

United States Courts Southern District of Texas

FILED

04/15/2022

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS CORPUS CHRISTI DIVISION

Nathan Ochsner, Clerk of Court

United States Courts Southern District of Texas FILED

APR 08 2022

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RICHARD SCOTT SHAFER, §

PLAINTIFF, §

V. § CAUSE NO. 2:22-cv-0049

EXEC. DIR. TDCJ, §

SENIOR WARDEN JERRY SANCHEZ, §

OFFICER ZAMEZ, §

UNKNOWN OFFICER, §

OFFICER LARA, §

UGI II A. JOHNSON, §

OFFICER GARNER, §

SGT. REYES, §

OFFICER MONTOYA, §

UNKNOWN SGT, ||

in thier individual and official §

capacities, et al, ||

DEFENDANTS, §

AMENDED COMPLAINT

I. JURISDICTION & VENUE

1. THIS IS A CIVIL ACTION AUTHORIZED BY 42 U.S.C. SECTION 1983 TO REDRESS THE DEPRIVATION, UNDER COLOR OF STATE LAW, OF RIGHTS SECURED BY THE CONSTITUTION OF THE UNITED STATES. THE COURT HAS JURISDICTION UNDER 28 U.S.C. SECTIONS 1331 AND 1343(a)(3). PLAINTIFF SEEKS DECLARATORY RELIEF PURSUANT TO 28 U.S.C. SECTIONS 2201 AND 2202. PLAINTIFF'S CLAIMS FOR INJUNCTIVE RELIEF ARE AUTHORIZED BY 28 U.S.C. SECTIONS 2283 AND 2284 AND RULE 65 OF THE FEDERAL RULES OF CIVIL PROCEDURE.

2. THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN

DISTRICT OF TEXAS, CORPUS CHRISTI DIVISION, IS AN APPROPRIATE VENUE UNDER 28 U.S.C. SECTION 1391(b)(2) BECAUSE IT IS WHERE THE EVENTS GIVING RISE TO THIS CLAIM OCCURRED.

II. PLAINTIFF

3. PLAINTIFF, RICHARD SCOTT SHAFER, IS AND WAS AT ALL TIMES MENTIONED HEREIN A PRISONER OF THE STATE OF TEXAS, IN THE CUSTODY OF THE TEXAS DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION, CONFINED AT THE WUG. McCONNELL UNIT LOCATED IN BEEVILLE, TEXAS.

III. DEFENDANTS

4. DEFENDANT EXECUTIVE DIRECTOR OF THE TEXAS DEPARTMENT OF CRIMINAL JUSTICE IS LEGALLY RESPONSIBLE FOR THE CONDITIONS OF THE PRISONS LOCATED IN THE STATE OF TEXAS AND FOR THE RULES, REGULATIONS AND POLICIES REQUIRED TO BE FOLLOWED BY HIS SUBORDINATES. HE/SHE IS RESPONSIBLE FOR THE HEALTH AND SAFETY OF INMATES IN THE CUSTODY OF TDJ.

5. DEFENDANT JERRY SANCHEZ IS THE SENIOR WARDEN AT THE WUG McCONNELL UNIT FOR THE TEXAS DEPARTMENT OF CRIMINAL JUSTICE, INSTITUTIONAL DIVISION. HE IS LEGALLY RESPONSIBLE FOR THE CONDUCT OF CORRECTIONAL OFFICERS AT THE UNIT AND FOR THE OVERALL OPERATIONS OF THE INSTITUTION, AS WELL AS THE HEALTH AND WELFARE OF ALL INMATES IN THAT PRISON.

6. OFFICER ZAMEZ IS AN OFFICER ASSIGNED TO THE McCONNELL UNIT AND IS RESPONSIBLE FOR THE HEALTH AND WELFARE OF INMATES AND IS REQUIRED TO ADHERE TO ALL RULES, REGULATIONS, AND LAWS OF THE STATE OF TEXAS. HE IS REQUIRED TO FOLLOW THE RULES SET OUT IN AD-10.64: HEAT MITIGATION MEASURES, AND TO CARRY WITH HIM AT ALL TIMES HEAT-RESTRICTION LISTS.

7. UNKNOWN OFFICER IS ASSIGNED TO THE McCONNELL UNIT AND IS REQUIRED TO ADHERE TO ALL RULES, REGULATIONS, AND LAWS OF THE STATE OF TEXAS. HE IS RESPONSIBLE FOR THE HEALTH AND WELFARE

OF INMATES. HE IS REQUIRED TO FOLLOW THE RULES SET OUT IN AD-10.64: HEAT MITIGATION MEASURES, AND CARRY WITH HIM AT ALL TIMES HEAT-RESTRICTION LISTS.

8. DEFENDANT OFFICER LARA IS ASSIGNED TO THE McCONNELL UNIT AND IS RESPONSIBLE FOR THE HEALTH AND WELFARE OF INMATES AND IS REQUIRED TO ADHERE TO ALL RULES, REGULATIONS, AND LAWS OF THE STATE OF TEXAS. HE IS REQUIRED TO FOLLOW THE RULES SET OUT IN AD-10.64: HEAT MITIGATION MEASURES, AND TO CARRY WITH HIM AT ALL TIMES HEAT-RESTRICTION LISTS.

