

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
STATESBORO DIVISION**

SHAWN ANDREWS,

SETH ROUZAN,

Plaintiffs,

v.

MARTY ALLEN, Warden, Georgia
State Prison, in his individual capacity,

ROBERT TOOLE, former Regional
Director, Georgia Department of
Corrections, in his individual capacity,

WADE NOBILIO, former Correctional
Officer, Georgia State Prison,
in his individual capacity,

STEPHEN SHARPE, former
Lieutenant, Georgia State
Prison, in his individual capacity,

TIMOTHY BROOKS, Correctional
Officer, Georgia State Prison, in his
individual capacity,

CURMIT WILLIAMS JR., Correctional
Officer, Georgia State Prison,
in his individual capacity,

Defendants.

COMPLAINT

CIVIL ACTION NO. _____

JURY TRIAL DEMANDED

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PRELIMINARY STATEMENT

1. This action is brought under § 42 U.S.C. 1983 by two men who were seriously injured after Georgia State Prison officers handcuffed and then assaulted them while they were incapable of resisting.

2. On August 11, 2017, Georgia State Prison officers handcuffed Plaintiff Shawn Andrews behind the back and escorted him from a prayer service he had been attending. When Andrews inquired about the reason for the officers' actions, Defendant Nobilio slammed Andrews to the ground head first, causing Andrews's skull to fracture. The skull fracture caused a blood clot on Andrews's brain and broke bones in his face. Andrews was airlifted to a hospital where his skull was surgically opened to treat the blood clot and a titanium plate was inserted to close the new hole in his skull. Defendant Nobilio assaulted Andrews without justification and with the sole purpose of causing Andrews physical pain and injury. Because of Nobilio's actions, Andrews continues to experience physical pain, memory loss, frequent headaches, and mental anguish.

3. On the same day as the assault against Andrews, Georgia State Prison officers also unlawfully assaulted Plaintiff Seth Rouzan. Defendants Sharpe and Brooks pinned Rouzan to the floor and repeatedly punched and kicked him while he lied on the ground. Defendants Brooks and Williams then grabbed Rouzan by his arms, handcuffed him behind his back, and kept Rouzan pinned to the ground.

Defendant Sharpe then kicked Rouzan in the head, fracturing the bones around his right eye and nose. Rouzan was also temporarily confined to a wheelchair because of a back injury incurred during the assault. Rouzan was admitted to an outside hospital where he received plastic surgery and other treatment for his injuries. Defendants Sharpe, Brooks, and Williams assaulted Rouzan without justification and with the sole purpose of causing Rouzan physical pain and injury. Because of their actions, Rouzan continues to experience physical pain, decreased vision, and mental anguish.

4. Plaintiffs expect to show that Defendant Marty Allen, the prison's current warden, and Defendant Robert Toole, the former regional director for the Georgia Department of Corrections' Southeast Region, were aware of a routine practice among Georgia State Prison officers of using excessive force against prisoners but failed to take reasonable steps to protect prisoners.

5. Plaintiffs seek compensatory and punitive damages for violations of their rights under the Eighth and Fourteenth Amendments to the United States Constitution.

JURISDICTION AND VENUE

6. This action is brought pursuant to 42 U.S.C. § 1983, and this Court has jurisdiction under 28 U.S.C. §§ 1331 and 1343.

7. Venue is proper in this district and division because the acts and

omissions at issue occurred in Tattnall County, Georgia.

PARTIES

A. Plaintiffs

8. Plaintiff Shawn Andrews is a prisoner serving a fifteen-year sentence at Macon State Prison; he has served over twelve years of this sentence to date. He was incarcerated at Georgia State Prison on August 11, 2017, the date of the events described in this complaint.

9. Plaintiff Seth Rouzan is a prisoner serving a life without the possibility of parole sentence at Hays State Prison. He was incarcerated at Georgia State Prison on August 11, 2017, the date of the events described in this complaint.

B. Defendants

10. Defendant Allen is a Georgia resident sued in his individual capacity for his acts and/or omissions while serving as the warden of Georgia State Prison. As warden, Defendant Allen has supervisory and management authority over the prison's correctional staff. Defendant Allen assumed his role as warden in July 2016. He previously served as a warden at Valdosta State Prison, Autry State Prison, and Dodge State Prison. At all times relevant to this complaint, Defendant Allen was acting under color of state law.

