IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
HARRISONBURG DIVISION

MATEEN HALEEM,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	**CAFN:** 5:17CV00003
Dr. MOISES QUIÑONES,	)	
in his individual capacity,	)	
MIDDLE RIVER REGIONAL	)	
JAIL AUTHORITY,	)	
	)	
AND	)	
	)	
JOHN DOE #1,	)	
JOHN DOE #2,	)	
In their individual capacity	)	
	)	
Defendants.	)	**JURY TRIAL DEMANDED**

COMPLAINT FOR MONETARY DAMAGES

Plaintiff, Mateen Haleem, files this Complaint pursuant to 42 U.S.C. § 1983 as the statutory vehicle to vindicate his rights under the Fourth, Eighth, and Fourteenth Amendment of the U.S. Constitution. Plaintiff makes two claims pursuant to 42 U.S.C. § 1983: (1) that while a pretrial detainee, Defendants used

excessive force against Plaintiff, and (2) while a pretrial detainee, Defendants showed deliberate indifference to his diagnosed and serious medical need for his seizure medication of which Plaintiff had been taking since the age of 9.

INTRODUCTION

These Defendants deprived Mr. Haleem of his seizure medication, and as a result, Mr. Haleem blacked out on multiple occasions, and suffered at least one seizure in which he was shaking and his eyes rolled to the back of his head. These same Defendants never provided Mr. Haleem with his prescribed narcotic pain medication to treat his medically diagnosed broken vertebrae, torn disc (L5) and two pinched nerves back injury—all injuries suffered as a result of a traumatic vehicle crash in which Mr. Haleem received a settlement for not being at fault. According, to Mr. Haleem, Defendants told him he could not receive his prescribed narcotic pain medication because MRRJ does not provide inmates with narcotic pain medication—per policy of MRRJA. As a result, Mr. Haleem endured severe pain during his two stints at MRRJ. See Williams v. Benjamin, 77 F.3d 756, 762 (4th Cir. 1996) (stating, "Indeed, we have specifically recognized that the objective component can be met by "the pain itself," even if an inmate has no "enduring injury.")

On top of causing Mr. Haleem to suffer blackouts and to suffer severe back pain that prevented him from sleeping, Defendants Van Devar and Gregory punished Mr. Haleem for grieving about his rotten and maggot filled food, by going into his cell; repeatedly dousing his eyes with pepper spray even though he was not resisting, as evidenced by the fact that he was placing his hands behind his back as he was repeatedly peppered in his eyes; cuffing his hands behind his back; and thereafter mangling his finger ***until it broke***. Mr. Haleem, as a free citizen, now seeks compensation for the abuse he suffered at the hands of these Defendants while incarcerated at Middle River Regional Jail.

JURISDICTION AND VENUE

1.

Jurisdiction is proper under 28 U.S.C. § 1331 and 1343(a)(4), as well as under 42 U.S.C. § 1983. And Venue is proper under 28 U.S.C. § 1391(b) and L.R. 2 (b) because (1) a substantial part of the events and omissions giving rise to Mr. Haleem's claims occurred within this District and Division and (2) Defendants reside and transact business in this District and Division.

ADMINISTRATIVE EXHAUSTION

2.

Mr. Haleem is not incarcerated and thus does not have to show that Cofield v. Bowser, 247 F. App'x 413, 414 (4th Cir. 2007) (reasoning, "[b]ecause Cofield was not a prisoner when he filed his complaint, the PLRA exhaustion requirement is not applicable to his § 1983 action.")

PARTIES

3.

Mr. Haleem is aged 39 and currently not incarcerated. The facts pertaining to his claims are outlined in the Fact Section and Counts below.

4.

Defendant Moises Quiñones, at all times relevant, was the medical doctor at Middle River Regional Jail ("MRRJ") who had the obligation to provide Plaintiff with his requested seizure and narcotic pain medication. Dr. Quiñones knew Plaintiff required narcotic pain and seizure medication because Quiñones reviewed Plaintiff's medical records, which demonstrated that while at MRRJ, Plaintiff required prescribed narcotic pain and seizure medication to treat his various

injuries. Dr. Quiñones never provided Plaintiff with his required narcotic pain and seizure medication and as a result, Plaintiff suffered blackouts and at least one seizure in which his body shook and his eyes rolled back into his head. Plaintiff made several requests for his narcotic pain medication and these requests reached Dr. Quiñones per policy of submitting such requests to Dr. Quiñones. Also, Dr. Quiñones never performed an independent examination of Plaintiff to determine whether he needed narcotic pain medication.

