

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION AT MEMPHIS

DAMIAN FLOREZ-RAMIREZ,

*Plaintiff,*

v.

JACQUES JONES (s-4624); TRACY  
WILLIAMS (s-9596); CARLUS CLEAVES  
(s-4624); KENDAL DAVIS; TAMIKO  
SWAIN (s-5224); ASHLYN  
CUNNINGHAM, RN; and the government of  
SHELBY COUNTY, TENNESSEE,

*Defendants.*

Case No. \_\_\_\_\_

**JURY DEMAND**

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**COMPLAINT FOR DAMAGES AT LAW UNDER THE CIVIL RIGHTS ACT OF 1871**

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**I.  
PRELIMINARY STATEMENT**

This case concerns the reckless, even deliberately indifferent conduct of personnel at the Shelby County Men’s Jail (the “Jail”),<sup>1</sup> who at best stood idly by, and at worst directed and helped facilitate, the common-law assault and battery of Plaintiff Damian Florez-Ramirez, a pretrial detainee, by two members of the black-uniformed Detention Response Team (the “Blackshirts”) of the Shelby County Sheriff’s Office (the “SCSO”), on May 20, 2023. The assailants, Blackshirts Odell Underwood (s-5090) and Reginald Wilkins (s-8033), have since been criminally indicted for their actions. Florez-Ramirez asserts state-law negligence claims against the government of Shelby County, Tennessee (the “County”) based on the negligent hiring, training, and retention of Underwood and Wilkins.

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<sup>1</sup> The Jail is located at 201 Poplar Avenue in Memphis, Tennessee 38103.

The federal claims in this action sound under the Fourteenth Amendment and 42 U.S.C. §1983 (“Section 1983”). Those claims focus first on the separate unconstitutional conduct of four other individuals who allowed the assault and battery to occur. Three of these persons were SCSO officers who outranked Underwood and Wilkins, knew what the Blackshirts were doing to Florez-Ramirez inside an empty medical-examination room, and encouraged it. Two were sergeants, the other a lieutenant (the “Lieutenant”). The Lieutenant’s identity is uncertain at the time of this filing, but undersigned counsel’s investigation suggests three possibilities, each of whom they name here as Defendants.<sup>2</sup> The fourth individual was a nurse employed by the Jail’s private medical-services provider, Wellpath, LLC (“Wellpath”).<sup>3</sup>

Florez-Ramirez also pleads federal claims against the County. Under Section 1983 and *Monell v. Department of Social Services of New York City*, 436 U.S. 658 (1978), the County stands liable as an entity for injuries caused by unconstitutional policies and customs, including the decisions of its policymakers. Florez-Ramirez advances two theories of *Monell* liability here. First, he alleges that SCSO corrections staff regularly subjected inmates to unsanctioned violence inflicted solely as punishment, not for any legitimate penological objective. These retaliatory assaults and batteries, often conducted in “off-camera” areas of the jail, were reported by inmates with such frequency as to support the inference of a culture of tolerance, within the SCSO corrections staff, to constitutional violations. Second, Florez-Ramirez alleges that the County failed to train and supervise inmates with respect to the SCSO’s “Duty to Intervene” policy.

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<sup>2</sup> Undersigned counsel does not anticipate substantively proceeding against all three SCSO lieutenants. They are named here to preserve Florez-Ramirez’s claims until they establish the Lieutenant’s identity.

<sup>3</sup> Wellpath is a Delaware limited-liability company, formerly known as Correct Care Solutions, LLC, registered to do business in Tennessee.

## II. JURISDICTION AND VENUE

1. This Court has original subject-matter jurisdiction, under 28 U.S.C. §§ 1331 and 1343(a), to hear and adjudicate Plaintiff's federal claims.

2. 28 U.S.C. §§ 1331 and 1343(3), (4), give this Court jurisdiction to adjudicate state-law claims pendent to the federal claims in this action.

3. This Court provides proper venue under 28 U.S.C. § 1391(b) because the claims asserted in this action arose from events that occurred in the Western District of Tennessee.

## III. PARTIES TO THE ACTION

4. Plaintiff Damien Florez-Ramirez is, and at all pertinent times was, a citizen of the United States; a resident of Shelby County, Tennessee; and a pretrial detainee held at the Jail.

5. This action names the following individual Defendants:

(a) Lieutenant Jacques Jones (s-46240) is one of the three most likely identities of the SCSO officer referred to here as the "Lieutenant," who appeared on surveillance footage in a necktie and stood immediately outside of Room 213 during the assault and battery of Florez-Ramirez. He is subject to process at the Jail.

(b) Lieutenant Tracy Williams (s-9596) is one of the three most likely identities of the SCSO officer referred to here as the "Lieutenant," who appeared on surveillance footage in a necktie and stood immediately outside of Room 213 during the assault and battery of Florez-Ramirez. He is subject to process at the Jail.

(c) Lieutenant Carlus Cleaves (s-4624) is one of the three most likely identities of the SCSO officer referred to here as the "Lieutenant," who appeared on surveillance footage in a necktie and stood immediately outside of Room 213 during the assault and battery of Florez-Ramirez. He is subject to process at the Jail.

(d) The Lieutenant (whoever he is) is sued here in his individual capacity.

(e) Sergeant Kendal Davis was at all pertinent times an SCSO sergeant acting under color of state law as a member of the SCSO's correctional staff at the Jail. Florez-Ramirez sues him in his individual capacity. He is subject to process at the Jail.

