

The State of South Carolina

In the Court of Appeals

Appeal from the South Carolina Clarendon County Court of Common Pleas

The Honorable Judge R. Ferrell Coltrane, Jr.

Appellate Case # (unassigned)

Christopher Kennan #38506

Pro se Plaintiff/Appellant

Evans CII

610 Hwy 9W

Bennettsville, SC 29512

[No defendant has been served and there is no attorney of Record for Respondent "SCDC"]

	<u>Page</u>
Table of Contents _____	1.
Table of Authorities _____	2
Statement of Issues of Appeal _____	3
Statements of the Case _____	4
Standard of Review _____	5
Facts _____	6
Arguments _____	7-8
Conclusion _____	8
Certificate of Service _____	9

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SC Court of Appeals

pardon the presentation here - this appeal uses some pages from an appeal in an earlier case that dealt with the same issues. Due to a shortage in legal supplies currently, this was unavoidable.

Table of Authorities (with page number cited)Cases:Boddie v. Connecticut, 401 U.S. 371 (1970)Booker v. South Carolina Dept of Corrections, 855 F.3d 533 (4th Cir. 2017)Carlson v. Green, 466 U.S. 14 (1981)Carolina Nat. Bank v. Homestead Building & Loan Ass'n, 56 S.C. 12 (S.C. 1899)Ex Parte Martin, 321 S.C. 533, 535 (1995)Hiers v. South Carolina Power Co., 198 S.C. 280, 17 SE 2d 698 (1941)SC statutes and Court RulesSCACR ^{rule} 203 (b)(1)

SC Const. Art. I, § 15 and SC Const. Art. I, § 2

SC Const. Art. V, § 5

SERMC Rule 1
SCRCP Rule 3(a) and 3(b)

SCRCP Rule 4 and specifically Rule 4(d)(5)

SCRCP Rule 5(a) and 5(d)

§ 14-3-330

§ 14-3-333

~~SERMC Rule 1~~Federal Court Rules

FRCP Rule 5(a)(1)(B)

FRCP Rule 5(d)(4)

Statement of Issues of Appeal

3

(9) Does the South Carolina Constitution require that indigent litigants be allowed to proceed in forma pauperis when their are issues involving "fundamental constitutional rights"?

(1) if "yes" Does plaintiff claim any such fundamental constitutional rights in his complaint

(2) Does plaintiff qualify as indigent?

(3) If "no" please see Ex Parte Martin, 321 S.C. 533, 535 (1995)

Statement of the Case

(4)

On 8/30/24 I sent two copies of my 1983 Complaint, in forma pauperis application, summonses for each defendant and other forms included herein to the Clerk of the County Court of Common Pleas. (see "Exhibit C" for more details).

On 9/12/24, Judge R. Ferrell Cothran denied my in forma pauperis application and sent my unfiled complaint back to me. I received that court's decision on 9/17/24. I sent notice of appeal to that court and to Defendant "SCDC" on 9/28/24. (see Exhibit A).

The case was not filed and currently doesn't have any case number assigned to it. No defendants have been served with any summonses, but I have sent SCDC a copy of the complaint and a certified copy to the South Carolina Attorney General's office, ~~so I can proceed~~. The lower court has not responded to my request to receive a Certificate of Appealability.

My appeal is being made so I can have my case filed and summonses served, without prepayment of any filing fees, and to be allowed to pursue the sole remedy the state holds out for me to receive justice for various claims asserted in my complaint.

It seems that my complaint fits the standard outlined in Ex Parte Martin, 321 S.C. 533, 535 (1995) and my in forma pauperis application should be filed, approved, and summonses issued for each defendant. Previously, Case #2023-001275 (and Appellate case 2024-006832) was denied an appeal for unrelated issues and I hope to have the case heard this time. In those cases, this and the SC Supreme Court deemed that my appeals were qualified to proceed in forma pauperis and I hope the same logic extends to my original submission to the lower court.

Standard of Review (Please construe this pro se attempt liberally) 5.

Per. S.C. Const. Art. V §5. "Jurisdiction of Supreme Court" - "The court shall have appellate jurisdiction only in cases of equity, and in such appeals they shall review the findings of fact as well as the law... The Supreme Court shall constitute a Court for the correction of errors of law under such regulations as the General Assembly may prescribe" (And I hope the same/similar argument holds true for South Carolina's Court of Appeals. I currently do not have access to Westlaw and this response is due today to be mailed.

"In equity causes the South Carolina Constitution has laid no restrictions upon the power of the Supreme Court to hear appeals both as to law and the facts." Carding Nat. Bank v. Homestead Building & Loan Ass'n (S.C. 1899) 56 S.C. 12, 33 S.E. 781.

"Supreme Court is for correcting errors at law" Hiers v. South Carolina Power Co., 198 S.C. 280, 17 S.E. 2d 698 (1941) and pursuant to § 14-3-330.

Please apply relevant Standard of Review for this Appellate Court's Jurisdiction. As a pro se litigant I need this court to liberally construe this and other sections herein to aid me in my pursuit of justice. I am untrained in law.

Facts

The record for review is fully contained within this appeal. This case was not ever filed and received no case number since Plaintiff in forma pauperis application was denied, without explanation, in the South Carolina Court of Common Pleas for Clarendon County, on 9/12/24. Plaintiff is indigent.

Plaintiff received notice of this denial on 9/19/24. ^{9/28/24} "Notice" of Appeal was sent to that court and to named Defendant "SCC". The lower court has not responded to my earlier request for a Certificate of Appealability.

This appeal concerns Plaintiff's in forma pauperis application being denied in this case - in which there are claims of Fundamental State Constitutional violations - The South Carolina Supreme Court held in EX Parte Martin 321 S.C. 533 (1995) that indigent plaintiffs would and should be allowed to access the courts where certain fundamental rights are involved.

Plaintiff has zero income and zero assets and is totally indigent.

Plaintiff's case involves various SCRA, Federal Constitutional and South Carolina Constitutional issues and alleged violations. The State Constitutional claims involve ART I, § 15 and ART I, § 3 - cruel and unusual punishment prohibitions and state rights to Due Process. Please refer to Exhibit C and the complaint herein for more specifics but essentially, I was sexually assaulted after staff left my dorm unattended - and despite the fact that I reported threats made to me by inmates concerning rape and murder threats and three actual assaults I endured, were ignored by Defendant SCC's staff, as well as subsequent staff retaliation because of my grievances related to my sexual assault.

If my in forma pauperis application is denied and my case can not be filed in state court to pursue my rights to redress these fundamental rights, then I will be denied access to the State Courts; and ^{this} would further violate my rights to due process in this state court under S.C. Const. ART. I, § 3. What more fundamental rights are there under South Carolina's Constitution than those of Due Process, the right to Access the courts and to be protected from cruel and unusual punishment?

Arguments:

I. Plaintiff's In Forma Application should be Approved

Plaintiff, Chosen "I," "me" or "my") should have his in forma pauperis application approved as a matter of law. I qualify as indigent since I have zero income and zero assets.

Without the approval of my in forma pauperis application, I can neither file my case nor serve any defendant because I am impoverished.

An earlier case I filed dealing with these same facts (#2023-00 D75 and #2024-000 832) was dismissed on Appeal because I had not sent unserved Defendants Notice of Appeal. I have now refiled my complaint and served Notice of Appeal on all parties; even though none have received any summons.

Pursuant to SCRPC 3(b) and this states holdings in Ex Parte Martin, 321 S.C. 533, 535 (1995) id. at 535, citing Boddie v. Connecticut, 401 U.S. 371 (1972) ("Further, where certain fundamental rights are involved, the Constitution requires that an indigent be allowed to access the courts"), my case should be filed and allowed to pursue the states legal remedy,

my case involves claims of being retaliated upon by prison staff because I reported my sexual assault and asked for help. This "request" was read weeks later and misconstrued by prison staff/defendants. In Booker v. SCDC, 855 F.3d (4th Cir. 2017) "this court has long held that prison officials may not retaliate against prisoners for exercising their right to access the courts... which is a component of the right to petition for redress of grievances [... and] there is an overwhelming consensus of persuasive authority that inmates possess a First Amendment right to be free from retaliation for filing a grievance.")

my complaint deals with my begging defendants for help prior to my sexual assault, the ignoral of these documented threats by defendants, and a subsequent seven month Campaign of harassment I endured by Staff/Defendants - because I utilized their grievance system to report this, and other assaults, I have a lot of documentation on this. Access to the courts is protected by South Carolina's Const. Art. I, § 2 and Federally under U.S.C.A. 1 - and;

Also, my complaint addresses the seven months I was held in solitary confinement while labeled "protective custody" and the deplorable conditions I faced there (e.g. grotesquely smelling of human feces smeared, death threats; in-cell showers and the black mold this caused to grow; only getting 4-5 hours outside of my cell the entire time - all of which contributed to my feeling hopeless, despondent and entertaining suicidal ideations which were acted upon at one time my time held in solitary confinement is being litigated as violative of my due process rights and proscriptions against cruel and unusual punishment - guaranteed by South Carolina's Constitution. Staff admitted to retaliating on me and denying me outside recreation specifically because I made a PREA related grievance.

I was denied mental health treatment for nearly three months

after this assault, despite my repeated, and well-documented requests.

Conclusion

In Carson v. Green, 466 U.S. 14 (1981) and elsewhere, the courts have widely

recognized that inadequate medical care can rise to the level of cruel and unusual punishment. S.C. Const. Art. 1, § holds that a citizens right to be protected from cruel and unusual punishment, ~~violates~~ and the state of South Carolina certainly holds this to be a fundamental right, as described in Ex. parte Martin, 321 S.C. 533, 535 (1995) as being worthy of being allowed to proceed in forma pauperis is state Court. I was denied all mental health treatment for months following a sexual assault and caused me to feel hopelessly dependent and wallowing in my own misery.

Furthermore, SCDC has a "Statute Protective Custody" policy which mandates that all inmates are to receive a "PC Board" within seven (7) days of placement in the Restrictive Housing Unit ("RHU") following a request for Protective Custody. I was not allowed even this basic and required hearing for over five (5) months without appeal and without any rights to Due Process being afforded to me.

State Constitutional claims do not require exhaustion of SCDC's grievance process but Federal claims are required to do so. The state claims act, and are treated, quite differently to Federal ones and I am being denied the state of South Carolina's exclusive remedies held out to redress state grievances, (SCCA and State Constitutional ones) merely because I'm too poor to pay the courts filing fees.

Furthermore, despite the fact that no defendant has been served in this unfiled case, I have served notice of appeal on them I beg this Appeals court approve my in forma pauperis application for this appeal and then to reverse and remand to the Clarendon County Court of Common Pleas, please waive the \$250.00 filing fee for this appeal and I beg this court to use the same logic provided in Ex Parte Martin (Supra) to approve this appeal. If this court approves my in forma pauperis application for this appeal shouldn't my initial request be approved too?

Please approve this appeal so I can pursue justice in state court for a sexual assault I endured that I asked the defendants to help prevent. I warned them of verbal threats and multiple attacks, yet they ignored the requests for help and just let nature take its course. The justice system surely must not only be for those who can afford it. I need your help here. Please review the complaint itself. Due to time and paper constraints, I am forced to submit this less than ideal appeal.

Thank you.
Respectfully,
Christopher M. Kennan

Christopher M. Kennan #385016
pro se plaintiff/ Appellant

Executed on this 18th day of October
2024
at Evans CT
610 Hwy 6W
Bennettsville, SC 29512

Certificate of Service

9.8.

I, Plaintiff/Appellant, Christopher Kennan, has sent this Brief of Appellant, and any attached exhibits to the following parties, at the following addresses and on the date noted:

1. SCDC office of General Counsel | 4444 Broad River Road | Columbia, SC 29210
2. The Honorable Beulah Roberts
Clerk | Third Judicial Circuit - Clarendon County Court of Common Pleas
P.O. Box 136
Manning, SC 29102

Executed on this 18th day of October, 2024 at: ~~at~~
Evans CIE 610 Hwy 9W Bennettsville, SC 29512

Chris Kennan

Christopher M. Kennan #38506 Plaintiff/Appellant

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SC Court of Appeals

The Honorable Beulah Roberts
Clerk, South Carolina Clarendon County Court of Common Pleas
P.O. Box 136
Manning, SC 29102

8/30/24

C

Dear Ms. Roberts and Your Honor,

Enclosed to file are: (in mixed order from listed) (Court copy has no writing on back page and is included on top of pile)

- (2) copies of my complaint (26 pages each) - please clock and stamp one copy and remit to me;
- (3) USM-285 forms; (3) summons; one in forma pauperis application that was included in the 1983 Packet; (1) handwritten version of South Carolina in forma pauperis application;
- (1) Financial Certificate (state version) signed by appropriate staff and an affidavit.

