

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
4:09-cv-111

DAVID EARL SCOTT,

Plaintiff,

vs.

ROBERT BROWN, individually and in his
official capacity as a detention officer and
employee of the Robeson County Sheriff's
Department; BEN HARRIS, individually and
in his official capacity as a detention officer
and employee of the Robeson County Sheriff's
Department; BOBBY RAY SAMPSON,
individually and in his official capacity as a
detention officer and employee of the Robeson
County Sheriff's Department; CHARLIE
REVELS, individually and in his official
capacity as a Lieutenant and employee of the
Robeson County Sheriff's Department;
KENNETH SEALEY, in his official capacity as
Sheriff of Robeson County; THE ROBESON
COUNTY SHERIFF'S DEPARTMENT, a
county agency; and WESTERN SURETY
COMPANY, a surety company for the Sheriff
of Robeson County,

Defendants.

COMPLAINT FOR
DEPRIVATION OF CIVIL
RIGHTS AND VIOLATION
OF STATE LAW

NOW COMES plaintiff, David Earl Scott ("plaintiff") and brings this claim for deprivation of civil rights and for violation of state law against defendants Robert Brown, Ben Harris, Bobby Ray Sampson, Charlie Revels, Kenneth Sealey, the Robeson County Sheriff's Department, and Western Surety Company jointly and severally, and respectfully shows unto the Court as follows:

I. PARTIES

1. Plaintiff is a United States citizen and resident of Robeson County, North Carolina, who is over eighteen (18) years of age and under no legal disability.

2. On information and belief, defendant Robert Brown ("Sergeant Brown") is a citizen and resident of Robeson County, North Carolina, who is over eighteen (18) years of age and under no legal disability. At all times complained of, Sergeant Brown was a Sergeant and an employee of the Robeson County Sheriff's Department as a detention officer at the Robeson County Detention Center, where, on information and belief, he had worked for at least the preceding ten (10) years, and is sued in his individual and official capacities.

3. On information and belief, defendant Ben Harris ("Corporal Harris") is a citizen and resident of Robeson County, North Carolina, who is over eighteen (18) years of age and under no legal disability. At all times complained of, Corporal Harris was a Corporal and an employee of the Robeson County Sheriff's Department as a detention officer at the Robeson County Detention Center, where he had worked for approximately the preceding eight and one-half (8 ½) years, and is sued in his individual and official capacities.

4. On information and belief, defendant Bobby Ray Sampson ("Officer Sampson") is a citizen and resident of Robeson County, North Carolina, who is over eighteen (18) years of age and under no legal disability. At all times complained of, Officer Sampson was an officer and an employee of the Robeson County Sheriff's Department as a detention officer at the Robeson County Detention Center, where he had

worked for approximately the preceding seven (7) years, and is sued in his individual and official capacities.

5. On information and belief, defendant Charlie Revels (“Lieutenant Revels”) is a citizen and resident of Robeson County, North Carolina, who is over eighteen (18) years of age and under no legal disability. At all times complained of, Lieutenant Revels was a Lieutenant in the Robeson County Sheriff’s Department’s Narcotics Unit and an employee of the Robeson County Sheriff’s Department, and is sued in his individual and official capacities.

6. On information and belief, defendant Kenneth Sealey (“Sheriff Sealey”) is a citizen and resident of Robeson County, North Carolina, who is over eighteen (18) years of age and under no legal disability. At all times complained of, Sheriff Sealey was the Sheriff of Robeson County, North Carolina, with all the authority, duties, and responsibilities vested in the office of Sheriff by N.C. Gen. Stat. § 162-1 *et seq.* Sheriff Sealey was appointed Sheriff of Robeson County by the Robeson County Commissioners in 2005, following the resignation of his predecessor as Sheriff of Robeson County.

7. Defendant Robeson County Sheriff’s Department is a Robeson County local governmental agency, comprised of, and acting by and through, individuals (including, but not limited to, defendants Sergeant Brown, Corporal Harris, Officer Sampson, and Lieutenant Revels) employed and retained by Sheriff Sealey as Sheriff of Robeson County pursuant to N.C. Gen. Stat. § 162-1 *et seq.*

8. Defendant Western Surety Company (“Western Surety”) is a foreign corporation that is, upon information and belief, incorporated under the laws of the state

of South Dakota, and is, at all times complained of, a surety company for the Sheriff of Robeson County.

9. At all times complained of, Sheriff Sealey, as the Sheriff of Robeson County, “[had] the care and custody of the jail in his county and shall be, or appoint, the keeper thereof” as provided by N.C. Gen. Stat. § 162-22. The Robeson County Detention Center is the “jail in [Sheriff Sealey’s] county,” as that term is used in the text of N.C. Gen. Stat. § 162-22.

10. At all times complained of, Sheriff Sealey, as the Sheriff of Robeson County, “may not delegate to another person the final responsibility for discharging his official duties, but he may appoint a deputy or employ others [including detention officers at the Robeson County Detention Center and officers in the Robeson County Sheriff’s Department’s Narcotics Unit] to assist him in performing his official duties” as provided by N.C. Gen. Stat. § 162-24.

