me. I did not feel comfortable reporting Reed due to past retaliation by breaking silence if sexual harasment sexual misconduct and secual assault by a stAff member. IN the month of January 2019 Feb 2019 (view statement, mailroom letter, emails) and grievances written as well. This must be addressed being that my reports are Ignored verbally IN which is policy violatioB and uNconstiulore. Instead of protection It's failed to protect"

The Warden responded to your grievance on 2/6/20 stating the following: "Your allegations were forwarded to Internal Affairs for investigation. These allegations were sustained; however, the staff member in question has not been employed by ADC

since January 2019. You are in no imminent danger from this ex-staff member. In January 2019 you were interviewed in Pine Bluff by Internal Affairs, regarding a different issue with this same ex-staff member. At that time, and no time, until you called the PREA Hotline on 12-12-2019 did you report sexual misconduct with this ex-staff member. I have recommended this investigation be forwarded to the State Police for any action they deem necessary.”

Your appeal was received on 2/21/20. After review of your appeal and supporting documentation, I find that on 3/9/20, this investigation was sent to Arkansas State Police for further investigation. Once the investigation has been completed, you will be notified of the result. Therefore, I will not determine the merit of your appeal at this time.

/s/ [signature]

4-3-20

Director

Date

IGTT430

3GD

Attachment III

INMATE NAME: Richardson, Angela S.

ADC #: 712575 GRIEVANCE#:MCP20-00027

WARDEN/CENTER SUPERVISOR'S DECISION

Your allegations were forwarded to Internal Affairs for investigation. These allegations were sustained; however, the staff member in question has not been employed by ADC since January 2019. You are in no imminent danger from this ex-staff member.

50a

In January 2019, you were interviewed in Pine Bluff by Internal Affairs, regarding a different issue with this same ex-staff member. At that time, and no time, until you called the PREA Hotline on 12-12-2019 did you report sexual misconduct with this ex-staff member.

I have recommended this investigation be forwarded to the State Police for any action they deem necessary.

/s/ signature

Signature of Warden/Supervisor or Designee

Warden

2/13/20

RECEIVED

Title

Date

FEB 21 2020

INMATE'S APPEAL

If you are not satisfied with this response, you may appeal this decision within five working days by filling in the information requested below and mailing it to the appropriate Chief Deputy/Deputy/Assistant Director along with the Unit Level Grievance Form. Keep in mind that you are appealing the decision to the original grievance. Do not list additional issues, which are not part of your original grievance as they will not be addressed. Your appeal statement is limited to what you write in the space provided below.

WHY DO YOU DISAGREE WITH THE ABOVE RESPONSE?

According to policy I have the right to report PREA @ anytime. Due to ADC retaliatory actions and dishonesty with me, why would I report this to any staff. Under my circumstance at McPherson, staff cover up the truth. They claimed I was on the medical

51a

computer unjustly punished me and intentionally try to increase my disciplinary history. Who would actually believe me being that officials lie and cover up so much. I agree with "These allegations were sustained. I have unjustly suffered due to "PREA" concerns as well. Plus Warden Harrington and the mailroom clerk was aware and failed to report it.

/s/ Angela Richardson ADC#: 712575 2/14/20

Inmate Signature

Date

52a

APPENDIX G

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION

Angela Schuncey Richardson,

Plaintiff,

v.

Krystle Reed Duncan

Defendant.

Case No. 4:21-CV-00134-LPR-ERE
Little Rock, Arkansas
June 30, 2022
10:37 A.M.

TRANSCRIPT OF
MOTION HEARING
BEFORE THE HONORABLE EDIE R. ERVIN
UNITED STATES MAGISTRATE JUDGE

ELECTRONIC COURT RECORDER-OPERATOR:
Ms. Tenesha Brown

53a

Transcription Service:

Robin Warbritton

Post Office Box 262

Vilonia, AR 72173

PROCEEDINGS RECORDED BY ELECTRONIC
SOUND RECORDING.

TRANSCRIPT PRODUCED BY TRANSCRIPTION
SERVICE.

APPEARANCES:

For the Plaintiff:

Angela Schuncey Richardson

ADC #712575

MCPHERSON UNIT

Arkansas Department of Correction

302 Corrections Drive

Newport, AR 72112

PRO SE

PROCEEDINGS

(Call to order of the Court.)

THE COURT: Good morning.

MS. RICHARDSON: Good morning.

THE COURT: We're here today for an evidentiary
hearing in connection with the case of *Angela*

Richardson v. Krystle Reed Duncan, case number 4:21-CV-134-LPR-ERE.

Ms. Richardson, you're here in person, correct?

MS. RICHARDSON: Yes, ma'am.

THE COURT: The sole defendant in this case is Krystle Reed Duncan. She is not here. She is in default. And the Clerk has entered a Clerk's default against her.

And so, the purpose of today's hearing is to determine whether it's appropriate to enter a default judgment, as you've requested in your pending motion.

On April 29th, I entered an order setting this matter for a hearing. Did you receive that order, Ms. Richardson?

MS. RICHARDSON: Yes, ma'am.

THE COURT: So, do you feel like you understand why we're here?

MS. RICHARDSON: Yes, ma'am.

THE COURT: And you filed a motion for discovery, and I denied that, and I – the reason for that is that you don't need to prove – the well pleaded facts in your complaint are accepted as true, and you don't have to prove them up. And I think that you have – you have stated in there that you had a – you stated facts to support your contention that you had a sexual relationship with Ms. Duncan or Ms. Reed. I'm going to call her Ms. Reed because she's referred to as Ms. Reed throughout the papers in this case.

MS. RICHARDSON: Yes, ma'am.

THE COURT: So, really, today's hearing – and I say hearing, but this is really just kind of an inquiry before me. It's much more relaxed and informal. It's not a trial. Do you understand that?

MS. RICHARDSON: Yes, ma'am.

