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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

HAROLD JONES,
Plaintiff,

v.

COUNTY OF SALEM; CHARLES M. MILLER;
RAYMOND C. SKRADZINSKI; THE STATE OF
NEW JERSEY; STATE TROOPER J.J. SMITH;
JOHN DOE SUPERVISORS 1-10; JOHN DOE
SALEM COUNTY CORRECTIONAL CENTER
EMPLOYEES 1 THROUGH 10; and JOHN
DOE SALEM COUNTY CORRECTIONAL
OFFICERS 1 THROUGH 10,
Defendants.

CASE NUMBER:

CIVIL ACTION

**COMPLAINT
AND DEMAND FOR JURY TRIAL**

The plaintiff, Harold Jones, by way of Complaint against the defendants herein
says:

PARTIES

1. Plaintiff Harold Jones, is an adult individual residing at 520 Martinelli Avenue,
Minotola, New Jersey.

2. Defendant J.J. Smith is a trooper with the New Jersey State Police who is sued in both his official and individual capacities.
3. Defendant State of New Jersey is a government unit employing Trooper J.J. Smith.
4. Defendant County of Salem is a local government unit in the State of New Jersey employing and operating the Salem County Correctional Facility.
5. Defendant Charles M. Miller is the Sheriff of Salem County. Individuals lawfully committed into Salem County Correctional Facility are in the custody of the Sheriff's Office.
6. Defendant Raymond C. Skradzinski is the Warden of Salem County Correctional Facility.
7. Defendant John Doe Supervisors are, after reasonable inquiry, as yet unknown adult individuals supervising Salem County Correctional Center Employees and/or Correctional Officers.
8. Defendant John Does Salem County Correctional Center Employees are, after reasonable inquiry, as yet unknown adult individuals tasked with intake of prisoners at the Correctional Center.
9. Defendant John Does Salem County Correctional Officers are, after reasonable inquiry, as yet unknown adult individuals employed by the County of Salem.

JURISDICTION

10. This is a claim for federal civil rights violations brought under 42 U.S.C. §1983, 42 U.S.C. § 12101, et seq, and pendent state law claims.
11. Jurisdiction in this court is proper as to plaintiff's federal claims under 28 U.S.C. §1331, as an action arising under the Constitution or laws of the United States, and under 28 U.S.C. §1343(a) (3), as an action to redress the deprivation, under color of state law, of rights secured by the Constitution of the United States. Jurisdiction over plaintiff's pendent state law claims is proper under 28 U.S.C. §1367.
12. Venue is properly laid in this district under 28 U.S.C. §1391(b) in the District of New Jersey, because all parties reside and the events establishing plaintiff's claims occurred.
13. Plaintiff seeks attorney's fees and costs under 42 U.S.C. §1988, 42 U.S.C. 12133, and Section 505 of the Rehabilitation Act of 1973 for his federal claims and N.J.S.A. 10:5-27.1, N.J.S.A. 10:6-2(e), and N.J.S.A. 34:19-5(e) for his state law claims.

FACTS COMMON TO ALL COUNTS

14. Plaintiff has longstanding medical issues which include diabetes and schizophrenia.
15. On June 27, 2013, plaintiff was in the midst of a medical episode when he drove his car until running out of gas.

16. Trooper Smith encountered plaintiff sitting in his vehicle on US Highway 40 East in the area of Milepost 18.6 in Woodstown, New Jersey.
17. Trooper Smith discovered a traffic warrant issued for plaintiff by Vineland City Municipal Court.
18. Trooper Smith called plaintiff's sister who informed him of plaintiff's conditions.
19. Despite knowing plaintiff's special needs, Trooper Smith arrested plaintiff and transported him to Salem County Correctional Facility.
20. Employees at Salem County Correctional Facility neglected plaintiff's medical needs. The plaintiff was admitted to the Correctional Facility, where Correctional Officers assaulted plaintiff because they misinterpreted his disability as resistance and contempt.
21. On June 29, 2013, after plaintiff was assaulted, he was released from the County Jail, and admitted to Salem Hospital.
22. At Salem Hospital, plaintiff was observed to have an altered mental status in association with elevated blood sugars up to 1000, fractured ribs, and injured toes.

COUNT I

**ACTION UNDER TITLE II OF THE AMERICANS WITH DISABILITIES ACT OF 1990
(AGAINST DEFENDANT COUNTY OF SALEM)**

23. Staff at an adult county correctional facility shall be responsible for essential medical and health care services. N.J.A.C. 10A:31-13.1.