(f) Sergeant Tamiko Swain (s-5224) was at all pertinent times an SCSO sergeant acting under color of state law as a member of the SCSO's correctional staff at the Jail. Florez-Ramirez sues her in her individual capacity. She is subject to process at the Jail.

(g) Ashlyn Cunningham, RN, is a member of the Jail's medical staff and a Wellpath employee. She is subject to process at the Jail, but Florez-Ramirez will attempt to effect service through Wellpath's registered agent in Tennessee,

Corporate Creations Network, Inc., at 205 Powell Place, Brentwood, Tennessee 37027.

6. Florez-Ramirez also sues the government of Shelby County, Tennessee, a political subdivision organized and existing under and by virtue of the laws of Tennessee, as a “person” subject to liability under Section 1983 and *Monell*. It may be served with process through the office of the County attorney, Marlinee Iverson, 160 North Main Street, Ninth Floor, Memphis, Tennessee, 38103.

7. The SCSO is a division of the County, not a distinct legal entity. Statute vests the SCSO, through the chief executive of that division, with “the charge and custody of” the Jail “and of the prisoners therein.” Tenn. Code. Ann § 8-8-201(a)(3).

8. The County also stands liable under Tennessee’s Governmental Tort Liability Act (the “GTLA”) for the negligent acts and omissions of its employees. Florez-Ramirez pleads GTLA claims against the County based on the negligent acts or omissions of several County employees not named as Defendants to this action.

#### **IV. GENERAL ALLEGATIONS**

9. Florez-Ramirez entered the Jail’s medical clinic at 1:51 PM on May 20, 2023. Other persons present included corrections deputy Whitney Jackson (s-9741), who escorted Florez-Ramirez into the medical clinic, and personnel already present in the clinic—including a Wellpath nurse, several corrections deputies, and at least one SCSO supervisor.

10. Staff led Florez-Ramirez into medical-examination Room 213 with his hands cuffed behind his back,<sup>4</sup> his face unmarked, and no other injuries visible.

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<sup>4</sup> Jackson would later tell SCSO investigators that she had handcuffed Florez-Ramirez herself, before reaching the second floor, and did not receive her handcuffs back until sometime later, after Underwood and Wilkins dumped Florez-Ramirez in the isolation cell.

11. Like all the Jail's medical-examination rooms, Room 213 had no camera in it.

12. Jail staff had sent Florez-Ramirez to medical after an altercation on the Jail's fourth-floor L cell pod. Florez-Ramirez had allegedly thrown a plastic chair and struck Sergeant Davis, with a closed fist. Sergeant Davis then tackled, and repeatedly punched Florez-Ramirez. Sergeant Davis' hand was injured at some point, either in the act of tackling Florez-Ramirez or throwing punches while on top of him. During or after that altercation, other guards sprayed Florez-Ramirez with Freeze +P chemical agent, an oil-based chemical irritant issued to SCSO personnel. Jail staff then handcuffed Florez-Ramirez and sent him to medical for chemical-agent exposure.

13. Florez-Ramirez had no visible injuries when he entered Room 213.

14. The assailants, Underwood and Wilkins, entered the frame of the medical-clinic surveillance footage at 1:54 PM. The men entered Room 213 for the first time then.

15. Alone in Room 213 with Florez-Ramirez, Underwood and Wilkins threatened him then, for the first time, with physical harm.

16. The footage shows Underwood and Wilkins next came out of Room 213 and stood in the hallway with other personnel, including the Lieutenant, distinguishable because his SCSO uniform included a necktie, and Sergeant Tamiko Swain.

17. Right after Underwood and Wilkins had entered and left Room 213 for the first time, a Wellpath nurse, Michaela Armstrong, evaluated Florez-Ramirez.

18. Nurse Armstrong would later recall that Florez-Ramirez had his hands cuffed behind him, and no visible injuries, for the entire time she remained in Room 213 with him.

19. Nurse Armstrong did not recall smelling the distinct odor of Freeze +P spray—the chemical agent used by all SCSO corrections personnel—while she was in Room 213 with Florez-Ramirez. Nor at that time did she notice any part of the medical room in disarray.

20. Nurse Armstrong cleared Florez-Ramirez to return to the fourth floor, exited Room 213, and told the Underwood and Wilkins they could take Florez-Ramirez back to his fourth-floor cellpod. They did not.

21. At 1:56 PM, Wilkins removed his wristwatch, handed it to Sergeant, Swain, then went back into Room 213. Upon general information and belief, Sergeant Swain knew Wilkins took off his wristwatch in anticipation of physically attacking Florez-Ramirez. She accepted the wristwatch to hold for safekeeping did nothing to stop the attack from happening.

22. Particularly because Sergeant Swain outranked Wilkins, her knowing acceptance of the wristwatch in anticipation of the physical attack on Florez-Ramirez could be reasonably interpreted as having encouraged that conduct.

23. At 1:1:57 PM, Wilkins was alone in Room 213 with Florez-Ramirez, and Underwood stood outside talking to four other corrections deputies in the hallway. On general information and belief, the substance of that conversation concerned Sergeant Davis' hand injury and how Florez-Ramirez ought to be punished for causing injury to a guard.

24. Sergeant Davis was, at that very time, being treated for his hand injury in the room adjacent to Room 213, Room 212.

25. Alone with Florez-Ramirez inside Room 213, Wilkins started calling him "bitch" and said Florez-Ramirez was about to learn "what happens in here" to inmates who injured guards.

