

IN THE CIRCUIT COURT OF CABELL COUNTY WEST VIRGINIA

TAMMY T. ~~WORTOX~~

Plaintiff,

Civil Action No: 18-C-158

The Honorable Judge

/s/PAUL T. FARRELL

v.

THE WEST VIRGINIA REGIONAL JAIL
AND CORRECTIONAL FACILITY AUTHORITY,
and John Doe 1 through 5,

Defendants.

COMPLAINT

Comes now Plaintiff, Tammy ~~Wortox~~, by and through counsel, Jason Goad,
Scott McClure, and McClure Goad PLLC and for her Complaint states as follows;

PARTIES AND JURISDICTION

1. Plaintiff is a resident of Cabell County West Virginia.
2. Defendant The West Virginia Regional Jail and Correctional Facility Authority (hereinafter referred to as WVRJA) is a State agency with a regional jail in operation in Cabell County West Virginia.
3. While this Court does have proper jurisdiction over this matter, Defendant WVRJA can opt for Kanawha County West Virginia as the venue if it so chooses.
4. Defendants John Doe 1 through 5 (hereinafter referred to as "Defendants John Does") are employees of Defendant WVRJA.
5. The actions and events that gave rise to this Complaint occurred in Cabell County West Virginia.

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6. All required parties were given proper notice of this Complaint pursuant to West Virginia Code 55-17-3.

FACTS

7. Paragraphs one through Six are incorporated by reference hereto as if set forth herein.
8. On or about the 5th day of November 2017 Plaintiff became incarcerated at the Western Regional Jail in Cabell County West Virginia for the misdemeanor offense of Driving Under the Influence First Offense.
9. While she was incarcerated she was forced to strip nude in front of male officers, and kept completely nude for a majority of her incarceration while being supervised by male officers.
10. While nude, Plaintiff was strapped to a chair by male officers using excessive force in the application of said straps that caused her severe injuries that resulted in a multiple day hospitalization upon her release from jail.

COUNT I- INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

11. Paragraphs one through eleven are incorporated by reference hereto as if set forth herein.
12. Defendants John Does, individually and as agents of Defendant WVRJA, did intentionally and recklessly force Plaintiff to strip nude in front of male officers, they intentionally and recklessly kept her nude and under male supervision for a majority of her incarceration, they intentionally and recklessly strapped her to a chair while nude using excessive force

causing severe injuries, and they intentionally and recklessly denied her of food and water for the majority of her incarceration.

13. Said conduct was so outrageous, and so extreme in degree, as to go beyond all possible bounds of decency, and is regarded as atrocious, and utterly intolerable in a civilized community so far as to arouse the resentment of an average member of said community and lead him or her to exclaim "Outrageous!"

14. Said conduct did cause Plaintiff severe emotional distress.

COUNT II- NEGLIGENT APPLICATION OF RESTRAINT DEVICE

15. Paragraphs one through fourteen are incorporated by reference hereto as if set forth herein.

16. Defendants John Does, individually and as agents of Defendant WVRJA, once they saw a need to restrain Plaintiff in an restraint chair, owed a duty to restrain Plaintiff in a reasonably safe manner, using reasonable force, so as not to cause her personal injury.

17. Defendants John Does, individually and as agents of Defendant WVRJA, breached this duty by strapping Plaintiff unreasonably tight, using excessive force, and leaving Plaintiff restrained for an unreasonably long time.

18. As an actual and proximate result of said breach Plaintiff suffered damages in terms of serious personal injuries including but not limited to rhabdomyolysis, medical bills, pain and suffering, annoyance and inconvenience, loss of enjoyment of life, and punitive damages.

COUNT III- NEGLIGENT TRAINING OF CORRECTIONAL OFFICERS

19. Paragraphs one through eighteen are incorporated by reference hereto as if set forth herein.

20. Defendant WVRJA owed a duty to Plaintiff to train correctional officers to supervise inmates in a way that does not violate their rights to privacy, their right to maintain dignity, their right to food and water, and to only use reasonable force.

21. Defendant WVRJA breached this duty by failing to sufficiently train correctional officers so as to prevent opposite sex supervision in situations where the inmate would be nude, so as to prevent the inmate being kept nude and denied clothing any longer than necessary, so as to prevent the denial of food and water, and so as to prevent the use of excessive force.

22. As an actual and proximate result of said breach Plaintiff suffered damages in the form of humiliation, degradation, loss of privacy, mental anguish, emotional distress, serious personal injuries including but not limited to rhabdomyolysis, medical bills, pain and suffering, annoyance and inconvenience, loss of enjoyment of life, and punitive damages.

COIUNT IV- NEGLIGENT SUPERVISION OF CORRECTIONAL OFFICERS

23. Paragraphs one through twenty-two are incorporated by reference hereto as if set forth herein.

24. Defendant WVRJA owed a duty to Plaintiff to supervise correctional officers employed by the same so as to ensure so as to ensure the

reasonable application of searches, food and water provisions, and restraining devices.

25. Defendant WVRJA breached this duty by failing to supervise said employees so as to allow male correctional supervisors to supervise and search a nude female inmate and so as to allow said correctional officers to deny said female inmate clothes and food and water and so as to allow excessive force in the application of a restraining device for an unreasonable duration.

26. As an actual and proximate result of said breach Plaintiff suffered damages in the form of humiliation, degradation, loss of privacy, mental anguish, emotional distress, serious personal injuries including but not limited to rhabdomyolysis, medical bills, pain and suffering, annoyance and inconvenience, loss of enjoyment of life, and punitive damages.