9. DEFENDANT A. JOHNSON IS A UNIT GRIEVANCE OFFICER II AT THE McCONNELL UNIT AND IS RESPONSIBLE FOR THE HEALTH AND WELFARE OF INMATES. SHE IS REQUIRED TO FOLLOW ALL RULES, REGULATIONS, AND LAWS OF THE STATE OF TEXAS. SHE IS REQUIRED TO FOLLOW THE RULES AND REGULATIONS SET OUT IN AD-3.82: GRIEVANCE PROCEDURES, AND THE OFFENDER GRIEVANCE OPERATIONS MANUAL (OGOM).

10. DEFENDANT OFFICER GARNER IS ASSIGNED TO THE McCONNELL UNIT AND IS RESPONSIBLE FOR THE HEALTH AND WELFARE OF INMATES. HE IS REQUIRED TO ADHERE TO ALL RULES, REGULATIONS, AND LAWS OF THE STATE OF TEXAS. HE IS REQUIRED TO FOLLOW THE RULES SET OUT IN AD-10.64: HEAT MITIGATION MEASURES, AND TO CARRY WITH HIM AT ALL TIMES HEAT-RESTRICTION LISTS.

11. DEFENDANT SGT. REYES IS A SUPERVISOR ASSIGNED TO THE McCONNELL UNIT AND IS RESPONSIBLE FOR THE HEALTH AND WELFARE OF INMATES AND IS REQUIRED TO ADHERE TO ALL RULES, REGULATIONS, AND LAWS OF THE STATE OF TEXAS. HE SUPERVISES OFFICERS AND IS TO ENSURE THAT HIMSELF AND HIS SUBORDINANTS FOLLOW THE RULES SET OUT IN AD-10.64: HEAT MITIGATION MEASURES, AND TO CARRY WITH HIM AT ALL TIMES HEAT-RESTRICTION LISTS.

12. DEFENDANT OFFICER MONTOYA IS ASSIGNED TO THE McCONNELL UNIT AND IS RESPONSIBLE FOR THE HEALTH AND WELFARE OF INMATES AND IS REQUIRED TO ADHERE TO ALL RULES, REGULATIONS, AND LAWS OF THE STATE OF TEXAS. HE IS REQUIRED TO FOLLOW THE RULES SET OUT IN AD-10.64: HEAT MITIGATION MEASURES, AND TO CARRY WITH HIM AT ALL TIMES HEAT-RESTRICTION LISTS.

ALL TIMES HEAT-RESTRICTION LISTS

13. DEFENDANT UNKNOWN SGT. IS ASSIGNED TO THE McCONNELL UNIT AND IS RESPONSIBLE FOR THE HEALTH AND WELFARE OF INMATES AND IS REQUIRED TO ENSURE THAT HIS SUBORDINANTS AND HIMSELF ADHERE TO ALL RULES, REGULATIONS, AND LAWS OF THE STATE OF TEXAS. HE IS REQUIRED TO ENSURE THAT HIS SUBORDINANTS AND HIMSELF FOLLOW THE RULES SET OUT IN AD-10.64: HEAT MITIGATION MEASURES, AND TO CARRY WITH HIM AT ALL TIMES HEAT-RESTRICTION LISTS

14. THE DEFENDANTS ARE SUED IN THEIR OFFICIAL AND INDIVIDUAL CAPACITIES. AT ALL TIMES MENTIONED IN THIS COMPLAINT, THE DEFENDANTS ACTED UNDER THE COLOR OF STATE LAW

FACTS

15. ON SEPTEMBER 26TH, 2019, THE PLAINTIFF WAS MOVED FROM THE COFIELD UNIT, LOCATED IN TENNESSEE COLONY, TEXAS TO THE W.G. McCONNELL UNIT, LOCATED IN BEEVILLE, TEXAS. AT THAT TIME, AS SOON AS THE PLAINTIFF DEPARTED FROM THE BUS, THE HEAT AND HUMIDITY IMMEDIATELY AFFECTED AND OVERWHELMED HIM, MAKING IT DIFFICULT TO ADJUST TO THE CHANGE. THE TEMPERATURES IN THE HOUSING AREAS WERE JUST AS HOT AND EVEN HOTTER AND MORE HUMID THAN OUTSIDE

16. ALTHOUGH THE UNIT HAS AREAS FOR RESPITE, WHICH ARE EQUIPPED WITH AIR-CONDITIONING, THOSE AREAS FOR RELIEF ARE ONLY TEMPORARY DUE TO THE OFFICERS ON THE UNIT LIMITING THE AMOUNT OF TIME AN INMATE CAN SPEND THERE. ONCE THEY ARE TOLD TO LEAVE, THOSE INMATES ARE ONCE AGAIN EXPOSED TO EXCESSIVE HEAT AND HUMIDITY.