11. Defendant Robert Toole is a Georgia resident sued in his individual

capacity for his acts and/or omissions while serving as the regional director for the Southeast Region of the Georgia Department of Corrections. As regional director, Defendant Toole had supervisory and management authority over Georgia State Prison, its administration, and staff. He assumed this role in January 2015. Before becoming regional director, Defendant Toole served as the warden of Georgia State Prison from July 2013 to January 2015. At all times relevant to this complaint, Defendant Toole was acting under color of state law.

12. Defendant Wade Nobilio is a Georgia resident sued in his individual capacity for his acts and/or omissions while serving as a member of Georgia State Prison's Correctional Emergency Response Team ("CERT"). Defendant Nobilio maliciously and sadistically used force against Plaintiff Andrews on August 11, 2017, for the sole purpose of inflicting pain and injury. At all times relevant to this complaint, Defendant Nobilio was acting under color of state law.

13. Defendant Stephen Sharpe is a Georgia resident sued in his individual capacity for his acts and/or omissions while serving as a lieutenant at Georgia State Prison. Defendant Sharpe maliciously and sadistically used force against Plaintiff Seth Rouzan on August 11, 2017, for the sole purpose of inflicting pain and injury. At all times relevant to this complaint, Defendant Sharpe was acting under color of state law.

14. Defendant Timothy Brooks is a Georgia resident sued in his individual capacity for his acts and/or omissions while serving as a member of Georgia State Prison's CERT team. Defendant Brooks used malicious and sadistic force against Plaintiff Rouzan on August 11, 2017, for the sole purpose of inflicting pain and injury. At all times relevant to this complaint, Defendant Brooks was acting under color of state law.

15. Defendant Curmit Williams Jr. is a Georgia resident sued in his individual capacity for his acts and/or omissions while serving as a correctional officer at Georgia State Prison. Defendant Williams used malicious and sadistic force against Plaintiff Rouzan on August 11, 2017, for the sole purpose of inflicting pain and injury. At all times relevant to this complaint, Defendant Williams was acting under color of state law.

STATEMENT OF FACTS

A. Defendant Nobilio Maliciously and Sadistically Used Force Against Andrews for the Purpose of Causing Him Pain and Injury.

16. Andrews is five feet, four inches in height, and weighed around 160 pounds at the time of the events described in this complaint.

17. On August 11, 2017, Andrews was attending a prayer service in a multi-purpose room located in between the educational unit and medical unit at Georgia State Prison.

18. During the prayer service, Defendant Nobilio and another CERT officer entered the room and removed Andrews and another prisoner. Nobilio told Andrews and the other prisoner that they were being taken to the prison's segregation unit.

19. Once outside of the multi-purpose room, Defendant Nobilio and the other officer handcuffed Andrews and the other prisoner behind their backs and led them down a hallway towards the segregation unit. Andrews and the other prisoner asked why they were being taken to the segregation unit. One of the officers replied that the two prisoners had been identified as "threats to the safety and welfare of the institution."

20. As Andrews and the other prisoner were being led down the hallway, Andrews stopped walking and again asked why he was being taken to the segregation unit. Andrews remained handcuffed behind the back and was incapable of causing Defendant Nobilio or anyone else harm.

21. In response to Andrews's question, and without warning, Defendant Nobilio grabbed Andrews's arms from behind and intentionally slammed him to the ground, causing Andrews's head to forcefully hit the concrete floor. Andrews bled from his mouth and the left side of his head as he laid on the floor with his hands cuffed behind his back. At no time did Andrews do or fail to do any act that justified Defendant Nobilio's use of force against him.

22. Andrews was taken to the prison infirmary where medical staff determined that he needed to receive emergency care in an outside hospital. Prison staff then transported Andrews to Meadows Regional Medical Center (“Meadows”) in Vidalia, Georgia. At Meadows, a computerized tomography (“CT”) scan of Andrews’s head revealed an acute frontal epidural hematoma, a potentially fatal blood clot on the brain’s surface that can only be treated with immediate surgery by a neurosurgeon. Given the severity of Andrews’s injuries, the staff at Meadows decided to transport Andrews to Memorial University Medical Center (“Memorial Hospital”) in Savannah, Georgia.

23. Andrews was airlifted by helicopter to Memorial Hospital. A second CT scan performed there revealed that the epidural hematoma was growing, putting Andrews at risk of brain damage or death. The CT scan also showed traumatic fractures to Andrews’s skull and left eye socket.