11. At all times complained of, Sheriff Sealey, as the Sheriff of Robeson County, “[had] the exclusive right to hire, discharge, and supervise the employees in his office” as provided by N.C. Gen. Stat. § 153A-103.

12. At all times complained of, Sheriff Sealey, as the Sheriff of Robeson County, employed, retained, trained and supervised, under North Carolina law, Sergeant Brown, Officer Sampson, and Corporal Harris as employees of the Robeson County Sheriff’s Department and detention officers at the Robeson County Detention Center to assist Sheriff Sealey in performing Sheriff Sealey’s official and non-delegable duty as the person vested, under North Carolina law, with care and custody of the Robeson County Detention Center and the inmates therein, including plaintiff.

13. At all times complained of, Sheriff Sealey, as the Sheriff of Robeson County, employed, retained, trained and supervised, under North Carolina law, Lieutenant Revels as an employee of the Robeson County Sheriff's Department and a Lieutenant in the Robeson County Sheriff's Department's Narcotics Unit vested with the authority to take individuals into the custody of the Robeson County Sheriff's Department and deliver them to the Robeson County Detention Center for processing and incarceration, to assist Sheriff Sealey in performing, among other duties, Sheriff Sealey's official and non-delegable duty as the person vested, under North Carolina law, with care and custody of the Robeson County Detention Center and the inmates therein, including plaintiff.

14. At all times complained of, Sheriff Sealey is liable for the actions and/or inactions of his detention officers and employees Sergeant Brown, Officer Sampson, and Corporal Harris, which actions and/or inactions are described in the following paragraphs, under the doctrines of principal and agent and *respondeat superior*.

15. At all times complained of, Sheriff Sealey is liable for the actions and/or inactions of his Lieutenant and employee Lieutenant Revels, which actions and/or inactions are described in the following paragraphs, under the doctrines of principal and agent and *respondeat superior*.

16. At all times complained of, the Robeson County Sheriff's Department is liable for the actions and/or inactions of its detention officers and employees Sergeant Brown, Officer Sampson, and Corporal Harris, which actions and/or inactions are described in the following paragraphs, under the doctrines of principal and agent and *respondeat superior*.

17. At all times complained of, the Robeson County Sheriff's Department is liable for the actions and/or inactions of its Lieutenant in the Robeson County Sheriff's Department's Narcotics Unit and employee Lieutenant Revels, which actions and/or inactions are described in the following paragraphs, under the doctrines of principal and agent and *respondeat superior*.

18. At all times complained of, upon information and belief, Sheriff Sealey, as the Sheriff of Robeson County, complied with North Carolina law and "furnish[ed] a bond payable to the State of North Carolina for . . . the faithful execution of his office as sheriff" as required by N.C. Gen. Stat. § 162-8, and the Sheriff's purchase of this bond from defendant Western Surety was sufficient under North Carolina law to waive any assertion of governmental immunity against civil liability on the part of Sheriff Sealey, Sergeant Brown, Officer Sampson, Corporal Harris, Lieutenant Revels, and the Robeson County Sheriff's Department, to the extent of the bond's amount.

19. At all times complained of, upon information and belief, Robeson County, as the governing municipality of Sheriff Sealey and the Robeson County Sheriff's Department, had purchased liability insurance and/or participated in a local government risk pool pursuant to N.C. Gen. Stat. § 153A-435, and the purchase of this liability insurance and/or participation in a local government risk pool was sufficient under North Carolina law to waive any assertion of governmental immunity against civil liability on the part of Sheriff Sealey, Sergeant Brown, Officer Sampson, Corporal Harris, Lieutenant Revels, and the Robeson County Sheriff's Department.

II. JURISDICTION AND VENUE

20. Paragraphs 1-19 above are incorporated by reference as if fully set forth herein.

21. This lawsuit asserts claims for relief under 42 U.S.C. § 1983 *et seq.* for violation of rights secured and guaranteed to plaintiff by the Eighth and Fourteenth Amendments to the Constitution of the United States of America and for violation of certain laws of the State of North Carolina. This Court has jurisdiction over plaintiff's federal claims pursuant to 28 U.S.C. §§ 1331 and 1443 and pendent and/or supplemental jurisdiction over plaintiff's state law claims pursuant to 28 U.S.C. § 1367.

22. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b), as defendants Sergeant Brown, Officer Sampson, Corporal Harris, Lieutenant Revels, Sheriff Sealey, and the Robeson County Sheriff's Department reside in Robeson County, North Carolina and the events giving rise to this lawsuit occurred in Robeson County, which is within the Eastern District of North Carolina.

III. FACTS

23. Paragraphs 1-22 above are incorporated by reference as if fully set forth herein.

24. At approximately 10:00 p.m. on the night of Friday, November 30, 2007, plaintiff and several family members were gathered at plaintiff's home in Robeson County, North Carolina for a family get-together when seven officers of the Robeson County Sheriff's Department Narcotics Unit, including Lieutenant Revels, came onto plaintiff's property and informed plaintiff there had been a "complaint." Plaintiff asked the officers what the "complaint" was for, but the officers would not tell him. Plaintiff

then asked the officers if they had a warrant, and one of the officers responded that they did not. Plaintiff then asked the officers to leave.