THE COURT: So, the first thing is I just want to go through your complaint and have you – some of the allegations are unclear, I just want to have you kind of clarify them. And then, and in doing that, we can't add any new allegations, because the default is being – I mean, the assumption is, because Ms. Duncan or Ms. Reed signed for the original complaint, that she got a copy of that document. And so, if we were to change or add new allegations, that would be – you know, we'd have to start all over again, so to speak.

So, that's part one. We'll go through your complaint and just I want to ask you some questions, just have you clarify a few things.

And then, part two is I'll allow you to present any evidence you want to present in support of your claim for money damages.

So, those are the two things that I want to do today. Do you understand that?

MS. RICHARDSON: Yes, ma'am.

THE COURT: In connection with your claim for damages, I understand you're seeking compensatory damages, punitive damages, and a change in policy. I can't give you a change in policy because there is no defendant before me that could carry out that policy change. In other words, Ms. – Ms. Reed is the sole defendant, and I – as I understand it from your papers, it indicates she was – the grievance papers

indicate that she was terminated from the ADC in approximately January of 2019; is that correct?

MS. RICHARDSON: Yes, ma'am.

THE COURT: So, I can't grant your request for a policy change. So, when we get to damages, the only issue will be whether to award compensatory or punitive damages. Do you understand that?

MS. RICHARDSON: Yes, ma'am.

THE COURT: Do you have a copy of your complaint?

MS. RICHARDSON: Yes, ma'am. Is it document 2?

THE COURT: Yes, ma'am.

MS. RICHARDSON: Yes, ma'am, I have a copy.

THE COURT: And it's ten pages.

MS. RICHARDSON: Yes, ma'am.

THE COURT: And you have a copy.

So, on the first page, the defendant is Krystle Reed and that's the same person as Krystle Reed Duncan.

Let's turn over to page 3. So, you're claiming that your constitutional rights have been violated due to her sexual harassment and sexual assault; is that correct?

MS. RICHARDSON: Yes, ma'am.

THE COURT: And this started in the mid-month of November 2018; is that correct?

MS. RICHARDSON: Yes, ma'am.

THE COURT: And you say until 2019, but we know that she was terminated in January of 2019, correct?

MS. RICHARDSON: Yes, ma'am.

THE COURT: So, then, the next sentence, you were in quote:

“Weak moments of your incarceration due to suffering from hate, discrimination, malice, retaliation, sexual assault, sexual harassment, under the hands of ADC prison staff officials.”

End quote.

And then, you reference these two lawsuits, these two case numbers, case number 1:16-CV-154 and case number 1:18-CV-34. And I understand those cases were pending at the time that you filed this lawsuit; is that correct?

MS. RICHARDSON: Yes, ma’am.

THE COURT: And that was going on before any relationship developed with Ms. Reed; is that correct?

MS. RICHARDSON: Yes, ma’am.

THE COURT: So, you were – you call it weak moments but you were – things were going on that made it hard for you, is that correct, due to these other instances of sexual harassment or sexual assault at the hands of prison officials other than Ms. Reed?

MS. RICHARDSON: Yes, ma’am.

THE COURT: And then, you say that you – you:

“The plaintiff trusts or confined”

--

Did you mean that to be confided?

MS. RICHARDSON: Yes.

THE COURT: So, you confided in Officer Reed about – about this trouble, and a nurse that’s not a party, about all of this?

MS. RICHARDSON: Yes.

THE COURT: And then, you started receiving messages from Officer Reed. And then, Ms. – and then, Officer Reed started allowing you to remain in medical while she was working on her shift; is that correct?

MS. RICHARDSON: Yes, ma'am.

THE COURT: And during that time, I guess you continued to confide in her, you all continued to discuss things?

MS. RICHARDSON: Yes, ma'am.

THE COURT: And then, that you – you say that this led to feelings and sexual misconduct?

MS. RICHARDSON: Yes.

THE COURT: And is it fair to say that you developed feelings for Ms. Reed?

MS. RICHARDSON: Yes, I did, for – after about two months.

THE COURT: Okay. And that precipitated – or that led to the sexual relationship; is that correct?

MS. RICHARDSON: Yes, on – yes, ma'am.

THE COURT: And then, you say it continued for month with emails, Officer Reed, P.O. Box, via mail, placing money on the plaintiff books at time. So, she placed money in your prison account?

MS. RICHARDSON: Yes, ma'am.

THE COURT: Then you say you, quote:

“Went along.”

End quote. With the relationship due to your weakness and, quote:

“Feeling safe.”

End quote. With Officer Reed.

So, you were a voluntary participant in the relationship; is that correct?

MS. RICHARDSON: Well, I had known Ms. Reed. I worked down in medical prior to this.

THE COURT: Okay.

MS. RICHARDSON: And that’s – she knew what I was going through with prison officials, and what happened to me prior to this, and that’s what made me gain trust in her at that time. And as things started progressing with us, she knew too much. You know, I had told her too much of everything that I was going through and too much about some of ADC officials. And that’s when I felt like I had to do whatever at that time to not fear retaliation for what may come behind it, because I experienced it before, and she knew that. And I – and I felt like, at that time, that was something she was holding over my head.

THE COURT: Okay. That’s – that’s how you felt about it, but as far as the physical activity, you were – you participated in that?

MS. RICHARDSON: I –

THE COURT: I mean, she didn’t force you to participate?

MS. RICHARDSON: Well, no, she didn’t force me. It’s not like she – you know, it wasn’t like she threw me down and raped me or anything like that. But, at some moments, I just felt like I just went along with it because that’s what she wanted to do.

THE COURT: Right.

MS. RICHARDSON: I mean, that's what – that was her intentions, I believe, from the get-go, when it came to me.

THE COURT: I understand there's a difference in power. I mean, she's – she works there, and you're incarcerated there. So, I mean, I'm not suggesting that it was an equal relationship between the two of you, but I'm just – and you said she didn't rape you, she didn't – that you felt like you needed to go along with them, so – but you did go along with it?

MS. RICHARDSON: Yes, I did go along with it. There was a lot of times I didn't want to go along with it, but she initiated it so much.