24. Andrews received an emergency craniotomy, or surgical opening of the skull, to remove the epidural hematoma and repair the fractures to Andrews’s skull and face. After the epidural hematoma was removed, surgeons inserted a titanium plate in Andrews’s skull to close the surgical opening. Andrews required twenty-five staples to close the surgical incision in his head.

25. After the surgery, Andrews was admitted to Memorial Hospital's intensive care unit. He remained in the hospital for another five days before being discharged to the medical infirmary at Coastal State Prison.

26. Andrews was housed in the prison infirmary for two to three weeks following the emergency surgery. During that time, he was wheelchair-bound and required physical therapy to restore his ability to walk and maintain balance. He also required neurological assessments four times per day to gauge his level of mental, physical, visual, and audible functioning following the August 11 incident and subsequent surgery.

27. The assault caused Andrews lasting injury. He experiences memory loss, frequent headaches, psychological harm, and mental anguish.

28. Defendant Nobileo's use of force against Andrews was unnecessary, unreasonable, and lacking in any legitimate penological purpose. Defendant Nobileo's sole purpose in using force against Andrews was to cause pain and injury.

29. Andrews did not receive any disciplinary reports relating to any of the events of August 11. Andrews did not receive any disciplinary report relating to any alleged "security threat" either before or after the August 11 incident.

30. On September 8, 2017, Defendant Nobileo voluntarily resigned from the Georgia Department of Corrections.

B. Defendants Sharpe, Brooks, and Williams Maliciously and Sadistically Used Force Against Plaintiff Rouzan for the Purpose of Causing Him Pain and Injury.

31. Rouzan is five feet, six inches in height, and weighed 134 pounds on August 11, 2017.

32. In the early afternoon of August 11, 2017, Rouzan was in Georgia State Prison's medical unit for a psychiatric appointment. An officer accused Rouzan of exposing himself while in the medical unit, and Defendant Sharpe was called to take Rouzan to the segregation unit. Once Defendant Sharpe entered the medical area, he charged toward Rouzan, and attempted to grab him. Rouzan lied down on the floor face-down as Defendant Sharpe approached him.

33. Defendant Sharpe pulled Rouzan by his upper arms about ten to fifteen feet to a secluded hallway. Rouzan remained face down on the floor.

34. Defendant Brooks, a member of the prison's CERT team, arrived in the hallway. Though Rouzan was lying face down on the floor and incapable of harming anyone, Defendants Sharpe and Brooks decided to assault him without justification. Defendant Sharpe told Defendant Brooks that they should "whoop his ass." Defendant Brooks responded, "we should do it right here." Rouzan, who was still lying face down, kept his hands on the floor.

35. Defendant Williams arrived in the hallway and began punching Rouzan's back and rib cage repeatedly. Defendants Williams and Brooks then

grabbed Rouzan's arms and handcuffed him tightly behind his back. Defendant Brooks put one of his knees on Rouzan's neck, and another on his back, while Defendant Williams put his right knee across the back of Rouzan's legs.

36. Rouzan, who was still lying face down on the floor, told the officers that he was being locked down for something he did not do. He also said, "y'all are trying to kill me." While Rouzan was talking, Defendant Sharpe, who had just observed Defendants Brooks and Williams handcuff Rouzan, and knew he was incapable of resisting, deliberately kicked Rouzan in his right eye. Defendant Sharpe then told Rouzan to "shut up."

37. After Defendant Sharpe kicked Rouzan, Defendant Sharpe yelled "get up, get your ass up." Rouzan, who was still handcuffed behind his back, responded that he could not stand up. Rouzan was dragged from the hallway where the assault took place to the prison emergency room.

38. After arriving in the emergency room, Rouzan's right eye became visibly swollen and red, and he began bleeding from his nose. A Georgia State Prison physician, Dr. Marcus Occhipinti, asked Rouzan how he was injured. Rouzan responded that Defendant Sharpe kicked him in his right eye. Despite Rouzan's bleeding nose, swollen eye, his inability to walk, and his allegations against Defendant Sharpe, Dr. Occhipinti briefly looked at Rouzan's right eye, said Rouzan might have conjunctivitis, and provided no medical treatment.