Please note that I am asking the \$150 fee to be waived, but if possible I'd like to pay it later as a restitution. My poverty prevents my payment ability, but not my intentions to pay.

I am facing an impending statute of limitations and I did not have your court in forma pauperis application and I hope what I provided is acceptable to you, as it was with the higher court. Around June of 2023, I submitted a complaint and that court denied my in forma pauperis application which I appealed to the S.C. Court of Appeals and the S.C. Supreme Court. I was assigned case number 2023-001275 and both courts allowed my appeals to proceed in forma pauperis while citing Ex Parte Martin v. State, 321 S.C. 533, 471 S.E.2d 134 (1995) and while approving my application. I hope this court does the same.

This time around I narrowed my complaint a bit while highlighting the violations I endorsed that the South Carolina and US Supreme Courts hold to be fundamental rights under the S.C. Constitution and the US Constitution (eg. Art I, § 3 of S.C. Constitution - the right to due process and be free from cruel and unusual punishment under S.C. Const. Art I § 15 and corresponding 8th and 14th U.S.C.A. rights) like deliberate indifference to medical needs and prolonged solitary confinement. During the appeal process the S.C. Supreme Court assigned a second, newer case number. Currently, that info. is in Evans C1E's property room and I will update that info ASAP.

That case was dismissed because I never effected service of process on defendants (even though they had never been served a summons), when I appealed.

Out of an abundance of caution, I am serving the defendants and the S.C. Attorney General with every document I've submitted to this court in order to have a better more streamlined, appeal process, should that become necessary. I beg this court, in the event that my in forma pauperis application isn't approved, to issue a certificate of appealability please.

This case includes the above mentioned fundamental ^{Constitutional} rights violations, various claims under SCTCA ~~under~~ § 15-78-10 et seq. and some Federal claims which I expect to be removed to Federal Court, but I included for expediency, overall.

My presentation is not the best but I tried to streamline the complaint so it's clear that given these fundamental S.C. Constitutional rights being at issue and according to guidelines set by the South Carolina's Supreme Court in Martin v. State (supra), my in forma pauperis application should be approved (humbly asserted).

Thank you kindly for your time and effort and that of the Honorable Judge who will receive this complaint.

Sincerely yours,
Christopher M. Kennan
Christopher M. Kennan SCDC#385016
Evans C1E
610 Hwy 6W
Bennettsville, SC 29512.

P.S. You can tell by my lettering that my pen is not always working properly and I thank you for bearing with me.

INMATE TRUST FUND ACCOUNT REPORT for SOUTH CAROLINA COURT FILING FEES

INSTRUCTIONS TO INMATE: Complete top portion then give to your mailroom. When returned from Accounting, you must mail this form with any payment to the Court.

By signing my name below, I am asking the Financial Accounting Office of the South Carolina Department of Corrections to complete this report. In accordance with SC Code of Laws §24-27-100 and 150, I authorize payment of the full filing fee. If I have insufficient funds in my account at this time to pay the court's full filing fee, I authorize SCDC to deduct the initial and subsequent payments until payment is completed.

INMATE NAME (print): Christopher M. Kennan

SCDC # 385016 INMATE SIGNATURE: Christopher M. Kennan

I plan to file this action in the SC County of Columbia ~~Supreme~~ ~~County~~ ~~of~~ ~~Charleston~~ Court of Appeals

The section below is for SCDC - Financial Accounting Branch's use ONLY.

(1)	Total deposits to inmate's account for preceding six months' period*	\$	<u>0</u>
(2)	Twenty percent (20%) of line 1	\$	<u>0</u>
(3)	Account balance - current date	\$	<u>0</u>
(4)	PAYMENT AMOUNT ** (lesser of line 2 or line 3) Enclosed check #	\$	<u>0</u>

NOTE to COURT: If payment is for partial fee, Court must notify SCDC once case is accepted and filed. Send notice with case # and balance owed to address below. SCDC will NOT process any additional payments until notification is received from Court.

South Carolina Department of Corrections
Financial Accounting - Room 234
PO Box 21787
Columbia, SC 29221-1787

SCDC-FINANCIAL ACCTG

2024 JUN 10 PM 4:35

*Admission date is noted here if inmate incarcerated less than six months ____/____/____

[Large handwritten signature]

06/10/24

~~UNITED STATES DISTRICT COURT~~

for the
State of South Carolina
Clarendon County Court of Common Pleas

~~John Doe~~ Christopher M. Kennan)
Plaintiff/Petitioner)

SCDC, et al. v.)
Defendant/Respondent)

Civil Action No.

APPLICATION TO PROCEED IN ~~DISTRICT COURT~~ ^{State Court} WITHOUT PREPAYING FEES OR COSTS
(Short Form)

I am a plaintiff or petitioner in this case and declare that I am unable to pay the costs of these proceedings and that I am entitled to the relief requested.

In support of this application, I answer the following questions under penalty of perjury:

1. If incarcerated. I am being held at: Evans C/I/610 HWY 9W/Bennettsville, SC 29512.
If employed there, or have an account in the institution, I have attached to this document a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months for any institutional account in my name. I am also submitting a similar statement from any other institution where I was incarcerated during the last six months.

2. If not incarcerated. If I am employed, my employer's name and address are:

My gross pay or wages are: \$ 0, and my take-home pay or wages are: \$ 0 per
(specify pay period) 0.

3. Other Income. In the past 12 months, I have received income from the following sources (check all that apply):

- (a) Business, profession, or other self-employment Yes No
- (b) Rent payments, interest, or dividends Yes No
- (c) Pension, annuity, or life insurance payments Yes No
- (d) Disability, or worker's compensation payments Yes No
- (e) Gifts, or inheritances Yes No
- (f) Any other sources Yes No

If you answered "Yes" to any question above, describe below or on separate pages each source of money and state the amount that you received and what you expect to receive in the future.

4. Amount of money that I have in cash or in a checking or savings account: \$ 0.

5. Any automobile, real estate, stock, bond, security, trust, jewelry, art work, or other financial instrument or thing of value that I own, including any item of value held in someone else's name (describe the property and its approximate value):

\$0.00

6. Any housing, transportation, utilities, or loan payments, or other regular monthly expenses (describe and provide the amount of the monthly expense): \$0.00

7. Names (or, if under 18, initials only) of all persons who are dependent on me for support, my relationship with each person, and how much I contribute to their support:

N/A

\$0.00 contributed

8. Any debts or financial obligations (describe the amounts owed and to whom they are payable):

Nelnet Student Loan and Federal Student Loans totaling ~~at~~ \$60,000, currently on Income based repayment plan (NELNET) with \$0.00/mo. payments. The Federal Loan Servicer's "IBR" application is still pending for annual approval.

Declaration: I declare under penalty of perjury that the above information is true and understand that a false statement may result in a dismissal of my claims.

Date: 8/30/24

Christopher M. Kennan
Applicant's signature

Christopher M. Kennan
Printed name

3 day in Sept 2024
Jarosh Dunn
Secretary Public of South Carolina
2/28/24

In the State of South Carolina
Clarendon County Court of Common Pleas

~~IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA~~

Christopher M. Kennan

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-against- Shawanna Porter
SCDC, ~~Ms Porter~~ and
~~Author ID "062844"~~
Lisa Craft

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

Complaint for Violation of Civil Rights
(Prisoner Complaint)

Case No. _____
(to be filled in by the Clerk's Office)

Jury Trial: Yes No
(check one)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

When submitted for filing, your complaint should be accompanied by the full filing fee or an application to proceed in *forma pauperis*.

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name Christopher M. Kennan
All other names by which you have been known:

ID Number 385016
Current Institution Evans C/I
Address 610 Hwy 9W
Bennettsville, SC 29512

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name South Carolina Department of Corrections
Job or Title Gov't Agency
(if known)
Shield Number N/A
Employer State Agency of South Carolina
Address 4444 Broad River Road
Columbia, SC 29210
 Individual capacity Official capacity

Defendant No. 2

Name (Ms. Porter) Shawanna Porter

Job or Title (if known) Mental Health Counselor at TCI
Shield Number _____
Employer SCDC
Address 4444 Broad River Road
Columbia, SC 29210
 Individual capacity Official capacity

Defendant No. 3

Name (Author ID "062844") Lisa Craft
Job or Title (if known) Responds to ARTSM's for "Investigations"
Shield Number _____
Employer SCDC
Address 4444 Broad River Road
Columbia, SC 29210
 Individual capacity Official capacity

Defendant No. 4

Name _____
Job or Title (if known) _____
Shield Number _____
Employer _____
Address _____
 Individual capacity Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (*check all that apply*):

Federal officials (a *Bivens* claim)

State or local officials (a § 1983 claim)

SCTCA § 15-78-10 et seq.

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

See attached “Section II. B.” (pg. 13)

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

N/A

D. Section 1983 allows defendants to be found liable only when they have acted “under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia.” 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

At all times all defendants acted under color of state law when mentioned in this complaint.

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (*check all that apply*):

Pretrial detainee

Civilly committed detainee

Immigration detainee

- Convicted and sentenced state prisoner
- Convicted and sentenced federal prisoner
- Other (explain) _____

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

NA

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

Turberville CIT ("TCI") - four inmate assaults between 9/17/21 - 10/13/21; and staff initiated retaliation on me due to PREA claims 10/14/21 - 5/13/22. Evans CIT - staff initiated retaliation continued from 5/13/22 - 8/31/22.

- C. What date and approximate time did the events giving rise to your claim(s) occur?

There were four inmate attacks on me (see attached "Section IV. C.") - they were on four different dates between 9/17/21 - 10/13/21. (p. 14)

- D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

(see attached "Section IV. D.") (pp. 15-23)

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

I sustained a fractured jaw, injured shoulder and neck; 2nd degree burn, forced to swallow bleach, sexually assaulted/related injuries; beaten on my head and back; choked; internal injuries (treated and documented at Toomey Emergency Room / SAIN Nurse); various lacerations; Post Traumatic Stress ^{Disorder} diagnosis w/ limited psychological treatment (mostly meds); suicide attempt due to stress of attack and aftermath (no treatment). My shoulder and neck were x-rayed but little else was treated by medical staff aside from my 2nd degree burn on my buttocks, and during the rape kit.

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

See attached "Section VI" (p. 24)

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

- Yes
 No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

Turberville C/I ("TCI") primarily (Five claims between 9/17/21-5/13/22; And Evans C/I ("ECI") between 5/14/22-8/31/22.

B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

- Yes
 No
 Do not know

C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

- Yes
 No
 Do not know

If yes, which claim(s)?

All of them

D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

- Yes
 No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

- Yes
 No

E. If you did file a grievance:

1. Where did you file the grievance?

At both "TCI" and "ECI"

* (TCI is Turberville CII and "ECI" is Evans CII)

2. What did you claim in your grievance?

All applicable Federal claims were grieved and the SOCA claims were too even though they are not required

3. What was the result, if any?

Each grievance was fully exhausted to the limits allowed and ^{made} available by SOCA.

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

Exhaustion is an affirmative defense to Federal claims and need not be established here.

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

N/A

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

N/A

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

Exhaustion is an affirmative defence

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VIII. Previous Lawsuits

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this "three strikes rule"?

- Yes
 No

If so, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

N/A

A. Have you filed 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 each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s) Christopher M. Kennan

Defendant(s) SEDC, C.O. Brown et al,

2. Court (if federal court, name the district; if state court, name the county and State)

U.S. District Court / District of S. Carolina / Charleston Division

3. Docket or index number

9:23-CV-02313-SAL-MHC

4. Name of Judge assigned to your case

Molly H. Cherry

5. Approximate date of filing lawsuit

~ June of 2023

6. Is the case still pending?

Yes

No

If no, give the approximate date of disposition. _____

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

Still pending / Summary Judgment phase

C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

Yes

No

D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s) Christopher M. Kennan

Defendant(s) Ms. Squire, et al.

