

PARTIES

(4) Plaintiff Thomas W. Jackson is a citizen of the United States and resident of the Commonwealth of Virginia residing in the Western District of Virginia.

(5) At all times material hereto, the Commonwealth is and was a state and the Virginia Department of Corrections is and was an agency or political subdivision of the Commonwealth of Virginia which, among other things, owns and operates correctional facilities in the Commonwealth. One of those facilities is known as Camp 25, which is located in the County of Botetourt in the Commonwealth of Virginia. Botetourt County is located in the Western District of Virginia.

(6) At all times material hereto, correctional officer Michael Fletcher is and was a correctional officer employed by the Commonwealth of Virginia, and acted within his capacity as an employee of the Commonwealth of Virginia and/or the Commonwealth of Virginia Department of Corrections, and acted under of color of state law or in his capacity as an individual, or both.

FACTUAL ALLEGATIONS

(7) On or about May 24, 2006 Jackson was sentenced by the County of Botetourt Circuit Court to serve two years and four months in a penitentiary or correctional facility in the Commonwealth of Virginia as a result of a parole violation.

(8) Ultimately, the Commonwealth of Virginia Department of Corrections assigned Jackson to Camp 25 in Botetourt County. The Commonwealth transported Jackson to Camp 25 where he was placed on a "farm crew" supervised by defendant correctional officer Michael Fletcher.

(9) Jackson is a trained welder and has experience working on motor vehicles, and his work on the farm crew involved use of these skills.

(10) On information and belief, Jackson was sent to Camp 25 in May 2007.

(11) As Jackson's supervisor on the farm crew Fletcher had sole authority over

Jackson for much of the work day at Camp 25. Fletcher would direct Jackson's work and oversee the proper completion of the work.

(12) While exercising this supervisory authority over Jackson, defendant Fletcher assaulted and battered and tortured and abused plaintiff and imposed cruel and unusual punishment in violation of the aforesaid constitutions and laws of the United States and the Commonwealth of Virginia. For example,

- (a) Defendant Fletcher sprayed Freon on plaintiff's ear and neck causing plaintiff to suffer frostbite and resultant numbness;
- (b) While plaintiff was working on a welding project and wearing a welding hood that significantly limited his vision, defendant Fletcher ignited firecrackers near plaintiff's person, startling and frightening plaintiff, and on another occasion when plaintiff was working underneath a vehicle defendant Fletcher ignited a firecracker startling and frightening plaintiff;
- (c) On occasion defendant Fletcher put catfish bait in motor vehicles plaintiff was working on causing plaintiff to have to work in foul and offensive working conditions;
- (d) Defendant Fletcher made cruel and inhumane statements to and about plaintiff and concerning plaintiff's wife who lived in Botetourt County: for example, defendant Fletcher told a state trooper that plaintiff would s--- a d--- for a beer, and that Fletcher was going to f--- Jackson's wife and would make crude comments about and using terms referring to the genitalia of Jackson's wife;
- (e) Defendant Fletcher repeatedly placed lit cigarettes in plaintiff's pockets while plaintiff was welding, causing plaintiff to suffer burns on his body;
- (f) Defendant Fletcher put habanera pepper juice in plaintiff's welding hood. The habanera pepper juice seeped into plaintiff's eyes, temporarily blinding plaintiff and causing him to suffer severe pain;
- (g) Defendant Fletcher repeatedly hit plaintiff in the back, ribs and head;