39. Rouzan's nose continued to bleed after he was moved to Dorm K-3, the prison's segregation unit. His right eye also began bleeding. The day after the assault, Rouzan's shirt was covered in blood and his right eye was swollen shut. He had no vision in his right eye. Upon seeing his condition, an officer in the dorm called a supervising officer who in turn had Rouzan taken back to the prison's emergency room by wheelchair.

40. A nurse in the emergency room determined that Rouzan's right eye was unresponsive to any light, and that Rouzan could no longer see out of this eye. The nurse contacted another Georgia State Prison physician who ordered that he be sent to an outside hospital's emergency room. Accordingly, Rouzan was transported to the emergency room at Memorial Hospital where he was diagnosed with a right inferior orbital blowout fracture, or a traumatic injury to his right eye socket, significant vision loss in his right eye, multiple nasal bone fractures, a concussion, multiple contusions, and a lower back injury. Rouzan required surgery to repair the severe fractures to his eye.

41. Four days after the assault, Rouzan was admitted to Memorial Hospital to receive an open reduction and internal fixation, a surgical procedure performed to treat Rouzan's orbital fracture. Physicians then installed a plate below his right eye with multiple screws. Rouzan stayed in the hospital overnight before being discharged back to Georgia State Prison.

42. Rouzan still suffers from decreased vision in his right eye and back pain as a result of the assault on August 11, 2017. The assault has also caused Rouzan psychological harm and mental anguish.

43. On the day of the assault, Defendants Sharpe and Brooks provided sworn written statements describing their use of force. Each Defendant said he placed his hands on Rouzan and forced him to the ground but denied any further use of force.

44. Four days after the assault, Rouzan was transported to an outside hospital for surgery. That same day, Defendants Sharpe and Brooks again provided sworn written statements regarding the incident. In his second statement, Defendant Sharpe denied kicking Rouzan and stated as follows:

WITNESS STATEMENT			
PLACE Georgia State Prison	DATE 8-15-17	TIME 1041	FILE NUMBER
LAST NAME, FIRST, MIDDLE Sharpe, Stephen O.	Employee ID Number [REDACTED]	STATE SERIAL NO.	
INSTITUTION OR ADDRESS			
SWORN STATEMENT			
I, <u>LT. Stephen O. Sharpe</u> WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH: At no time during this hands-on use of force on 8-11-17, did I (LT. Stephen O'Neal Sharpe), kick offender Rouzan, set # GDC 100005575. End of statement!!!			

45. In his second statement, Defendant Brooks contradicted his earlier statement and both statements provided by Defendant Sharpe. He wrote:

WITNESS STATEMENT			
PLACE CERT	DATE 08/15/2017	TIME 0940	FILE NUMBER
LAST NAME, FIRST, MIDDLE Brooks, Timothy	Employee ID Number [REDACTED]	STATE SERIAL NO.	
INSTITUTION OR ADDRESS GEORGIA STATE PRISON			
SWORN STATEMENT			
<p>I, <u>Timothy Brooks</u> WANT TO MAKE THE FOLLOWING STATEMENT UNDER OATH: DURING THE USE OF FORCE ON OFFENDER ROUZAN, SETH # 1000055175, LT. STEPHEN SHARPE KICKED OFFENDER ROUZAN IN HIS FACIAL AREA. END OF STATEMENT.</p>			

46. The use of force by Defendants Sharpe, Brooks, and Williams against Rouzan was unnecessary, unreasonable, and lacking in any legitimate penological purpose. Defendants' sole purpose was to cause Rouzan pain.

47. Defendants Sharpe's and Brooks's subsequent attempts to conceal their actions on August 11, 2017, further demonstrate that their use of force was unjustified and unlawful. Both officers provided sworn written statements that misrepresented the extent of force used against Rouzan. Plaintiffs expect to show that Defendant Brooks only changed his statement when it became clear that Rouzan needed surgery to treat the injuries sustained during the assault.

48. On August 17, 2017, Defendant Sharpe was placed on administrative leave. On November 1, 2017, Defendant Sharpe was terminated from the Georgia Department of Corrections. On November 6, 2017, the Georgia Peace Officer and Standards Council opened an investigation into Defendant Sharpe. On December

13, 2017, a Tattnall County Grand Jury indicted Defendant Sharpe on felony charges of aggravated battery, aggravated battery, and violation of oath by public officer for:

“maliciously caus[ing] bodily harm to Seth Rouzan by seriously disfiguring the right side of his face . . . by kicking Seth Rouzan in the face causing swelling, bruising, fractures to the orbital wall and nasal bone . . . [and] willfully and intentionally violat[ing] the terms of his oath as prescribed by law.”