17. THE PLAINTIFF WAS 49 YEARS OF AGE AT THE TIME, OVER WEIGHT, WITH PROBLEMS WITH HIS CIRCULATION IN HIS LOWER EXTREMITIES. ADDITIONALLY, THE PLAINTIFF TAKES MEDICATIONS FOR CHRONIC PAIN AND ALLERGIES, NERVE PAIN, AND PSYCHOTROPIC MEDICATIONS FOR ANXIETY RELATED TO POST TRAUMATIC STRESS DISORDER (PTSD). THE COMBINATION OF THESE FACTORS PLACES THE PLAINTIFF AT HIGHER RISK FOR HEAT-RELATED ILLNESSES. THESE CONDITIONS ARE DOCUMENTED WITH THE UNIT'S

MEDICAL DEPARTMENT AND NOTED ON THE PLAINTIFF'S RESTRICTIONS LIST. BECAUSE OF THOSE RESTRICTIONS, THE PLAINTIFF HAS TO LIVE IN A CELL THAT IS ON THE BOTTOM LEVEL AND BOTTOM BUNK.

18. ON AUGUST 5TH, 2020, WHILE CONFINED IN A MEDIUM CUSTODY HOUSING AREA (8 BLDG. J1#POD) THE PLAINTIFF SUFFERED SYMPTOMS OF HEAT-RELATED ILLNESSES, WHICH INCLUDED DIZZINESS, NAUSEA, HEADACHE, AND NOT SWEATING. THE CELL WAS EXTREMELY HOT AND HUMID. AN OFFICER WAS ADVISED (OFFICER ZAMEZ) THAT THE PLAINTIFF NEEDED A RESPITE SHOWER. THAT OFFICER REFUSED TO ALLOW IT, VIOLATING RULES FOUND IN AD-10.64: HEAT MITIGATION MEASURES. ANOTHER OFFICER WHO WAS UNKNOWN AT THE TIME ALSO REFUSED THE PLAINTIFF RESPITE. OTHER OFFENDERS WERE GETTING RESPITE SHOWERS WHO DO NOT SUFFER FROM PROBLEMS WITH HEAT.

19. OFFICER ZAMEZ FINALLY RETURNED HOURS LATER DENYING THE PLAINTIFF'S NEEDED RESPITE BY STATING, "IF I GIVE YOU A SHOWER, THEN I HAVE TO GIVE EVERYONE A SHOWER." DESPITE THE PLAINTIFF ADVISING THE OFFICER OF HIS HEAT-RESTRICTIONS, THAT OFFICER DENIED HIM RESPITE AND DID NOT HAVE HIS HEAT-RESTRICTIONS LIST.

20. THE PLAINTIFF PASSED OUT FROM THE HEAT AROUND 2:00 A.M. SOME TIME LATER, THE PLAINTIFF WOKE UP NEAR THE CELL DOOR. NEITHER OFFICER CONDUCTED HEALTH AND WELLNESS CHECKS.

21. THE PLAINTIFF WROTE A GRIEVANCE AGAINST THOSE OFFICERS WHICH WAS SENT OUT ON AUGUST 6TH, 2020. A RESPONSE TO IT CAME BACK AUTHORIZED BY WARDEN CASTRO ON SEPTEMBER 17, 2020, WHICH SAID "YOUR COMPLAINT HAS BEEN NOTED. INVESTIGATION DID NOT REVEAL ANY MERIT TO YOUR CLAIMS. STAFF STATEMENTS AND VERIFICATIONS PROVIDED DO NOT COLLABORATE YOUR ALLEGATIONS." A STEP 2 APPEAL WAS FILED ON SEPTEMBER 18TH, 2020, AND WAS RETURNED FEBRUARY 21ST, 2021 AFTER TWO EXTENSIONS, WITH THE RESPONSE OF "THERE IS INSUFFICIENT EVIDENCE TO SUPPORT YOUR ALLEGATIONS THAT STAFF DENIED YOU RESPITE. ADMINISTRATION IS AWARE OF YOUR COMPLAINT AND WILL CONTINUE TO MONITOR STAFF CONDUCT TO ENSURE THAT INMATES NEEDING OR REQUESTING RESPITE, RECEIVE ACCESS. IMMEDIATE CORRECTIVE ACTION WILL BE TAKEN SHOULD ANY STAFF MISCONDUCT BE CONFIRMED. BASED ON THE EVIDENCE AVAILABLE

AT THIS TIME, NO FURTHER INVESTIGATION IS WARRANTED."

22. ON AUGUST 6TH, 2020, AT 8:15 P.M. AND 9:35 P.M., OFFICER LARA WAS ADVISED BY THE PLAINTIFF THAT HE HAS BEEN SUFFERING FROM SYMPTOMS OF HEAT-RELATED ILLNESSES FOR THE LAST THREE DAYS. THE OFFICER REFUSED BY JUST SHRUGGING HIS SHOULDERS AND WALKING AWAY. OVER AN HOUR LATER, THE PLAINTIFF TOLD HIM AGAIN THAT HE NEEDED A RESPITE, AND THE OFFICER SAID, "YOU'RE NOT GETTING A SHOWER BECAUSE YOU'RE BITCHING TOO MUCH!" I ASKED FOR A SUPERVISOR AND THE OFFICER REFUSED. OUT OF RETALIATION LATER FOR TELLING THE OFFICER THAT A COMPLAINT WAS GOING TO BE WRITTEN AGAINST HIM, THE OFFICER VIOLENTLY THREW THE PLAINTIFF'S MAIL AT HIM.