26. After being in the room with Florez-Ramirez for the second time, Wilkins again stepped out. He was heard to say to someone in Room 212, "We got this, Sarge." Upon specific information and belief, he was talking to Sergeant Davis, who was still there being treated for his hand.

27. At 1:58 PM, the two Blackshirts re-entered Room 213 and shut the door. Out in the hallway, the Lieutenant directed everyone else to disperse. He remained standing directly outside Room 213—arms crossed, looking up and down the now-empty hallway.

28. The timing of the Lieutenant's dispersal order—just prior to the assault and battery—and the fact the Lieutenant remained directly outside Room 213 while it happened, support the plausible inference that the Lieutenant helped facilitate the assault and battery—first by dispersing other personnel, then by standing watch.

29. At the very least, the Lieutenant would have heard everything happening inside the Room 213. He would do nothing to intervene.

30. So too would Sergeant Davis, and the Wellpath nurses tending to him in Room 212, Gara Christian and Ashlyn Cunningham, have heard everything happening next door in Room 213. They would do nothing to intervene.

31. Alone with Florez-Ramirez in Room 213—but well within earshot of the Lieutenant in the hallway and the other staff in Room 212—the two Blackshirts proceeded to administer that “lesson” Wilkins had promised.

32. Wilkins first struck Florez-Ramirez under the right eye. That blow knocked Florez-Ramirez—still in handcuffs—from the medical-examination table to the floor, where the Blackshirts repeatedly kicked and struck him.

33. Underwood and Wilkins repeatedly kicked Florez-Ramirez in the face and torso while shouting, “Get up, bitch!” Florez-Ramirez could not get up because he was trying to protect his head—difficult to do with his hands cuffed behind his back—while the two Blackshirts continued to stomp him.

34. The two Blackshirts also struck Florez-Ramirez more than ten times in the head with their fists, handcuffs (used as brass knuckles), and metal Freeze +P cannisters. The blows from the metal implements left permanent divots in the bony parts of Florez-Ramirez's forehead and left and right orbitals.

35. After the attack in Room 213, Underwood asked Nurse Cunningham to look at Florez-Ramirez's eye and "finish him up" (whatever that meant).

36. When Nurse Cunningham entered Room 213, the chemical agent hung so thickly in the air that she could not breathe and had to move Florez-Ramirez to Room 212, now empty.

37. The heavy presence of chemical irritant in Room 213 following the attack suggests either that (a) Underwood and Wilkins sprayed Florez-Ramirez with Freeze +P in addition to beating him, or (b) they struck him so hard with the Freeze+ P cannister that it ruptured.

38. At 2:04 PM, Nurse Cunningham escorted Florez-Ramirez—now covered in blood with a discernably swollen face—from Room 213 to 212. Inside Room 212, Florez-Ramirez told Nurse Cunningham what the Blackshirts did to him and pleaded for help. He also asked her to take pictures and document his injuries. She did not.

39. Instead, Nurse Cunningham pretended not to notice the young man's condition. She refused to report what Florez-Ramirez told her to Jail administration, accurately document the facial injuries, or summon other medical staff for help. She slapped a band-aid on the gash above Florez-Ramirez's right eye, then left him to the Blackshirts while she went about her other work.

40. At 2:12 PM, the two Blackshirts led Florez-Ramirez, plainly battered and disoriented, out of Room 212 and the medical clinic. As Florez-Ramirez stumbled into the hallway, SCSO corrections deputy Lynette Fondren got a clear look at him.



41. In a later interview with SCSO investigators, an “emotional” Deputy Fondren said Florez-Ramirez “seemed to be ok” when she saw him enter the medical clinic. But he “was not the same” when the Blackshirts lead him out. Specifically, Deputy Fondren recalled swelling and lacerations on Florez-Ramirez’s face.

42. From the medical clinic, the two Blackshirts ushered Florez-Ramirez, now struggling to stay on his feet, down to an isolation cell in the Jail’s first-floor administrative-segregation unit (“ad-seg”).

43. On the first floor, the Blackshirts took Florez-Ramirez into a room where inmates change clothes. They told a corrections deputy stationed in ad-seg, Haleesia Martin, that they needed the changing room to “search” Florez-Ramirez.

44. There was no camera inside the changing room.

45. Instead of searching Florez-Ramirez when they entered the changing room, the two Blackshirts attacked and beat him again.

46. Florez-Ramirez’s injuries looked worse when he came out of the changing room, as Deputy Martin would later recall to investigators, than when the three men had entered. When the Blackshirts dragged Florez-Ramirez out, Deputy Martin noticed “obvious facial injuries,” on Florez-Ramirez, including “blood coming from his face.”

47. An SCSO sergeant stationed in ad-seg, Tyrone Manning, also observed Florez-Ramirez after the encounter in the first-floor changing room. Sergeant Mourning would later tell investigators that Florez-Ramirez appeared “in and out” of consciousness, fell down more than once, and kept repeating, “I’m hurting. I’m hurting.” Sergeant Mourning also recalled blood dripping from the inmate onto the sergeant’s boot.

48. After the changing room, Sergeant Mourning helped the Blackshirts drag Florez-Ramirez from the changing room to the so-called ad-seg cage, where they left him.

49. Ad-seg surveillance footage shows Florez-Ramirez, alone in the “cage,” fully lost consciousness at 2:19 PM.

50. At about the same time, back in the medical clinic, Nurses Armstrong and Christian discovered Room 213 in complete disarray. They saw various medical instruments knocked from the wall to the floor. They also recalled “a moderate or concerning amount of blood” pooled “on the floor on both sides of the exam table.”