THE COURT: So, you felt like you didn't want to go along with it sometimes when she initiated it, but you – but you did anyway, you went along with it?

MS. RICHARDSON: Yes.

THE COURT: And then, you explain in the next sentence why you didn't report it, because you had reported a past sexual assault that turned into inhumane treatment, retaliation, false disciplinaries and incident reports. So, that was – that led to you keeping your relationship with Ms. Reed a secret; is that correct?

MS. RICHARDSON: Yes, ma'am.

THE COURT: And also, this is probably a good time to talk about this, in the grievance papers that you attached to your complaint, and that's on page 7, it wasn't until January of 2020 that you reported or filed a grievance related to Officer Reed's sexual misconduct; is that correct?

MS. RICHARDSON: I called the PREA hotline on December –

THE COURT: December 29th of 2019?

MS. RICHARDSON: Yes, ma'am.

THE COURT: And that was – I mean, the latest you could have had a relationship with Ms. Reed was January of 2019, correct?

MS. RICHARDSON: I believe she got fired in – the incident – she got fired, I think, around February, I believe.

THE COURT: Well, it says on page 8, this director's decision, I guess this is your step 3 appeal of your grievance, that the staff member in question, referring to Ms. Reed, has not been employed by ADC since January of 2019.

MS. RICHARDSON: No, that's not true. She was there for – I recall her being there, she was there for Valentine' Day, some – around the time for Valentine's Day, because she went to Little Rock – or came here for Valentine's Day to meet a friend of hers. So, a week – around – like around Valentine's Day she had to still be there at that time, because I was in medical around that time, around February.

THE COURT: So, you – so you think that she was still working at the ADC on Valentine's Day of 2019?

MS. RICHARDSON: Yes. Probably – I know for a fact probably a week before Valentine's actually took place, because she was making plans about what she was going to come and do down – to some museum here to paint or something.

THE COURT: Yeah. And you also had communications with her in writing after she left the ADC's employment, didn't you?

MS. RICHARDSON: Yes, ma'am.

THE COURT: But, at least, at the latest, by Valentine's Day of 2019, she was gone, and you didn't report it to anybody until December of 2019; is that correct?

MS. RICHARDSON: Yes, ma'am.

THE COURT: And then, going back to your complaint, at page 4, you say that the plaintiff soon finds out that Reed was also carrying on with other inmates in the past before her – before their release, she was just another victim.

So, did that upset you when you learned that Officer Reed had had relationships with other inmates?

MS. RICHARDSON: No, ma'am, it did not upset me.

THE COURT: Well, why did you put that in your complaint?

MS. RICHARDSON: I just felt like that she lied about when I found out about these other people, which she lied – lied about. It was up to me that I cut communication off with Ms. Reed. I just felt like she knew what she was doing, and had confided in her about so much I had gone through with prison officials, and she knew that I had gone through so much with them, until she felt like that she wanted to protect me. That's how she had me thinking. That's what upset me, because I had told her so much. And – and, at that time, I – what went through before, I – I

just couldn't – I just couldn't come clean with it at that time.

THE COURT: Right. When you – what you went through before, you came clean with it; what are you – what are you referring to?

MS. RICHARDSON: Before this happened, one of these claims that I have in this lawsuit that I mentioned, when I reported it, they retaliated on me so bad. She knew if something else happened, I probably wouldn't have come clean with it.

THE COURT: So, and I – I know, Ms. Richardson, you filed other lawsuits, and I think you filed one related to allegations of sexual harassment against another officer, and also you filed retaliation claims, and I – and those are separate claims – those are other claims and separate claims and those aren't before me. But I understand that that – that's background information, in other words, against – that kind of set the stage for what's happening here; is that correct?

MS. RICHARDSON: Well, the one that I – what happened to me at Wrightsville, it wasn't so much they believed the – the defendant, it's that they believed two other inmates that were around me at times, which I later found out I had more evidence, but I came forward too late with it. And I never – this is the thing, I never came on to either one of these women. I never made any allegations towards them. I never made any proposals towards these females.

Ms. Reed, she knew – she – I just confided in her about so much, because I used to work down in medical, as a medical porter. But, all along, she had her eyes on me. She – she was lusting for me the whole

time, and I didn't know it until later on. I didn't know it probably until about two years later when she came forward and started telling me these things. But I had told her – her and Nurse Houston, I had confided in them and told them so much how I was feeling, and they knew that some of the officials was after me, but I didn't want to go through what I had gone through before when I came clean about – about the nurse at Wrightsville. They put me in segregation and made me strip naked, took my toilet tissue, and –

THE COURT: Is that – is that – are you referring to Nurse Portia?

MS. RICHARDSON: Yes.

THE COURT: Okay.

MS. RICHARDSON: And I went through too much retaliation over there. And so, when I got back to McPherson Unit, it didn't stop. It didn't stop, because the warden ended up coming over to the McPherson Unit, who was the ward over at – at the Wrightsville Unit.

And so, when I was in medical, I felt safe around Ms. Reed and Ms. Houston. But, at that time, I never knew she had any attraction towards me at all. And about two years later – actually, about two years later, she sent somebody to wake me up about two o'clock in the morning, and I didn't get up. It was this inmate, Monica Finley (phonetic), who slept right next to me, and she asked me to get up, that Ms. Reed wanted me down in medical, but I wouldn't get up to go and see what she wanted. And I ended up going to pill call, and she passed me a note, and I can't recall exactly what she said in that note, but I ended up going to

medical for ice – ice packs for my ankle, and as I was going down there, we were all still friends, Ms. Houston and Ms. Reed pretty much showed me favor and they wanted me around them a lot. And so, Ms. Reed, she eventually started telling me how she felt about me, and she was just being so nice to me. I mean, she was just being so nice at the time. And she knew so much and she knew if something happened to me, I told her I'd never say anything about it again because of the retaliation that I got from it.