23. ON AUGUST 6TH, 2020, THE PLAINTIFF FILED A STEP 1 GRIEVANCE AGAINST OFFICER LARA. IT WAS LATER RETURNED SEPTEMBER 21ST, 2020 WITH THE RESPONSE OF "AFTER OBTAINING AND REVIEWING STATEMENTS FROM STAFF, (NOT REFERRING TO THE TWO WITNESSES THAT WERE PROVIDED IN THE GRIEVANCE) NO EVIDENCE WAS FOUND THAT THE STAFF NAMED IN YOUR GRIEVANCE DENIED YOU A RESPITE SHOWER OR THAT STAFF VIOLATED POLICY. EMPLOYEES ARE INSTRUCTED TO ADHERE TO ALL AGENCY RULES AND REGULATIONS, SUSTAINED VIOLATIONS ARE DEALT WITH IN ACCORDANCE TO AGENCY POLICY AND NOT SUBJECT FOR DISCLOSURE."

24. ON SEPTEMBER 25TH, 2020, THE PLAINTIFF FILED A STEP 2 APPEAL, WHICH WAS RETURNED JANUARY 5TH, 2021 WITH THE FOLLOWING RESPONSE: "YOUR STEP 1 GRIEVANCE HAS BEEN REVIEWED; IT SUFFICIENTLY ADDRESSED YOUR COMPLAINT. OFFICER LARA DENIED YOUR ALLEGATIONS AND NO EVIDENCE WAS PRESENTED TO SUBSTANTIATE YOUR CLAIM. IT'S THE RESPONSIBILITY OF STAFF TO MAINTAIN THE HIGHEST POSSIBLE STANDARDS OF PERFORMANCE AND RESPONSIBILITY IN THEIR DUTIES."

25. ON SEPTEMBER 14TH, 2020, THE PLAINTIFF ADVISED AN UNKNOWN SGT (LATER IDENTIFIED AS SGT. NINO) AND HIS OFFICER THAT HE WAS SUFFERING FROM HEAT-RELATED ILLNESSES AND NEEDED A RESPITE SHOWER AND RESPITE AREA. SGT. NINO AND HIS OFFICER REFUSED AND WALKED AWAY. THE PLAINTIFF PASSED OUT SHORTLY THEREAFTER. HIS CELLMATE, OFFENDER ZAVALA, POURED WATER OVER THE PLAINTIFF AND PUT



ALL THE FANS IN THE CELL ON HIM. THIRTY (30) MINUTES LATER, THE PLAINTIFF WOKE UP, STILL SUFFERING FROM THE HEAT-RELATED ILLNESSES MENTIONED IN PARAGRAPH 18.

26. ON SEPTEMBER 15TH, 2020, THE PLAINTIFF FILED A STEP 1 GRIEVANCE AGAINST SGT. NINO AND HIS OFFICER. IT WAS NEVER RETURNED OR PROCESSED. THE PLAINTIFF WROTE ANOTHER STEP 1 GRIEVANCE, WHICH WAS NOT PROCESSED BECAUSE OF THE TIME FRAME OF 15 HAD EXPIRED. IT IS THE BELIEF OF THE PLAINTIFF THAT SGT. NINO INTERCEPTED THE ORIGINAL STEP 1 GRIEVANCE BEFORE IT COULD REACH THE UNIT GRIEVANCE DEPARTMENT.

27. ON OCTOBER 4TH, 2020, THE PLAINTIFF WROTE THE UNIT WARDEN ABOUT THE ISSUES WITH OFFICERS NOT FOLLOWING THE RULES SET OUT IN AD-10.64, WHICH ARE THE HEAT MITIGATION MEASURES. IT WAS NEVER RESPONDED TO AND NO CHANGE IN THE CONDUCT OF OFFICERS WAS OBSERVED. THEREFORE, BECAUSE OF THE RESPONSIBILITIES A WARDEN HAS AT THERE UNIT TO ENSURE OFFICER ADHEREANCE TO RULES AND REGULATIONS, THEY ARE ACCOUNTABLE FOR THE ACTIONS AND OMISSIONS OF THEIR OFFICERS.

28. ON JUNE 9TH, 2021, OFFICER GARNER DENIED REQUESTS FROM THE PLAINTIFF FOR A RESPITE SHOWER AFTER HE COMPLAINED OF PROBLEMS HE WAS HAVING WITH THE HEAT. SGT. REYES, THE SUPERVISOR ON DUTY, ALSO REFUSED THE PLAINTIFF A RESPITE SHOWER.

29. THE PLAINTIFF FILED A STEP 1 GRIEVANCE AGAINST OFFICER GARNER AND SGT. REYES. IT WAS RETURNED AUGUST 27TH, 2021, WHICH STATED, "STAFF CONTEND AT NO TIME WERE YOU DENIED A RESPITE SHOWER. NOTE, SECURITY STAFF IS TRAINED TO ALWAYS CARRY A HEAT-RESTRICTED LIST OF INMATES IN THEIR ASSIGNED AREAS. NO EVIDENCE WAS FOUND TO SUBSTANTIATE THAT STAFF ACTED INAPPROPRIATELY. NO FURTHER ACTION IS WARRANTED."