51. Deputy Fondren entered Room 213 at about that time and recalled seeing “something orange” on the wall. She thought it “could have been puke or [chemical] spray.”

52. Alarmed, Nurse Christian hurried to locate and check on Florez-Ramirez. She found him in ad-seg, unconscious and “with obvious injuries” that included “eyes swelling shut, bleeding from the left eye area and swelling over his eyes.” She also recalled erythema on his chest and abdomen.

53. Nurse Armstrong reported the situation and called a code white, the Jail’s protocol for responding to a medical emergency.

54. Summoned by the code, personnel arrived at ad-seg, lifted an unconscious Florez-Ramirez from the floor of the cage at 2:44 PM, then wheeled him out of the Jail to an ambulance. Although unconscious, Jail staff wheeled him out strapped into a five-point restraint chair rather than a gurney.

55. Florez-Ramirez was rushed to Regional One, where he received treatment for concussion, facial lacerations, and blunt-force trauma to the head.

56. The next day, May 21, 2023, Florez-Ramirez began filling out an inmate grievance (the “Grievance”) about the incident.<sup>5</sup> He completed his narrative and submitted the Grievance the following day, May 22, 2023.

57. On May 23, 2023, the grievance coordinator rejected the Grievance as “nongrievable.” As explanation, the coordinator wrote, “Sir, you cannot grieve after you have violated policy. This is a disciplinary issue that must be addressed by the Disciplinary Board.”

58. Florez-Ramirez did not learn of the denial of his grievance until weeks later. He also received no guidance or other notice as to how he might appeal the grievance coordinator’s decision.

59. In the days and weeks that followed his submission of the Grievance, Florez-Ramirez submitted more grievances. The coordinator denied all of these as nongrievable—either as repetitive, untimely, or both. Fortunately, the coordinator did forward these later grievances to the shift commander for “informational purposes.”

60. On May 30, 2023—before Florez-Ramirez received any response to the several grievances he had submitted—he attended Jail disciplinary proceedings concerning the fourth floor incident with Sergeant Davis. Florez-Ramirez was sanctioned with sixty days detention. Jail disciplinary staff did not allow him to talk at the disciplinary proceedings about his assault and battery at the hands of the Blackshirts.

61. Neither Underwood nor Wilkins filed any use-of-force report in connection with the incident.

62. At some point, SCSO detectives looked into the incident. They reviewed the Jail surveillance footage mentioned above and talked to multiple witnesses. Following the internal

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<sup>5</sup> SCSO Grievance no. G-537105.

investigation, SCSO detectives turned the case over to the office of the Shelby County District Attorney General. The State of Tennessee has since obtained indictments against Wilkins and Underwood, charging each man with felony official oppression, felony official misconduct, and criminal assault. Criminal proceedings are ongoing.

**V.**  
**MONELL ALLEGATIONS**

**A. *Prior Pattern of Similar Conduct***

63. Based on specific information and belief, some (but not all) of which is summarized below, Florez-Ramirez avers that in May 2023 SCSO correctional staff were regularly subjecting Jail inmates to wanton violence. To be sure, the Jail is a dangerous place, and corrections staff sometimes have to resort to violent physical force, in the moment, to reassert or maintain order, and to keep personnel and other inmates safe. These allegations do not concern that type of violent encounter. The instances summarized below are instances of correctional staff maliciously and sadistically inflicting violence on inmates, usually pretrial detainees, for the purpose of punishment after the fact.

64. On June 5, 2018, SCSO corrections deputy Kenneth Faulner pushed inmate Christopher Henderson down some stairs. Security footage substantiated this claim and Deputy Faulner received an oral reprimand.<sup>6</sup>

65. On February 25, 2019, SCSO corrections deputy Damian Cooper deployed his chemical irritant on inmate Derron Pegues, as Pegues walked away from him. Officer Cooper

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<sup>6</sup> SCSO case no. SI2018-261.

grabbed Pegues' head and sprayed him in the face, yanked his hair, pulled him to the floor, and punched him repeatedly. Deputy Cooper received an oral reprimand.<sup>7</sup>

66. On April 9, 2019, SCSO corrections deputy Kimberly White struck inmate Lildarryl Clark in the face unprovoked and with a closed fist. Deputy White received a one-day suspension without pay, which was reduced to a written reprimand.<sup>8</sup>

67. The next day, April 10, 2019, Lieutenant Conolly stomped and kicked inmate Antwon Robinson while Robinson was being held down on the ground. Lieutenant Conolly received a one-day suspension without pay.<sup>9</sup>

68. On August 14, 2019, SCSO corrections deputy Fredrick McCloud followed inmate Jeremy Fields into a medical examination room assaulted him in a vicious and retaliatory manner, while inmate Fields was handcuffed. Inmate Fields was sent to the emergency room with severe head injuries. A grand jury indicted Deputy McCloud for felony misconduct and aggravated assault on November 13, 2019—four years and one day prior to Underwood and Wilkins' indictments. Deputy McCloud was terminated.<sup>10</sup>

69. On October 16, 2019, inmate Jason Poole was attacked by three SCSO corrections deputies—Phillips, Freeman, and Fisher—then handcuffed and, for approximately twenty-five minutes, kicked repeatedly in the face and struck with handcuffs used as brass knuckles.<sup>11</sup>

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<sup>7</sup> SCSO case no. SI2019-151.

<sup>8</sup> SCSO case no. SI2019-226.

<sup>9</sup> SCSO case no. SI2019-303.

<sup>10</sup> SCSO case no. AI2019-035.