25. At that point, Lieutenant Revels and one of the other Robeson County Sheriff's Department Narcotics Unit officers handcuffed plaintiff and placed him under arrest. The officers then loaded plaintiff into a marked Robeson County Sheriff's Department patrol vehicle, and transported him to the Robeson County Detention Center.

26. Upon arrival at the Robeson County Detention Center, handcuffed and in custody, plaintiff was questioned by Robeson County Sheriff's Department Narcotics Unit officers. Plaintiff asserted his Fifth Amendment rights and refused to answer the officers' questions, and they became upset with plaintiff. Plaintiff was then walked to a holding cell by Lieutenant Revels and Sergeant Brown.

27. When plaintiff, Lieutenant Revels, and Sergeant Brown arrived at the open door of the holding cell, Lieutenant Revels and Sergeant Brown were behind plaintiff and plaintiff was facing forward, with his hands behind his back, towards the interior of the holding cell. Either Lieutenant Revels or Sergeant Brown shoved plaintiff, with great force, from behind into the holding cell, at the same time as either Lieutenant Revels or Sergeant Brown tripped plaintiff. Since plaintiff's back was turned to the officers, plaintiff does not know whether it was Lieutenant Revels who shoved him into the holding cell and Sergeant Brown who tripped him, or vice versa. As a result of one of these two officers shoving plaintiff, with great force, into the holding cell at the same time as the other officer tripped him, plaintiff fell hard, head first, against the holding cell's concrete wall and face first onto the holding cell's concrete floor, striking his head and face on the holding cell's concrete wall and concrete floor.

28. Plaintiff remained in the holding cell for some period of time. Plaintiff was still wearing the clothes he had on when he was arrested. The holding cell was within the Robeson County Detention Center's booking area, directly across from, and in close proximity to, the booking counter where inmates were routinely, including on this occasion, processed by Robeson County Sheriff's Department employees. Corporal Harris was present in the booking area and was the shift supervisor during this time.

29. While plaintiff was in the holding cell, Sergeant Brown returned to the booking area and spoke briefly with plaintiff. Sergeant Brown then joined Corporal Harris behind the booking counter.

30. Officer Sampson then unlocked the door to plaintiff's holding cell, and plaintiff, still in his street clothes, came out of the holding cell as instructed by Officer Sampson and walked up to the booking counter. Plaintiff was not in a physically threatening or aggressive posture, either as he walked toward, or after he reached, the booking counter. Plaintiff's hands were open and were not clinched into fists. Sergeant Brown and Corporal Harris were behind the booking counter. Plaintiff stood at the booking counter and made no attempt to come over or around the counter, or to reach across the counter. Officer Sampson was in front of the booking counter, standing just behind plaintiff in the narrow hallway.

31. As plaintiff stood at the booking counter, Sergeant Brown came around from behind the booking counter and approached plaintiff in an aggressive and threatening manner. Corporal Harris also came around from behind the booking counter, trailing closely behind Sergeant Brown, and likewise approached plaintiff in an aggressive and threatening manner, pulling on a latex glove as he walked. As Sergeant

Brown and Corporal Harris approached him in an aggressive and threatening manner, plaintiff stepped back from the booking counter, retreated a few steps down the hallway, and placed his open hands out in front of his body in a non-threatening posture.

32. Immediately upon reaching plaintiff, at approximately 1:05 a.m. on December 1, 2007, Sergeant Brown, witnessed by Corporal Harris and Officer Sampson, grabbed plaintiff's open hands and pinned plaintiff's arms to his side, secured plaintiff within his grasp, and struck two forceful and violent blows with a closed fist to the side of plaintiff's lower body, in the area of plaintiff's kidney, as depicted on the video recorded by a Robeson County Detention Center camera at the time and place complained of herein, a copy of which video recording is attached hereto as Exhibit A.

33. With plaintiff firmly in Sergeant Brown's grasp and under his control, and with Corporal Harris and Officer Sampson positioned just to Sergeant Brown's rear, Sergeant Brown, witnessed by Corporal Harris and Officer Sampson, followed these violent body blows by picking plaintiff up off the ground, carrying plaintiff backwards a short distance into the camera room at the end of the hallway, and brutally slamming plaintiff, with great force and violence, onto the camera room's hard tile floor, as depicted on the video recorded by a Robeson County Detention Center camera at the time and place complained of herein, a copy of which video recording is attached hereto as Exhibit A.

34. After Sergeant Brown, witnessed by Corporal Harris and Officer Sampson, brutally slammed plaintiff, with great force and violence, onto the camera room's hard tile floor, plaintiff landed hard on his back, neck and shoulder, and remained on the tile floor, as depicted on the video recorded by a Robeson County Detention

Center camera at the time and place complained of herein, a copy of which video recording is attached hereto as Exhibit A. Corporal Harris and Officer Sampson followed close behind Sergeant Brown and plaintiff into the camera room.

35. Immediately after violently slamming plaintiff to the camera room's hard tile floor onto plaintiff's back, neck and shoulder, Sergeant Brown, witnessed by Corporal Harris and Officer Sampson, dropped to his knees over plaintiff as plaintiff lay on the floor and struck plaintiff multiple times, with great force and violence, about plaintiff's head, face, and body, as depicted on the video recorded by a Robeson County Detention Center camera at the time and place complained of herein, a copy of which video recording is attached hereto as Exhibit A.