2. Court (if federal court, name the district; if state court, name the county and State)

U.S. District Court, District of South Carolina,
(Charleston Division)

3. Docket or index number

9'23-CV-01213-SAL-MHC

4. Name of Judge assigned to your case

Molly H. Cherry

5. Approximate date of filing lawsuit

5/8/23

6. Is the case still pending?

Yes

No

If no, give the approximate date of disposition. N/A

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

Still Pending / Summary Judgment phase
(See attached "Section VII" E and F and "Section VIII" G and H for more cases) (p.25)

IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11. (see also p.26)

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 8/30, 2024

Signature of Plaintiff 

Printed Name of Plaintiff Christopher M. Kennan

Prison Identification # 385016

Prison Address Evans CIT

Bennettsville SC 29512
City State Zip Code

B. For Attorneys

Date of signing: _____, 20__.

Signature of Attorney _____

Printed Name of Attorney _____

Bar Number _____

Name of Law Firm _____

Section II.B. "Basis for Jurisdiction"

• (Fundamental) South Carolina Constitutional Claims:

- Article I. § 3 (Right to Due Process)
- Article I. § 15 (Right to be Free From Cruel and Unusual Punishment)
 - * Excessive length, and conditions of confinement while, in solitary confinement while in protective custody
 - * Deliberate Indifference to Medical Needs regarding Mental Health care and treatment after sexual assault.

• SCTCA § 15-78-10 et seq. against "SCDC" defendant:

- gross negligence § 15-78-60 (25) - Defendants' (SCDC) failure to ~~train~~ supervise, protect, control confinement of prison inmates.
- property claim under § 15-78-70 (Conversion/Trespass to Chattels) et seq.

• Federal Constitutional Claims Under 42 U.S.C. § 1983

- 8th Amendment Deliberate Indifference to Medical Needs
- 8th Amendment and 14th Amendment rights to Due Process
- 8th Amendment Failure to Protect Claims with Deliberate Indifference

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Christopher Michael Kennan,
Plaintiff,

vs.

Sgt. Montgomery, Kenneth Sharp,
William Brightharp, Major Meeks,
Captain McFadden, Constance Oliver,
C.O. Singleton, MSC Black, Ms. Durant,
Felecia McKie, Captain Johnson, South
Carolina Department of Corrections, and
Charles "Peanut" Brown,

Defendants.

Case No. 9:23-cv-02313-AL-MHC

**ORDER TO TAKE
DEPOSITION OF PLAINTIFF**

*D = not file on
copy this side*

This matter comes before me upon Defendant South Carolina Department of Corrections' Motion to Take Plaintiff's Deposition, pursuant to Rule 30(a)(1) of the South Carolina Rules of Civil Procedure, requesting an Order granting Defendant South Carolina Department of Corrections' Motion to depose inmate Christopher Michael Kennan, #385016, in the above-referenced case.

IT IS HEREBY ORDERED, ADJUDGED, and DECREED, that Defendant South Carolina Department of Corrections be granted leave to take the deposition of inmate Christopher Michael Kennan, #385016, on **February 26, 2024** at the Evans Correctional Institution of the Department of Corrections.

IT IS SO ORDERED.

The Honorable Molly H. Cherry
United State Magistrate's Judge

Section IV.C. ^{1, 2,} "Approximate Dates of Claim" (At all times, no SDC staff was present in the dorm for claims 1-4.)

Claim #1 - While inmates were out of their cells, and no supervisor nor any staff was present in the dorm, on 9/19/21, I was punched in the face and knocked down by another inmate. The inmate told me "C.O. Brown sent him and he threatened me with rape and murder if I snitched. My jaw was fractured.

Claim #2 - While no staff was present in my dorm on 9/21/21 I was again punched, by a different inmate, on my already injured jaw. Inmates were out of their cells unsupervised at the time of my attack.

Claim #3 - on 9/23/21, while no staff was present in my dorm (inmates were out of their cells), I was attacked by a third inmate wearing a ski-mask, punched in the face, threatened with a knife, told "C.O. Brown sent him" and also was threatened me with rape by broom and murder if I snitched.

Claim #4 - on 10/13/21 ~ 9:30AM-10:AM - I was sexually assaulted at knife-point by two inmates while the SDC officer supervising the dorm, abandoned his post. I was told I'd be killed if I snitched. I sustained injuries to my neck and shoulder, my buttocks and anus - including 2nd degree burns, I was choked and made to swallow bleach. I wasn't treated until the next day (10/14/21)

Claim #5 - occurred 10/14/21 - 8/31/22. Between 10/14/21 - 5/13/22 I was held in Solitary Confinement under Protective Custody ("PC"). I was denied, largely, mental health treatment, subjected to near daily documented staff retaliation for filing PREA related grievances; was denied a "PC Board" for 5.5 months despite official written policy requiring that I receive one within seven days of my placement in Solitary confinement. The conditions of confinement were deplorable. This claim includes state and federal claims of medical negligence, deliberate indifference, for mental health care for defendant's response to charters claim pursuant to 513122.

* This claim also includes a conversion of losses to SERCA § 15-78-10 et seq. (Specifically § 15-78-20 (a)) losses were realized on both 11/10/21 and upon my transfer to another prison on 5/13/22.

Defendant Author ID "062844" is sued for (in)actions between 9/17/21 - 8/31/22.

* Co. Brown was later fired by SDC and arrested for assaulting an inmate.

1. Throughout the entire periods covered by claims 1-4 (9/19/21-10/13/21) I spoke to and wrote multiple SDC employees about the attacks and threats I received, but not a single employee of Defendant SDC followed up with me in any meaningful way.

2. I also wrote hundreds of Automated Request to Staff Member (ARTSM) and grievances between 10/14/21 - 5/13/22 complaining of my atrocious conditions of confinement while in Solitary Confinement. I will go into more detail now.

Section IV.D. "underlying facts of claim"

On the evening of September 17, 2021, after working all day as the prison baker at Turbeville CH ~~CH~~ ("TCI"), I returned to my dorm. shortly after arriving I approached Officer Brown, who was supervising my dorm, and asked him a question. Co. Brown immediately became aggressive and agitated. We had an argument and I asked why he was being so rude. Co. Brown proceeded to call me racist names (e.g. "cracker", "thief who stole black identity" and similar nonsense). He repeatedly threatened to beat me up, have other staff and inmates beat me etc. He started feigning punches and lunging at me while daring me to strike him (which is a crime punishable by up to 5 years in prison). Co. Brown refused to call his superiors and I refused to go in my cell until he did so, I did this passively.

I wrote an Automated Request to Staff Member ("ARTSM") during this time, to SCDC staff, on the kiosk about Co. Brown's threats. Brown left the dorm for hours on end while I was out of my cell overnight and I went to work around 5AM. Co. Brown never reported the incident to anyone nor wrote anything about it in the log he fills out each shift.

After work Co. Brown started threatening me with violence again - and told me that the gangmembers he brought contraband in for would beat me for him. I, again, refused to go into my cell with the expectation he would call his superiors as policy requires. Around 11:30 on 9/18/21, Co. Brown and two other officers forced me into my cell, but never wrote any incident report nor documented the incidents.

I reported Brown's racist threats to those other two officers and that I was out of my cell for over 30 hours (mostly unsupervised) and Co. Brown admitted this to them.

This is an extremely egregious violation of SCDC's policies and safety protocols. It seems Co. Brown wanted to handle things his way instead, and he did.

1st Assault - After work on 9/19/21, I was attacked by an inmate who told me Brown sent him. I was punched in the jaw and was later found to have a long hairline fracture and I was placed on a soft food diet due to choking concerns. During this attack there were no officers supervising the dorm. I reported this inmates' unprovoked attack, which he recorded on his contraband cellphone, to various SCDC staff via ARTSM on the kiosk, and in person to one Sgt. Montgomery on 9/21/21 as I first sought treatment in medical for my obviously swollen and fractured jaw. I reported to her that my attacker was sent by Co. Brown and that this inmate threatened to have me raped with a broom or murdered if I snitched.

All along Sgt. Montgomery was claiming to be a Major in rank (after I asked for the Major) and she staunchly refused to document my complaint and instead ordered me back to my dorm. When I got back to my dorm I wrote two more ARTSM's to SCDC staff reporting this interaction with "Major" Montgomery, asking for help.

2nd Assault - on 9/21/21, moments after I wrote those two ARTSM's I was punched in my injured jaw by a different inmate. I later found out that this inmate saw me talking to Sgt. Montgomery and assumed that I snitched and checked into "PC". No staff was present during this attack (in the dorm) and SCDC staff member followed up on my earlier complaints in any way shape or form.

Please keep in mind, SCDC's various policies prohibits leaving inmates unattended while out of their cells. Staff must be within eyesight and earshot of inmates at all times.

Section IV-D. "Underlying facts of claim"

On 9/11/21 - shortly after I wrote those two ADISM's to SDC "Security" staff, ~~and~~ they were escalated and forwarded to a higher level of security called "Security Level 2" but no one ever followed up with me on my reported attacks and threats at all even to get more details. Staff did not ~~take any action~~ ^{take any action} in response to my attack and being out of

Attack #3 - On 9/23/21 I was taken to a dentist in Charleston to get a 3-D Xray on my jaw and the fracture was discovered. Again, due to choking concerns I was placed on a soft food diet and was ordered to return to the Doctor/Dentist four times in the subsequent six weeks (Even though I have an email showing SDC HQ authorized these visits, I was never allowed any follow-up visits by ("TCI") Turberville CH staff. I was told ~~by~~ the dentists ~~there~~ and SDC staff that I should be placed in a medical ward (rather than general population) so I'd be protected while I heal, but I wasn't. I was returned back to my dorm to face my attackers, and to find new ones.

Later in the day, fearing for my life, I gave Major Meeks my ID so I could move to protected custody. Subsequently, my ID was lost for a couple of weeks and I was not placed into Protective Custody, though I was assured by Major Meeks that I'd be moved either that day or the next, but she forgot or ignored the request.

Later the same day (9/23/21), after returning to my dorm, and while no SDC staff was anywhere in it, I was attacked by another inmate wearing a ski-mask. I was punched in the face and knocked to the ground, and likely would have been stabbed. The inmate had a shank in his waist and kept grabbing at it, but an inmate dorm worker yelled out, "let the man live". This held off my attacker and allowed me to get to my feet.

My attacker left briefly to check the hallway leading to my dorm to ensure no staff was coming and then came back to threaten me "You think we forgot? He warned me that Cid. Brown sent him and told me if I snitched the [little] homies will stay you... fuck you in the ass." (Basically the same as my first attacker).

After an extended absence, a corrections officer reappeared in my dorm and I was allowed into my cell to nurse my jaw injury. Please keep in mind, it's against official SDC policy to leave inmates unattended out of their cell, "out of eyesight and earshot" of staff. (I have a signed interrogatory answer from TCI's Warden Sharp, elsewhere acknowledging this and other facts.)

On 9/24/21, I was informed that Major Meeks hadn't ordered my dorm change so I refused to go into my cell and asked that Major Meeks be called to authorize my room change. She was called and she did OK the move.

However, when I tried to move to the adjacent dorm, the officer there (LT McFadden) saw I was being threatened by those inmates who saw the video of my first attack (they were members of the same prison gang as two of my attackers). They were aggressively asking why I "fought" their fellow gang member. The Lt realized it wouldn't be safe to move me to that dorm and she ordered me back to my old one.

I tried to avoid going back to my old dorm by acting like I couldn't carry my stuff, but I was forced to comply with her verbal threats of disciplinary action.

Section IV D "Underlying Facts of claim"

on 9/28/21, I wrote SDC Security "Investigations" to report the three violent attacks I endured as well as the rape and murder threats I received. I named C.O. Brown for orchestrating these attacks and I begged for help. (via ARTSM)

This ARTSM was forwarded to TCI's Warden Sharp on 10/11/21. "Investigations" Defendant Author ID. "062844" read and largely ignored the content of the ARTSM.