24. Prior to placement in general population or housing area, all inmates shall receive:

- A medical screening by qualified health care personnel;
- A physical examination by a licensed physician, certified physician assistant or nurse practitioner practicing within the limits of their certification(s);
- Any tests determined to be necessary by the physician who is responsible for medical services.

N.J.A.C. 10A:31-13.9(a).

25. The findings of the medical screening shall be recorded on a printed form approved by the physician who is responsible for medical services. N.J.A.C. 10A:31-13.9(b).

26. The medical screening should include, but not be limited to:

- Current illnesses and health problems;
- Medications taken and special health requirements;
- Evaluating other health problems designated by the physician responsible for medical services;
- Behavior observation, including state of consciousness and mental awareness;
- Notation of body deformities, such as trauma markings, bruises, lesions, jaundice, ease of movement;
- Condition of skin and body orifices, including rashes and infestation; and;
- Referral of inmates to qualified medical personnel on an emergency basis.

N.J.A.C. 10A:31-13.9(c).

27. Facility personnel shall be trained regarding recognition of symptoms of mental illness and developmental disabilities. N.J.A.C. 10A:31-13.22(c).
28. Each of the foregoing paragraphs is incorporated as if fully set forth herein.
29. Defendant Salem County failed to make reasonable modifications to its policies practice and procedure to ensure that plaintiff's needs as an individual with a disability would be met, in violation of Title II of the ADA.
30. Defendants knew or should have known plaintiff was disabled.
31. Defendants failed to reasonably accommodate plaintiff's disabilities in the course of the investigation, arrest, and detention.
32. As a result, defendants caused plaintiff to suffer injury and indignity.
33. The actions of the defendants were willful, deliberate and malicious.
34. As a proximate result of defendants' conduct, plaintiff has been injured in that he was deprived of those rights; and was caused to suffer physical, mental and emotional distress.

WHEREFORE, plaintiff demands judgment against the defendants jointly, severally, and in the alternative, for:

- a. Compensatory damages;
- b. Punitive damages;
- c. Attorneys' fees and costs pursuant to the ADA and 42 U.S.C. §12205; and
- d. For such further relief as the court deems equitable and just.

COUNT II
ACTION UNDER SECTION 504 OF THE REHABILITATION ACT
(AGAINST DEFENDANT COUNTY OF SALEM)

35. Each of the foregoing paragraphs is incorporated as if fully set forth herein.

36. Defendant County of Salem is an entity that receives federal financial assistance.

37. Defendant County of Salem subjected plaintiff to discrimination based on his disabilities.

38. As a proximate result of defendants' conduct, plaintiff has been injured in that he was deprived of those rights; and was caused to suffer physical, mental and emotional distress.

WHEREFORE, plaintiff demands judgment against the defendants jointly, severally, and in the alternative, for:

- a. Compensatory damages;
- b. Punitive damages;
- c. Attorneys' fees and costs pursuant to Section 505 of the Rehabilitation Act; and
- d. For such further relief as the court deems equitable and just.

COUNT III

**ACTION UNDER 42 U.S.C. 1983 FOR VIOLATIONS OF PLAINTIFF'S DUE PROCESS RIGHTS
UNDER THE FOURTH AND FOURTEENTH AND EIGHTH AMENDMENTS OF THE U.S.
CONSTITUTION
(AGAINST INDIVIDUAL DEFENDANTS)**

39. Each of the foregoing paragraphs is incorporated as if fully set forth herein.

40. The defendants' actions deprived plaintiff of rights under the U.S.

Constitution, namely his substantive due process rights.

41. Plaintiff has a federal substantive due process liberty interest to be free from egregiously abusive physical conduct that shocks the conscience of a reasonable person.

42. Plaintiff has a right to adequate medical care while incarcerated.

43. Defendants failed to promptly and reasonably procure competent medical aid for plaintiff, a pretrial detainee, who suffered from serious illness and injury while confined.

44. Defendants by their actions have denied plaintiff of the rights and protections provided by the Eighth Amendment of the U.S. Constitution

45. The actions of the defendants were taken under color of state law.

46. The actions of the defendants were willful, deliberate and malicious.

47. As a proximate result of defendants' conduct, plaintiff has been injured in that he was deprived of those rights; and was caused to suffer physical, mental and emotional distress.