36. At the same time as Sergeant Brown was forcefully and repeatedly striking plaintiff about plaintiff's head, face and body as plaintiff lay on the camera room floor, as described in the preceding paragraph, Officer Sampson, who had positioned himself in the camera room near plaintiff's head, kicked plaintiff hard multiple times in the upper body, as depicted on the video recorded by a Robeson County Detention Center camera at the time and place complained of herein, a copy of which video recording is attached hereto as Exhibit A.

37. Sergeant Brown then rose to his feet over plaintiff and, while Officer Sampson held plaintiff down on the floor, Sergeant Brown, witnessed by Corporal Harris and Officer Sampson, bent down and resumed brutally striking plaintiff, landing multiple powerful blows to plaintiff's body, as depicted on the video recorded by a Robeson County Detention Center camera at the time and place complained of herein, a copy of which video recording is attached hereto as Exhibit A.

38. Sergeant Brown, witnessed by Corporal Harris and Officer Sampson, also kicked plaintiff multiple times while Officer Sampson held plaintiff down, as depicted on the video recorded by a Robeson County Detention Center camera at the time and place complained of herein, a copy of which video recording is attached hereto as Exhibit A.

39. While Sergeant Brown and Officer Sampson were brutally beating and kicking plaintiff as described in the preceding paragraphs, Corporal Harris was also present in the camera room, standing just to the rear of Sergeant Brown and pulling on a second latex glove, as depicted on the video recorded by a Robeson County Detention Center camera at the time and place complained of herein, a copy of which video recording is attached hereto as Exhibit A.

40. After Sergeant Brown stopped beating and kicking plaintiff and stepped back, Corporal Harris stepped up and stood over plaintiff, who remained prone on the camera room floor. By his own admission, Corporal Harris noticed blood on plaintiff's face. Plaintiff was making no attempt to get up off the floor. Nevertheless, Corporal Harris, witnessed by Corporal Harris and Officer Sampson, then bent over plaintiff and cruelly, needlessly and maliciously struck plaintiff, with great force and violence, multiple times about plaintiff's head, face, and body, as depicted on the video recorded by a Robeson County Detention Center camera at the time and place complained of herein, a copy of which video recording is attached hereto as Exhibit A.

41. Sergeant Brown's violent and brutal behavior, as described in the preceding paragraphs, as witnessed by Corporal Harris and Officer Sampson, and as depicted on the video recorded by a Robeson County Detention Center camera at the time and place complained of herein, a copy of which video recording is attached hereto as

Exhibit A, was unwarranted and constituted unnecessary and excessive force used against plaintiff, and it violated Sergeant Brown's obligation to protect the health and safety of inmates in his custody at the Robeson County Detention Center.

42. Officer Sampson's violent and brutal behavior, as described in the preceding paragraphs, as witnessed by Sergeant Brown and Corporal Harris, and as depicted on the video recorded by a Robeson County Detention Center camera at the time and place complained of herein, a copy of which video recording is attached hereto as Exhibit A, was unwarranted and constituted unnecessary and excessive force used against plaintiff, and it violated Officer Sampson's obligation to protect the health and safety of inmates in his custody at the Robeson County Detention Center.

43. Corporal Harris' violent and brutal behavior, as described in the preceding paragraphs, as witnessed by Sergeant Brown and Officer Sampson, and as depicted on the video recorded by a Robeson County Detention Center camera at the time and place complained of herein, a copy of which video recording is attached hereto as Exhibit A, was unwarranted and constituted unnecessary and excessive force used against plaintiff, and it violated Corporal Harris' obligation to protect the health and safety of inmates in his custody at the Robeson County Detention Center.

44. Lieutenant Revels' violent and brutal behavior in front of the holding cell, as described in the preceding paragraphs and as witnessed by Sergeant Brown, was unwarranted and constituted unnecessary and excessive force used against plaintiff, and it violated Lieutenant Revels' obligation to protect the health and safety of inmates in his custody at the Robeson County Detention Center.

45. Upon information and belief, at all times complained of, Corporal Harris had a pattern and practice of provoking fights with inmates at the Robeson County Detention Center, and if an inmate mouthed off to him, Corporal Harris, along with one or more detention officers at the Robeson County Detention Center, would take the inmate to the "G Block," where they would beat the inmate and then leave the inmate there to recover before returning the inmate to his cell.

46. While plaintiff was being brutally beaten and kicked by Sergeant Brown, Officer Sampson, and Corporal Harris, a fourth detention officer and employee of the Robeson County Sheriff's Department entered the camera room and stood directly behind Sergeant Brown, Officer Sampson, and Corporal Harris while they viciously beat and kicked plaintiff, as depicted on the video recorded by a Robeson County Detention Center camera at the time and place complained of herein, a copy of which video recording is attached hereto as Exhibit A. While this fourth detention officer and Robeson County Sheriff's Department employee did not lay hands on plaintiff, he did nothing to intervene on plaintiff's behalf or to stop his colleagues Sergeant Brown, Officer Sampson, and Corporal Harris from brutalizing plaintiff, despite his obligation to protect the health and safety of inmates in his custody at the Robeson County Detention Center.