And the more I was around her, the longer she allowed me to stay – the longer she allowed me to stay in medical. And I recall the first time she invited me into the – it's not the emergency room, it's a room in the back, an examining room to the back wall. And she asked me to come back there with her. She was doing a round. And that's the first time, you know, we ended up kissing that first time. And from that point on, it progressed from that point on. And I told her - I recall telling her that I did not want to stay in medical every time she was on shift for lengthy hours, eight, nine, ten, 11 hours, because I was too much of a target, and too well known with the officials. She insisted that I stay and had me going back to the barracks right before early morning chow time. And we started having sexual misconduct – you know, engaging in sexual acts every time I would go down there. And Ms. Houston knew about it, but she wasn't going to say anything about it. And I just kept it quiet. I told my sister about it. I told my family about it. But I was scared to say something about it because I had told her so much and she knew how I felt about those officials. Every chance they got, they was putting me

in segregation, even for this incident. When I did come clean, versus them – versus ADC officials doing something about this, they put me in segregation and falsified documents and lied and said that I was on a medical computer. When I was having a – down there having sexual misconduct with this staff member, they covered it up under the rug and – and said I was on the computer, put me in segregation.

THE COURT: Right. And, you know, none of those defendants are before me. I mean, the only – this claim is only about Officer Reed and – and sexual misconduct or sexual harassment. Do you understand that?

MS. RICHARDSON: Yes, ma'am.

THE COURT: You're just telling me that as part of the story. I understand why you want to tell me that.

But, at the time this was happening, when you were engaging in this conduct with Officer Reed, you were a willing participant, you voluntarily had sexual relationship – a sexual relationship with her; isn't that correct?

MS. RICHARDSON: Not all the time. I felt like I had to do it when she knew so much on me. I was scared to tell anybody about anybody that worked there.

THE COURT: So you felt like you had to do it because of the things that you had told her?

MS. RICHARDSON: And she – and, plus, she would write me and say, "I know those people are after you." You know, "They after you. They gonna target you any way you can." You know, "And I'm gonna be here for you." And, I mean, I have the letters over here, the emails, and she just – I just felt like I wasn't even in

prison when I was around her sometimes, because she had me thinking that I was just so safe around her, but it was for, you know, her own personal desires just to be with me in a sexual way.

THE COURT: And I understand that that's how you feel now. You've said – you've said that again – you say it in your complaint, you felt safe with her. And you just said it again. You did feel safe with her, and that's why you went along with – with those activities; is that a fair assessment?

MS. RICHARDSON: Well, ma'am, I – you know, at the beginning I felt safe with her, when I worked down there and started hanging around her, but, then, I felt like I was just trapped when I'd end up messing around with her, because I did not like – I did not like some of the things we were doing. I did not like the way – even when I was kissing her, I did not like the way it made me feel.

THE COURT: And this is not the first time that you had an encounter with an ADC employee, was it?

MS. RICHARDSON: A ADC employee? She worked for medical, Wellpath, over in Wrightsville.

THE COURT: Well, this was not the first time that you had an encounter with another female, was it?

MS. RICHARDSON: I didn't go as far as I went, with the nurse at Wrightsville, like I did with Ms. Reed.

THE COURT: This is – you're saying you felt bad about it, you didn't like some of the things that you all did. What – what did – I mean, you're just talking about specific things, or you didn't like the fact – tell me more about that.

MS. RICHARDSON: I didn't like – after the first time I kissed her, I did not like it. I did not like the way it made me feel. I didn't feel like I kept wanting to do it with her.

THE COURT: And why did you?

MS. RICHARDSON: That's what she wanted to do. That's – I mean, that's pretty much what some of her mail an stuff was about and what she'll tell me when she just would come over there and, you know, take me in the room and kiss me, and it would lead to other things.

THE COURT: Okay. You did it, but you didn't want to do it; is that your testimony?

MS. RICHARDSON: I went along with it with her. It's – she didn't throw me down and force me to do it. She didn't just throw me – she didn't throw me on a medical bed or anything like that. But she would initiate it every time. And after I kissed her that first time, I couldn't go back to – you know, even though I didn't – I wasn't looking forward to doing it again, after I kissed her that first time I was - felt like I was trapped in it after that, so I did whatever she wanted to do.

THE COURT: Okay. And then, this ended when she was terminated from the ADC?

MS. RICHARDSON: Did we end – are you asking me did we end communication from each other when she –

THE COURT: Well, I should make that a little more clearer, shouldn't I? Your physical – any physical relationship ended when she was terminated from the ADC?

MS. RICHARDSON: Yes, ma'am.

THE COURT: But you continued to have other contact with her. And how was that? Did you – emails and letters? Or tell me about that.

MS. RICHARDSON: Once she got terminated, I was in segregation when – they had placed me in segregation when she got terminated. And I received letters from her, but the warden at the time had stopped the letters in the mail room and told me it was against – they sent me a mail notice, that I have over here, and said that it was against policy to correspond with a ex-staff member. And I didn't know what was in the letters, and so I asked them what was the policy, and asked for the policy, and there wasn't a policy under that. And so, I wrote a grievance about it.

THE COURT: Is that a grievance that's before me or is that a separate grievance?

MS. RICHARDSON: I don't know what grievance you have before you.

THE COURT: Attached in your complaint – to your complaint, that's a grievance complaining about Ms. Reed, so this must be another grievance. Is that the subject of another one of your lawsuits?

MS. RICHARDSON: About them stopping my mail through the mail room?

THE COURT: Yes.

MS. RICHARDSON: Yes, ma'am. I did mention that in –

THE COURT: In another lawsuit?

MS. RICHARDSON: Yes, ma'am.

THE COURT: So, let me just ask, I mean, as we talk about the allegations in your complaint, I mean, some of this also relates to your damages, did you bring papers today that you wanted to submit in support of your claim for money damages?

MS. RICHARDSON: I mean, papers, as far as what, like –

THE COURT: Well, you just said you had emails and things over there that you brought with you.

MS. RICHARDSON: Oh, yes, ma'am, I do have emails and letters from Ms. Reed. When I had wrote to the courts trying to get some of the stuff that I ain't possibly had, that's when you corresponded back with me and told me I didn't need it.