Neither the warden, nor anyone else from SDC ~~ever~~ followed up with me on my reports of danger and assaults. Please note, I specifically wrote threats of murder and of being anally raped with a broom. There was no ambiguity there, and I will present these ARTSMs at the appropriate time. ^{she chronologically read about each act as they occurred but did nothing to halt them.}

Due to its presence in my dorm, we were placed on an extended ^{quarantine} ~~convict~~ lockdown protocol starting around 9/27/21. Inmates were kept in our cells 24 hours a day and only let out to shower, in small groups, when a supervisor was available to oversee the process. We showered on M, W, and F, when allowed to do so.

on 10/11/21, while I was out for my shower, another inmate, with the same gang affiliation as two of my earlier attackers, warned me to go back in my cell immediately after my shower or "things won't work out well for you." I took the threat seriously and complied. This guy became my next attacker.

Also on 10/11/21 my ARTSM written on 9/28/21 was forwarded to other SDC staff including TCI's Warden Sharp, apparently. Other ARTSMs reporting my attacks were answered or also forwarded. I was hopeful that help was finally on its way, and I'd be protected. ^{increasing} Sure, with such a flurry of activity, and given my reports of assaults, rape and murder threats, someone would help me... This hope was proven false. Not a single member of SDC ever followed up with me on any of these ARTSMs, not even after I was sexually assaulted!

Attack # 4 - 10/13/21 I was brutally sexually assaulted by two inmates, one of which lured me into the attack while a 2nd one hid. This happened during shower time when staff was supposed to remain in the dorm. Officer Singleton abandoned his post and left my dorm unattended for over 30 minutes, and was, therefore, unable to see or hear my attack nor offer me any aid at all.

During this attack I was beaten, choked, burned (2nd degree) on my buttocks, sexually assaulted multiple times and ways (at shankpoint), forced to swallow bleach and threatened with murder if I snitched, then I was ordered to shower.

After my shower I walked aimlessly around the dorm while trying to avoid eye contact with other inmates because I didn't want them to see my tears.

Eventually, I sat on the floor in the middle of the dorm to wait for C.O. Singleton to come back. When he did come back to the dorm and saw me sitting on the floor I feigned a back injury, said

Section IV, D. - "underlying facts of claim"

I couldn't get up, and asked to go to medical.

Instead of allowing me ^{to go} to medical, officer Singleton recruited another inmate to help me up and put me back in my cell.

Over the ^{next} dot hours I was in my cell writing different drafts of the note I planned on handing ^{to} the nurse who gives me insulin. I wasn't able to get the note out until the next day, for various reasons.

Meanwhile, I wrote 7# ARTSM's to multiple departments in SCDC, begging for help ^{due to} my sexual assault; for a rape kit; ^{medical because} ~~and that~~ I feared I might get AIDS or some other diseases, or die from swallowing bleach.

Finally, in the AM of 10/14/21, someone I wrote in SCDC's office of General Counsel sent word of my attack to Institutional PREA Coordinator, and Associate Warden at TCF William Brightthrop, who came and took me to medical.

I interviewed with AW Brightthrop, ^{SCDC} Police Services detectives and later ~~with~~ with Defendant Porter (TCF's mental health counselor). I specifically told MS, porter 1) I was not suicidal and 2) that I definitely wanted to see a psychologist about my attack' and answered background questions.

Claim #5 - It should be noted that during discovery for case 9:23-cv-02313-SAL-MHC, Defendant Porter falsely recorded that I declined an offer to see a psych doctor. I wasn't allowed to see a psych Dr. until January of 2022, despite countless (paper) (RTSM) Request to staff member to MS Porter on mental health, multiple grievances, as well as many documented verbal requests to mental health staff. I will address ms. Porter's more later.

Eventually, I was taken to the Toomey Emergency Room to undergo a rape kit, receive an STD regimen, get a CT or MRI scan to see if anymore of the object I was sodomized with was still inside me. (Cover the previous night I pulled out multiple pieces of what appeared to be a broken plastic hanger). Photos were taken of my burn and anal abrasions as well as other injuries.

I was returned to TCF around midnight and placed in the Restrictive Housing Unit ("RHU") and held in solitary confinement with inmates who were being punished for stabbings and other infractions. (I wasn't placed on the "PC" side.) I was treated in a significantly atypical manner compared to both inmate in GenPop and "PC".

I was held in solitary confinement for seven months which was pure Hell. Much of my experience in solitary during this time is being litigated elsewhere but included having inmates make death threats to me; Major Meeks admitted in writing and verbally that she ordered I not be allowed any outside rec-reation for months because of one of my PREA complaints being forwarded to her and she somehow misconstrued the ARTSM ^{to state} that staff had assaulted me while I was in solitary confinement. I was held in my cell for a week that smelled like feces that my neighbor smeared all over his cell and atel staff refused to let it be cleaned. We shared an unfiltered vent and the smell caused me to get sick and vomit. Eventually, I couldn't handle it.

Section IV.D. "Underlying Facts of Claim"

any more and I stayed on the doors flap so that it couldn't be closed, I refused to close it unless I was moved or that cell was clean. I needed fresh air. (I was still very new to prison and I didn't know this was considered a minor infraction (until I was written up for it), though of course it makes sense. At the time, though, the pressure was unbearable for me. I just needed fresh air.) The next day I was forced into my cell and the adjoining cell was partially cleaned. However, when the showers came on, the smell got worse. By the way, the cell was covered in mold because the shower was inside the cell. It was like living inside a porta-potty on a hot day.

Right after this flap incident, C.O. Brown started being sent to work my dorm and supervise me in RTHU. He proceeded to antagonize me about the assaults he initiated; he kept banging on my cell door, and he even came to my cell around midnight along with Cpt. Johnson and ended up falsifying a Major disciplinary charge in order to provoke and punish me. ~~There on~~ Luckily, all charges were later dropped due to these officers violating various SDC rules and procedures.

Later, C.O. Brown was arrested and fired for assaulting an inmate and Cpt. Johnson was suspended by SDC for various infractions (unrelated to my claims here).

Being denied mental health treatment for so long, having to see the guy who had me attacked working my dorm and antagonize me; being denied outside rec while all other inmates in RTHU (and "PC") got it, etc. led me to feel hopeless and extremely vulnerable. I believed I'd never get out of there and these feelings led me to an ill-advised suicide attempt. There was no functional appeal process for me in any way.

During these seven months in solitary confinement I lost over 30 pounds of muscle and had severe panic attacks, and only saw the sunlight for ≈ 15 hours/week (not counting total medical run).

Per ^{state} policy, people who are held in "PC" are required to have a PE Board within seven days to determine if they would be moved to another prison or not. I was denied this substantive Due Process for 55 months. These conditions and deplorable treatment violated my S.C. Const. ART I, § 3 and 5 rights as well as my 8th and 14th U.S.C.A. rights to be free from cruel and unusual punishment and substantive Due process. ^{The Policy covers statewide PC processes, and it requires all PC Boards be held within seven days in almost every case.}

Defendant Porter - I wasn't allowed to see a single psych doctor until January 2022 because Ms. Porter refused to allow it. When I did see the psych doctor, she told me that Ms. Porter said I'd been disciplined for filing a false PREA Complaint and that I made the whole thing up, and ~~that~~ claimed SDC staff was involved in the attack while I was held in solitary! I had to vehemently argue against this false assertion. My PREA investigation has been substantiated by SDC's police services and has been referred to SLED for DNA testing. During discovery for case 9:23-cr-02313-SAL-MHC, I found out that Ms. Porter wrote many false and contradictory statements in my mental health file that must have been intentional. (e.g. she said I refused medical treatment after

Section IV.D: "Underlying facts of claim"

my assault when there is a long paper trail showing that I begged for treatment. She knew I wanted help, but ignored me for months after my sexual assault when I was most vulnerable.

Ms. Porter admitted to reading "some" of the RTSM's I wrote to her begging for help, threatening to start a hunger strike and "letting nature take its course". Ms. Porter was deliberately indifferent to the dangers I presented to her (to ~~her~~ ^{myself}).

she refused to even follow up with me to schedule a visit with a psych Doctor until late December 2021, and this was only because I begged Nurse LaPointe to email her a request that I be seen. I wasn't seen by a Dr. for nearly three months and then every 3-6 months for a check-in.

To date, I still haven't been allowed to speak to any outside sexual assault counselor ~~see~~ ^{purports to offer} despite countless requests, and years lapsing.

I truly believe that if I was treated in the aftermath of my sexual assault I wouldn't have felt the need to attempt suicide. I've asked many, many times for this info.

Isn't it common knowledge that sexual assault survivors experience or tremendous psychological trauma and should be closely monitored and treated for it? There is substantial case law in support of this fact and Ms. Porter has no excuse for ignoring my many requests for treatment, not only in her position as TCI's mental health

counselor, but morally as a human being. She knew I was vulnerable and did nothing. South Carolina's Constitution protects the most vulnerable mental health patients. This is a fundamental right, we ~~we~~ ^{we} validated PC status. The reasons given for this was "I refused to name names" and "there was no penetration". My written reports, medical records and rape kit photos

prove the latter statement false, and my hope was that DNA results would name my attackers for me so I wouldn't appear to be a snitch, and give my attackers more motive to ~~attack me again~~ ^{attack me again}.

Upon information and belief, because Ms. Porter errantly believed my claims to be false, she let me wallow in my misery and ignored my many requests for mental health treatments. This belief is backed up in my mental health record and her notes.

The treatment she provided, or lack thereof, doesn't amount to a laissez-faire approach - it amounts to deliberate indifference to medical needs; she wilfully disregarded the dangers I faced, and needless caused or allowed damage to my psych and ~~intell-~~ ^{being}.

~~I was held for seven months in a moldy, cramped cell with nearly no social interactions aside from feeding and inmate death threats. The disdain I felt as a "PC" inmate on the non-PC side was palpable. I was basically abandoned there.~~

I only got 4-5 hours of sunlight the entire time, very little exercise, and up until January 2023, an undiagnosed PTSD disability, hunger strikes and I had untreated suicidal ideations while in my cell 24 hours a day. The shower was even in the cell. It was anguishing.

The role Ms. Porter played in my suffering was only recently discovered as I reviewed my mental health records, but it's clear she ignored all of my cries for help, and only saw me because I had the help of a sympathetic nurse, and even then spread false info about my sexual assault to other staff, blaming me as a liar and a fraud.

The conditions I faced while in PC at TCI for seven months were deplorable, cruel and unusual, and violative of my fundamental rights under South Carolina's and the U.S. Constitution. My Due process rights were implicated as stated earlier - (no "PC board" for 5.5 months instead of seven days as policy requires), and I was basically left in limbo to fear whatever future I might have, if any at all, and to waste away.

Section IV.D. "underlying facts of claim"

It is well-established precedent that atypical conditions of confinement, which serve little to no penological purpose, is a real harm and is not allowed or condoned by the courts. These rights ^{to be free of cruel and unusual punishment} are fundamental and dear to all Americans (not the least of which ~~are~~ ^{to} South Carolinians). I've obtained a lot of proof and documents in support of my treatment while in RTH's solitary confinement for seven ^{months} ~~was~~ ^{these claims} not only atypical to inmates in General population, but also ^{to other} ~~other~~ inmates held in RTH under "PC". I wasn't allowed to go to church, work, participate in any programs, go to canteen, nor the gym, ^{again,} I wasn't even allowed to leave my cell to shower since it was in my cell. Other inmates in PC were allowed to go outside for rec on a weekly basis, at times, while I only got outside 4-5 times in seven months, on hour at a time. Group therapy was allowed for other "PC" inmates, but not for me. My phone calls allowed each day went from unlimited to two merely because the PC Board labeled my PC request "invalid". I wasn't in RTH for any punitive reasons, but I was surely punished. Gen Pop inmates got 24 hours of recreation every day (out of cell).

I was treated differently (worse) than all other inmates at TCI whether Gen Pop or "PC". ~~PC~~ This is the definition of "atypical", I deteriorated mentally during that time.

My being denied outside rec. by Major Meeks because I filed a PREA grievance is the definition of "retaliation" and is not allowed per Booker v. SCDC, 855 F.3d 533, 541 (4th Cir. 2017) and this was clearly established law prior to my claims and injuries described herein; she admitted to this and this ^{type of punishment felt extremely cruel and unexplainable at the time} ~~type of punishment~~ was clearly established law prior to my claims and injuries described herein.