At all times relevant to this Complaint, Dr. Quiñones was responsible for ensuring that he knew all controlling law within the Fourth Circuit regarding deliberate indifference to medical needs, including the Fourth Circuit Court of Appeal's case law with respect to under-medicating inmates and flat-out denying narcotic pain medication to inmates who demonstrate a medical need for said medication.

At all times relevant to this Complaint, Quiñones was acting under the color of state and federal laws, and Quiñones was responsible for knowing and acting in accordance with all policies, procedures, orders, special orders, general orders, guidelines and regulations of the Middle River Regional Jail and Middle River

Regional Jail Authority, while upholding his responsibility as the general doctor for MRRJ.

5.

Defendant Middle River Regional Jail is an adult regional jail detention facility located in Augusta County, Virginia, at 350 Technology Drive, Staunton, Virginia 24401. Middle River Regional Jail was created under the laws of the Commonwealth of Virginia and is governed by the Middle River Regional Jail Authority Board.

6.

Defendants John Doe #1 and John Doe #2, at all times relevant, were correctional officials at MMRJ. At all times relevant to this Complaint, John Doe #1 and John Doe #2 were responsible for ensuring that they knew all controlling law within the Fourth Circuit regarding deliberate indifference to medical needs, including the Fourth Circuit Court of Appeal's case law with respect to excessive force against inmates.

At all times relevant to this Complaint, John Doe #1 and John Doe #2 were acting under the color of state and federal laws, and John Doe #1 was responsible for knowing and acting in accordance with all policies, procedures, orders, special

orders, general orders, guidelines and regulations of the Middle River Regional Jail and Middle River Regional Jail Authority, while upholding his responsibility as the general doctor for MRRJ.

Prior to repeatedly dousing Mr. Haleem's eyes with pepper spray, John Doe #1 had told Mr. Haleem that if Mr. Haleem kept filing grievances, John Doe #1 would "get him" and "lock him down." Despite what John Doe #1 told him, Mr. Haleem continued to file grievances for what he perceived as unconstitutional conditions of confinement. Shortly thereafter, John Doe #1 entered into Mr. Haleem's cell and told him to lock down. Mr. Haleem asked why and John Doe #1 told him again to lock down. Then, Mr. Haleem asked to speak to a supervisor because he had previously been told by on Doe #1's supervisor that he would not be put on lock down for filing grievances. John Doe #2 then entered the cell and began dousing Mr. Haleem's eyes with pepper spray peppered repeatedly—all the while Mr. Haleem was not resisting physically in any way. At that point, John Doe #1 and John Doe #2 slammed Mr. Haleem's head into the cell block wall, and cuffed Mr. Haleem's hands behind his back. After Mr. Haleem was cuffed and not resisting, John Doe #1 and John Doe #2 wrangled Mr. Haleem's hands to the point that one of his fingers snapped, broke.

RELEVANT FACTS

A. Facts related to Mr. Haleem's claims of deliberate indifference against Dr. Quiñones

7.

Mr. Haleem is aged 39, and currently not incarcerated.

8.

On or about August 9, 2016 Mr. Haleem entered MRRJ, and on that date, Mr. Haleem went through the typical initial screening process, to include a medical screening by a nurse staff member.

9.

At his initial medical screening that took place in August 2016, Mr. Haleem informed the nurse that he (1) requires his seizure medication and (2) requires prescribed pain medication because he suffers from a medically diagnosed medically diagnosed broken vertebrae, torn disc (L5) and two pinched nerves back injury—all injuries suffered as a result of a traumatic vehicle crash in which Mr. Haleem received a settlement for not being at fault.

10.

Also, during the same initial medical screening that took place in August 2016, Mr. Haleem signed a Release Authorization, authorizing an MRRJ staff member to request Mr. Haleem's medical records from his treating physician(s). Donna Reynolds requested said medical records.

11.

The medical records for which Mr. Haleem signed a medical release—permitting MRRJ to see his medical records—contained medical diagnosis of Mr. Haleem's need for seizure medication and Mr. Haleem's need for narcotic pain medication to treat his medically diagnosed broken vertebrae, torn disc (L5) and two pinched nerves back injury—all injuries suffered as a result of a traumatic vehicle crash in which Mr. Haleem received a settlement for not being at fault. Dr. Quiñones read these medical records.

12.

After being assigned an inmate cell at MRRJ, Mr. Haleem began to submit Medical Request Authorization forms to Defendants, in order to receive his prescribed seizure and narcotic pain medication; these medical request forms were

transmitted to Dr. Quiñones, who read Mr. Haleem's request for medical attention and the reasons for those requests.