THE COURT: Uh-huh.

MS. RICHARDSON: Or you didn't grant that.

THE COURT: Right. You were wanting to do discovery with third parties, but, I mean, I said – I mean, you can bring anything that you have, and I will – I mean, this may be a good time for you to submit it.

Ms. Brown, could you get those from Ms. Richardson?

And I'll make a copy, because I don't want to take your only copy.

THE COURTROOM DEPUTY: Okay.

MS. RICHARDSON: Just one more.

THE COURTROOM DEPUTY: Okay.

MS. RICHARDSON: Okay. Here's one, too, ma'am.

THE COURTROOM DEPUTY: Okay.

THE COURT: So, are these emails that you just wanted to submit to the Court?

MS. RICHARDSON: Yes, ma'am.

THE COURT: I'm just trying to get them in the right order. I don't see any – anything here from Ms. Reed, but maybe there's – there's one letter, dated March 8th of 2019, it just says:

“Hey, you. First of all, I love and miss you.”

And then, it continues on, in handwriting, one, two, three – maybe another page, I can't tell. And then, on – there is a – I can see that it's a letter written to you, but the return address is torn off. Who is that letter from?

MS. RICHARDSON: That's from Ms. Reed.

THE COURT: Okay. So, this –

MS. RICHARDSON: So, when – excuse me, Your Honor. When – when I had the CIA, those are the letters that they ended up stopping in the mail room. They compared her handwriting –

THE COURT: Okay.

MS. RICHARDSON: – to those letters. And she – those emails came from my MP4 player, which is a player that have. She went under the name Lexy Ford, but I was able to prove that they came from her.

THE COURT: Okay. So, the emails that say they're from Lexy Ford, dated March 2nd of 2019 and March 25th of 2019, even though it says they're from Lexy Ford, are you saying that they actually were sent by Ms. Reed?

MS. RICHARDSON: Yes, ma'am. I have a – I have – those are just a few of them. I have a host of them in

my MP4 player. When they had – they stopped my – when she was submitting the emails, they put a red flag on my account, that they was coming from her under that anonymous name.

THE COURT: Okay. So, did you – did you get them at the time they were sent, or you recovered them later?

MS. RICHARDSON: I recovered them later.

THE COURT: Okay.

MS. RICHARDSON: But they are still in my player. I kept them in my MP4 player. They blocked it where she could no longer send me emails. Somehow they blocked that account.

THE COURT: Okay. So, every – all of this correspondence that you're presenting was written by Officer Reed; is that correct?

MS. RICHARDSON: Yes, ma'am.

THE COURT: And you didn't receive any of it at the time – at the date – the date on the correspondence?

MS. RICHARDSON: Yes, I did.

THE COURT: You got it – you got it when she sent it?

MS. RICHARDSON: When she – after I sent the letter – when – after I wrote a grievance to get my mail, they wrote that correspondence, that I gave you, back from the mail room, saying the policy – I'm gonna release your mail tonight, or something, it says in that correspondence.

THE COURT: Yeah. March 28th, Christy Smith, the mail room supervisor, wrote:

“Please be advised that I looked into this a little more and there is nothing in policy that states you may not have contact with ex-employees. I’m sending you your mail in tonight’s mail.”

MS. RICHARDSON: Yes, ma’am.

THE COURT: And did she give you all these letters at that time?

MS. RICHARDSON: She gave them to me at that – yeah around that time, the night she said she was going to send them from that correspondence.

THE COURT: Okay. But, like, the first one is from Lexy Ford, and you’re telling me that’s Officer Reed, dated March 2nd of 2019, you didn’t get that on March 2nd, you got it after the mail room supervisor said, “Yes, I’m releasing your mail,” and then at some – near that time, or shortly thereafter, you got all this – all these documents; is that correct?

MS. RICHARDSON: Yes, ma’am.

THE COURT: Okay. I’m going to make this a Plaintiff’s Exhibit. Do we have any exhibit stickers? They’re kind of old, aren’t they? You don’t have a plaintiff’s, do you? This says petitioner.

THE COURTROOM DEPUTY: Like this one?

THE COURT: Yeah. Like that one.

I’m going to make this an exhibit, Plaintiff’s Exhibit 1. And when we take a break, I’m going to make a cop and give you a copy back.

Okay. Let’s continue going through your complaint. We’re on page 4. So, I’m going to pick up:

“The plaintiff soon finds out that Reed was also carrying on with other inmates in the past

before their release. She was just another victim. Being such a targeted inmate, the plaintiff could not break the silence. The plaintiff, her hair started falling out, emotional distress, mental anguish, and depressed.”

So, this – this – you started to experience these feelings after you found out that Reed was also carrying on with other inmates, and you felt like you couldn’t break the silence and reveal your experience with Officer Reed; is that correct?

MS. RICHARDSON: Well, it wasn’t – I had been feeling like – before I even found out about that she had messed with another inmate in the past, I had already been, you know, feeling all this – these emotions. When I said these emotions, about what I had already experienced anyway, and that I didn’t trust to tell anybody anything around there at this point. And I was just having – going through a whole lot of different emotions. All along, I was going through all these different emotions.

THE COURT: Right. And you also were going through lot of different emotions because you had, in your words, been a victim of harassment and retaliation and other things that you thought were unfair at the hands of other ADC officials, other than Ms. Reed?

MS. RICHARDSON: I felt like that with her, too, because I felt like if I would have came clean with Ms. Reed, after she knew so much, I didn’t know what would be her next move either.

THE COURT: I understand – I understand. And so, you – you claim that you were unjustly placed in

segregation, in which another claim will be filed under due process rights in regard to this incident with the separate defendant, Warden John Harrington, and you did file a lawsuit about that, too, didn't you?

MS. RICHARDSON: Yes, ma'am.

THE COURT:

"The state police spoke with the plaintiff one time and no information in regards to the sexual assault and failure to protect."

Is that when you spoke to the state police after you made the PREA allegation in December of 2021?

MS. RICHARDSON: Yes, ma'am.