WHEREFORE, plaintiff demands judgment against the defendants jointly, severally, and in the alternative, for:

- a. Compensatory damages;
- b. Punitive damages;
- c. Attorneys' fees and costs pursuant to 42 U.S.C. §1988; and
- d. For such further relief as the court deems equitable and just.

COUNT IV
ACTION UNDER N.J.S.A. 10:6-2 FOR
VIOLATIONS OF PLAINTIFF'S DUE PROCESS RIGHTS UNDER
ARTICLE I, PARAGRAPH 1 OF THE NEW JERSEY CONSTITUTION
(AGAINST ALL DEFENDANTS)

48. Each of the foregoing paragraphs is incorporated as if fully set forth herein.

49. The defendants' actions deprived plaintiff of rights under Article I, Paragraph 1, of the New Jersey Constitution and under N.J.S.A. 10:6-2, namely his substantive due process rights.

50. The plaintiff has a state substantive due process liberty interest to be free from egregiously abusive physical conduct by law enforcement officers that shocks the conscience of a reasonable person.

51. Plaintiff has a right to prompt and reasonable medical aid while confined as a pretrial detainee.

52. Defendants violated those rights.

53. The actions of the defendants were taken under color of state law.

54. The actions of defendants were willful, deliberate and malicious.

55. As a proximate result of defendants' conduct, plaintiff has been injured in that he was deprived of those rights; and was caused to suffer physical, mental and emotional distress.

WHEREFORE, plaintiff demands judgment in his favor and against the defendants as follows:

- a. Compensatory damages;
- b. Punitive damages;
- c. Attorney's fees and costs pursuant to N.J.S.A. 10:6-2(f); and
- d. For all other appropriate relief.

COUNT V:
ACTION UNDER 42 U.S.C. § 1983
LIABILITY IN CONNECTION WITH THE
ACTIONS OF ANOTHER – FAILURE TO INTERVENE
(AGAINST DEFENDANT JOHN DOE SALEM COUNTY CORRECTIONAL OFFICERS)

56. Each of the foregoing paragraphs is incorporated as if fully set forth herein.

57. Defendants violated plaintiff's rights under the Fifth and Fourteenth Amendments to the United States constitution to be free from cruel and unusual punishment and violations of due process by agents of the state, and in particular by correctional officers.

58. Defendants had a duty to intervene to prevent the use of excessive force by fellow correctional officers.

59. Defendants had a reasonable opportunity to intervene during plaintiff's interactions with defendant correctional officers.

60. Defendants chose not to intervene during plaintiff's interaction with defendant correctional officers.

WHEREFORE, plaintiff demands judgment in his favor and against defendants as follows:

- a. Compensatory damages;
- b. Punitive damages;
- c. Attorney's fees and costs pursuant to 42 U.S.C. § 1988;
- d. For all other appropriate relief.

COUNT VI

**ACTION UNDER N.J.S.A. 10:6-2 FOR FAILURE TO INTERVENE
(AGAINST DEFENDANT JOHN DOE SALEM COUNTY CORRECTIONAL OFFICERS)**

61. Each of the foregoing paragraphs is incorporated as if fully set forth herein.

62. Defendants violated plaintiff's rights under Article I, Paragraph 12, of the New Jersey Constitution to be free from cruel/unusual punishment and violations of due process.

63. The defendants had a fiduciary relationship with plaintiff as an inmate of their institution to protect him from unlawful harm.

64. The defendants failed intervene, summon help or take other precautionary measures to prevent and/or stop plaintiff's harm.

65. Defendants had a reasonable opportunity to intervene during plaintiff's interactions with defendant correctional officers.

66. Defendants chose not to intervene.

WHEREFORE, plaintiff demands judgment in his favor and against defendants as follows:

- a. Compensatory damages;
- b. Attorney's fees and costs pursuant to N.J.S.A. 10:6-2(f);
- c. For all other appropriate relief.

COUNT VII
NEGLIGENCE
(AGAINST ALL DEFENDANTS)

67. Each of the foregoing paragraphs is incorporated as if fully set forth herein.

68. By their acts and omissions, defendants violated the duty of care owed to plaintiff.

69. Defendants acted with gross negligence and/or recklessness, and their actions did not involve the mere exercise of professional judgment or discretion.