- (h) On another occasion, defendant Fletcher required plaintiff to help him kill a hog. Plaintiff went to a trailer with Fletcher and found two hogs: defendant Fletcher attempted to kill one of the hogs by firing a .40 caliber firearm at the hog. Fletcher missed the hog and began shooting wildly about the trailer nearly shooting plaintiff, causing plaintiff to temporarily lose his hearing, and placing plaintiff in fear for his life and well-being;
- (i) Defendant Fletcher gave plaintiff chewing tobacco laced with manure, which plaintiff chewed and became ill;
- (j) Defendant Fletcher threw fly trap bait on plaintiff causing him to reek from the odor of the bait, which required plaintiff to throw away his clothes and suffer from the odor for days while it wore off his body;
- (k) Defendant Fletcher forced plaintiff to work on a motor vehicle in the middle of a field located approximately ¼ mile or more from the garage where plaintiff normally worked on vehicles, thereby requiring plaintiff to walk to and from the motor vehicle to retrieve tools and parts to repair the vehicle;
- (l) Defendant Fletcher used sexual and racial epithets to refer to plaintiff (plaintiff is a white male) and others;
- (m) While plaintiff was using a bench grinder defendant Fletcher approached plaintiff from behind, reached up between plaintiff's legs with a shocking device and administered a shock to plaintiff's testicles: the shock startled plaintiff, almost causing him to injure himself on the grinder and causing severe pain to plaintiff;
- (n) At other times while plaintiff was welding defendant Fletcher threw flammable liquids into plaintiff's work area which ignited upon contact with plaintiff's welding materials, thereby frightening and startling plaintiff, risking harm to plaintiff and at times causing burns to his body;
- (o) On another occasion plaintiff when chipped a tooth and cut his lip while working on the farm crew, defendant Fletcher demanded that plaintiff allow him to inspect the

chipped tooth and cut lip: Fletcher then pressed a habanera pepper into the cut on plaintiff's lip causing him to suffer severe pain;

(p) Defendant Fletcher also put hot sauce in plaintiff's drinking cups;

(q) On another occasion defendant Fletcher rigged up a plug on a welding machine to shock plaintiff with 220 Volts of electricity, but fortunately for plaintiff, the surge of the voltage blew the plug from plaintiff's hand causing only burns to plaintiff's hand and greatly startling and frightening him;

(r) Defendant Fletcher forced plaintiff to inhale ammonia fumes;

(s) One of plaintiff's responsibilities was to assist defendant Fletcher with feeding cows at Camp 25: defendant Fletcher would place feed around plaintiff causing the cattle to charge at plaintiff, placing plaintiff in fear of bodily harm;

(t) Defendant Fletcher also threatened to put plaintiff "in the hole," *i.e.*, solitary confinement, if he ever reported how he was being treated; and

(u) After plaintiff disclosed to officials of the Commonwealth of Virginia and/or the Department of Corrections the treatment he was suffering at the hands of defendant Fletcher, these defendants failed to take action to prevent Fletcher from continuing to cause harm to and torture plaintiff: defendant Fletcher also had plaintiff placed "in the hole" to retaliate and punish him for reporting the torturous behavior.

(13) Upon information and belief, defendant Fletcher frequently supervised plaintiff while Fletcher was intoxicated.

(14) Upon information and belief, officials of the Commonwealth of Virginia and/or the Department of Corrections at Camp 25 knew of defendant Fletcher's behavior and treatment of plaintiff and that Fletcher would at times be intoxicated when supervising plaintiff and other inmates, but the Commonwealth of Virginia and/or the Department of Corrections failed to take action to remedy the harm caused to plaintiff or to prevent it from continuing.

(15) Persons complained to officials at Camp 25 about Fletcher, to include his treatment of plaintiff, but Fletcher continued to supervise plaintiff and inflict cruel and unusual punishment on plaintiff as described above and otherwise. Ultimately, officials at Camp 25 sent Fletcher to receive treatment for alcohol abuse but his returned him to work placed him in a supervisory role over plaintiff where he resumed his torturous treatment of plaintiff.

(16) The Commonwealth of Virginia and/or the Department of Corrections are responsible for the acts of defendant Fletcher because officials of these defendants knew or should have known of the treatment of plaintiff by defendant Fletcher and these defendants failed to act to stop the abuse and/or to protect plaintiff from continuing abuse; the events set forth herein constitute a custom, practice and/or habit at Camp 25 that these defendants allowed to occur and continue despite actual and constructive knowledge of these actions, and these defendants are liable for plaintiff's state law claims under the theory of *respondeat superior*.