13.

While working in his capacity as a physician for MRRJ, Defendant Quiñones failed to provide Mr. Haleem with his prescribed medications—for the approximate-month-and-a-half he was at MRRJ. As a result, during that entire time-period, Mr. Haleem experienced severe blackouts from failure to take his seizure medication. Those blackouts affected his memory. He also suffered at least one seizure in which he was shaking and his eyes rolled to the back of his head.

14.

While working in his capacity as a physician for MRRJ, Defendant Quiñones failed to provide Mr. Haleem with his prescribed medications—for the approximate-month-and-a-half he was at MRRJ. As a result, during that entire time-period, Mr. Haleem experienced at least one seizure in which he was shaking and his eyes rolled to the back of his head.

15.

While working in his capacity as a physician for MRRJ, Defendant Quiñones failed to provide Mr. Haleem with his prescribed medications—for the

approximate-month-and-a-half he was at MRRJ. As a result, during that entire time-period, Mr. Haleem experienced severe back pain from failure to take his seizure medication for his medically diagnosed broken vertebrae, torn disc (L5) and two pinched nerves back injury—all injuries suffered as a result of a traumatic vehicle crash in which Mr. Haleem received a settlement for not being at fault. See Williams v. Benjamin, 77 F.3d 756, 762 (4th Cir. 1996) (stating, "[i]ndeed, we have specifically recognized that the objective component can be met by "the pain itself," even if an inmate has no "enduring injury.")

16.

MRRJA has a policy of refusing to provide prescription narcotic pain medication to inmates, as evidenced by one nurse telling Mr. Haleem that inmates can never receive prescribed narcotic pain medication while incarcerated at MRRJ.

17.

MRRJA representatives, while on duty at MRRJ, refused to provide Mr. Haleem with his prescribed narcotic medication to treat his medically diagnosed broken vertebrae, torn disc (L5) and two pinched nerves back injury ***because***, according to Mr. Haleem, a MRRJ official told him that MRRJ does not provide prescription pain medication to any inmate.

18.

While housed at MRRJ from August 9, 2016 through mid-to-late September 2016, no MRRJ medical staff member met with Mr. Haleem, in an attempt to determine if he needed prescribed narcotic pain medication to treat his medically diagnosed broken vertebrae, torn disc (L5) and two pinched nerves—despite Mr. Haleem's ***numerous grievances*** stating that he needed his medically prescribed narcotic pain medication.

19.

While housed at MRRJ from August 9, 2016 through mid-to-late September 2016—and despite telling Mr. Haleem that an MRRJ doctor would see him—no MRRJ medical staff member met with Mr. Haleem, to make an independent assessment of Mr. Haleem's complaint about back pain such as ordering x-rays, an MRI, or any other normal assessment procedure routinely used by physicians to assess a complainant's back injury.

20.

During Mr. Haleem's second stint at MRRJ from approximately August 2016 through November 2016, he had his pain medication with him when he entered MRRJ, but MRRJ officials immediately took the pain medication away

from him, while telling him that MRRJ does not permit inmates to have prescribed narcotic pain medication.

21.

During Mr. Haleem's second stint at MRRJ from August 2016 through November 2016, no MRRJ medical staff member met with Mr. Haleem, in an attempt to determine if he needed prescribed narcotic pain medication to treat his medically diagnosed broken vertebrae, torn disc (L5) and two pinched nerves—despite Mr. Haleem numerous grievances stating that he needed his medically prescribed narcotic pain medication.

22.

During Mr. Haleem's second stint at MRRJ from August 2016 through November 2016, no MRRJ medical staff member met with Mr. Haleem, to make an independent assessment of Mr. Haleem's complaint about back pain such as ordering x-rays, and MRI or other normal assessment procedures routinely used by physicians to assess a complainant's back injury.

23.

During Mr. Haleem's second stint at MRRJ from August 2016 through November 2016, he repeatedly ***submitted grievances*** based on MRRJ staff failing to provide him with his prescription narcotic pain medication.

24.

While taking his prescribed seizure medication of which he repeatedly requested from Defendants, Mr. Haleem does not experience blackouts.

25.

While taking his prescribed narcotic pain medication of which he repeatedly requested from Defendants, Mr. Haleem does not experience severe pain.

B. Facts Related to Mr. Haleem's excessive force claim against Defendant John Does # 1 and 2.

26.

After being released in mid-to later September of 2016, Mr. Haleem ultimately returned to MRRJ as a pretrial detainee, related to the same previous charge, in August 2016.

27.