THE COURT: And that – so, you did talk to the state police about this incident at that time?

MS. RICHARDSON: Yes, ma'am.

THE COURT: But, Officer Reed was no longer employed at the ADC, was she?

MS. RICHARDSON: No, ma'am.

THE COURT: Then you say:

"The plaintiff stopped communicating with Krystle Reed eventually."

So, eventually, your contact – you – your contact broke off with Ms. Reed and you quit writing to her and she quit writing to you; is that correct?

MS. RICHARDSON: Yes, I quit corresponding back to any of her mail or anything, her emails or anything, I just stopped responding to them.

THE COURT: And then you talk about just being numb to past – due to past mistreatment. And then you say you found healing steps through praying. And

then you say you are hated at the McPherson Unit by multiple staff. And you're referring to existing staff that continue to work at the unit correct, not Ms. Reed?

MS. RICHARDSON: Well, you know, Ms. Reed, she is – was a well known, you know, employee there. A lot of people liked her there. You know, she was one of the officers that, you know, people respect her and liked her, from inmates to staff. And, you know, it's – it's not easy.

THE COURT: Well, just – what your complaint says is you are hated at the McPherson by multiple staff?

MS. RICHARDSON: Yes, ma'am. Even when a medical incident took place, you know, they – they made it seem like it was all my fault because of what happened in medical.

THE COURT: Okay. I think I understand what your allegations are in your complaint.

Let's talk about your damages. I've given you back copy of Plaintiff's Exhibit 1. Is there anything you want to point out to me in those documents? I mean, I'll read through them carefully.

MS. RICHARDSON: In – on the Exhibit No. 1, she says:

“Those people are out to get you for real. If they can't get you one way, they'll get you another.”

And just –

THE COURT: Okay. How does that relate to your damages in this case?

MS. RICHARDSON: I'm not finished with this.

THE COURT: Excuse me?

MS. RICHARDSON: I said, ma'am, I – I was – okay, she's saying in this email –

THE COURT: Which one? Tell me the date of it. The March 2nd one?

MS. RICHARDSON: Yes.

THE COURT:

“These people are out to get you for real. If they can't get you one way, they'll get you another. I hate that you're there and going through all this by yourself.”

So, she's referring to the fact that other staff members at the unit are out to get you, and you're going through this by yourself because she's not there; is that correct?

MS. RICHARDSON: Yes, ma'am.

THE COURT: Okay. Anything else you want to point out?

MS. RICHARDSON: And then, she was like – this was all the time, this – even before she got fired it was like that. Like she made it seem like she was just like my super hero or something because of so – you know, the things I told her and shared with her, but with her the having authority that she had, she made me feel like this so I could go along with what she really wanted from me, and that's to have, you know, sex, and –

THE COURT: Well, that's not a possibility at this time; on March 2nd of 2019, she's not there, so there's no possibility of you having sex with her, is there?

MS. RICHARDSON: No, this was a – I just said this was a ongoing thing. You know, this is just a continue

on conversation of what she had been telling me all along anyway.

THE COURT: So, I mean, these seem to be – this seems to be a pretty supportive letter. I mean, she's telling – she's being supportive, is she not?

MS. RICHARDSON: Yes, she is being supportive, but she was telling me all along that they were after me. I believed her. She's staff. She had connection with the other staff members. She's staff, so she – she'll come and tell me.

THE COURT: Yeah. Well, you – you – I mean, let's just be real about this, you've made allegations yourself that staff was out to get you, independently of Officer Reed, haven't you, in other lawsuits that you've filed in this court?

MS. RICHARDSON: Yes, ma'am.

THE COURT: So, this is nothing new? It's not Ms. Reed telling you for the first time that staff is out to get you? I mean, I think that's something you, yourself, have said?

MS. RICHARDSON: Yes, I have said that, but I never felt like somebody was in my corner like she was either.

THE COURT: Okay. So, and that's a bad thing that – that Officer Reed was in your corner, or she said things to make it appear that she was in your corner?

MS. RICHARDSON: She did it for her own personal reasons. There was motives behind why she was feeling like that or even telling me these things, too.

THE COURT: Okay. I understand at the time that she was there, for those brief – that brief period of

time that you had a physical relationship with her, but she's no longer there for you to have a physical relationship with, she's gone, she's been terminated, she's writing to you, so it's a different situation?

MS. RICHARDSON: It is a different situation, because she, you know, claimed that she had fell in love with me at this time, you know, throughout this, whatever it was, with us.

THE COURT: Okay. Well, let's – let's shift and talk about the issue of damages. And it's your burden to show what damages you suffered due to the sexual misconduct. So, what do you – what do you want to put on about that?

MS. RICHARDSON: What I want to put on about it is that in the – even in the midst when this was going on, before Ms. Reed even got terminated, when this was taking place, I was and I have and still do to this day – till this very day, you know, with the anxiety and the depression of it. At one point, you know, I ended up cutting my hair low, because at one point my hair was shedding out really bad. You know, a lot of times, 90 percent – 90 percent or more of the times when we were having these sexual encounters, I would take my mind somewhere else just to get through it. It – it – it – I mean, I really struggled from it a lot. And I still struggle – struggle from all of this, even as recent a to this day. And –

THE COURT: Okay. Let's – you all started talking in November of 2019 and at some point the relationship became physical. And then, we know that Ms. Reed was gone, at the latest, by Valentine's Day of 2019. So, how – how long did the physical contact

last? I mean, it didn't start immediately in – when you started talking to each other?

MS. RICHARDSON: It had to – I'm not – I can't put it just on the head, but I want to say it could have been at the end of November or somewhere around that time. I – I can't just say the exact date it was.

THE COURT: And that's fair. I'm not expecting you to do that. So, the end of November, beginning of December, some physical – you start kissing and then it evolves into more, so we're talking about a two or two and a half month period, approximately?

MS. RICHARDSON: Yes, ma'am.

THE COURT: Okay. Of you being physical with Ms. Reed?

MS. RICHARDSON: Yes, ma'am.