Defendant - Author ID "062844" - Upon reviewing ^{discovery material} ~~discovery material~~ in case

q:23-cr-02313-SAL-MHC I discovered that Defendant Author ID "062844" not only read and forwarded the ARISM's I wrote reporting multiple attacks, rape and murder threats, but they were sent back to her and she was ordered to forward the complaint to appropriate personnel at TCI including Warden Sharp & lolblak. It appears she not only failed to do so, but she didn't even follow up on them.

If she had acted appropriately to the serious dangers I reported, SCDC staff would have had a decent headstart to head off my sexual assaults on lolblak. She read that I had been attacked 3x, threatened with rape and murder 2x and ^{though} she did forward these reports to higher level investigators for SCDC, ~~but~~ ^{she} ~~she~~ had been given back the responsibility of acting on these reported dangers. ~~or~~ ^{if} she notified appropriate staff ^{as} directed by her superiors, she might not be liable for failure to protect claims here. However, her deliberate indifference to known and obvious dangers increased every time she saw a new ARISM reporting another assault; and her inaction played a major role in my sexual assaults ^{threats} being made real.

Later, when Author ID "062844" realized that I was sexually assaulted she started to cover up her "mistakes" as evidenced by her replies to multiple ARISM's of mine. She knew that I had to wait until the Police Services Investigation into my

Section IV.D. "underlying facts of claim"

PREA assaults ~~was~~ closed before I could file a grievance on these assault-related grievances, and that I needed to exhaust these grievances prior to my filing suit in Federal Court (as required under PLRA). She intentionally thwarted the process.

Despite the fact that SDCS Police Services closed my case as "substantiated" on 11/3/22, Author ID "062844" continued to lie to me telling me my case was "open/active" all the way up to 8/31/22. She refused to even give me my investigator's name so I could reach out to him, and was forceful in her deflective written replies to me.

The only apparent reason she finally admitted the case had been long closed was because I was pushing harder to speak to my investigation and she wanted to thwart that. (I asked to add various retaliation claims to the investigation).

Later, when I attempted to file a grievance on her behavior just described, she reverted to again telling me the case was still open/active^{in writing} there is a long paper trail corroborating all of these claims, and she was clearly telling me lies.

It's clear Author ID "062844" intentionally misled me as to the status of my case and I believe it's plain and clear that she was trying to prevent these assault-related grievances from being exhausted to cover up her earlier failures to protect me from sexual assault, and to escape liability. She was emailed two days before the sexual assault to reach out to Warden Sharp concerning the details of these APRISMs, yet Warden Sharp stated in his answer to interrogatories that he didn't recall ever getting any such message. If only she followed up, I might have been saved. Even the bare minimum follow up likely would have been successful. She dropped the ball and I paid the price two days later, and her cover up was nearly as bad.

11/10/21 Conversion/Trespass to Chatters (SCCA § 15-78-10 et seq)

After one month in solitary confinement at TCF, during which my personal property had been "misplaced" C.O. Oliver found my items and came to my cell to inventory the items. She started by dumping everything directly on the floor including my toothbrush. When I complained, she became angry and stormed off without completing the inventory.

It was clear, however, that my canteen bag, full of personal items, was missing with a value then of ~\$170~~00~~ (currently ~\$190.00). I took ~45 days for me to get any reply from "Contraband" and ~~staff~~ stated perishable items are destroyed within 30 days. Upon my transfer to ECF, on 5/13/22, I realized that the extent of my loss totalled ~\$170~~00~~ then. I wasn't provided any receipt, nor was I given any real process to argue to save my property before the 30 day destruction period lapsed. SDCS ^{various} policies require inmates get a receipt for any property held or destroyed by them, but they ignored this step in my case.

Pursuant to § 15-78-10 et seq of SCCA, I filed a claim with the

* For case 9:23-cv-02313-SAL-MK

Section IV.D "underlying facts of claim"

~~State~~ Fiscal Accountability Authority naming SCDC as the Agency employing staff who destroyed my itemized property on 10/10/22. On 4/10/23 the claim was denied without response. All issues related to this claim were fully exhausted, in terms of grievances.

I am asking for the full reimbursement value here in today's dollars/replacement cost. Without being granted this in forma pauperis application I will not be allowed to utilize the sole remedy the state holds out per SCDC claims cited in this Complaint. Essentially, there would be no available remedy held out by the state for indigents.

An Indigent inmate, such as myself, will not be able access the courts (if my in forma application isn't approved) for fundamental S.C. Constitutional claims like cruel and unusual punishment and Due Process violations under S.C. Const. Art. I, § 3 and 15 and this would be counter to precedent described in

Ex Parte: Martin v. State 321 S.C. 533, 471 S.E. 2d 134 (1995).
Now isn't the time to present all of my evidence, but I certainly would be grateful for the opportunity.

For this section I would like to conclude with a quote from this

* Honor J. Michael Baxley, then presiding Judge, Complex Jurisdiction, in the Court of Common Pleas, Fifth Judicial Circuit in a case against SCDC - quoting from Brown v. Plata, 131 S.Ct. 1910, 1928-29 (2011). It matches my thoughts on my in forma pauperis application here in regards to my claims regarding my S. Porter.

Quote: "In devising a remedy for the constitutional deficiencies at SCDC, the Court is required to balance two competing interests. First, it is not the role of this Court to micro-manage the daily administration of the mental health program at SCDC. Moreover, this decision comes in a time of economic recession and heavy scrutiny of government expenses. However, courts may not allow constitutional violations to continue simply because a remedy could involve intrusion into the realm of prison administration."

me: Adequate mental healthcare for inmates who rely completely on SCDC to administer it is a critical need, expectation and fundamental right and ~~was~~ was denied to me during my time of greatest need. Without waiver of court fees by approving my in forma pauperis application this fundamental rights violation will escape scrutiny. This would be in opposition to our states Supreme Courts holdings in Ex Parte: Martin v. State, 321 S.C. 533, 471 S.E. 2d 134 (1995).

Section VI - "Relief"

- I seek ^{Compensatory} damages for the physical and psychological harms I've endured due to the gross negligence of Defendant SDC and under SCTCA § 15-78-10 et seq. in the amount of \$250,000 for each of the five incidents described in "Section IV.C". This amount covers future medical care and losses and doesn't include any property claims and for violations of SC. Const. Art. I, § 3 and 15.
- I seek the current value, at time of judgment, for all items that were lost or destroyed in the "Conversion (trespass to chattels § 15-78-70 claim; Today's value is approximately \$190,000."
- A declaration that the acts and omissions described herein violated the Plaintiff's rights under the Constitution and laws of South Carolina and those of the United States, as applicable.
- Nominal damages against all Defendants, jointly and severally.
- Damages for Federal Claims in the amount of \$150,000 against Defendants Porter and Author ID "062844", jointly and severally.
- Punitive damages in the amount of 5x regular damages awarded for Federal claims against Defendants Author ID "062844" and Porter, jointly and severally.
- Interest to include pre-order and post order against all judgments awarded, as allowed by law.
- Plaintiff's Costs in this suit.
- A jury trial on all issues triable by a jury.
- Any additional relief this court deems just, proper and equitable.

VIII. Previous Lawsuits (Continued)

E. Yes (I have filed other lawsuits in state or Federal Court dealing with the same facts involved in this action.)

F.

1. Parties to the Previous lawsuit
Plaintiff: Christopher M. Kennan
Defendants: SCDC, Sgt. Montgomery and Constance Oliver
2. South Carolina Court of Appeals
3. Docket Number: 2023-001275
4. None - appealed to South Carolina Supreme Court (no judge assigned)
5. Approximate date of filing lawsuit:
8/11/23
6. Is this case still pending?: No - disposed ~ August, 2024.
7. What was the result of the case?
- Dismissed (failure to serve notice of Appeal on (Unserved) Defendants).

G. Yes. (I have filed other lawsuits in state or Federal Court dealing with the same facts involved in this action.)

H. This is the appeal from the S.C. Court of Appeals to the S.C. Supreme Court.
#1-7 is the same as section F. above except #3. The Supreme Court of

* South Carolina issued a new, and case number. I will provide this case number when I'm able to get my legal work from ECIS property room. Here, I want to ensure I file this complaint within the appropriate statute of limitations (including tolling time).
Though this court was CC: the S.C. Supreme Court's final decision refusing to overturn the S.C. Appeal Court's earlier decision dismissing the complaint for reasons stated in "F(7)" above, I will provide this court this and case number as soon as I get access to those legal materials.

* #3 Supreme Court case #: Appellate Case # 2024-000832

Verification

I, Christopher M. Kennan, Plaintiff, swears under penalty of perjury that all of the statements and assertions made in this complaint and submission are true, except when premised with "upon information" or "belief" and as to those, I believe them to be true.

Executed on this 3rd day of September, 2024

at: Evans CII
610 Hwy 9W
Bennettsville, SC 29512

~~Christopher M. Kennan~~
Christopher M. Kennan #385016
pro se Plaintiff

RECEIVED

NOV 01 2024

SC Court of Appeals

Certificate of Service

Plaintiff, Christopher M. Kennan, swears that he mailed a copy of this Complaint to the following parties, on the date and to the addresses listed using the mailing method stated as follows:

1. South Carolina Department of Corrections
Office of General Counsel
4444 Broad River Road
Columbia, SC 29210

mailed out using Evans CII's mail on 9/3/24

and

2. South Carolina Attorney General
The Honorable Alan Wilson
P.O. Box 11549
Columbia, SC 29211

mailed as certified mail through Evans CII mailroom on 9/3/24

Executed on this 3rd day of September, 2024

at: Evans CII
610 Hwy 9W
Bennettsville, SC 29512

~~Christopher M. Kennan~~
Christopher M. Kennan #385016
pro se Plaintiff

Plaintiff
Copy

In the State of South Carolina
Clarendon County Court of Common Pleas

~~IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA~~

Christopher M. Kennan

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-against-

Shawanna Porter
SCDC, ~~MSA~~ and
(Author ID "062844") Lisa Craft

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

Complaint for Violation of Civil Rights

(Prisoner Complaint)

Case No. _____
(to be filled in by the Clerk's Office)

Jury Trial: Yes No
(check one)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

When submitted for filing, your complaint should be accompanied by the full filing fee or an application to proceed in *forma pauperis*.

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name Christopher M. Kennan
All other names by which you have been known:

ID Number 385016
Current Institution Evans CIT
Address 610 Hwy 9W
Bennettsville, SC 29512

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name South Carolina Department of Corrections
Job or Title Gov't Agency
(if known)
Shield Number N/A
Employer State Agency of South Carolina
Address 4444 Broad River Road
Columbia, SC 29210
 Individual capacity Official capacity

Defendant No. 2

Name (Ms. Porter) Shawanna Porter

Job or Title (if known) Mental Health Counselor at TCI
Shield Number _____
Employer SCDC
Address 4444 Broad River Road
Columbia, SC 29210
 Individual capacity Official capacity

Defendant No. 3
Name (Author ID "062844") Lisa Craft
Job or Title (if known) Responds to ARTSMIS for "Investigations"
Shield Number _____
Employer SCDC
Address 4444 Broad River Road
Columbia, SC 29210
 Individual capacity Official capacity

Defendant No. 4
Name _____
Job or Title (if known) _____
Shield Number _____
Employer _____
Address _____
 Individual capacity Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

- Federal officials (a *Bivens* claim)
- State or local officials (a § 1983 claim)
- SCTCA § 15-78-10 et seq.

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

See attached "Section II. B." (pg. 13)

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

N/A

D. Section 1983 allows defendants to be found liable only when they have acted “under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia.” 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

At all times all defendants acted under color of state law when mentioned in this complaint.

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (check all that apply):

- Pretrial detainee
- Civilly committed detainee
- Immigration detainee

- Convicted and sentenced state prisoner
- Convicted and sentenced federal prisoner
- Other (explain) _____

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

NA

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

Turberville CII ("TCI") - four inmate assaults between 9/17/21 - 10/13/21; and staff initiated retaliation on me due to PREA claims 10/14/21 - 5/13/22. Evans CII - staff initiated retaliation continued from 5/13/22 - 8/31/22.

- C. What date and approximate time did the events giving rise to your claim(s) occur?