On April 3, 2018, Defendant Sharpe was sentenced under Georgia’s First Offender Act/Conditional Discharge statute, O.C.G.A. § 42-8-60, et seq., to two years of probation for violating his oath as a public officer and simple battery. The following day, the trial court discharged Defendant Sharpe’s conviction, meaning that, among other things, his criminal record will not reflect this prosecution.

49. Defendant Brooks, on the other hand, was promoted from correctional officer to sergeant on October 15, 2017, and continues to work for the Georgia Department of Corrections.

C. Defendants Allen and Toole Were Aware that Officers Routinely Abused Handcuffed Prisoners at Georgia State Prison.

50. Plaintiffs were unlawfully assaulted by correctional officers at Georgia State Prison as a result of a widespread custom or practice among officers of using excessive force against handcuffed or otherwise subdued prisoners.

51. At the time of the assaults on Andrews and Rouzan, Defendant Allen was the warden of Georgia State Prison, and Defendant Toole was the Regional

Director for the Georgia Department of Corrections' Southeast Region that includes Georgia State Prison. Plaintiffs expect to show that Defendant Allen personally reviewed all reports of excessive force against prisoners, and forwarded these complaints to Defendant Toole. Plaintiffs also expect to show that Defendant Allen was aware that Georgia State Prison officers, including Defendants Nobilio, Sharpe, Brooks, and Williams had been accused of assaulting prisoners who were either handcuffed or otherwise incapable of resisting in the months and years preceding the assaults on Andrews and Rouzan, and he informed Defendant Toole of these alleged assaults. Neither Defendant Allen nor Defendant Toole took any action to protect Andrews, Rouzan, or other prisoners from assault by these officers, despite knowing of a substantial risk that the officers would unlawfully assault Andrews, Rouzan, or other prisoners.

52. Defendants are aware of these incidents through prisoners' grievances, incident reports, use of force reports, and informal reports by officers, prisoners, and prisoners' family members.

53. Records concerning reports or investigations of unlawful assaults by correctional officers are confidential and thus are presently unavailable to Plaintiffs. *See* Ga. Comp. R. & Regs. §§ 125-1-1.09(3), 125-1-2.11(d). However, the Court's docket reflects multiple examples of officers assaulting prisoners who were either handcuffed or incapable of resisting. For example, on July 6, 2017,

Defendants Nobilio, Brooks, Williams, eight other CERT officers, and a lieutenant allegedly assaulted Waseem Daker while he was handcuffed. The lieutenant slammed Daker against a wall and onto the floor and slammed his head into the ground. The CERT officers then stood him up, applied leg irons and tackled Daker to the ground again and held him there while another officer forcibly shaved his head. The assault left Daker with cuts and bruises on his head, left shoulder, wrists, and ankles, and injuries to his back. Following the assault, Daker filed seven grievances. He later filed a civil action against Defendants Allen, Toole, Nobilio, Brooks, Williams, and several other prison officials.¹ Plaintiffs expect to show that the involved officers were not disciplined for assaulting the handcuffed prisoner.

54. On June 6, 2017, several members of the prison's CERT team and a lieutenant allegedly assaulted Deanthony Treadwell with iron handcuffs until he lost consciousness. The CERT officers then dragged Treadwell, who was still handcuffed, to the medical unit where they, along with the lieutenant, repeatedly punched him in the mouth even though he was incapable of resisting. Treadwell bled from his head and face after the assault.² He filed a grievance that was forwarded to the Georgia Department of Corrections' Internal Affairs Unit.

¹ *Daker v. Dozier*, No. 6:17-cv-110 (S.D. Ga.).

² *Treadwell v. Allen*, No. 6:17-cv-127 (S.D. Ga.).

Treadwell then filed a civil action against Defendant Allen, the CERT team, and a lieutenant that alleged violations of his constitutional right to be free from excessive force and cruel and unusual punishment. Plaintiffs expect to show that the involved officers were not disciplined for assaulting the handcuffed prisoner.