Upon return to MRRJ in August 2016, Mr. Haleem began to submit numerous grievances about cold and rotten food, to the point that Defendants John Does, amongst others, targeted him as a "trouble maker," and told Mr. Haleem that if he kept submitting grievances "he would get it" by putting Mr. Haleem on lock down.

28.

Mr. Haleem told Captain Shiplett, Major Nichols, and Corporal Thomas at MRRJ about the threat that "he would get it" if he kept submitting grievances, and Captain Shiplett, Major Nichols and Corporal Thomas told Mr. Haleem that no one would retaliate against him for filing grievances regarding the failure to received his medication.

29.

One day, after Mr. Haleem had been threatened for filing grievances, and after Shiplett, Nichols, and Thomas assured him that no one would retaliate against him for filing grievances, Defendant John Doe # 1entered Mr. Haleem's cell and told Mr. Haleem to "lock down." Mr. Haleem raised his hands in compliance, stood still, and asked "what's going on."

30.

After telling Mr. Haleem to "lock down" once, Defendant Lt. Van Devar again told Mr. Haleem to "lock down" and Mr. Haleem continued to keep his hands raised in compliance, continued standing still, while asking to speak to the Major Thomas, who told him Mr. Haleem that he would not experience retaliation (i.e,. locked down) for submitting grievances about his serious medical conditions.

31.

After Mr. Haleem asked to speak to Major Thomas as referenced in above paragraph 30, Defendant John Doe # 2 immediately entered Mr. Haleem's room; mased Mr. Haleem's eyes with pepper spray repeatedly; then Mr. Haleem turned around to face the wall with his hands behind his back, in full compliance, waiting to be cuffed, and that's when both Defendants John Doe #1 and John Doe #2 slammed Mr. Haleem's head into the wall and cuffed his hands behind his back.

32.

After cuffing Mr. Haleem's hands behind his back, Defendants John Doe #1 and John Doe #2 grabbed Mr. Haleem and deliberately wrangled Mr. Haleem's hand until one of his fingers snapped, broke.

33.

After cuffing Mr. Haleem's hands behind his back, and thereafter breaking his finger, Defendants John Does # 1 and 2 moved Mr. Haleem outside into the prison hallway, where they, along with Defendant correctional officer Petty, began walking Mr. Haleem to solitary confinement/administrative segregation.

34.

On the way to taking Mr. Haleem to solitary confinement as mentioned in above paragraph 33, these Defendants John Doe #1 and John Doe #2 used Mr. Haleem's head as a battering ram to open up the multiple steel doors that they encountered on their way to solitary confinement/administrative segregation. Mr. Haleem—who suffers from seizures that can be triggered in multiple ways—blacked out as a result of his head slamming against steel doors.

35.

Once in solitary confinement, Mr. Haleem's hands were uncuffed, and as a result, Mr. Haleem immediately looked at his finger that had been wrangled by Defendants John Doe #1 and John Doe #2. Mr. Haleem's finger was dangling and deformed, so he immediately called for medical assistance. A nurse arrived, looked at this dangling finger, and summarily declared: "there is nothing wrong with his

hand." Eventually, Mr. Haleem saw a doctor and his finger was diagnosed as broken.

COUNT I

VIOLAITON OF MR. HALEEM'S FOURTH AND FOURTEENTH AMENDMENT RIGHTS PURSUANT TO 42 U.S.C § 1983

(Federal claim against Defendant John Doe #1 and John Doe #2)

As recent as 2015, the Supreme Court has stated that "a pretrial detainee must show only that the force purposely or knowingly used against him was objectively unreasonable." Kingsley v. Hendrickson, 135 S. Ct. 2466, 2473, 192 L. Ed. 2d 416 (2015)

36.

Plaintiff fully incorporates paragraphs 6-35, *and any paragraph this Court deems relevant*, as full stated herein to support Plaintiff's Count I.

37.

Based on the incorporated paragraphs to support this Count, Defendants John Doe #1 and John Doe #2 violated Mr. Haleem's right to be free from excessive force, a right that was clearly established at the time Defendants used excessive, unreasonable force to break Mr. Haleem's finger. Consequently, Mr. Haleem is

entitled to all damages permissible under controlling law, as well as attorney fees and cost regarding this lawsuit.