THE COURT: And you're saying that you suffered during that time, and your testimony is that you continue to suffer to this day because of that – that physical encounter?

MS. RICHARDSON: Well, you know, I kept a lot of this stuff built up inside of me. And it – and I can still, you know, replay the things that happened with her – you know, happened in those rooms in medical. Sometimes I wouldn't even come out.

THE COURT: So, it's three and a half years later and your testimony is that you're still continuing to suffer due to that physical relationship that you had with Officer Reed; is that your testimony?

MS. RICHARDSON: Yes. It was – it was a lot of moments I wouldn't even come out the barracks, and

she'll come and get me out just so she could have her way doing what she wanted to do with me.

THE COURT: And that went on for, at maximum, two to two and a half months. And now, we're down the road several years, and you're telling me today, as we sit here today, you continue to suffer based on that experience?

MS. RICHARDSON: Yes, it still bothers me to this day.

THE COURT: And how does it bother you?

MS. RICHARDSON: You know, the fact that I – you know, times when I was in the barracks, I tend to think how when I didn't want to come – when I didn't want to come out, she'll find a way to get me out if – you know, she'll find her way, use her authority position to get me outside to have sex with her.

THE COURT: Okay. You think about that?

MS. RICHARDSON: Yeah, it bothers me.

THE COURT: Anything else?

MS. RICHARDSON: And some of the days, you know, I didn't know how to deal with it. I couldn't talk about – talk about it even if I went to mental health because they'll discuss it with other staff. But, a lot of days I felt dirty after I left from down in that medical room. And I felt like a prostitute down there some days. I do not like going to that medical room right to this day. I have to, because I – you know, because I have medical issues at times, but it's all a struggle.

THE COURT: But it sounds like what you're describing is mental – mental distress type damages; is that correct?

MS. RICHARDSON: Yes, ma'am.

THE COURT: So, since you reported her conduct as a PREA violation, have you talked to anybody, any – any mental health providers at the unit about it?

MS. RICHARDSON: Well, I – I tried to talk to mental health, and some lady that was over – well, she worked for ADC, too. And it's not like it's confidential information. It should be, but it's not.

THE COURT: So, you tried to talk to mental health about it; did you or did you not?

MS. RICHARDSON: Yes, ma'am.

THE COURT: You did?

MS. RICHARDSON: Yes.

THE COURT: And did that provide some outlet?

MS. RICHARDSON: You know, I ended up getting on some – it wasn't for this, but it's for – it help with anxiety, it's Nortriptyline pills.

THE COURT: Uh-huh. When did you start on that?

MS. RICHARDSON: But I didn't do it for this reason, but it helps with my anxiety.

THE COURT: When did you start taking that medication?

MS. RICHARDSON: Well, I've been – I've been on them for – I think I've been on them for like two years, or I'm not really sure, because it's – really, they took me from – I was taking Buspar for things I was going through and then for depression, and then I got put on Amitriptyline for my ankle, which it – it helped better with my anxiety, it relaxed my nerves better than the Buspars pill was doing, so.

THE COURT: Were you taking any of these medications before the incident with Officer Reed?

MS. RICHARDSON: Yes, ma'am. I was on Buspars, but it was from –

THE COURT: Can you spell that, Buspar?

MS. RICHARDSON: They call them Buspars. I don't know the spelling on that, like Buspars. I can't – I don't know the spelling.

THE COURT: Oh, B-U-S-P-A-R, Buspar, like Wellbutrin Is that, I guess –

MS. RICHARDSON: It was for depression.

THE COURT: Okay. And you had depression before the incident with Officer Reed?

MS. RICHARDSON: Yes, ma'am. Yes.

THE COURT: So, you're not alleging that that caused your depression?

MS. RICHARDSON: No. I was – I was on it before that, and I ended up getting – I ended up getting off of them. I think I was on them for like a year before this even took place. And then, I started getting Nortriptyline for my ankle, and it was helping with my anxiety, helping with me to sleep.

THE COURT: Okay. I mean, I guess I could look at your medical records if I needed to, but it sounds like you're not contending that because of this incident you – you had depression that you'd never had before or anxiety that you never had before?

MS. RICHARDSON: Well, it was for – now, the anxiety, all this came when I got off those Buspars. My anxiety – all this came together. I went through a lot behind Ms. Reed. You know, I was in a deep

depression behind her. I had got in my Bible and got into Bible study classes and I was able to cope with things, but I went through a lot with this incident with Ms. Reed and I, because I was doing things that I did not want to do with her.

THE COURT: And that ended after she left, because she wasn't there for you to have to do them with her, correct?

MS. RICHARDSON: No. No. It ended – after she left, I cut communication off with her at some point. But, at that time, when I started it, I didn't feel like I could stop it when she wanted to do it, because I had – when I initially kissed her, I felt like I was in it then, so I –

THE COURT: Okay. I'm going to ask you this one more time. When she's no longer there, you can't be worried about having to have physical contact with her, because she's gone, she's not there?

MS. RICHARDSON: Yes, ma'am.

THE COURT: That's all I'm saying. So, I understand what your story is. But, I mean, just – I mean, you're not – you went through a lot when she was there and you were having a physical relationship with her. All I'm saying is that ended when she was gone, and she wasn't there to force you or to be in a situation for you to have a physical relationship with her. Can we just agree that that's true?

MS. RICHARDSON: Yes, ma'am.

THE COURT: When she's physically not there, you're not going to have to have a physical relationship with her?

MS. RICHARDSON: Yes, ma'am.

THE COURT: And then, after that, you contend that you went into a deep depression because of Ms. Reed. What is your evidence of that?

MS. RICHARDSON: I would sleep a lot. I just didn't – I just didn't want to do anything. I would sleep a lot, you know, cry a lot. I just – I was – I just didn't want to do anything. And that was –

THE COURT: And how long did that go on?

MS. RICHARDSON: I still go through a depression now behind it.

THE COURT: Okay. So you're still depressed to this day, and you blame that on Ms. Reed?