55. On June 5, 2016, several officers handcuffed Carlos Johnson after accusing him of assaulting an officer. One officer then choked Johnson from behind while other officers repeatedly punched him in the face, stomach, ribs, and chest. The officer who choked Johnson from the back let go of his neck, causing Johnson to fall to the floor. Once Johnson hit the floor, a sergeant kicked him in the stomach and face, breaking some of his teeth. A captain who was present then pepper-sprayed Johnson while he lied on the floor, still handcuffed. During the assault, Johnson vomited blood and urinated on himself. He filed a grievance that was forwarded to the Georgia Department of Corrections' Internal Affairs Unit.³ At the time of this alleged assault, Defendant Toole was the regional director for the Georgia Department of Corrections' Southeast Region and had supervisory authority over Georgia State Prison. Plaintiffs expect to show that the involved officers were not disciplined for assaulting the handcuffed prisoner.

56. On June 18, 2015, a lieutenant and a sergeant escorted Adrian Jenkins from the shower to his cell in handcuffs. When Jenkins entered his cell, he noticed

³ *Johnson v. Jackson*, No. 6:17-cv-80 (S.D. Ga.).

that some of his legal materials were missing. Jenkins asked the escorting officers about his missing legal materials. The officers told Jenkins to back up to the tray flap in his cell door so they could remove his handcuffs, but Jenkins refused. The lieutenant then directed several officers in the area to “gear up” with gas masks, at which point they entered the cell and sprayed Jenkins in the eyes and mouth while he was handcuffed. Jenkins filed a civil action against the presiding warden, the lieutenant, and the sergeant.⁴ At the time of the alleged assault, Defendant Toole was regional director for the Georgia Department of Corrections’ Southeast Region and had supervisory authority over Georgia State Prison.

57. On March 13, 2015, an officer escorted Rebel Lee in handcuffs to his cell in protective custody. Lee entered his cell and noticed that some of his legal materials were missing. The escorting officer told Lee to come to the front of the cell so he could be uncuffed. Lee refused, explaining that he would only be uncuffed if he could see his mental health counselor. A lieutenant then approached the cell door and said, “give me the cuffs or I’m gassing your ass . . . if you were in [general population] you would get stabbed up.” The lieutenant began entering the cell, at which point Lee’s cellmate asked the lieutenant to remove him from the cell so he could avoid the pepper spray. The lieutenant said “fuck you, you [Lee] are not talking to mental health and your ass [cellmate] is getting gassed too.” The

⁴ *Jenkins v. Shoemaker*, No. 6:15-cv-74 (S.D. Ga.).

lieutenant then sprayed the cell with pepper spray. The lieutenant then removed Lee and his cellmate from the cell and took them to a shower. The lieutenant then punched Lee, who was still handcuffed, in the face and throat, and slammed his head on a shower door, causing Lee to fall to the ground and his head to bleed. Lee wrote a statement about this incident and filed a grievance that was forwarded to the Georgia Department of Corrections' Internal Affairs Unit. Lee also filed a civil action against Defendant Toole and other defendants about the alleged violations of his Eighth Amendment right to be free from excessive force and cruel and unusual punishment.⁵ Plaintiffs expect to show that the involved officer was not disciplined for assaulting the handcuffed prisoner.

COUNT I:

**VIOLATION OF EIGHTH AND FOURTEENTH
AMENDMENTS TO THE UNITED STATES CONSTITUTION**

(For damages against Defendants Nobilio, Sharpe, Brooks, and Williams)

58. Plaintiffs re-allege, as if fully set forth herein, the allegations in paragraphs 1 to 57.

59. In physically assaulting Shawn Andrews on August 11, 2017, Defendant Nobilio sadistically used force not to maintain or restore order, but for the sole purpose of causing Andrews pain or injury, in violation of Andrews's right

⁵ *Lee v. Toole*, No. 6:15-cv-96 (S.D. Ga.).

to be free from cruel and unusual punishment under the Eighth and Fourteenth Amendments to the United States Constitution.

60. Defendant Nobileo's actions caused Shawn Andrews multiple life-threatening injuries including a blood clot on his brain and a skull fracture that required emergency surgery. Andrews also suffered multiple facial and eye socket fractures.

61. Defendant Nobileo also caused Shawn Andrews severe and lasting emotional distress.

62. Defendant Nobileo acted with evil motive or intent, and with reckless indifference to Shawn Andrews's federally protected rights, such that punitive damages are warranted.