COUNT V- NEGLIGENT RETENTION OF CORRECTIONAL OFFICERS

27. Paragraphs one through twenty-six are incorporated by reference hereto as if set forth herein.

28. Defendant WVRJA owed a duty to Plaintiff to terminate the employment of correctional officers whom they knew or should have known showed the propensity to use excessive force and a propensity to supervise a nude inmate of the opposite sex while denying the same clothes, and a propensity to deny the same food and water.

29. Defendant WVRJA breached this duty by continuing to employ correctional officers whom it knew or should have known would use

excessive force in the application of a restraining device, would supervise a nude inmate of the opposite sex and deny the same clothes, and would deny the same food and water.

30. As an actual and proximate result of said breach Plaintiff suffered damages in the form of humiliation, degradation, loss of privacy, mental anguish, emotional distress, serious personal injuries including but not limited to rhabdomyolysis, medical bills, pain and suffering, annoyance and inconvenience, loss of enjoyment of life, and punitive damages.

COUNT VI- NEGLIGENT HIRING OF CORRECTIONAL OFFICERS

31. Paragraphs one through thirty are incorporated by reference hereto as if set forth herein.

32. Defendant WVRJA owed a duty to Plaintiff properly screen so as not to hire correctional officers whom they knew or should have known showed propensity to use excessive force and a propensity to supervise a nude inmate of the opposite sex while denying the same clothes, food, and water.

33. Defendant WVRJA breached this duty by hiring correctional officers whom it knew or should have known would use excessive force in the application of a restraining device and would supervise a nude inmate of the opposite sex and deny the same clothes, food, and water.

34. As an actual and proximate result of said breach Plaintiff suffered damages in the form of humiliation, degradation, loss of privacy, mental anguish, emotional distress, serious personal injuries including but not

limited to rhabdomyolysis, medical bills, pain and suffering, annoyance and inconvenience, loss of enjoyment of life, and punitive damages.

COUNT VII- BATTERY

35. Paragraphs one through thirty-four are incorporated by reference hereto as if set forth herein.

36. Defendants John Does, individually and as agents of Defendant WVRJA, did intentionally, wantonly, and recklessly make physical contact of an insulting nature with Plaintiff.

37. As an actual and proximate result of said physical contact Plaintiff suffered damages in terms of serious personal injuries including but not limited to rhabdomyolysis, medical bills, pain and suffering, annoyance and inconvenience, loss of enjoyment of life, and punitive damages.

COUNT VIII- FALSE IMPRISONMENT

38. Paragraphs one through thirty-seven are incorporated by reference hereto as if set forth herein.

39. Defendants John Does, individually and as agents of Defendant WVRJA, did intentionally, wantonly, and recklessly detain Plaintiff in a restraint chair.

40. The use of said restraint chair to detain Plaintiff was unlawful.

COUNT IX- CIVIL CONSPIRACY

41. Paragraphs one through forty are incorporated by reference hereto as if set forth herein.

42. Defendants John Does, individually and as agents of Defendant WVRJA, had a common Plan to strip and hold Plaintiff nude, to deny her food and water, to strap her into a restraint chair too tightly while leaving her there for an unreasonable period of time.

43. Said agreement or common plan was wrongful in that all acts are immoral, unethical, and illegal.

44. As an actual and proximate result of said conspiracy Plaintiff suffered damages in the form of humiliation, degradation, loss of privacy, mental anguish, emotional distress, serious personal injuries including but not limited to rhabdomyolysis, medical bills, pain and suffering, annoyance and inconvenience, loss of enjoyment of life, and punitive damages.

COUNT X- INVASION OF PRIVACY (INTRUSION UPON SECLUSION)

45. Paragraphs one through forty-four are incorporated by reference hereto as if set forth herein.

46. Defendants John Does, individually and as agents of Defendant WVRJA, intruded upon the seclusion of Plaintiff by forcing her to strip nude in front of male officers and kept her nude while supervised by male officers for a majority of her incarceration.

47. This intrusion upon the seclusion of Plaintiff is objectionable to a reasonable person.


COUNT X- VIOLATION OF 42 U.S.C § 1983

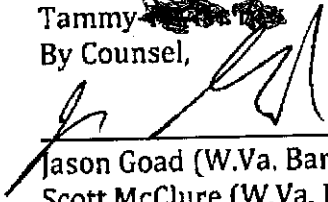
48. Paragraphs one through forty-seven are incorporated by reference hereto as if set forth herein.

49. Defendants John Does acting individually and under the color of West Virginia law, by stripping her nude, keeping her nude, using excessive force, strapping her to a restraint chair too tightly and for an unreasonable time, and by denying her food and water did deny Plaintiff the following rights under the United States Constitution:

- a. The right to be secure in her person and bodily integrity under the Fourth Amendment.
- b. The right to be free from cruel and unusual punishment under the Eighth Amendment.
- c. The right to privacy under the Ninth Amendment.
- d. The right to due process under the Fourteenth Amendment.

WHEREFORE, Plaintiff demands judgment of and from Defendant WVRJA and Defendants Jon Does as agents of Defendant WVRJA in such sums as will adequately compensate her, together with, including but not limited to, pre and post judgment interest and reasonable attorney fees **up to the limits of the State of West Virginia's applicable insurance coverage**. Plaintiff demands the same judgment sums from Defendants John Does individually without the insurance coverage limitation and further demands that all matters in controversy regarding all Defendants be determined by a jury trial.

Tammy 
By Counsel,


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