70. By their acts and omissions, defendants proximately caused permanent injuries to him.

71. Defendants' acts and omissions were a material element and/or a scheduled factor in bringing harm to him.

72. The harms sustained by him were a reasonable and foreseeable result of defendants' acts and omissions.

73. As a proximate result of their actions, he was injured as set forth above.

74. Defendants are jointly and severally liable for the injuries sustained by him.

WHEREFORE, plaintiff demands judgment in his favor and against defendants as follows:

- a. Compensatory damages;
- b. For attorney's fees and costs pursuant to N.J.S.A. 10:6-2(f); and
- c. For costs, fees, and all other appropriate relief.

COUNT VIII
ACTION UNDER STATE COMMON
LAW FOR ASSAULT AND BATTERY
(AGAINST DEFENDANT JOHN DOE SALEM COUNTY CORRECTIONAL OFFICERS)

75. Each of the foregoing paragraphs is incorporated as if fully set forth herein.

76. The defendants intentionally and offensively touched plaintiff without his consent.

77. The defendants' actions placed plaintiff in reasonable imminent apprehension of such contact.

78. The defendants' contact proximately caused plaintiff to suffer physical, mental and emotional distress.

WHEREFORE, plaintiff demands judgment in his favor and against the defendants as follows:

- a. Compensatory damages;
- b. Attorney's fees and costs pursuant to N.J.S.A. 10:6-2(f); and
- c. For all other appropriate relief.

COUNT IX:

**ACTION UNDER TITLE II OF THE AMERICANS WITH DISABILITIES ACT OF 1990
(AGAINST DEFENDANT STATE OF NEW JERSEY)**

79. Each of the foregoing paragraphs is incorporated as if fully set forth herein.

80. The State of New Jersey violated Title II of the Americans with Disability Act by failing to have policies in place which provided for the recognition of motorists suffering from disabilities.

81. The State of New Jersey violated Title II of the Americans with Disability Act by failing to train Trooper Smith to recognize the signs of mental illness and or diabetic complication, and to take appropriate steps to have had the plaintiff evaluated.

82. As a proximate cause of the failure to comply with the Act, plaintiff suffered and continues to suffer.

WHEREFORE, plaintiff demands judgment against the defendants jointly, severally, and in the alternative, for:

- a. Compensatory damages;
- b. Punitive damages;

- c. Attorneys' fees and costs pursuant to the ADA and 42 U.S.C. §12205;
- and
- d. For such further relief as the court deems equitable and just.

CERTIFICATION

To the best of my knowledge, the matter in controversy is not the subject of any other action pending in any court, or of any pending arbitration or administrative proceeding.

BARRY, CORRADO & GRASSI P.C.

/s/ Joseph C. Grassi

By:

JOSEPH C. GRASSI, ESQUIRE

Dated: May 1, 2015

JURY DEMAND

Please take notice that plaintiff demands a trial by jury on all issues contained herein.

BARRY, CORRADO & GRASSI P.C.

/s/ Joseph C. Grassi

By:

JOSEPH C. GRASSI, ESQUIRE

Dated: May 1, 2015

RELEASE

This Release, dated March 4, 2016, is given by the Releasor, Harold Jones, referred to as I, to the County of Salem, Charles Miller, Raymond Skradzinski, and Elbert Johnson, referred to as You.

1. **Release.** I release and give up any and all claims and rights which I may have against you. This releases all claims, including those of which I am not aware and those not mentioned in this Release. This Release applies to claims resulting from anything which has happened up to now. I specifically release the following claims: Any and all individual claims against County of Salem, Charles Miller, Raymond Skradzinski, and Elbert Johnson and resolve the claims against County of Salem, Charles Miller, Raymond Skradzinski, and Elbert Johnson, in the action *Jones v. County of Salem, et al.* Civil Case No. 15cv3093 for the amount of \$49,500.00.

2. **Payment.** I am to be paid a total of forty-nine thousand five hundred dollars, (\$49,500.00), in full payment for making this Release. I agree that I will not seek anything further including any other payment from you, provided \$49,500.00 is paid in full.

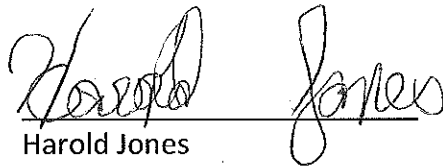
3. **Who is Bound.** I am bound by this Release. Anyone who succeeds to my rights and responsibilities, such as my heirs or the executor of my estate, is also bound. This Release is made for your benefit and all who succeed to your rights and responsibilities, such as your heirs or the executor of your estate.

4. **Signatures.** I understand and agree to the terms of this Release.

Witnessed or Attested by:



CHRISTINE E. BURTON
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires 6/30/2020


Harold Jones