63. In physically assaulting Seth Rouzan on August 11, 2017, Defendants Sharpe, Brooks, and Williams sadistically used force not to maintain or restore order, but for the sole purpose of causing Rouzan pain or injury, in violation of Rouzan's right to be free from cruel and unusual punishment under the Eighth and Fourteenth Amendments to the United States Constitution.

64. Defendants Sharpe and Brooks then attempted to conceal their use of excessive force by submitting false statements to the Georgia Department of Corrections.

65. The actions of Defendants Sharpe, Brooks, and Williams caused Seth Rouzan multiple physical injuries, including an inferior orbital blowout fracture to his right eye requiring surgery, significant vision loss in the same eye, multiple nasal bone fractures, a concussion, multiple contusions, and a back injury.

66. The actions of Defendants Sharpe, Brooks, and Williams also caused Seth Rouzan to suffer severe and lasting emotional distress.

67. Defendants Sharpe, Brooks, and Williams acted with evil motive or intent, and with reckless indifference to Seth Rouzan's federally protected rights, such that punitive damages are warranted.

COUNT II:

**VIOLATION OF EIGHTH AND FOURTEENTH
AMENDMENTS TO THE UNITED STATES CONSTITUTION
(For damages against Defendants Allen and Toole)**

68. Plaintiffs re-allege, as if fully set forth herein, the allegations in paragraphs 1 to 57.

69. On August 11, 2017, Defendants Marty Allen and Robert Toole had supervisory authority over Defendants Nobilio, Sharpe, Brooks, and Williams.

70. On August 11, 2017, Defendants Allen and Toole were aware of a substantial risk that Defendants Wade Nobilio, Stephen Sharpe, Timothy Brooks, and Curmit Williams, Jr., would use excessive force against prisoners at Georgia

State Prison, because multiple, credible complaints of excessive force had been lodged against some or all of these officers.

71. Defendants Allen and Toole failed to take reasonable steps on or before August 11, 2017, to prevent Defendants Wade Nobilio, Stephen Sharpe, Timothy Brooks, and Curmit Williams, Jr., from using excessive force against Plaintiffs Andrews and Rouzan at Georgia State Prison.

72. As a result of the actions of Defendants Allen and Toole, Shawn Andrews was assaulted by Defendant Nobilio on August 11, 2017, and Seth Rouzan was assaulted by Defendants Sharpe, Brooks, and Williams on the same day.

73. The actions of Defendants Allen and Toole caused Plaintiff Andrews to suffer physical injuries including a life-threatening blood clot on the brain requiring immediate surgery, a fractured skull, and multiple facial fractures. The actions of Defendants Allen and Toole also caused Shawn Andrews to suffer emotional distress.

74. The actions of Defendants Allen and Toole caused Seth Rouzan to suffer physical injuries including an inferior orbital blowout fracture to his right eye requiring surgery, multiple nasal bone fractures, multiple contusions, a concussion, and a back injury.

75. Defendants Allen and Toole acted with evil motive or intent, and with reckless indifference to Shawn Andrews's and Seth Rouzan's federally protected rights, such that punitive damages are warranted.

PRAYER FOR RELIEF

Plaintiffs respectfully request that this Court:

- (a) Assume jurisdiction over this action;
- (b) Grant Plaintiffs a trial by jury;
- (c) Declare that the acts and omissions described herein violated Plaintiffs' rights under the United States Constitution;
- (d) Enter judgment in favor of Plaintiff Shawn Andrews against Defendants Marty Allen, Robert Toole, and Wade Nobilio; and in favor of Plaintiff Seth Rouzan against Defendants Marty Allen, Robert Toole, Stephen Sharpe, Timothy Brooks, and Curmit Williams Jr.; for all damages allowed by law, including:
 - (i) Compensatory damages for the full value of each Plaintiff's right to freedom from cruel and unusual punishment, physical injuries, pain and suffering, and emotional distress;
 - (ii) Nominal damages;
 - (iii) Punitive damages; and
 - (iv) Reasonable attorney's fees, costs, and expenses pursuant to 42 U.S.C. § 1988 and as otherwise allowed by law; and
- (e) Order such additional relief as this Court may deem just and proper.

[SIGNATURE ON FOLLOWING PAGE]

Respectfully submitted,

/s/ Sarah Geraghty

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April 19, 2018