COUNT II

VIOLAITON OF MR. HALEEM'S FOURTH, EIGTH, and FOURTEENTH AMENDMENT RIGHTS PURSUANT TO 42 U.S.C § 1983

(*Federal claim against Defendant Dr. Quiñones*)

> "The Due Process Clause of the Fourteenth Amendment governs a pretrial detainee's claim of denial of medical care. However, "[p]retrial detainees are entitled to at least the same protection under the Fourteenth Amendment as are convicted prisoners under the Eighth Amendment. Thus, we use the Eighth Amendment's "deliberate indifference" standard of *Estelle v. Gamble,* 429 U.S. 97, 104, 97 S.Ct. 285, 50 L.Ed.2d 251 (1976), in evaluating the pretrial detainee's claim."
>
> [Hall v. Holsmith, 340 F. App'x 944, 946–47 (4th Cir. 2009)]

38.

Plaintiff fully incorporates paragraphs 4, 7-25, *and any paragraph this Court deems relevant*, as full stated herein to support Plaintiff's Count II.

39.

Based on the incorporated paragraphs to support this Count II, Defendant Quiñones violated Mr. Haleem's right to be free from deliberate indifference to his known serious medical need for both his seizure medication and pain medication,

and said right was clearly established at the time Defendant Quiñones deliberately failed to provide Mr. Haleem with his seizure medication and deliberately failed to provide Mr. Haleem with his pain medication—while all the time knowing that Mr. Haleem required said prescribed medication to avoid serious injury/pain. Consequently, Mr. Haleem is entitled to all damages permissible under controlling law, as well as attorney fees and cost regarding this lawsuit.

COUNT III

RESPONDEAT SUPERIOR

(State law claim against Defendant MRRJA for the acts of Defendant Quiñones and Defendants John Doe #1 and John Doe #2)

As recent as 2013, this Court has stated the following with respect to the burden of which Plaintiff carries at the pleading stage in order to state a plausible claim against a jail authority for respondeat superior:

> "Under Virginia law, a plaintiff claiming that an employer is liable under the doctrine of respondeat superior must allege that the tortious conduct occurred while the employee was performing his employer's business and acting within the scope of the employee's employment. *See Butler v. Southern States Coop. Inc.*, 270 Va. 459, 465, 620 S.E.2d 768, 773 (2005). ***At the pleading stage***, the plaintiff's burden of production on the "issue of whether an employee acted within the scope of the employment when the act which caused the injury was committed ... is met by establishing the employer/employee relationship at the time."

Boren v. Nw. Reg'l Jail Auth., No. 5:13CV013, 2013 WL 5429421, at *6 (W.D. Va. Sept. 30, 2013) (emphasis added).

40.

Plaintiff fully incorporates paragraphs 4-39, *and any paragraph this Court deems relevant*, as full stated herein to support Plaintiff's Count II.

41.

Based on all the facts to support this COUNT III, John Doe #1 and John Doe #2 were on duty and employees of MRRJA and performing in the course of their duties when they broke Mr. Haleem's finger while he was handcuffed and non-resisting; consequently, MRRJA is potentially liable to Mr. Haleem under the doctrine of respondeat superior. MRRJA is also liable to Mr. Haleem for the conduct of Dr. Quiñones because, based on all the facts incorporated to support this COUNT III, Dr. Quiñones was performing medical duties in his capacity as an employee for MRRJA when Dr. Quiñones deliberately refused to provide Mr. Haleem with his narcotic pain medication and seizure medication. Mr. Haleem is entitled to all damages permissible under controlling law, as well as attorney fees and cost regarding this lawsuit.

COUNT IV

PUNITIVE DAMAGES

(*Against Defendants individually*)

Based on the facts alleged in this complaint, Plaintiff is entitled to punitive under all applicable laws, because Defendants acted with a willful and conscience indifference to the law that protect Mr. Haleem's Constitutional.

COUNT V

ATTORNEY FEES

Based on the facts alleged in this Complaint, Mr. Haleem is entitled to attorney fees under all applicable laws.

WHEREFORE, Mr. Haleem prays for a trial by jury of twelve and judgment against Defendant as follows:

(a) The process issue and service be had on each Defendant;

(b) That judgment be granted in favor of the Plaintiff against the Defendants, jointly and severally, for the injuries of Plaintiff;

(c) That Plaintiff recovers compensatory damages including pain and suffering, lost income and future lost income, and other expenses in an amount to be determined at trial, including attorney fees;

(d) Plaintiff be awarded damages for his loss earnings and reduction in his earning capacity from Defendants;

(e) That Plaintiff recover all costs of this litigation;

(f) That a jury trial be held on all issues so triable;

(g) Plaintiff have Judgment against Defendant for punitive damages; and

(h) That Plaintiff receives such other and further relief as the Court deems just and proper.

Respectfully submitted this 20th day of January 2017,

s/ JESSICA N. SHERMAN-STOLTZ
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