<sup>11</sup> **Exhibit A** (SCSO Grievance no. G-487241), submitted herewith.

70. On October 26, 2019, SCSO corrections deputy Ronald Nesbit ran behind inmate Monterio Towles, who was following instructions, and choked him until he lost consciousness. Deputy Nesbit received an oral reprimand.<sup>12</sup>

71. On January 13, 2020, SCSO sergeant Camry Porter attacked inmate (f/n/u) Carlisle, then choked him with her arm around his neck as she pulled him from the back of his head. Sergeant Porter was suspended for three days without pay.<sup>13</sup>

72. In February 2020, Jail inmate Corry Taylor (R&I 339069) reported that six named SCSO corrections employees, including a lieutenant and a sergeant, pulled him from his cell and beat him in a utility closet, apparently in retaliation for filing too many maintenance requests.<sup>14</sup>

73. On May 6, 2020, inmate Deandre Mitchell stood in the middle of four SCSO corrections deputies with his arms by his side when Deputy Lee Simmons stood behind him and struck him in the head with a closed fist. Deputy Simmons was suspended for ten days without pay.<sup>15</sup>

74. On July 20, 2020, SCSO corrections deputy LaTricia Edwards struck inmate Edwards, who posed no threat, placed him in a headlock, straddled him and continued to strike him with a closed fist. Inmate Edwards neither fought back nor tried to protect himself. Deputy Edwards was suspended for one day without pay.<sup>16</sup>

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<sup>12</sup> SCSO case no. SI2019-569.

<sup>13</sup> SCSO case no. SI2020-85.

<sup>14</sup> **Exhibit B** (Taylor pro se Complaint, W.D. Tenn. No. 2:20-cv-02351), submitted herewith.

<sup>15</sup> SCSO case no. AI2020-016.

<sup>16</sup> SCSO case no. SI2020-431.

75. Also on July 20, 2020, SCSO corrections deputies S. Jones, D. Cooper, and J. Perry attacked inmate Elvis Hester inside his cellpod, sprayed him with chemical agent, then struck him repeatedly with handcuffs used as brass knuckles, resulting in stitches.<sup>17</sup>

76. On September 23, 2020, SCSO corrections deputies Harris and Jones sprayed inmate Gregory Brown (R&I No. 000497089), who was wearing handcuffs, with Freeze+ P spray, then led him from his cell into a “dressout closet,” where they proceeded, despite Brown’s compliance, to punch him in the head, face, and ribs.<sup>18</sup>

77. On January 8, 2021, SCSO corrections deputy Damien Cooper exchanged words with inmate Henderson. Although inmate Henderson did not make any aggressive move toward Deputy Cooper, Cooper shoved him into the wall and struck him with a closed fist. Deputy Cooper was suspended for ten days without pay.<sup>19</sup>

78. SCSO corrections deputy Quintin Draper assisted Deputy Cooper in the above incident. He held inmate Henderson in a choke hold.<sup>20</sup> Deputy Draper received a written reprimand.

79. In March 2021, Jail inmate Issac Porterfield (R&I 248196) reported an SCSO corrections deputy took him to a “rec cage” on the Jail’s first floor, where she struck him repeatedly using her jailers’ keys. A separate corrections deputy later sexually assaulted Mr. Porterfield, presumably also in a secluded, off-camera area.

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<sup>17</sup> **Exhibit C** (SCSO Grievance no. G-502368), submitted herewith.

<sup>18</sup> **Exhibit D** (SCSO Grievance no. G-503803), submitted herewith.

<sup>19</sup> SCSO case no. SI2021-089.

<sup>20</sup> SCSO case no. SI2021-131.

80. On May 26, 2021, SCSO corrections deputy Steveland Freeman struck a handcuffed inmate, Cortez Davis, and sprayed him with chemical irritant. Deputy Freeman was suspended for one day without pay.<sup>21</sup>

81. On June 29, 2021, Desmon Haywood grabbed inmate (f/n/u) Barnes from behind, put his arm around Barnes' neck and began a physical altercation. SCSO corrections deputy Haywood was suspended for ten days without pay.<sup>22</sup>

82. On September 13, 2021, SCSO corrections deputy Cortez Sims struck and shoved inmate Darshun Holliday three times, and Holliday did not fight back. Deputy Sims was suspended for five days without pay.<sup>23</sup>

83. On September 29, 2022, SCSO Blackshirt deputies Matthews, Stewart, Elliot, Gatewood, Gray, Ross, Wilkins, Robertson, Gibson, and others, struck and sprayed with Freeze+ P inmate Corey Lurry (R&I no. 425040), who was handcuffed and subdued. Like with Florez-Ramirez, the officers continued the beating off camera in a medical examination room and then in a first-floor closet.<sup>24</sup>

84. On October 5, 2022, Inmate Gershun freeman died as the result of a horrific encounter with at least fourteen members of the SCSO correctional staff. Guards doused Freeman in Freeze+ P spray; kicked and stomped him on and off camera as he pleaded for help; and struck him with metal implements that included heavy rings of "door roll keys," handcuffs used as brass knuckles, and Freeze+ P cannisters. He died facedown, handcuffed, with a deputy's knee in his back. Footage of the incident was released by the Davidson County District Attorney General's

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<sup>21</sup> SCSO case no. SI2021-544.

<sup>22</sup> SCSO case no. SI2021-629.

<sup>23</sup> SCSO case no. SI2021-797.