30. ON AUGUST 30TH, 2021, THE PLAINTIFF FILED A STEP 2 APPEAL, WHICH WAS RETURNED ON NOVEMBER 20TH, 2021. THE RESPONSE STATES: "AN INVESTIGATION WAS CONDUCTED INTO YOUR ALLEGATIONS. DUE TO OFFICER GARNER NOT WORKING YOUR SECTION ON SAID DATE AND SGT. REYES

NOT HAVING THE AUTHORITY TO DENY RESPITE IN ITS ENTIRETY YOUR STATEMENTS COULD NOT BE VERIFIED. NO FURTHER ACTION IS WARRANTED" THERE WAS NO MENTION IN EITHER GRIEVANCE RESPONSE THAT THEY QUESTIONED THE WITNESSES OR CONSULTED THE CAMERAS. THE WITNESSES ADVISED THE PLAINTIFF THAT NO ONE CAME TO THEM TO ASK ABOUT HIS COMPLAINT. IT IS A REGULAR PRACTICE, IN LIGHT OF THE UNIT BEING SHORT OF STAFF, THAT OFFICER WILL GO TO LUNCH AND OTHER OFFICERS WILL WORK IN AREAS THEY ARE NOT ASSIGNED UNTIL THEY THEMSELVES ARE RELIEVED FOR LUNCH.

31. ON JULY 11TH, 2021, OFFICER MONTOYA REFUSED TO LET THE PLAINTIFF HAVE A RESPITE SHOWER BECAUSE HE WAS HAVING DIFFICULTIES WITH THE HEAT. A SGT. (LATER IDENTIFIED AS SGT. REYES) WAS ADVISED BY THE PLAINTIFF DURING CHOW TIME, WHO TOOK THE PLAINTIFF'S INFORMATION, BUT THE PLAINTIFF STILL WAS DENIED RESPITE. ON THAT SAME DATE, THE PLAINTIFF FILED A STEP 1 GRIEVANCE, WHICH WAS RETURNED ON AUGUST 20TH, 2021 WITH THE RESPONSE: "NO EVIDENCE OF STAFF MISCONDUCT OR STAFF VIOLATING POLICY. EMPLOYEES ARE INSTRUCTED TO ADHERE TO ALL AGENCY RULES AND REGULATIONS, SUSTAINED VIOLATIONS ARE DEALT WITH IN ACCORDANCE WITH AGENCY POLICY AND NOT SUBJECT TO DISCLOSURE. NO FURTHER ACTION IS WARRANTED BY THIS OFFICE."

32. ON AUGUST 26TH, 2021, THE PLAINTIFF FILED A STEP 2 APPEAL WHICH WAS RETURNED NOVEMBER 19TH, 2021 WITH THE RESPONSE: "...NOTHING WAS DISCOVERED TO INDICATE ANY TDOJ POLICY HAS BEEN VIOLATED AND/OR TO SUGGEST ANY EMPLOYEE MISCONDUCT. NO FURTHER ACTION IS WARRANTED BY THIS OFFICE."

33. ON SEPTEMBER 15TH, 2021, THE PLAINTIFF WROTE AN INMATE REQUEST FORM TO WARDEN SANCHEZ REGARDING THE TERRIBLE INFESTATION OF RATS AND ROACHES IN HIS CELL. IT WAS NOT RESPONDED TO ON NOVEMBER 1ST, 2021, AFTER HAVING FILED A STEP 1 GRIEVANCE. A RESPONSE OF: "THE AREA HAS BEEN SCHEDULED FOR PEST CONTROL. BE ADVISED, EACH UNIT HAS AN ESTABLISHED PEST CONTROL TREATMENT SCHEDULE FOR THEIR UNIT. NORMALLY FOOD SERVICES AND COMMISSARY DEPARTMENT AREAS ARE TREATED AT 30-DAY INTERVALS AND OTHER PARTS



OF THE UNIT ARE TREATED AT 90-DAY INTERVALS. REQUESTS FOR PEST CONTROL TREATMENTS DUE TO EMERGENCIES OR UNUSUAL CIRCUMSTANCES RECIEVE TOP PRIORITY AND ARE TREATED AS SOON AS POSSIBLE. NO FURTHER ACTION WARRANTED." AT THE TIME OF THIS COMPLAINT, IT HAS BEEN 5 MONTHS SINCE THE LAST TREATMENT. NOTE: TREATMENTS ARE NOT DONE TO THE POD PIPE-CHASES OR TO THE CELLS UNLESS THE INMATE IS AVAILABLE TO REQUEST IT.

34. ON NOVEMBER 3RD, 2021, THE PLAINTIFF FILED A STEP 2 APPEAL. IT WAS RETURNED FEBRUARY 8TH, 2022 WITH THE FOLLOWING: "YOU WERE APPROPRIATELY ADVISED AT THE STEP 1 LEVEL. IF DEEMED NECESSARY, YOU MAY SUBMIT A SEPARATE STEP 1 GRIEVANCE (I-27) REGARDING ADDITIONAL COMPLAINTS. NO FURTHER ACTION IS WARRANTED AT THIS TIME."