47. Likewise, while plaintiff was being brutally beaten and kicked by Sergeant Brown, Officer Sampson, and Corporal Harris, a fifth Robeson County Sheriff's Department employee was positioned behind the booking counter across from the camera room with a clear and unobstructed view of the entire vicious beating, as depicted on the video recorded by a Robeson County Detention Center camera at the time and place

complained of herein, a copy of which video recording is attached hereto as Exhibit A. This fifth Robeson County Sheriff's Department employee likewise did nothing to intervene on plaintiff's behalf or to stop his colleagues Sergeant Brown, Officer Sampson, and Corporal Harris from brutally beating and kicking plaintiff, despite his obligation to protect the health and safety of inmates in his custody at the Robeson County Detention Center.

48. Upon information and belief, in addition to the fourth detention officer who entered the camera room while Sergeant Brown, Officer Sampson, and Corporal Harris were viciously beating and kicking plaintiff, and to the fifth Robeson County Sheriff's Department employee positioned behind the booking counter across from the camera room during the beating, other Robeson County Sheriff's Department employees were present in the booking area during the beating and saw or heard the brutal beating taking place, but at no time did any Robeson County Sheriff's Department employee intervene on plaintiff's behalf or take any action to stop the vicious beating administered to plaintiff by Sergeant Brown, Officer Sampson, and Corporal Harris, despite their obligation to protect the health and safety of inmates in their custody at the Robeson County Detention Center.

49. After Corporal Harris stopped beating plaintiff, plaintiff, who was, by Officer Sampson's admission, dazed and bleeding, was allowed to get up off the camera room's hard tile floor. Plaintiff rose unsteadily to his feet and blood was dripping on the floor from a cut on the right side of plaintiff's face, as depicted on the video recorded by a Robeson County Detention Center camera at the time and place complained of herein, a copy of which video recording is attached hereto as Exhibit A.

50. After he was allowed to get up off the hard tile floor, plaintiff, holding his hands to the right side of his face and dripping blood onto the floor, stumbled out of the camera room and was led by Sergeant Brown, with Officer Sampson following close behind, down the hallway in front of the booking counter and into cell H-12, as depicted on the video recorded by a Robeson County Detention Center camera at the time and place complained of herein, a copy of which video recording is attached hereto as Exhibit A.

51. A trail of plaintiff's blood stretched from inside the camera room where the vicious beating took place all the way down the hallway, as depicted on the video recorded by a Robeson County Detention Center camera at the time and place complained of herein, a copy of which video recording is attached hereto as Exhibit A, and ended in a pool of blood inside cell H-12, which contained a shower and the orange jail suits worn by Robeson County Detention Center inmates.

52. Inside cell H-12, plaintiff was ordered by one of the detention officers to clean the blood off his face, to take off his street clothes and shoes, and to put on an orange jail suit, which plaintiff did. One of the detention officers gave plaintiff a towel to stanch the blood dripping from the cut on the right side of plaintiff's face. The detention officers then took plaintiff's street clothes and shoes and washed and dried them using the Robeson County Detention Center's laundry facilities, upon information and belief in order to remove the bloodstains resulting from plaintiff's vicious beating at the hands of Sergeant Brown, Officer Sampson, and Corporal Harris.

53. Sergeant Brown poured disinfectant on the trail of plaintiff's blood that stretched from inside the camera room where the vicious beating took place all the way

down the hallway and ended in a puddle of blood inside cell H-12. The detention officers then ordered an inmate trustee to clean the blood off the floor in the camera room, in the hallway, and inside cell H-12 using a mop and bucket of water, which the trustee did.

54. After plaintiff had removed his street clothes and shoes and put on the orange jail suit, he was led out of cell H-12 by two Robeson County Sheriff's Department employees (neither of whom had beaten or kicked plaintiff) and taken to the Detention Center's on-site infirmary. Plaintiff was still bleeding at this time from the right side of his face, and on the way to the infirmary he was given a clean towel by one of these detention officers.

55. Plaintiff was seen in the Robeson County Detention Center's on-site infirmary by a male nurse employed by the Robeson County Sheriff's Department at approximately 1:40 a.m. on December 1, 2007, over half an hour after plaintiff was brutally beaten and kicked by Sergeant Brown, Officer Sampson, and Corporal Harris. Plaintiff was still bleeding from the right side of his head at this time. Despite plaintiff's pleas to be taken to the hospital, and despite the fact that plaintiff had by this time been bleeding from his head for over half an hour, the only treatment plaintiff received from the male nurse was a bandage for the laceration to the right side of his face and an ice pack for his right eye. Plaintiff was then placed in one of the Detention Center's infirmary beds, where he spent the rest of the night.

56. At the time of the brutal beating that forms the basis of this Complaint, plaintiff was a 47-year-old male weighing approximately one hundred and sixty (160) pounds and standing approximately five feet six inches tall.

57. At the time of the brutal beating that forms the basis of this Complaint, Corporal Harris was a 30-year-old male weighing approximately two hundred and fifty (250) pounds and standing approximately five feet ten inches tall.