There were four inmate attacks on me (see attached "Section IV. C.") they were on four different dates between 9/17/21 - 10/13/21. (p. 14)

- D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

(see attached "Section IV. D.") (pp. 15-23)

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

I sustained a fractured jaw, injured shoulder and neck, 2nd degree burn, forced to swallow bleach, sexually assaulted/related injuries; beaten on my head and back; choked; internal injuries (treated and documented at Toomey Emergency Room / SAIN Nurse); various lacerations; Post Traumatic Stress Disorder diagnosis w/ limited psychological treatment (mostly meds); suicide attempt due to stress of attack and aftermath (no treatment). My shoulder and neck were x-rayed but little else was treated by medical staff aside from my 2nd degree burn on my buttocks, and during the rape kit.

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

See attached "Section VI" (p. 24)

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

- Yes
- No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

Turberville C/F ("TCF") primarily (Five claims between 9/17/21-5/13/22; And Evans C/F ("ECF") between 5/14/22-8/31/22.

B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

- Yes
- No
- Do not know

C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

- Yes
- No
- Do not know

If yes, which claim(s)?

All of them

D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

- Yes
- No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

- Yes
 No

E. If you did file a grievance:

1. Where did you file the grievance?

At both "TCI" and "ECT"

→ ("TCI" is Turberville CII and "ECT" is Evans CII)

2. What did you claim in your grievance?

All applicable Federal claims were grieved and the SCTCA claims were too even though they are not required.

3. What was the result, if any?

Each grievance was fully exhausted to the limits allowed and ^{made} available by SCDC.

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

Exhaustion is an affirmative defense to Federal claims and need not be established here.

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

N/A

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

N/A

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

Exhaustion is an affirmative defense

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VIII. Previous Lawsuits

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this "three strikes rule"?

- Yes
 No

If so, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

N/A

A. Have you filed 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 each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s)

Christopher Mc Kennan

Defendant(s)

SEDC, C.O. Brown et al,

2. Court (if federal court, name the district; if state court, name the county and State)

U.S. District Court / District of S. Carolina / Charleston Division

3. Docket or index number

9:23-CV-0233-SAL-MHC

4. Name of Judge assigned to your case

Molly H. Cherry

5. Approximate date of filing lawsuit

~ June of 2023

6. Is the case still pending?

- Yes
 No

If no, give the approximate date of disposition. _____

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

Still pending / Summary Judgment phase

C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

Yes

No

D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s) Christopher M. Kennan

Defendant(s) Ms. Squire, et al.

2. Court (if federal court, name the district; if state court, name the county and State)

U.S. District Court, District of South Carolina,
(Charleston Division)

3. Docket or index number

9'23-CV-01213-SAL-MHC

4. Name of Judge assigned to your case

Molly H. Cherry

5. Approximate date of filing lawsuit

5/8/23

6. Is the case still pending?

Yes

No

If no, give the approximate date of disposition. N/A

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

Still Pending / Summary Judgment phase
(See attached "Section VII E and F" and "Section VIII G and H for more cases) (p.25)

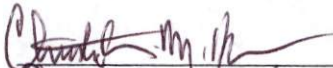
IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11. (see also p.26)

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 8/30, 2024

Signature of Plaintiff 
Printed Name of Plaintiff Christopher M. Kennan
Prison Identification # 38506
Prison Address Evans CIT
Bennettsville SC 29512
City State Zip Code

B. For Attorneys

Date of signing: _____, 20__.

Signature of Attorney _____
Printed Name of Attorney _____
Bar Number _____
Name of Law Firm _____

Section II.B "Basis for Jurisdiction"

• (Fundamental) South Carolina Constitutional Claims:

ART. I. § 3 (Right to Due Process)

ART. I. § 15 (Right to be free from Cruel and Unusual Punishment)

- Excessive length, and conditions of confinement while, in solitary confinement while in protective custody
- Deliberate Indifference to serious medical needs regarding mental health care and treatment after sexual assault.

• SCTCA: § 15-78-10 et seq. against Defendant SCDC

- gross negligence § 15-78-60(25) for Defendants' failure to supervise, protect, control confinement of prison inmates
- Property claim for Conversion/Trespass to chattels" under § 15-78-70 et seq

• Federal Constitutional Claims Under 42 U.S.C. § 1983

- 8th Amendment - Deliberate Indifference to serious medical needs
- 8th and 14th Amendment rights to Due Process
- 8th Amendment Failure to protect claims with Deliberate Indifference

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA**

Christopher Michael Kennan (#385016),

Case No. 9:23-cv-02313-SAL-MHC

Plaintiff,

CERTIFICATE OF SERVICE

vs.

Sgt. Montgomery, Kenneth Sharp,
William Brightharp, Major Meeks,
Captain McFadden, Constance Oliver,
C.O. Singleton, MSC Black, Ms. Durant,
Felecia McKie, Captain Johnson, South
Carolina Department of Corrections, and
Charles "Peanut" Brown,

Defendants.

Do not file
or copy
this side

I, the undersigned employee of Richardson Plowden & Robinson, counsel for the Defendants, do hereby certify that I have served a copy of Sgt. Montgomery's Answers to Plaintiff's First and Second Set of Interrogatories by causing a copy of the same to be personally deposited in the United States Postal Service mail, postage prepaid, with the return address clearly visible, addressed to the *pro se* Plaintiff as indicated below on this 17th day of May, 2024:

Christopher Michael Kennan
Evans CI - F5C-116
610 Hwy 9W
Bennettsville, SC 29152


Mary Jane Wilson
Legal Assistant

Montgomery and set signed

Section IV.C. ^{1, 2, 3} "Approximate Dates of Claim" (At all times, no SCDC staff was present in the dorm for claims 1-4.)

Claim #1 - While inmates were out of their cells, and no supervisor nor any staff was present in the dorm, on 9/19/21, I was punched in the face and knocked down by another inmate. The inmate told me "Co. Brown sent him and he threatened me with rape and murder if I snitched. My jaw was fractured.

Claim #2 - While no staff was present in my dorm on 9/21/21 I was again punched, by a different inmate, on my already injured jaw. Inmates were out of their cells unsupervised at the time of my attack.

Claim #3 - on 9/23/21, while no staff was present in my dorm (inmates were out of their cells), I was attacked by a third inmate wearing a ski-mask, punched in the face, threatened with a knife, told that Co. Brown sent him and also was threatened me with rape by broom and murder if I snitched.

Claim #4 - on 10/13/21 ~ 9:30 AM - 10:00 AM - I was sexually assaulted at knife-point by two inmates while the SCDC officer supervising the dorm, abandoned his post. I was told I'd be killed if I snitched. I sustained injuries to my neck and shoulder, my buttocks and anus - including 2nd degree burns, I was choked and made to swallow bleach. I wasn't treated until the next day (10/14/21)

Claim #5 - occurred 10/14/21 - 8/31/22. Between 10/14/21 - 5/13/22 I was held in Solitary Confinement under Protective Custody ("PC"). I was denied, largely, mental health treatment, subjected to near daily documented staff retaliation for filing PREA related grievances; was denied a "PC Board" for 55 months despite official written policy requiring that I receive one within seven days of my placement in Solitary confinement. The conditions of confinement were deplorable. This claim includes state and federal claims of medical deliberate indifference for mental healthcare for defendant (for PC) losses pursuant to SCOTCA § 15-78-10 et seq. (Specifically § 15-78-70 (a)). ~~substantive~~ losses were realized on both 11/10/21 and upon my transfer to another prison on 5/13/22.

Defendant Author ID "062844" is sued for (in)actions between 9/17/21 - 8/31/22.

* Co. Brown was later fired by SCDC and arrested for assaulting an inmate.

1. Throughout the ~~entire~~ periods covered by claims 1-4 (9/17/21 - 10/13/21) I spoke to and wrote multiple SCDC employees about the attacks and threats I received, but not a single employee of Defendant SCDC followed up with me in any meaningful way.

2. I also wrote hundreds of Automated Request to Staff Member ("ARTSM") and grievances between 10/14/21 - 5/13/22 complaining of my atrocious conditions of confinement while in Solitary Confinement. I will go into more detail now.

Section IV.D. "underlying facts of claim"

On the evening of September 17, 2021, after working all day as the prison baker at Turbeville CII ~~CI~~ ("TCI"), I returned to my dorm. shortly after arriving I approached officer Brown, who was supervising my dorm, and asked him a question. Co. Brown immediately became aggressive and agitated. We had an argument and I asked why he was being so rude. Co. Brown proceeded to call me racist names (e.g. "cracker", "thief who stole black identity" and similar nonsense). He repeatedly threatened to beat me up, have other staff and inmates beat me etc. He started feigning punches and lunging at me while daring me to strike him (which is a crime punishable by up to 5 years in prison). Co. Brown refused to call his superiors and I refused to go in my cell until he did so, I did this passively.

I wrote an Automated Request to Staff Member ("ARTSM") during this time, to SCDC staff, on the kiosk about Co. Brown's threats. Brown left the dorm for hours on eye while I was out of my cell overnight and went to work around 5AM. Co. Brown never reported the incident to anyone nor wrote anything about it in the log he fills out each shift.

After work Co. Brown started threatening me with violence again - and told me that the gangmembers he brought contraband in for would beat me for him. I, again, refused to go into my cell with the expectation he would call his superiors as policy requires.

Around 11:30 on 9/18/21, Co. Brown and two other officers forced me into my cell, but never wrote any incident report nor documented the incidents.

I reported Brown's racist threats to those other two officers and that I was out of my cell for over 30 hours (mostly unsupervised) and Co. Brown admitted this to them.

This is an extremely egregious violation of SCDC's policies and safety protocols. It seems Co. Brown wanted to handle things his way instead, and he did.

1st Assault - After work on 9/19/21, I was attacked by an inmate who told me Brown sent him. I was punched in the jaw and was later found to have a long hairline fracture and I was placed on a soft food diet due to choking concerns. During this attack there were no officers supervising the dorm. I reported this inmates' unprovoked attack which he recorded on his contraband cellphone, to various SCDC staff via ARTSM on the kiosk, and in person to one Sgt. Montgomery on 9/21/21 as I first sought treatment in medical for my obviously swollen and fractured jaw. I reported to her that my attacker was sent by Co. Brown and that this inmate threatened to have me raped with a broom or murdered if I snitched.

All along Sgt. Montgomery was claiming to be a Major in rank (after I asked for the Major) and she staunchly refused to document my complaint and instead ordered me back to my dorm. When I got back to my dorm I wrote two more ARTSMs to SCDC staff reporting this interaction with "Major" Montgomery, asking for help.

2nd Assault - on 9/21/21, moments after I wrote those two ARTSMs I was punched in my injured jaw by a different inmate. I later found out that this inmate saw me talking to Sgt. Montgomery and assumed that I snitched and checked into "PC". No staff was present during this attack (in the dorm) and SCDC staff member followed up on my earlier complaints in any way shape or form.

Please keep in mind, SCDC's various policies prohibits leaving inmates unattended while out of their cells. Staff must be within eyesight and earshot of inmates at all times.

Section IV.D. "Underlying facts of claim"

On 9/12/21 - shortly after I wrote those two ADISM's to SCDC "Security" staff, ~~and~~ they were escalated and forwarded to a higher level of security called "Security Level 2" but no one ever followed up with me on my reported attacks and threats at all even to get more details. Staff did not ^{take any action} in response to my attack and being out of my cell overnight.

Attack #3 - On 9/23/21 I was taken to a dentist in Charleston to get a 3-D xray on my jaw and the fracture was discovered. Again, due to choking concerns I was placed on a soft food diet and was ordered to return to the Doctor/Dentist four times in the subsequent six weeks (Even though I have an email showing SCDC HQ authorized these visits, I was never allowed any follow-up visits by "TCI" Turbeville CTF staff. I was told by the dentist ~~office~~ and SCDC staff that I should be placed in a medical ward (rather than general population) so I'd be protected while I heal, but I wasn't. I was returned back to my dorm to face my attackers, and to find new ones.

Later in the day, fearing for my life, I gave Major Meeks my ID so I could move to protected custody. Subsequently, my ID was lost for a couple of weeks and I was not placed into Protective Custody, though I was assured by Major Meeks that I'd be moved either that day or the next, but she forgot or ignored the request.

Later the same day (9/23/21), after returning to my dorm, and while no SCDC staff was anywhere in it, I was attacked by another inmate wearing a ski-mask. I was punched in the face and knocked to the ground, and likely would have been stabbed (he had a shank in his waist and kept grabbing at it), but an inmate dorm worker yelled out, "let the man live". This held off my attacker and allowed me to get to my feet.