35. ON AUGUST 14TH, 2020, THE PLAINTIFF FILED A STEP 1 GRIEVANCE AGAINST UNIT GRIEVANCE INVESTIGATOR AU JOHNSON FOR FAILING TO OBEY RULES AND REGULATIONS REGARDING THE SCREENING OF INMATE GRIEVANCES. SPECIFICALLY, THE DEFENDANT REFUSED TO PROCESS GRIEVANCE # 2020162288 DUE TO THE "1-IN-7" SUBMISSION RULES. HOWEVER, WHEN LIFE-ENDANGERMENT IS ALLEGED IN THE GRIEVANCE, THE SCREENING CRITERIA DOES NOT APPLY AND THE GRIEVANCE IS NOT SUBJECT TO ANY OF THE SCREENING CRITERIA. UNDER SECTION IV, PAGE 12 OF THE OFFENDER GRIEVANCE OPERATIONS MANUAL, THE FOLLOWING IS STATED: "IF AN OFFENDER ALLEGES OR IMPLIES THAT HE IS IN FEAR FOR HIS LIFE DUE TO THE ACTIONS OR THREATS FROM STAFF, THE UGI WILL IMMEDIATELY NOTIFY THE UNIT WARDEN VIA TDCJ MAINFRAME EMAIL, FOLLOWED BY A TELEPHONE CALL TO THE RANKING SECURITY SUPERVISOR ON DUTY TO NOTIFY THEM OF THE CLAIM." ADDITIONALLY, IT STATES: "ANY GRIEVANCE REGARDING MATTERS FOR WHICH DISPOSITION WITHIN REGULAR TIME LIMITS WOULD SUBJECT THE GRIEVING OFFENDER TO A SUBSTANTIAL RISK OF PERSONAL INJURY OR IRREPARABLE HARM WILL BE CONSIDERED AN EMERGENCY GRIEVANCE AND NOT ELIGIBLE FOR SCREENING OR EXTENSION."

36. ON SEPTEMBER 29TH, 2020, THE GRIEVANCE WAS RETURNED WITH THE RESPONSE OF "YOUR GRIEVANCE HAS BEEN REVIEWED. A REVIEW OF GRIEVANCE # 2020162288 REVEALED THAT IT WAS SCREENED APPROPRIATELY. STAFFER LISON DUEVIDENCE TO SUBSTANTIATE YOUR

ALLEGATION OF STAFF MISCONDUCT OR OF STAFF VIOLATING POLICY. NO FURTHER ACTION IS WARRANTED BY THIS OFFICE."

37. ON SEPTEMBER 29TH, 2020, THE PLAINTIFF FILED A STEP 2 APPEAL WHICH WAS RETURNED ON DECEMBER 30TH, 2020 WITH THE RESPONSE "AN INVESTIGATION HAS BEEN CONDUCTED INTO YOUR COMPLAINT. THE STEP 1 RESPONSE YOU RECEIVED WAS APPROPRIATE. THERE WAS NO EVIDENCE FOUND TO SUBSTANTIATE YOUR ALLEGATIONS THAT YOUR GRIEVANCE ARE NOT BEING PROCESSED OR SCREENED IN ACCORDANCE WITH POLICY. NO FURTHER ACTION IS WARRANTED BY THIS OFFICE." IT IS THE BELIEF (BASED UPON THE NATURE OF GRIEVANCE #2020162288 AND THE "OGOM AND AD-3.82 RULES AND REGULATIONS) OF THE PLAINTIFF THAT UGI II AL JOHNSON VIOLATED THOSE RULES TO COVER-UP OFFICER MISCONDUCT. LIKEWISE, IT IS HIS BELIEF THAT THE WHOLE GRIEVANCE PROCESS IS DELIBERATELY SUBVERTED TO COVER-UP THE CONTINUING MISCONDUCT AND LAW VIOLATIONS BY TDCJ STAFF.

38. THE CONDITIONS OF CONFINEMENT ARE DEPLORABLE AND INHUMANE. TO BE CONTINUALLY SUBJECTED TO EXCESSIVE HEAT, ESPECIALLY TO THOSE WITH MORE SUSCEPTIBILITY TO IT, AMOUNTS TO DELIBERATE INDIFFERENCE AND CRUEL AND UNUSUAL PUNISHMENT. THE DEFENDANTS HAVE DELIBERATELY IGNORED THEIR RESPONSIBILITIES TO CARE FOR THE NEEDS OF THE INMATES, AS THE GRIEVANCE EVIDENCE HAS SHOWN. BECAUSE OF THE LOCATION OF THE McCONNELL UNIT TO THE GULF OF MEXICO, THE HUMIDITY COMBINED WITH THE EXCESSIVE HEATS MAKES IT IMPOSSIBLE FOR INMATES TO ADEQUATELY COOL THEMSELVES, EVEN WITH THE MITIGATION MEASURES IN PLACE.