COUNT ONE

CLAIM FOR RELIEF UNDER THE EIGHTH AND FOURTEENTH AMENDMENTS OF THE CONSTITUTION OF THE UNITED STATES AND 42 U.S.C. §1983 AND ARTICLE I, §9 OF THE CONSTITUTION OF VIRGINIA.

(17) Plaintiff incorporates by reference herein the preceding allegations in this Complaint.

(18) The Eighth Amendment to the Constitution of the United States and Article I, §9 of the Constitution of Virginia provide that inmates should not be subjected to cruel and unusual punishment.

(19) The acts of defendants and each of them constitute cruel and unusual punishment in violation of Eighth Amendment to the Constitution of the United States and Article I, § 9 of the Commonwealth of Virginia, and other applicable laws of the United States and the Commonwealth of Virginia.

(20) The acts of defendants and each of them constitute unnecessary and wanton

infliction of pain, a denial of due process and a failure to ensure the safety and well-being of plaintiff in violation of Eighth and Fourteenth Amendments to the Constitution of the United States, and a denial of plaintiff's liberty interest under the Fourteenth Amendment to the Constitution of the United States.

(21) Defendants and each of them knew or should have known that their actions violated plaintiff's constitutional rights, that no objective need existed to inflict such pain, torture and punishment on plaintiff, and therefore, defendants are not entitled to qualified immunity.

(22) As a direct and proximate result, plaintiff has suffered physical injury, and has suffered and will continue to suffer sleeplessness, anxiety, nervousness, pain and suffering and mental anguish, and other non-pecuniary loss.

(23) Further, defendants acted intentionally and willfully and/or with reckless disregard of the rights of plaintiff so as to support an award of punitive damages.

COUNT TWO

CLAIM FOR ASSAULT AND BATTERY.

(24) Plaintiff incorporates by reference herein the preceding allegations in this Complaint.

(25) The acts of the defendant Fletcher constitute assault and battery under the common law of the Commonwealth of Virginia, and for which the Commonwealth of Virginia and the Department of Corrections are liable under a theory of *respondeat superior*.

(26) As a direct and proximate result of defendants' acts, plaintiff has suffered physical injury and has suffered and will continue to suffer sleeplessness, anxiety, nervousness, pain and suffering and mental anguish, and other non-pecuniary loss.

(27) Further, defendants acted intentionally and willfully and/or with reckless disregard of the rights of plaintiff so as to support an award of punitive damages.

COUNT THREE

CLAIM FOR INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS.

(28) Plaintiff incorporates by reference herein the preceding allegations in this Complaint.

(29) Defendants' conduct constitutes intentional infliction of emotional distress: the conduct was intentional or reckless; the conduct was outrageous and intolerable; plaintiff suffered severe emotional distress including but not limited to sleeplessness, anxiety, nervousness, pain and suffering and mental anguish, fear, nightmares and painful memories of the attacks; the wrongful conduct and plaintiff's emotional distress are causally related; and the emotional distress is and will continued to be severe.

(30) Defendants Commonwealth of Virginia and the Department of Corrections are liable under a theory of *respondeat superior* for Fletcher's actions, and liable directly for their failure to adequately respond to reports of Fletcher's actions and to stop the torturous acts from continuing once they knew or should have known about Fletcher's actions.

(31) As a direct and proximate result of defendants' actions, defendants are liable to plaintiff for compensatory and punitive damages as further alleged herein.

CONCLUSION

WHEREFORE, plaintiff Thomas W. Jackson demands judgment against defendants Commonwealth of Virginia, Department of Corrections, and correctional officer Michael Fletcher, jointly and severally, in an amount to be determined at trial of this matter for compensatory and punitive damages; for an award of attorney's fees and costs, including expert fees; and for other relief.

Trial by jury is demanded.

Respectfully Submitted,

THOMAS W. JACKSON

By /s/ Terry N. Grimes
Of Counsel

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