58. At the time of the brutal beating that forms the basis of this Complaint, Officer Sampson was a 60-year-old male weighing approximately two hundred and seven (207) pounds and standing approximately five feet eleven inches tall.

59. At the time of the brutal beating that forms the basis of this Complaint, Sergeant Brown was a 54-year-old male. While Sergeant Brown's height and weight are unknown to plaintiff, Sergeant Brown was several inches taller, and many pounds heavier, than plaintiff. Sergeant Brown was large enough, and physically strong enough, to get plaintiff firmly in his grasp and under his control, and to pick plaintiff up off the ground and viciously slam plaintiff to the ground, by himself, without assistance, at the outset of the vicious beating he, along with Officer Sampson and Corporal Harris, administered to plaintiff.

60. At the time of the brutal beating that forms the basis of this Complaint, both Officer Sampson and Corporal Harris were, by their own admission, carrying pepper spray, and upon information and belief Sergeant Brown was also carrying pepper spray, but none of them used or attempted to use pepper spray on plaintiff, as any of them could have done if any of them believed plaintiff needed to be subdued or that plaintiff posed a threat to their safety.

61. At the time of the brutal beating that forms the basis of this Complaint, Corporal Harris was, by his own admission, carrying handcuffs, and upon information and belief both Sergeant Brown and Officer Sampson were also carrying handcuffs, but

none of them handcuffed or attempted to handcuff plaintiff, as any of them could have done if any of them believed plaintiff needed to be restrained or believed plaintiff posed a threat to their safety.

62. Immediately before his participation in the brutal beating that forms the basis of this Complaint, and throughout his participation in the beating, Officer Sampson was, by his own admission, angry at plaintiff.

63. Immediately before his participation in the brutal beating that forms the basis of this Complaint, and throughout his participation in the beating, Corporal Harris was, by his own admission, angry at plaintiff.

64. Upon information and belief, immediately before his participation in the brutal beating that forms the basis of this Complaint, and throughout his participation in the beating, Sergeant Brown was angry at plaintiff. Witnesses observed Sergeant Brown becoming agitated, frustrated, and angry after conversing with plaintiff shortly before Sergeant Brown initiated the brutal beating.

65. At the time of the brutal beating that forms the basis of this Complaint, plaintiff was in the custody of Sheriff Sealey and the Robeson County Sheriff's Department, acting by and through Sheriff Sealey's and the Robeson County Sheriff's Department's agents and employees Sergeant Brown, Officer Sampson, Corporal Harris, and Lieutenant Revels, such that, under North Carolina law, a special relationship existed between plaintiff and defendants sufficient to invoke the "special relationship" exception to the public duty doctrine.

66. At the time of the brutal beating that forms the basis of this Complaint, certain written rules and procedures establishing the standards and duties applicable to

Robeson County Sheriff's Department employees such as and including Sergeant Brown, Officer Sampson, and Corporal Harris in their employment as detention officers at the Robeson County Detention Center, and to Robeson County Sheriff's Department employees such as and including Lieutenant Revels in his employment in the Sheriff's Department's Narcotics Unit, had been promulgated and/or implemented by the Sheriff of Robeson County and were in effect. These written rules and procedures were known as the "Robeson County Detention Center Standard Operating Guidelines."

67. At the time of the brutal beating that forms the basis of this Complaint, Policy # 8.02 of the "Robeson County Detention Center Standard Operating Guidelines," entitled "Use of Force," was in effect and provided, in pertinent part, as follows:

- a. **"Policy Statement:** Detention officers in the Robeson County Detention Center use the minimum amount of force necessary to control inmates."
- b. "Detention officers shall use the minimum force necessary to physically control an inmate."
- c. "Staff members shall only use a method or weapon to control an inmate that they have been trained to use and that has been approved by the agency."
- d. "Detention officers may use their fist, foot, riot baton, mace, or similar weapon only when one or more of the following circumstances exist, and then only to the extent that such force is reasonable.
 - 1). When an inmate in custody attempts to escape.
 - 2). When two or more persons assault an officer.
 - 3). When an individual of obvious physical superiority or aggressiveness assaults an officer.
 - 4). When an individual commits or is attempting to commit an attack on a third party."

e. “Before an officer uses physical force, the inmate must have demonstrated the ability and opportunity to harm the officer or a third party and express verbally or through his actions his intent to use force against the officer or the third party.”

f. “Under no circumstances are staff members to use excessive force to control inmates. Any staff member determined to have used excessive force shall be disciplined appropriately with a minimum of three days suspension and up to termination and prosecution.”

g. “After physical force has been used against a person, and he has been subdued, staff members are to provide the inmate with appropriate medical treatment administered by medical personnel in accordance with policy.”

68. Revisions to Policy # 8.02 of the “Robeson County Detention Center Standard Operating Guidelines,” entitled “Use of Force” and described in the preceding paragraph, were promulgated and/or implemented by Sheriff Sealey in March 2007, approximately eight months prior to the brutal beating that forms the basis of this Complaint.