39. ON SEPTEMBER 25TH, 2021, THE PLAINTIFF WROTE A LETTER TO THE EXECUTIVE DIRECTOR OVER TDCJ. THERE WAS NO RESPONSE TO HIS COMPLAINT ABOUT THE ISSUES AND CONDITIONS REGARDING THIS COMPLAINT. A STEP 1 GRIEVANCE WAS FILED ON OCTOBER 15TH, 2021 WITH IT NOT BEING RETURNED AS OF THE DATE OF THIS AMENDED COMPLAINT.

40. NO WHERE IN THE TEXAS DEPARTMENT OF CRIMINAL JUSTICE ARE THERE UNITS THAT PROVIDE AIR-CONDITIONING FOR GENERAL POPULATIONS OF INMATES. THERE ARE NO SPECIAL UNITS FOR THOSE LIKE

THE PLAINTIFF THAT PROVIDE AIR-CONDITIONING TO COUNTER THE EFFECTS OF THE DANGERS OF BEING EXPOSED TO EXCESSIVE HEAT AND HUMIDITY. BEEVILLE, TEXAS AND SIMILARLY SITUATED CITIES ARE SUBJECT TO HIGHER LEVELS OF HEAT AND HUMIDITY, BUT EVEN MOVING INMATES AROUND TO UNITS FURTHER NORTH DOES NOT REMOVE THE RISKS OF HEAT-RELATED ILLNESSES. THE PLAINTIFF HAS PREVIOUSLY CONFINED ON UNITS WITH LOWER HUMIDITY LEVEL, LIKE THE TULU ROACH UNIT LOCATED IN CHILDRESS, TEXAS, WHICH IS LOCATED IN THE "PANHANDLE" OF TEXAS. TEMPERATURES THERE REGULARLY EXCEED 115 DEGREES LIKE THEY DID IN THE SUMMER OF 2012 WHEN THE UNIT HAD DAY-TIME TEMPERATURES OF 117 DEGREES WITH NIGHT-TIME TEMPERATURES AT 3:00 AM STILL HOVERING OVER 100 DEGREES.

V. EXHAUSTION OF LEGAL REMEDIES

41. PLAINTIFF RICHARD SCOTT SHAFER USED THE PRISONER GRIEVANCE PROCEDURES AVAILABLE AT THE W.G. McCONNELL UNIT IN ATTEMPT TO RESOLVE THE CONDITIONS PLAINTIFF IS SUBJECTED TO. THE EVIDENCE OF EXHAUSTION IS REFERENCE IN PARAGRAPHS 15 -39.

VI. LEGAL CLAIMS

42. PLAINTIFF REALLEGES AND INCORPORATES BY REFERENCE PARAGRAPHS 1 - 40.

43. THE SUBJECTION TO EXCESSIVE HEAT AND HUMIDITY AND EXPOSURE TO LARGE INFESTATIONS OF RODENTS AND ROACHES THAT CARRY DISEASE, FLEAS, WHICH DO BITE INMATES, CONSTITUTES UNSAFE AND UNHEALTHY CONDITIONS OF CONFINEMENT. THIS VIOLATES THE PLAINTIFF'S RIGHTS AND CONSTITUTES VIOLATION OF THE EIGHTH AMENDMENT'S PROTECTION FROM CRUEL AND UNUSUAL PUNISHMENT.

44. WITH OFFICERS REFUSING TO FOLLOW RULES AND REGULATIONS SET OUT IN AD-10.64, EVEN THOUGH THE HEAT MITIGATION MEASURES ARE INEFFECTIVE AT PREVENTING INMATES WHO ARE AT HIGHER RISK OF DEVELOPING HEAT-RELATED ILLNESSES, IT STILL CONSTITUTES A STRONG CASE FOR DELIBERATE INDIFFERENCE AND VIOLATES THE EIGHTH

AMENDMENT AND THE FOURTEENTH AMENDMENT FOR DISCRIMINATION OF AN INMATE WITH A DISABILITY THAT PREVENTS SOME OF LIFE'S NORMAL ACTIVITIES, SUCH AS EXPOSURE TO SUNLIGHT.

45. ADDITIONALLY, THE INTENTIONAL OMISSIONS TO RESOLVE THE INHUMANE CONDITIONS OF CONFINEMENT AT THE McCONNELL UNIT IN BEEVILLE, TEXAS MIMICS THE SAME DELIBERATE AND INDIFFERENT MINDSET OF THE DEFENDANTS IN COLE et al. v. COLLIER, et al. 4:14-cv-1698. THE SAME EXACT CONDITIONS OF CONFINEMENT WERE PRESENT THERE AS THEY ARE AT THE McCONNELL UNIT. THE COURT ORDERED THAT THE DEFENDANTS INSTALL AIR-CONDITIONING IN ALL INMATE HOUSING AREAS. TRANSFER OF THE PLAINTIFF TO ANOTHER UNIT WILL NOT RESOLVE THE ISSUES WITH HEAT. TEXAS IS A SOUTHERN STATE AND IS CONTINUALLY SUBJECTED TO HIGH HEAT AND IN MOST AREAS HIGH HUMIDITY. THE PLAINTIFF WILL CONTINUE TO BE INJURED IRREPARABLY BY THE CONDUCT, ACTIONS AND OMISSIONS BY THE DEFENDANTS UNLESS THE COURT GRANTS THE DECLATORY AND INJUNCTIVE RELIEF WHICH THE PLAINTIFF SEEKS.