My attacker left briefly to check the hallway leading to my dorm to ensure no staff was coming and then came back to threaten me, "You think we forgot? He warned me that C.O. Brown sent him and told me if I snitched the [little] homies will slay you... fuck you in the ass." (Basically the same as my first attacker).

After an extended absence, a corrections officer reappeared in my dorm and I was allowed into my cell to nurse my jaw injury. Please keep in mind, it's against official SCDC policy to leave inmates unattended out of their cell, "out of eyesight and earshot" of staff. (I have a signed interrogatory answer from TCI's Warden Sharp, elsewhere acknowledging this and other facts.)

On 9/24/21, I was informed that Major Meeks hadn't ordered my dorm change so I refused to go into my cell and asked that Major Meeks be called to authorize my room change. She was called and she did OK the move.

However, when I tried to move to the adjacent dorm, the officer there (LT MCFadden) saw I was being threatened by those inmates who saw the video of my first attack (they were members of the same prison gang as two of my attackers). They were aggressively asking why I fought their fellow gang member. The Lt realized it wouldn't be safe to move me to that dorm and she ordered me back to my old one.

I tried to avoid going back to my old dorm by acting like I couldn't carry my stuff, but I was forced to comply with her verbal threats of disciplinary action.

Section IV.D "Underlying facts of claim"

on 9/28/21, I wrote SCDC Security "Investigations" to report the three violent attacks I endured as well as the rape and murder threats I received. I named C.O. Brown for orchestrating these attacks and I begged for help. (via ARTSM)

This ARTSM was forwarded to TCI's Warden Sharp on 10/11/21. "Investigations" Defendant Author ID. "062844" read and largely ignored the content of the ARTSM.

Neither the warden, nor anyone else from SCDC ~~ever~~ followed up with me on my reports of danger and assaults. Please note, I specifically wrote threats of murder and of being anally raped with a broom. There was no ambiguity there and I will present these ARTSMs at the appropriate time.

Due to its presence in my dorm, we were placed on an extended ~~lockdown~~ ^{quarantine} protocol starting around 9/27/21. Inmates were kept in our cells 24 hours a day and only let out to shower, in small groups, when a supervisor was available to oversee the process. We showered on M, W, and F, when allowed to do so.

on 10/11/21, while I was out for my shower, another inmate, with the same gang affiliation as two of my earlier attackers, warned me to go back in my cell immediately after my shower or "things won't work out well for you." I took the threat seriously and complied. This guy became my next attacker.

Also, on 10/11/21 my ARTSM written on 9/28/21 was forwarded to other SCDC staff including TCI's Warden Sharp, apparently. Other ARTSMs reporting my attacks were answered or also forwarded. I was hopeful that help was finally on its way and I'd be protected. Surely with such a flurry of activity, and given my reports of ^{increasing} assaults, rape and murder threats, someone would help me... This hope was proven false. Not a single member of SCDC ever followed up with me on any of these ARTSMs, not even after I was sexually assaulted!

Attack # 4 - 10/13/21 I was brutally sexually assaulted by two inmates, one of which lured me into the attack while a 2nd one hid. This happened during shower time when staff was supposed to remain in the dorm.

Officer Singleton abandoned his post and left my dorm unattended for over 30 minutes, and was, therefore, unable to see or hear my attack nor offer me any aid at all.

During this attack I was beaten, choked, burned (2nd degree) on my buttocks, sexually assaulted multiple times and ways (at shank point), forced to swallow bleach and threatened with murder if I snitched, then I was ordered to shower.

After my shower I walked aimlessly around the dorm while trying to avoid eye contact with other inmates because I didn't want them to see my tears.

Eventually, I sat on the floor in the middle of the dorm to wait for C.O. Singleton to come back. When he did come back to the dorm and saw me sitting on the floor I feigned a back injury, said

Section IV, D. - "underlying facts of claim"

I couldn't get up, and asked to go to medical.

Instead of allowing me ^{to go} to medical, officer Singleton recruited another inmate to help me up and put me back in my cell.

over the ^{next} dot hours I was in my cell writing different drafts of the note I planned on handing ~~to the nurse who gives me insulin.~~ I wasn't able to get the note out until the next day, for various reasons.

Meanwhile, I wrote 7+ ARTSM's to multiple departments in SCDC, begging for help ^{due to} my sexual assault; for a rape kit; ^{and that I} ~~and that I~~ ^{medical because} feared I might get AIDS or some other diseases, or die from swallowing bleach.

Finally, in the AM of 10/14/21, someone I wrote in SCDC's office of General Counsel sent word of my attack to Institutional PREA Coordinator, and Associate Warden, at TCF William Brightthrop, who came and took me to medical.

I interviewed with AW Brightthrop, ^{SCDC} Police Services detectives and later ~~with~~ with Defendant Porter (TCF's mental health counselor). I specifically told MS, Porter 1) I was not suicidal and 2) that I definitely wanted to see a psychologist about my attack and ^{3) answered background questions.}

Claim #5 - It should be noted that during discovery for case 9:23-cv-02313-SAL-MHC, Defendant Porter falsely recorded that I declined an offer to see a psych doctor. I wasn't allowed to see a psych Dr. until January of 2022, despite countless (paper) ("RTSM") request to staff member to MS Porter in mental health, multiple grievances, as well as many documented verbal requests to mental health staff. I will address ms. Porter more later.

Eventually, I was taken to the Toomey Emergency Room to undergo a rape kit, receive an STD regimen, get a CT or MRI scan to see if anymore of the object I was sodomized with was still inside me. (over the previous night I pulled out multiple pieces of what appeared to be a broken plastic hanger). Photos were taken of my burn and anal abrasions as well as other injuries.

I was returned to TCF around midnight and placed in the Restrictive Housing Unit ("RHU") and held in solitary confinement with inmates who were being punished for stabbings and other infractions. (I wasn't placed on the "PE" side.) I was treated in a significantly atypical manner compared to both inmate in GenPop and "RC".

I was held in solitary confinement for seven months which was pure Hell. Much of my experience in solitary during this time is being litigated elsewhere but included having inmates make death threats to me; Major Meeks admitted in writing and verbally that she ordered I not be allowed any outside recreation for months because of one of my PREA complaints being forwarded to her and she somehow misconstrued the ARTSM ^{to state} that staff had ~~assaulted~~ ^{assaulted} me while I was in solitary confinement. I was held in my cell for a week that smelled like feces that my neighbor smeared all over his cell and atel staff refused to let it be cleaned. We shared an unfiltered vent and the smell caused me to get sick and vomit. Eventually, I couldn't handle it.

Section IV.D. "underlying facts of claim"

any more and I stayed on the doors flap so that it couldn't be closed. I refused to close it unless I was moved or that cell was clean. I needed fresh air. (I was still very new to prison and I didn't know this was considered a minor infraction (until I was written up for it), though of course it makes sense. At the time, though, the pressure was unbearable for me. I just needed fresh air.) The next day I was forced into my cell and the adjoining cell was partially cleaned. However, when the showers came on, the smell got worse. By the way, the cell was covered in mold because the shower was inside the cell. It was like living inside a porta-potty on a hot day.

Right after this flap incident, C.O. Brown started being sent to work my dorm and supervise me in RTH. He proceeded to antagonize me about the assaults he initiated; he kept banging on my cell door, and he even came to my cell around midnight along with Cpt. Johnson and ended up falsifying a Major disciplinary charge in order to provoke and punish me. ~~These~~ ^{and}

Luckily, all charges were later dropped due to these officers violating various SDC rules and procedures.

Later, C.O. Brown was arrested and fired for assaulting an inmate and Cpt. Johnson was suspended by SDC for various infractions (unrelated to my claims here).

Being denied mental health treatment for so long, having to see the guy who had me attacked working my dorm and antagonize me; being denied outside rec while all other inmates in RTH (and "PC") got it, etc. led me to feel hopeless and extremely vulnerable. I believed I'd never get out of there and these feelings led me to an ill-advised suicide attempt. There was no functional appeal process for me in any way.

During these seven months in solitary confinement I lost over 30 pounds of muscle and had severe panic attacks, and only saw the sunlight for ¹⁵ hours (not counting total medical rush).

Per policy, people who are held in "PC" are required to have a PE Board within seven days to determine if they would be moved to another prison or not. I was denied this substantive due process for 55 months. These conditions and deplorable treatment violated my S.C. Const. ART I, § 3 and 5 rights as well as my 8th and 14th U.S.C.A. rights to be free from cruel and unusual punishment and substantive due process. ^{The Policy covers Statewide PC processes, and it requires all PC Boards be held within seven days in almost every case.}

Defendant Porter - I wasn't allowed to see a single psych doctor until January 2022 because Ms. Porter refused to allow it. When I did see the psych doctor, she told me that Ms. Porter said I'd been disciplined for filing a false PREA Complaint and that I made the whole thing up, and ^{that I} claimed SDC staff was involved in the attack. While I was held in solitary, I had to vehemently argue against this false assertion. My PREA investigation has been substantiated by SDC's police services and has been referred to SLED for DNA testing.

During discovery for case 9:23-cr-02313-SAL-MHC, I found out that Ms. Porter wrote many false and contradictory statements in my mental health file that must have been intentional (e.g. she said I refused medical treatment after

Section IV.D: "Underlying facts of claim"

my assault when there is a long paper trail showing that I begged for treatment. She knew I wanted help, but ignored me for months after my sexual assault, when I was most vulnerable.

Ms. Porter admitted to reading "some" of the RTSM's I wrote to her begging for help, threatening to start a hunger strike and "letting nature take its course". Ms. Porter was deliberately indifferent to the dangers I presented to her (to ^{myself}), she refused to even follow up with me to schedule a visit with a psych Doctor until late December 2021, and this was only because I begged Nurse LaPointe to email her a request that I be seen. I wasn't seen by a Dr. for nearly three months and then every 3-6 months for a check-in.

To date, I still haven't been allowed to speak to any outside sexual assault counselors save purports to offer despite countless requests, and years lapsing. I truly believe that if I was treated in the aftermath of my sexual assault I wouldn't have felt the need to attempt suicide. I've asked many, many times for this info.

Isn't it common knowledge that sexual assault survivors experience tremendous psychological trauma and should be closely monitored and treated for it? There is substantial case law in support of this fact and Ms. Porter has no excuse for ignoring my many requests for treatment, not only in her position as TCI's mental health counselor, but morally as a human being. She knew I was vulnerable and did nothing.

Carolina's Constitution protects the most vulnerable mental health patients. This is a fundamental right, we leave value. Ms. Porter was also part of the PC Board panel and she denied me a validated PC status. The reasons given for this was "I refused to name names" and "there was no penetration". My written reports, medical records and rape kit photos prove the latter statement false, and my hope was that DNA results would name my attackers for me so I wouldn't appear to be a snitch, and give my attackers more motive to attack me again.

Upon information and belief, because Ms. Porter errantly believed my claims to be false, she let me wallow in my misery and ignored my many requests for mental health treatment. This belief is backed up in my mental health record and her notes. The treatment she provided, or lack thereof, doesn't amount to a laissez-faire approach - it amounts to deliberate indifference to medical needs; she wilfully disregarded the dangers I faced, and needlessly caused or allowed damage to my psych and well-being.

I was held for seven months in a moldy, cramped cell with nearly no social interactions aside from feeding and inmate death threats. The disdain I felt as a "PC" inmate on the non-PC side was palpable. I was basically abandoned there. I only got 4-5 hours of sunlight the entire time, very little exercise, terrible sleep, frequent panic attacks and nightmares, audio and visual hallucinations, and up until January 2023 an undiagnosed PTSD disability, hunger strikes and I had untreated suicidal ideations while in my cell 24 hours a day. The shaver was even in the cell. It was anguishing.

The role Ms. Porter played in my suffering was only recently discovered as I reviewed my mental health records, but it's clear. She ignored all of my cries for help, and only saw me because I had the help of a sympathetic nurse, and even then spread false info about my sexual assault to other staff, blaming me as a liar and a fraud.

The conditions I faced while in PC at TCI for seven months were deplorable, cruel and unusual, and violative of my fundamental rights under South Carolina's and the U.S. Constitution. My Due process rights were implicated as stated earlier - (no "PC board" for 5.5 months instead of seven days as policy requires), and I was basically left in limbo to fear whatever future I might have, if any at all, and to waste away.