<sup>24</sup> **Exhibit E** (Grievance no. G-531700), submitted herewith.



office and reported by media across the country. Nine of the individual deputies involved in that incident have been indicted for charges that include murder and aggravated assault. Upon specific information and belief, none have been terminated or in any way disciplined by the County.

85. On December 14, 2022, SCSO Blackshirt deputies Ross, Baker, Steward and Wilkins tied inmate Kevin Hill's (R&I no. 480252) legs and arms with zip ties, picked him up, then deliberately dropped him on his head; the Blackshirts then refused to take Hill, severely concussed, to the hospital.<sup>25</sup>

86. On January 2, 2023, SCSO Blackshirt deputy Boykins slammed inmate Justin Johnson's (R&I no. 489450) head into a concrete wall, then shoved Johnson into a camera-less supply closet where Boykins struck Johnson and repeatedly slammed his head into the wall and kneed him in the face. Inmate Johnson was handcuffed during the entirety of this assault.<sup>26</sup>

**B. *Lack of Enforcement or Training on "Duty to Intervene"***

87. The County nominally adopted a "Duty to Intervene" policy in June 2020, purporting to jump on the law-enforcement-reform bandwagon in the wake of George Floyd's death. That was a farce, window dressing.

88. As of May 2023, the County had not trained Jail staff to implement the policy, provided Jail staff no written information about the policy, and never advised Jail staff of the consequences of violating the policy. It therefore existed as a "policy" in name only.

89. Because the County did nothing to implement or enforce the nominal Duty to Intervene policy, SCSO corrections staff, by and large, were not aware the policy existed in May

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<sup>25</sup> **Exhibit F** (Grievance no. G-535890), submitted herewith.

<sup>26</sup> **Exhibit G** (Grievance no. G-535795), submitted herewith.

2023. SCSO staff therefore generally did not consider it their place to interfere with things other staff members did to inmates, even when such things shocked the conscience.

90. The few members of the corrections staff who may have heard of the Duty to Intervene policy from public media reports did not take it seriously, because the SCSO never punished anyone for violating it and, indeed, did not investigate a single incident for *possible* violation. The SCSO's lack of enforcement sent a clear message to corrections staff that the Duty to Intervene policy (supposing they actually had heard of it) was not and would not be enforced.

## VI. FEDERAL CAUSES OF ACTION

91. Florez-Ramirez incorporates, realleges, and relies on the allegations above as if fully set forth under each of the following counts.

### **A. Count One: Individual Liability under 42 U.S.C. § 1983—Failure to Intervene (Against the Lieutenant)**

92. At all pertinent times, the Lieutenant acted under color of state law.

93. The Lieutenant had a clearly established and non-delegable duty under the Fourteenth Amendment to take reasonable measures to keep inmates safe from wanton violence at the hands of fellow officers.

94. Under *Browner v. Scott County, Tennessee*, 14 F.4th 585 (6th Cir. 2021), Section 1983 liability vis-à-vis a pretrial detainee like Florez-Ramirez requires a mental state “more than negligence but less than subjective intent—something akin to reckless disregard.” *Id.* at 596 (quoting *Castro v. Los Angeles Cty.*, 833 F.3d 1060, 1071 (9th Cir. 2016) (en banc)). “The pretrial detainee must prove that the defendant-official “recklessly failed to act with reasonable care to mitigate the risk . . . posed to the pretrial detainee even though the defendant-official knew, or

should have known, that the condition posed an excessive risk to health and safety.” *Id.* at 597 (cleaned up) (quoting *Darnell v. Pineiro*, 849 F.3d 17, (2d Cir. 2017)).

95. The Lieutenant knew or should have known that Underwood and Wilkins were going to attack Florez-Ramirez, and that the situation posed an excessive risk to Florez-Ramirez’s safety, when the two Blackshirts entered Room 213 alone. But the Lieutenant recklessly did nothing to stop the attack before it occurred. Arguably, he helped facilitate it by dispersing other personnel.

96. The Lieutenant knew or should have known that Underwood and Wilkins were beating Florez-Ramirez, and that the situation posed an excessive risk to Florez-Ramirez’s safety, when the Lieutenant heard the commotion in Room 213. But the Lieutenant recklessly did nothing to stop the attack after it started. Arguably, he helped facilitate the conduct by standing watch outside in the hallway.

97. As a direct and proximate result of the Lieutenant’s facilitation, failure to intervene, or both, Florez-Ramirez suffered grievous injury that would not otherwise have occurred. Florez-Ramirez is entitled to actual damages including, but not limited to, compensation for physical injuries, pain and suffering, extreme fright, disfigurement, loss of enjoyment of life, and emotional distress.

98. The Lieutenant’s conduct deprived Florez-Ramirez of certain constitutional protections, entitling Florez-Ramirez to recover presumed damages.

99. The Lieutenant’s conduct was sufficiently egregious to entitle Florez-Ramirez to a jury instruction on punitive damages.

**B. Count Two: Individual Liability under 42 U.S.C. § 1983—Failure to Intervene (Against Sergeant Davis)**

100. At all pertinent times, Sergeant Davis acted under color of state law.

101. Sergeant Davis had a clearly established and non-delegable duty under the Fourteenth Amendment to take reasonable measures to keep inmates safe from wanton violence at the hands of fellow officers.

102. Sergeant Davis knew or should have known that Underwood and Wilkins were going to attack Florez-Ramirez, and that the situation posed an excessive risk to Florez-Ramirez's safety, when Wilkins said to him just before the beating, "We got this, Sarge." But Sergeant Davis recklessly did nothing to stop the attack before it occurred. Arguably, he encouraged it.