69. Plaintiff was released from the Robeson County Detention Center at approximately 10:00 a.m. on Saturday, December 1, 2007, about nine hours after his brutal treatment and beating at the hands of Robeson County Sheriff’s Department employee Lieutenant Revels and Robeson County Sheriff’s Department employees and detention officers Sergeant Brown, Officer Sampson, and Corporal Harris. Plaintiff was released wearing his own clothes, which had been washed at the Detention Center. When plaintiff’s family members picked him up, they noted that his face was swollen and bruised and that he had a black eye and a bandage on the right side of his face, and that he was moving slowly and was very sore.

70. Upon his release from the Robeson County Detention Center, plaintiff was very sore in his chest, neck, back, ribs, and head, and breathing was painful. Due to his

injuries and pain, after his release plaintiff's wife took him to the Emergency Room at Scotland Memorial Hospital in Laurinburg, North Carolina, where plaintiff presented with complaints of constant, severe head, neck, back, and chest pain, level 8 out of 10 in severity. The ER doctor noted plaintiff had bruises on the right side of his face and a black right eye, and that plaintiff was complaining of chest pains when he took a breath. Plaintiff reported that his injuries occurred when he was beaten about the head and face, and kicked in the ribs, by some Robeson County Sheriff's deputies. The ER doctor ordered head and facial CT scans for plaintiff, as well as a cervical spine CT scan and x-rays to check for broken ribs, all of which were negative for fracture. Plaintiff was diagnosed with a closed head injury, chest contusion, and multiple abrasions and contusions, and was given Percocet for pain control.

71. Eleven days later, on December 11, 2007, plaintiff was seen by a physician's assistant at Scotland Urgent Care Center with complaints of head and neck pain radiating into his back, between level 8 and 9 out of 10 in severity. Plaintiff was instructed to continue taking Percocet for pain control.

72. Six days later, on December 17, 2007, approximately two and a half weeks after he was beaten by Sergeant Brown, Officer Sampson, and Corporal Harris, plaintiff presented to his primary care physician at Maxton Medical Center with complaints of constant, sharp head, neck and back pain. Plaintiff reported that his pain began after he was beaten by three officers on December 1, 2007. Plaintiff complained of a headache and stated that he could hardly move his neck. Plaintiff's neck pain prevented assessment of his neck's range of motion. Plaintiff was noted to have a band-aid over his right temple area, and his right temple area was noted to be tender to the

touch. Plaintiff was continued on Percocet for the pain, and Ibuprofen was added as well for pain control. Physical therapy was ordered, beginning in approximately two weeks.

73. On January 3, 2008, plaintiff was seen again by his primary care physician at Maxton Medical Center with continuing head, neck and back pain, and a new onset of low back pain, shooting to his neck with spasms. Plaintiff was continued on physical therapy and painkilling medications.

74. On February 15, 2008, plaintiff was seen again by his primary care physician at Maxton Medical Center with continuing complaints of neck pain, especially with neck motion, radiating into his left arm.

75. On March 21, 2008, plaintiff was seen again by his primary care physician at Maxton Medical Center with continuing, chronic neck, arm and shoulder pain and persistent tingling and numbness in his left arm. Based on these complaints, plaintiff was referred to the Cape Fear Pain Treatment Center for management of his chronic pain.

76. On March 27, 2008, plaintiff presented to the Cape Fear Pain Treatment Center with neck and shoulder pain, level 8 out of 10, with burning, continuous sharp stabbing pain with radiating symptoms down into his left arm. Plaintiff reported this pain resulted from his being beaten about the head and neck at the Robeson County Detention Center on December 1, 2007. On evaluation, plaintiff was noted to have numbness in his left hand, especially in the last three fingers, and tenderness along the bilateral paraspinous (neck) muscles as well as into the right shoulder. Plaintiff was also noted to have limited range of motion of the neck, with pain in all movements, and very limited range of motion in the left shoulder, with pain. Plaintiff was given a prescription for the painkilling medication Tramadol, and it was noted that although plaintiff would probably

benefit from interventional therapy, that had to be placed on hold because plaintiff lacked health insurance and could not afford further treatment. Because he could not afford interventional therapy, plaintiff was instructed to continue to manage the pain with non-narcotic pain medication.

77. On October 15, 2008, plaintiff presented to the Eastern Carolina Medical Group, where he was examined and noted to have decreased range of motion in his neck with lateral flexion and rotation as well as forward flexion and extension, and atrophy of the musculature of the left shoulder with decreased range of motion and inability to internally and externally rotate the humeral head. Plaintiff was diagnosed with chronic neck and shoulder pain with peripheral neuropathy and given Lortab for pain.

78. Plaintiff has been informed by his doctors that he suffered severe and permanent injuries to his neck and shoulder during the brutal treatment he received at the hands of Robeson County Sheriff's Department employees and detention officers Sergeant Brown, Officer Sampson, and Corporal Harris and Robeson County Sheriff's Department employee and Narcotics Unit officer Lieutenant Revels at the Robeson County Detention Center on December 1, 2007, and that he needs ongoing medical care to treat these injuries. Plaintiff has to date been unable to afford ongoing medical care for these injuries.