VII. PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, PLAINTIFF RESPECTFULLY PRAYS THAT THIS COURT ENTER JUDGMENT GRANTING PLAINTIFF:

46. A DECLARATION THAT THE ACTS AND OMISSIONS DESCRIBED IN THE COMPLAINT AND IN THE GRIEVANCES HEREIN HAVE VIOLATED PLAINTIFF'S EIGHTH AND FOURTEENTH AMENDMENT RIGHTS UNDER THE CONSTITUTION AND LAWS OF THE UNITED STATES.

47. A PRELIMINARY AND PERMANENT INJUNCTION ORDERING DEFENDANTS TO NOT TRANSFER PLAINTIFF FROM THE McCONNELL UNIT SO THAT HE CAN RECEIVE THE NECESSITY OF REDRESS IN THE FORM OF HUMANE CONDITIONS OF CONFINEMENT ONCE THE COURT RULES IN HIS FAVOR ON THE MERITS OF THE CASE, SUCH AIR-CONDITIONING.

48. THAT THE PLAINTIFF SHALL NOT BE SUBJECT TO RETALIATION BY THE DEFENDANTS, THEIR AGENTS, EMPLOYEES OR STAFF MEMBERS, AND THEY WILL ENSURE THAT THE PLAINTIFF'S MAIL NOR HIS

PROPERTY ARE TAMPERED WITH, MISPLACED, CONFISCATED, OR DESTROYED

49. THE DEFENDANTS SHALL INCREASE MEASURES TO ELIMINATE THE INFESTATION OF RODENTS AND ROACHES AND OTHER HARMFUL INSECT INFESTATIONS FROM ALL AREAS OF THE MCCONNELL UNIT

50. THE DEFENDANTS SHALL INSTALL AIR-CONDITIONING UNITS IN ALL INMATE HOUSING AREAS WHICH ARE ALREADY DESIGNED TO ACCOMMODATE SUCH UNITS, SO THAT TEMPERATURE LEVELS DO NOT EXCEED 85 DEGREES INCLUDING THE HUMIDITY. THIS SHALL BE DONE WITHIN 1 YEAR OF THE ORDER FROM THE COURT FOR INJUNCTIVE RELIEF.

51. PUNITIVE DAMAGES ARE REQUESTED IN THE AMOUNT OF \$50,000 AGAINST THE DEFENDANTS FOR KNOWING THAT THE CONDITIONS OF CONFINEMENT ARE INHUMANE AND VIOLATE THE PUBLIC INTERESTS OF HUMAN DECENTRY AND FOR FAILING TO CORRECT IT.

52. COMPENSATORY DAMAGES IN THE AMOUNT OF \$1,000 FOR THE INJURIES SUFFERED AS A RESULT OF THE HEAT-RELATED ILLNESSES THAT WERE IGNORED BY THE DEFENDANTS AND THE CONTINUAL EXPOSURE TO DISEASES CARRIED BY RODENTS, THEIR FLEAS AND ROACHES WHICH HAVE REPEATEDLY BITTEN THE PLAINTIFF.

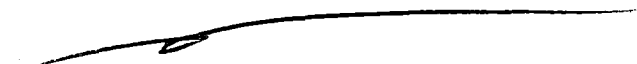
53. A JURY TRIAL ON ALL ISSUES TRIABLE BY JURY

54. PLAINTIFF'S COSTS IN THIS SUIT

55. A SPECIAL MASTER BE APPOINTED TO OVERSEE AND ENSURE COMPLIANCE BY THE DEFENDANTS OF ORDERED INJUNCTIVE RELIEF.

56. ANY ADDITIONAL RELIEF THIS COURT DEEMS JUST, PROPER, AND EQUITABLE

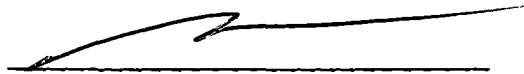
EXECUTED ON THIS THE 5TH DAY OF APRIL, 2022.

  
RICHARD SCOTT SHAFER  
PLAINTIFF, pro se

VERIFICATION

I HAVE READ THE FOREGOING AMENDED COMPLAINT AND  
HEREBY VERIFY THAT THE MATTERS ALLEGED THEREIN ARE TRUE, EXCEPT AS  
TO MATTERS ALLEGED ON INFORMATION AND BELIEF, AND, AS TO THOSE, I  
BELIEVE THEM TO BE TRUE. I CERTIFY UNDER PENALTY OF PERJURY THAT  
THE FOREGOING IS TRUE AND CORRECT.

EXECUTED AT BEEVILLE, TEXAS ON APRIL 5TH, 2022.



RICHARD SCOTT SHAFER  
TDCJ-ID 1680002

WJGU McCONNELL UNIT  
3001 S EMILY DRIVE  
BEEVILLE, TEXAS 781022

PLAINTIFF, pro se