103. Sergeant Davis knew or should have known that Underwood and Wilkins were beating Florez-Ramirez, and that the situation posed an excessive risk to Florez-Ramirez's safety, when he heard the commotion from Room 213. But Sergeant Davis recklessly did nothing to stop the attack after it started.

104. As a direct and proximate result of Sergeant Davis' encouragement, failure to intervene, or both, Florez-Ramirez suffered grievous injury that would not otherwise have occurred. Florez-Ramirez is entitled to actual damages including, but not limited to, compensation for pain and suffering, physical injuries, extreme fright, disfigurement, loss of enjoyment of life, and emotional distress.

105. Sergeant Davis' conduct deprived Florez-Ramirez of certain constitutional protections, entitling Florez-Ramirez to recover presumed damages.

106. Sergeant Davis' conduct was sufficiently egregious to entitle Florez-Ramirez to a jury instruction on punitive damages.

**C. Count Three: Individual Liability under 42 U.S.C. § 1983—Failure to Intervene (Against Sergeant Swain)**

107. At all pertinent times, Sergeant Swain was acting under color of state law.

108. Sergeant Swain had a clearly established and non-delegable duty under the Fourteenth Amendment to take reasonable measures to keep inmates safe from wanton violence at the hands of fellow officers.

109. Sergeant Swain knew or should have known that Underwood and Wilkins were going to attack Florez-Ramirez, and that the situation posed an excessive risk to Florez-Ramirez's safety, when Wilkins handed her his watch and the two Blackshirts entered Room 213 alone. But Sergeant Swain recklessly did nothing to stop the attack before it occurred. Arguably, she encouraged it.

110. As a direct and proximate result of Sergeant Swain's encouragement, failure to intervene, or both, Florez-Ramirez suffered grievous injury that would not otherwise have occurred. Florez-Ramirez is entitled to actual damages including, but not limited to, compensation for physical injuries, pain and suffering, extreme fright, disfigurement, loss of enjoyment of life, and emotional distress.

111. Sergeant Swain's conduct deprived Florez-Ramirez of certain constitutional protections, entitling Florez-Ramirez to recover presumed damages.

**D. Count Four: Individual Liability under 42 U.S.C. § 1983—Failure to Intervene (Against Nurse Cunningham)**

112. At all pertinent times, Nurse Cunningham was acting under of state law.

113. Nurse Cunningham had had a clearly established and non-delegable duty under the Fourteenth Amendment to take reasonable measures to keep inmates safe from wanton violence at the hands of SCSO corrections staff.

114. Nurse Cunningham knew or should have known that Underwood and Wilkins were beating Florez-Ramirez, and that the situation posed an excessive risk to Florez-Ramirez's safety, when she heard the commotion in Room 213. But Nurse Cunningham recklessly did nothing to stop the attack after it started.

115. Nurse Cunningham knew or should have known that to ignore Florez-Ramirez's pleas for help and return him to the custody of the two Blackshirts would pose an excessive risk to Florez-Ramirez's safety. She recklessly did so anyway.

116. As a direct and proximate result of Nurse Cunningham's reckless failure to intervene, Florez-Ramirez suffered grievous injury that would not otherwise have occurred. Florez-Ramirez is entitled to actual damages including, but not limited to, compensation for physical injuries, pain and suffering, extreme fright, disfigurement, loss of enjoyment of life, and emotional distress.

117. Nurse Cunningham's conduct deprived Florez-Ramirez of constitutional protections, entitling Florez-Ramirez to recover presumed damages.

**E. Count Five: Monell Liability under 42 U.S.C. § 1983—Custom of Tolerance (Against the County)**

118. Florez-Ramirez can prevail under a custom-of-tolerance theory if he shows the County tolerated constitutional violations in a manner so widespread “as to . . . be attributable to the municipality as a whole.” *Lipman v. Bush*, 974 F.3d 726, 748 (6th Cir. 2020) (citing *Ford v. County of Grand Traverse*, 535 F.3d 483, 495–96 (6th Cir. 2008)).” Florez-Ramirez can make that showing through circumstantial evidence that County policymakers knew an illegal practice was widespread and acquiesced to it. *See id.* (citing *Memphis Area Local Am. Postal Workers Union, AFL-CIO v. City of Memphis*, 361 F. 898, 902 (6th Cir. 2004)).

119. *Lipman* offered guidance as to what sort of evidence, at the pleadings stage, will suffice to state a plausible claim that an organization had a culture of tolerance to rights violations. Specifically, allegations that county social workers interviewed a battered child six times in the presence of her abusers supported the pre-discovery inference that the Ohio county in question “had a custom of allowing caseworkers to interview potential abuse victims in the presence of their alleged abusers,” the policy was widespread, and policymakers knew about it. *Id.* at 748.

120. Above, Florez-Ramirez alleges twenty-two prior instances of wanton violence that SCSO corrections staff inflicted maliciously and sadistically to punish inmates at the Jail. Many of these instances occurred in camera blind spots like the medical-examination rooms.

121. Compared to the six specific instances of conduct alleged in *Lipman*, all of which concerned the same victim, Florez-Ramirez above provides more examples, affecting more victims, over a longer period.

122. Florez-Ramirez also includes here direct evidence—namely copies of inmates’ grievances and lawsuits—that prove SCSO leadership had written notice of the repeated constitutional violations.

123. The County’s custom of tolerance alleged under this count was the moving force behind the collective failure of the individual Defendants and other Jail personnel to prevent or intervene in the assault and battery of Florez-Ramirez.