MS. RICHARDSON: Yes, she had something to do with it, yes, ma'am.

THE COURT: Okay. What else has something to do with it?

MS. RICHARDSON: What else have something to do with it?

THE COURT: What else has something to do with your depression that you experience to this day?

MS. RICHARDSON: Just the struggle, just things I've gone through.

THE COURT: Are some of those things reflected in the lawsuits that you've filed in the Eastern District of Arkansas?

MS. RICHARDSON: Yes, ma'am.

THE COURT: Okay.

MS. RICHARDSON: But, those, they are all different situations. They don't all affect me the same either.

THE COURT: Well, would you agree that they're all capable of producing stress, anxiety, or depression?

MS. RICHARDSON: Not all of them put me in a depression, because it's a different feeling.

THE COURT: Did some of them put you in a depression?

MS. RICHARDSON: The one from Wrightsville did.

THE COURT: Is that the one involving Nurse Portia?

MS. RICHARDSON: Yes, ma'am.

THE COURT: Okay. Anything else you want to tell me about how this incident affected your life and you think caused damages?

MS. RICHARDSON: Well, I – I said this to you before, like I – I – you know, my – I just – I just started – I just started feeling dirty, my body just started feeling dirty to me at some times. And, you know, I put in there, you know, my hair started falling out, which I ended up getting it cut.

THE COURT: And that has ended? I mean, your hair is – I mean, it looks like you have a full head of hair now; is that fair to say?

MS. RICHARDSON: Yes, ma'am. I'm not saying it fell out in patches or anything like – you know, like it just – had more hair, and it just looked like it went from being like this, to, you know, shrinking up, when it started falling out on me.

THE COURT: Okay. So, you experienced some hair loss, and that's – but that's largely okay now. I'm just trying to get at what are these things you had – you had damages and how long they lasted.

MS. RICHARDSON: Yes, ma'am.

THE COURT: Anything else you want to tell me about?

MS. RICHARDSON: No, ma'am.

THE COURT: Do you want me to review your medical records in connection with any treatment that you received that you contend was because of this incident with Officer Reed? I mean, I can do that if you want me to, or I can just accept the testimony that you've given today.

MS. RICHARDSON: Well, you can accept the testimony was giving today, because – I mean, that I have given you today, on the strength of I honestly told you why I was taking those pills when I was taking them. You know, one was the issue for my ankle, which helped more so with what I was going through than it did for my ankle.

THE COURT: So, you kept taking that Amitriptyline for a period of time. Are you taking any medications for depression or anxiety today?

MS. RICHARDSON: No, just Nortriptyline.

THE COURT: For your anxiety?

MS. RICHARDSON: Yes, ma'am.

THE COURT: Do you know how to spell that?

MS. RICHARDSON: Nortriptyline? N-O-R – I'm not – now, I'm going to try to get close to it –

THE COURT: Okay.

MS. RICHARDSON: – because I’m not sure.

THE COURT: Yeah. I won’t hold you to it.

MS. RICHARDSON: It’s N-O-R-T-P-L-I-N-E, I think.

THE COURT: Okay. And you’re not taking anything for depression today?

MS. RICHARDSON: No.

THE COURT: Is there anything else that you want to tell me about, that you think bears upon an award of compensatory damages in this case?

MS. RICHARDSON: No, ma’am. Judge, the way – you know, outside of this Nortriptyline, the way I deal with things, too, I got deep – I got deep in my Bible.

THE COURT: You got what?

MS. RICHARDSON: Deep into my Bible with this, too. And, you know –

THE COURT: And your complaint makes mention of that that you turned to prayer to try to deal with this. And you’ve also started studying your Bible. And did that – did that help you?

MS. RICHARDSON: Yeah, it helped.

THE COURT: I’ll tell you what, I’m going to take a brief recess and give you a chance to think about whether there is anything you want to tell me, and then I’m going to return. And I’m not going to be gone long, five or ten minutes. And then, I think we’re in a position to wrap this up. But I want to have you a chance – I want to give you a chance to think about

anything you want to tell me before we conclude the hearing today. Fair enough?

MS. RICHARDSON: Yes, ma'am.

THE COURT: I'll be back.

(Recess.)

AFTER RECESS

(Call to order of the Court.)

THE COURT: Ms. Richardson, before we conclude today's hearing, is there anything else you want to tell me?

MS. RICHARDSON: Yes, ma'am. I want to say that, you know, throughout my testimony, and, you know, talking to you about this case today, you know, I feel – I don't know if I was strong enough to go into details about some of the sexual engagements that happened in some of those medical rooms we was in. I don't know if – you know, because of the – some of the things that were taking place between – with Ms. Reed I –

THE COURT: You went into some of them that – that – well, let's just look at your complaint. The factual allegations in your complaint, which that's what Ms. – Officer Reed has notice of, are that you kiss – kissing and the plaintiff penetrating Officer Reed's vagina. So, those are the – those are the specific sexual allegations that you've given Officer Reed notice of in the complaint.

MS. RICHARDSON: Yes, I gave her – when I wrote that grievance and wrote that complaint, it was the event of when we actually got found out about, exposed. You know, in my complaint, I said that these

sexual misconducts took place for, you know, the length of time that it did.

THE COURT: Which we've determined was, you know, no more than two or two and a half months?

MS. RICHARDSON: Yes, ma'am. And Ms. Reed, you know when I – and my thing is, and I said this during my testimony, not one time did I ever come on to Ms. Reed or make any sexual advances towards her at all. I did not.

THE COURT: Okay. Anything else you want to tell me?

MS. RICHARDSON: No, ma'am. No, other than what I've told you about to this day I still struggle about what took place with that. As – as much as I want it to go away, it won't go away.

THE COURT: Okay. Thank you, Ms. Richardson. I think that concludes our hearing today. And I will – I will prepare a recommendation and Judge Rudofsky will have to consider it and determine the final ruling on your motion for default judgment.

MS. RICHARDSON: Yes, ma'am.

THE COURT: So, that concludes today's hearing. And thank you very much. And the Court is in recess.