

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

Toby Lamb II,
c/o Friedman & Gilbert
50 Public Square, Suite 1900
Cleveland, Ohio 44113,

Plaintiff,

-vs-

**Correctional Officer Justin Reece,
Correctional Officer Justin Crowder,
Correctional Officer Shane Carey,
Correctional Officer Brittany Maxwell,
Correctional Officer Sydney Hensley,
Lieutenant Brant Kendrick,**
c/o Ohio Department of Rehabilitation and
Correction, Warren Correctional Institution
5787 State Route 63
Lebanon, Ohio 45036,

Defendants.

CASE NO.

JUDGE

COMPLAINT

JURY TRIAL DEMANDED

Plaintiff Toby Lamb II for his complaint against Defendants Correctional Officer Justin Reece, Correctional Officer Justin Crowder, Correctional Officer Shane Carey, Correctional Officer Brittany Maxwell, Correctional Officer Sydney Hensley, and Lieutenant Brant Kendrick, alleges as follows:

INTRODUCTION

1. This is a civil rights action. On April 6, 2018, Plaintiff Toby Lamb was involved in an altercation with correctional officer Quigley in and/or near his cell at Warren Correctional Institution. Following this altercation, the officers began to escort Lamb away from his cell. Defendants Kendrick and Reece intervened, taking Lamb outside and out of the view of

surveillance cameras. Defendants Crowder, Carey, Maxwell, and Hensley joined them. Together, the Defendants proceeded to retaliate against Lamb by brutally beating him and deploying pepper spray against him while he was handcuffed and helpless.

2. Defendants' unprovoked and unnecessary actions constituted cruel and unusual punishment and excessive force against Plaintiff Toby Lamb, in violation of his constitutional rights.

3. Plaintiff Lamb seeks damages and other relief under federal and state law.

JURISDICTION AND VENUE

4. The jurisdiction of this Court is invoked pursuant to the Civil Rights Act, 42 U.S.C §1983 et seq; the Judicial Code, §§1331 and 1343(a); and the Constitution of the United States.

5. Supplemental jurisdiction over the related state law claims is invoked pursuant to 28 U.S.C. §1367.

6. Venue is proper in this District under 28 U.S.C. § 1391(b). The parties reside, or, at the time the events took place, resided in this judicial district, and the events giving rise to Plaintiff's claim also occurred in this judicial district.

PARTIES

7. Plaintiff Toby Lamb II, at all times relevant to the allegations made in the Complaint, resided in the City of Lebanon, Ohio, in Warren County.

8. Defendant Correctional Officers Justin Reece, Justin Crowder, Shane Carey, Brittany Maxwell, and Sydney Hensley were, at all times relevant to the allegations made in this complaint, duly appointed correctional officers employed by the Ohio Department of

Rehabilitation and Correction, acting within the scope of their employment and under the color of state law. They are sued in their individual capacities.

9. Defendant Lieutenant Brant Kendrick was, at all times relevant to the allegations made in this complaint, a duly appointed lieutenant correctional officer employed by the Ohio Department of Rehabilitation and Correction, acting within the scope of his employment and under the color of state law. He is sued in his individual capacity.

FACTS

10. Toby Lamb II is currently an inmate in the Ohio Department of Rehabilitation and Correction. On April 6, 2018, Lamb was an inmate at the Warren Correctional Institution in Lebanon, Ohio.

11. On April 6, 2018, while in his cell, Lamb was involved in an altercation with correctional officer Quigley. Another correctional officer, Shockey, arrived to assist Quigley. Together, they handcuffed Lamb and proceeded to escort him down the stairs away from the unit.

12. While Officers Shockey and Quigley were still on the stairs in Lamb's cell unit, Defendant Lieutenant Kendrick and Defendant Correctional Officer Reece arrived. Defendant Lieutenant Kendrick told Shockey and Quigley to remain in the unit while he and Reece took over the escort.

13. Defendants Kendrick and Reece moved Lamb outside—where they knew they were outside the view of surveillance cameras.

14. Defendant Correctional Officers Crowder, Carey, Maxwell, and Hensley joined them outside.

15. Together, the Defendant Correctional Officers began to brutally beat Lamb.

16. The Defendants took Lamb to the ground, and kicked, stomped, punched, and beat him numerous times in his face and about his body, sprayed him with OC spray, and struck him on the head with a hard object.

17. During the attack, one of the Defendants racially assaulted Lamb, saying, "I got your black ass."

18. Lamb remained handcuffed and helpless throughout the beating.

19. Lamb experienced extreme pain and fear during this assault.

20. Lamb did not present a threat to anyone at the time the Defendant Correctional Officers beat him.

21. Defendants' use of force was excessive, unreasonable, unnecessary, and without probable cause.

22. Each Defendant had the duty and opportunity to intervene to protect Lamb and to prevent the unconstitutional use of force against Lamb, and failed to do so.

23. The actions of the Defendants were taken jointly, in concert, and with shared intent.

24. Defendants jointly agreed and/or conspired with each other to complete false, misleading, and incomplete official reports and to give a false, misleading, and incomplete version of events to their supervisors, prison administration, police, and prosecutors in order to cover up their own misconduct.

25. After the beating, Lamb received radiological testing and was treated for serious injuries to his face, pictured in Figures 1-3, below:



Figure 1



Figure 2



Figure 3

26. The beating was so severe that, among other injuries, Lamb's eyes were swollen shut, his back and his jaw were injured, and he was unable to eat solid food.