124. The County’s custom of tolerance alleged under this count caused Florez-Ramirez grievous injury that would not otherwise have occurred. Florez-Ramirez is entitled to recover actual damages including, but not limited to, compensation for physical injuries, pain and suffering, extreme fright, disfigurement, loss of enjoyment of life, and emotional distress.

125. The County's custom of tolerance alleged under this count deprived Florez-Ramirez of certain constitutional protections, entitling Florez-Ramirez to recover presumed damages.

**F. Count Six: Monell Liability under 42 U.S.C. § 1983—Failure to Train (Against the County)**

126. The Sixth Circuit recognizes two ways a claimant can prevail under this theory. She can rely on “(1) a pattern of similar constitutional violations by untrained employees or (2) a single violation of federal rights, accompanied by a showing that the municipality has failed to train its employees to handle recurring situations presenting an obvious potential for a constitutional violation.” *Id.* (cleaned up) (quoting *Shadrick v. Hopkins Cty.*, 805 F.3d 724, 738–39 (6th Cir. 2015)).

127. The specific incidents summarized above support the plausible inference that the wanton violence represented a widespread practice within SCSO correctional staff at the Jail.

128. Here, SCSO policymakers realized or should have realized, particularly in light of the specific incidents summarized above, that wanton infliction of violence on inmates represented a recurring situation at the Jail that corrections personnel were likely to encounter.

129. The County's failure to educate and inform SCSO corrections staff of the Duty to Intervene policy ensured that policy would have no ameliorative effect on the pattern of wanton violence towards inmates at the Jail.

130. The County's failure, in practice, to require SCSO corrections staff to intervene when they witnessed incidents of wanton violence by staff members made it likely those incidents would continue to occur unabated and result in more serious injuries to victims than if other corrections staff intervened.



131. The County's failure to train or implement alleged under this count was the moving force here behind the collective failure of the individual Defendants and other Jail personnel to prevent or intervene in the assault and battery of Florez-Ramirez.

132. The County's failure to train or implement alleged under this count caused Florez-Ramirez grievous injury that would not otherwise have occurred. Florez-Ramirez is entitled to recover actual damages including, but not limited to, compensation for physical injuries, pain and suffering, extreme fright, disfigurement, loss of enjoyment of life, and emotional distress.

133. The County's failure to train or implement alleged under this count deprived Florez-Ramirez of certain constitutional protections, entitling Florez-Ramirez to recover presumed damages

## **VII. PENDANT CAUSES OF ACTION**

134. Florez-Ramirez incorporates, realleges, and relies on the preceding allegations as if fully pleaded hereunder for each of the following counts.

### **A. *Count Seven: GTLA Negligence—Hiring & Retention* (Against the County)**

135. The County stands liable under the GTLA for injuries resulting from the negligent hiring and retention decisions of its employees tasked with such matters.

136. Had SCSO personnel exercised reasonable diligence when they screened Underwood and Wilkins for employment as correctional deputies, neither would have been hired to work in the Jail.

137. Had SCSO personnel exercised reasonable diligence in monitoring the job performance of Underwood and Wilkins, and their personal conduct and adherence to SCSO

regulations regarding the use of force on inmates, both would have been terminated long before May 2023.

138. The negligent hiring and retention decisions of SCSO alleged under this Count caused Florez-Ramirez to suffer grievous injury from his assault and battery by Underwood and Wilkins, including physical injuries, pain and suffering, extreme fright, disfigurement, loss of enjoyment of life, and emotional distress, which would not otherwise have occurred.

**B. Count Eight: GTLA Liability, Negligent Training  
(Against the County)**

139. The County stands liable under the GTLA for injuries resulting from the negligent training of its employees tasked with such matters.

140. Had SCSO personnel exercised reasonable diligence when they trained Underwood and Wilkins with respect to the SCSO's use-of-force policies, the assault and battery of Florez-Ramirez would not have occurred.

141. The negligent use-of-force training discussed under this Count caused Florez-Ramirez to suffer grievous injury from his assault and battery by Underwood and Wilkins, including physical injuries, pain and suffering, extreme fright, disfigurement, loss of enjoyment of life, and emotional distress, which would not otherwise have occurred.

**VIII.  
PRAYER FOR RELIEF**

WHEREFORE, Florez-Ramirez respectfully demands the following relief as of right:

A. That process issue and Defendants, having waived service of process or been duly served, be required to answer or otherwise respond to this Complaint in the time and manner provided by law;

B. That a jury of eight or more persons be empaneled to hear and decide all jury-triable issues raised above or as may subsequently arise during the action or emerge from discovery;

C. That, upon in a verdict, Judgement be entered in Florez-Ramirez's favor, over and against Defendants, for which execution may issue;

D. That such judgment award compensatory damages in an amount to be determined according to the proof, but in no event less than \$500,000.00;

E. That such judgment award presumed damages in an amount to be determined according to the proof, but in no event less than \$100,000.00;

F. That such judgment award punitive damages against the Lieutenant, Sergeant Davis, and any other individual Defendant whose conduct the jury deems sufficiently egregious, in an amount to be assessed according to the proof, but in no event less than \$750,000.00;

G. That, in addition to damages awarded, Florez-Ramirez be awarded all costs incurred in prosecuting this action, including reasonable attorneys' fees under 42 U.S.C. § 1988; and

H. For such other and further relief as may be appropriate under the circumstances.

Dated May 20, 2024.

Respectfully submitted,  
**APPERSON CRUMP, PLC**

/s/ Jacob Webster Brown

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