Section IV.D. "underlying facts of claim"

It is well-established precedent that atypical conditions of confinement, which serve little to no penological purpose is a real harm and is not allowed or condoned by the courts. These rights ^{to be free of cruel and unusual punishment} are fundamental and dear to all Americans (not the least of which ~~are~~ ^{to} South Carolinians). I've obtained a lot of ^{proof and documents in support of} my treatment while in RTHU's solitary confinement for seven months ^{these claims} was not only atypical to inmates in General population, but also ~~other~~ ^{to other} inmates held in RTHU under "PC".

I wasn't allowed to go to church, work, participate in any programs, go to canteen, nor the gym, ^{again,} I wasn't even allowed to leave my cell to shower since it was in my cell. Other inmates in PC were allowed to go outside for rec on a weekly basis, at times, while I only got outside 4-5 times in seven months, on a hour at a time. Group therapy was allowed for other "PC" inmates, but not for me. My phone calls allowed each day went from unlimited to two merely because the PC Board labeled my PC request "invalid". I wasn't in RTHU for any punitive reasons, but I was surely punished. Gen Pop inmates got 24 hours of recreation every day (out of cell).

I was treated differently (worse) than all other inmates at TCI whether Gen Pop or "PC". ~~PC~~. This is the definition of "atypical". I deteriorated mentally during that time.

My being denied outside rec. by Major Meeks because I filed a PREA grievance is the definition of "retaliation" and is not allowed per Booker v. SCDC, 855 F.3d 533, 541 (4th Cir. 2017) and this was clearly established law prior to my claims and injuries described herein. She admitted to this and this ^{type of punishment felt extremely cruel and unexplain-} ^{able at the time.}

1. Defendant - Author ID "062844" - upon reviewing discovery material in case 0:23-cv-02313-SAL-MHC I discovered that Defendant Author ID "062844" not only read and forwarded the ARISM's I wrote reporting multiple attacks, rape and murder threats, but they were sent back to her and she was ordered to forward the complaint to appropriate personnel at TCI including Warden Sharp ~ lolllal. It appears she not only failed to do so, but she didn't even follow up on them.

If she had acted appropriately to the serious dangers I reported, SCDC staff would have had a decent headstart to head off my sexual assaults on 10/31/21. She read that I had been attacked 3x, threatened with rape and murder 2x and ^{though} she did forward these reports to higher level investigators for SCDC, ~~but she~~ ^{had} been given back the responsibility of acting on these reported dangers. ~~or she~~ ^{not} If she notified appropriate staff ^{at TCI} as directed by her superiors, she might not be liable for failure to protect claims here. However, her deliberate indifference to known and obvious dangers increased every time she saw a new ARISM reporting another assault, and her inaction played a major role in my sexual assaults ^{threats} being made real.

Later, when Author ID "062844" realized that I was sexually assaulted, she started to cover up her "mistakes" as evidenced by her replies to multiple ARISM's of mine. She knew that I had to wait until the Police Services Investigation into my

1. Author ID "062844" is Lisa Craft

Section IV.D. "underlying facts of claim"

DREA assaults ~~was~~ closed before I could file a grievance on these assault-related grievances, and that I needed to exhaust these grievances prior to my filing suit in Federal Court (as required under PLRA). She intentionally thwarted the process.

Despite the fact that SCDC's Police Services closed my case as "substantiated" on 11/2/22, Author ID "062844" continued to lie to me telling me my case was "open/active" all the way up to 8/31/23. She refused to ever give me my investigator's name so I could reach out to him, and was forceful in her deflective written replies to me.

The only apparent reason she finally admitted the case had been long closed was because I was pushing harder to speak to my investigation and she wanted to thwart that. (I asked to add various retaliation claims to the investigation).

Later, when I attempted to file a grievance on her behavior just described, she reverted to again telling me the case was still "open/active" - there is a long paper trail corroborating all of these claims, and she was clearly telling me lies in writing.

It's clear Author ID "062844" intentionally misled me as to the status of my case and I believe it's plain and clear that she was trying to prevent these assault-related grievances from being exhausted to cover up her earlier failures to protect me from sexual assaults, and to escape liability. She was emailed two days before the sexual assault to reach out to "Warden Sharp concerning the details of these ADISM's, yet Warden Sharp stated in his answers to interrogatories that he didn't recall ever getting any such message. If only she followed up, I might have been saved. Even the bare minimum follow up likely would have been successful. She dropped the ball and I paid the price two days later, and her cover up was nearly as bad.

11/10/21 Conversion/Trespass to Chattels (SCCA § 15-78-10 et seq)

After one month in solitary confinement at TCF, during which my personal property had been "misplaced" C.O. Oliver found my items and came to my cell to inventory the items. She started by dumping everything directly on the floor including my toothbrush. When I complained, she became angry and stormed off without completing the inventory.

It was clear, however, that my canteen bag, full of personal items, was missing with a value then of ~\$170.00 (currently ~\$190.00). It took ~45 days for me to get any reply from "Contraband" and ~~staff~~ stated perishable items are destroyed within 30 days. Upon my transfer to ECF on 5/13/23, I realized that the extent of my loss totalled ~\$170.00 (then). I wasn't provided any receipt, nor was I given any real process to argue to save my property before the 30 day destruction period lapsed. SCDC's various policies require inmates get a receipt for any property held or destroyed by them, but they ignored this step in my case. Pursuant to § 15-78-10 et seq of SCCA, I filed a claim with the

* For case 9:23-cv-02313-SAL-MK

Section IV.D "underlying facts of claim"

State Fiscal Accountability Authority naming SCDC as the Agency employing staff who destroyed my itemized property on 10/10/23. On 4/10/23 the claim was denied without response. All issues related to this claim were fully exhausted in terms of grievances.

I am asking for the full reimbursement value here in today's dollars/replacement cost. Without being granted this in forma pauperis application, I will not be allowed to utilize the sole remedy the state holds out per SCDC claims cited in this Complaint. Essentially, there would be no available remedy held out by the state for indigents. An indigent inmate, such as myself, will not be able access the courts (if my in forma application isn't approved) for fundamental S.C. Constitutional claims like cruel and unusual punishment and Due Process violation under S.C. Const. Art. I, § 3 and 15 and this would be counter to precedent described in

Ex Parte: Martin v. State, 321 S.C. 533, 471 S.E. 2d 134 (1995).
Now isn't the time to present all of my evidence, but I certainly would be grateful for the opportunity.

For this section I would like to conclude with a quote from the

* Honor J. Michael Baxley, then presiding Judge, Complex Jurisdiction, in the Court of Common Pleas, Fifth Judicial Circuit in a case against SCDC - quoting from

Quote: Brown v. Plata, 131 S.Ct. 1910, 1928-29 (2011). It matches my thoughts on my in forma pauperis application herein regarding my S. Porter.
"In devising a remedy for the constitutional deficiencies of SCDC, the Court is required to balance two competing interests. First, it is not the role of this Court to micro-manage the daily administration of the mental health program at SCDC. Moreover, this decision comes in a time of economic recession and heavy scrutiny of government expenses. However, courts may not allow constitutional violations to continue simply because a remedy could involve intrusion into the realm of prison administration."

me: Adequate mental healthcare for inmates who rely completely on SCDC to administer it is a critical need, expectation and fundamental right and ~~was~~ was denied to me during my time of greatest need. Without waiver of court fees by approving my in forma pauperis application this fundamental rights violation will escape scrutiny. This would be in opposition to our states Supreme Courts holdings in Ex Parte: Martin v. State, 321 S.C. 533, 471 S.E. 2d 134 (1995).

~~State of South Carolina~~
~~Clarendon County County~~

ee

pen not working right.
Testing area - sorry,

ee ee

B

Section VI - "Relief"

- I seek ^{Compensatory} damages for the physical and psychological harms I've endured due to the gross negligence of Defendant SCDC and under SCTCA § 15-78-10 et seq. in the amount of \$250,000 for each of the five incidents described in "Section IV.C". This amount covers future medical care and losses and doesn't include any property claims - and for violations of SC. Const. Art. I, § 3 and § 15.
- I seek the current value, at time of judgment, for all items that were lost or destroyed in the "Conversion (trespass to chattels § 15-78-70 claim); Today's value is approximately \$190,000.
- A declaration that the acts and omissions described herein violated the Plaintiff's rights under the Constitution and laws of South Carolina and those of the United States, as applicable.
- Nominal damages against all Defendants, jointly and severally.
- Damages for Federal claims in the amount of \$150,000 against Defendants' Porter and Author ID "062844", jointly and severally.
- Punitive damages in the amount of 5X regular damages awarded for Federal claims against Defendants Author ID "062844" and Porter, jointly and severally.
- Interest to include pre-order and post order against all judgments awarded, as allowed by law.
- Plaintiff's Costs in this suit.
- A jury trial on all issues triable by a jury.
- Any additional relief this court deems just, proper and equitable.

VIII. Previous Lawsuits (Continued)

E. Yes (I have file other lawsuits in state or Federal Court dealing with the same facts involved in this action)

F.

1. Parties to the Previous lawsuit
Plaintiff: Christopher M. Kennan
Defendants: SDC, Sgt Montgomery and Constance Oliver
2. South Carolina Court of Appeals
3. Docket Number: 2023-001275
4. None - (Judge assigned to case) - appealed to South Carolina Supreme Court
5. Approximate date of filing lawsuit:
8/11/23
6. Is this case still pending? No - disposed ~ August, 2024 -
7. What was the result of the case?
- Dismissed (Failure to serve Notice of Appeal on Conserved Defendants).

G. Yes, (I have filed other lawsuits in state or Federal Court dealing with the same facts involved in this action)

H. This is the appeal from the S.C. Court of Appeals to the S.C. Supreme Court. # 1-7 is the same as section "F" above except #3. The S.C. Supreme Court issued a new case number for this appeal. I will provide this case number when I'm able to get my legal work from Evans CTR's property room. Currently, I need to ensure this case is filed within the appropriate statute of limitations including tolling time). This court was provided notice of this cases dismissal/Final Decision refusing to overturn the S.C. Appeals Courts' earlier decision to dismiss for reasons stated in "F" (#?) above. I will provide this court with this newest case number as soon as I am granted access to this legal material
Supreme Court case #: Appellate Case No. 2024-000832

May 15, 2024

Christopher Kennan, #385016
Evans CIF 610 Highway 9W
Bennettsville, SC 29512

Re: Kennan vs SC Department of Corrections, et al
9:23-cv-02313-SAL-MHC
Our File #: 181-1099

*Do not
file or copy
this
side*

Dear Mr. Kennan:

I am enclosing a copy of Defendant Durant and Defendant McFadden's Answers to Plaintiff's First Set of Interrogatories, together with the Certificate of Service.

With kind regards, I remain

Sincerely,

RICHARDSON PLOWDEN & ROBINSON, P.A.

mj

Mary Jane Wilson

/mjw
Enclosures as Stated

-02313- ~~Durant~~ - 1st set

my copy

Verification

I, Christopher M. Kennan, Plaintiff, swears under penalty of perjury that all of the statements and assertions I've made in this complaint and Submission are true, except when premised with "upon information" or "belief" and as to those, I believe them to be true.

Executed on this ~~2nd~~^{3rd} day of September, 2024

at : Evans CI

610 HWY 9W

Bennettsville, SC 29512

by ~~Christopher M. Kennan~~
Christopher M. Kennan #385016
pro se Plaintiff

Certificate of Service

Plaintiff, Christopher Kennan, swears that he mailed a copy of this complaint to the following parties, at the addresses listed, on the date stated below using the method listed:

1. South Carolina Department of Corrections
Office of General Counsel
4444 Broad River Road
Columbia, SC 29210

and mailed out using Evans CI on 9/3/24

2. South Carolina Attorney General
The Honorable Alan Wilson
P.O. Box 11549
Columbia, SC 29211

mailed as certified mail through Evans CI on 9/3/24

Executed on this 3rd day of September, 2024

at Evans CI

610 HWY 9W

Bennettsville, SC 29512

~~Christopher M. Kennan~~

Christopher M. Kennan #385016
pro se Plaintiff

Address
Telephone Number
E-mail Address

*Do not
copy or file
this side*