27. Lamb's face is now permanently scarred as a result of Defendants' brutality.

28. Due to this incident, Lamb suffered and continues to endure severe emotional distress, fear, anxiety, and nightmares related to these events. The effects of the trauma are ongoing.

29. Defendants' actions were without probable cause, unjustified, objectively unreasonable, and with deliberate indifference to the rights and safety of Lamb.

30. Defendants' acted under color of law and deprived Plaintiff of federally protected rights, in violation of Title 42 U.S.C. §1983.

31. Defendants' actions were without probable cause, unjustified, objectively unreasonable, and constitute cruel and unusual punishment.

32. In violating Lamb's Constitutional rights, Defendants also engaged in willful, wanton, reckless, and/or negligent conduct.

33. Defendants' conduct was the direct, actual, and proximate cause of Lamb's injuries.

34. As a direct and proximate result of Defendants' conduct, Lamb sustained physical and psychological injuries, including, *inter alia*, severe pain, fear, humiliation.

35. The injuries suffered by Lamb were all preventable had Defendants not engaged in illegal conduct in violation of Lamb's fundamental rights.

FIRST CLAIM FOR RELIEF

**42 U.S.C. § 1983 Claim for Cruel and Unusual Punishment and Excessive Force
against Defendants Justin Reece, Justin Crowder, Shane Carey, Brittany Maxwell, Sydney
Hensley, and Brant Kendrick**

36. All of the foregoing paragraphs are incorporated as though fully set forth here.

37. The actions of Defendants Reece, Crowder, Carey, Maxwell, Hensley, and Kendrick, as alleged in the preceding paragraphs, constitute cruel and unusual punishment, and violated Plaintiff Toby Lamb II's rights under the Eighth Amendment to the United States Constitution, and his right to due process under the Fourteenth Amendment to the United States Constitution, and caused the injuries alleged in this complaint.

38. Defendants' conduct constitutes unnecessary and wanton infliction of pain and suffering.

39. Defendants' conduct, and the violations of Lamb's rights, were sufficiently serious and resulted in unquestioned and serious deprivations of Lamb's basic human needs, denying him the minimalized measure of life's necessities.

40. Defendants were deliberately indifferent to Lamb's rights under the Eighth Amendment.

41. Defendants knew that Lamb faced a substantial risk of serious harm and disregarded that risk by failing to take reasonable measures to abate it.

42. Defendants acted intentionally, willfully, and/or in a reckless, wanton, gross, or unreasonable manner.

43. Defendants further had the duty and opportunity to intervene to protect Lamb and to prevent the harm to Lamb, yet they did nothing to assist him or prevent the brutality meted out by fellow officers.

44. Defendants' conduct constitutes cruel and unusual punishment in violation of Lamb's constitutional rights and caused the injuries set forth in Plaintiff's complaint.

45. As a direct and proximate cause of Defendants' misconduct, Plaintiff suffered and continues to suffer injury and damages as set forth in this Complaint.

46. Defendants are jointly and severally liable for this conduct.

SECOND CLAIM FOR RELIEF
42 U.S.C. § 1983 Claim for Supervisory Liability
against Defendant Lieutenant Brant Kendrick

47. All of the foregoing paragraphs are incorporated as though fully set forth here.

48. The constitutional injuries complained of here were proximately caused by (i) the intentional misconduct of the supervisory defendants, or (ii) by Defendant Kendrick being deliberately and recklessly indifferent to his subordinates' misconduct, knowing that ignoring that misconduct would necessarily violate Lamb's constitutional rights.

49. Specifically, Defendant Kendrick was aware of and facilitated, condoned, and oversaw the unconstitutional measures used by other Defendants to engage in acts of excessive force and cruel and unusual punishment or was deliberately, willfully, or recklessly indifferent to his subordinates' unconstitutional tactics.

50. Defendant Kendrick was acting under color of law and within the scope of his employment when he took these actions.

51. As a direct and proximate result of the actions of Defendant Kendrick, Lamb's constitutional rights were violated and he suffered injuries and damages and continuing injuries and damages as set forth above.

52. Defendants are jointly and severally liable for this conduct.

THIRD CLAIM FOR RELIEF

**State Law Claim for Negligence – Willful, Wanton, and Reckless Conduct
against Defendants Justin Reece, Justin Crowder, Shane Carey, Brittany Maxwell, Sydney
Hensley, and Brant Kendrick**

53. All of the foregoing paragraphs are incorporated as though fully set forth here.

54. Defendant Correctional Officers acted negligently when they violated their duty to exercise due care for Toby Lamb II.

55. Defendants committed the acts alleged in this complaint in a reckless, willful, and/or wanton manner while working as correctional officers for ODRC.

56. Defendants' misconduct directly and proximately caused the injuries and damages suffered by Toby Lamb II as described above.

57. Defendants are jointly and severally liable for this conduct.

PRAYER FOR RELIEF

Plaintiff demands that judgment be entered in his favor on all counts and prays the Court award the following relief:

- A. Actual and/or compensatory damages against all Defendants in an amount to be determined at trial that will fully and fairly compensate him for the violation of his rights, and for the injuries and damages he suffered;
- B. Punitive damages against all Defendants in an amount to be determined at trial that will serve to adequately punish and deter the acts and omissions alleged in this complaint;
- C. Attorney fees and the costs of this action and other costs that may be associated with this action pursuant to 42 U.S.C. § 1988; and

D. All other relief which this Honorable Court deems equitable and just.

TRIAL BY JURY ON ALL CLAIMS FOR RELIEF HEREBY DEMANDED.

Dated: April 4, 2020

/s/ Sarah Gelsomino
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