79. Prior to the brutal beating that forms the basis of this Complaint, plaintiff worked as a drywall carpenter. He is now unable to work as a drywall carpenter due to the injuries he received to his neck and shoulder in the brutal treatment he received at the hands of Robeson County Sheriff's Department employees Sergeant Brown, Officer Sampson, Corporal Harris, and Lieutenant Revels.

80. Prior to the brutal treatment of plaintiff on December 1, 2007 at the Robeson County Detention Center by Robeson County Sheriff's Department employees and detention officers Sergeant Brown, Officer Sampson, and Corporal Harris and Robeson County Sheriff's Department employee and Narcotics Unit officer Lieutenant Revels that forms the basis of this Complaint, other employees of the Robeson County Sheriff's Department had engaged, on multiple occasions, in prior instances of assaultive behavior similar to the behavior exhibited by Sergeant Brown, Officer Sampson, Corporal Harris, and Lieutenant Revels described in the preceding paragraphs. These prior instances of similar assaultive behavior by Robeson County Sheriff's Department employees led to a joint federal and state law enforcement investigation, called "Operation Tarnished Badge," into allegations of widespread and longstanding official misconduct and corruption within the Robeson County Sheriff's Department.

81. As of the undersigned date, a total of twenty-three (23) individuals, the majority of whom are former Robeson County Sheriff's Deputies and many of whom were members of the Narcotics Unit, have pleaded guilty as a result of Operation Tarnished Badge to a variety crimes evidencing widespread and longstanding official misconduct and corruption within the Robeson County Sheriff's Department, including assault, kidnapping, robbery and arson. These former deputies have received prison sentences ranging from a few months up to thirty-four (34) years in prison.

82. Upon information and belief, following an investigation by the North Carolina State Bureau of Investigation of the brutal beating of plaintiff that forms the basis of this Complaint, the employment of Sergeant Brown, Officer Sampson, and Corporal Harris with the Robeson County Sheriff's Department was terminated, or

Sergeant Brown, Officer Sampson, and Corporal Harris were each allowed to resign as an alternative to having their employment terminated.

83. Upon information and belief, there have been multiple other occasions, besides the occasion complained of herein, in which individuals employed by, or under the supervision of, the Robeson County Sheriff's Department have used unreasonable and unnecessary force and have cruelly, needlessly and viciously beaten inmates at the Robeson County Detention Center while acting under color of state law and by virtue of their authority as employees of the Robeson County Sheriff's Department and detention officers at the Robeson County Detention Center as they were purporting to act in the performance of official duties.

84. Upon information and belief, at all times complained of, Sheriff Sealey either knew or, in the exercise of reasonable diligence, care and supervision in his position as Sheriff of Robeson County, should have known that detention officers in his employ at the Robeson County Detention Center, including but not limited to Corporal Harris, had previously on multiple occasions cruelly, needlessly and viciously beaten inmates at the Robeson County Detention Center while acting under color of state law and by virtue of their authority as employees of the Robeson County Sheriff's Department and detention officers at the Robeson County Detention Center as they were purporting to act in the performance of official duties.

IV. CLAIMS PURSUANT TO 42 U.S.C. § 1983

A. The Beating at the Robeson County Detention Center

85. Paragraphs 1-84 above are incorporated by reference as if fully set forth herein.

86. Sergeant Brown, Officer Sampson, Corporal Harris, Lieutenant Revels, Sheriff Sealey, and the Robeson County Sheriff's Department are each "persons," as that term is used in the text of 42 U.S.C. § 1983.

87. The unwarranted and excessive force used by Robeson County Sheriff's Department employees detention officer Sergeant Brown and Lieutenant Revels, by shoving, with great force, plaintiff from behind into the holding cell and tripping plaintiff at the same time, causing plaintiff to fall hard, head first, against the holding cell's concrete wall and face first onto the holding cell's concrete floor, served no legitimate law enforcement objective, but instead constituted excessive force committed maliciously and sadistically for the purpose of causing plaintiff harm and evidencing a reckless and callous disregard for plaintiff's state and federally protected rights.

88. The unwarranted and excessive force used by Robeson County Sheriff's Department employee and detention officer Sergeant Brown, by picking plaintiff up and violently slamming him on his neck, back and shoulder onto the camera room's hard tile floor, and the excessive, vicious and brutal beating perpetrated upon plaintiff in the camera room at the Robeson County Detention Center by Robeson County Sheriff's Department employees and detention officers Sergeant Brown, Officer Sampson, and Corporal Harris served no legitimate law enforcement objective, but instead constituted excessive force committed maliciously and sadistically for the purpose of causing plaintiff harm and evidencing a reckless and callous disregard for plaintiff's state and federally protected rights.

89. Sergeant Brown, Officer Sampson, Corporal Harris, and Lieutenant Revels each committed the actions described in the preceding paragraphs under color of

state law and by virtue of their authority as employees of the Robeson County Sheriff's Department and detention officers at the Robeson County Detention Center or, in the case of Lieutenant Revels, as an officer in the Robeson County Sheriff's Department's Narcotics Unit, as they were each purporting to act in the performance of official duties and exceeded their lawful authority.

90. Sergeant Brown, Officer Sampson, Corporal Harris, and Lieutenant Revels used unreasonable and excessive force and deprived plaintiff of the rights, privileges and immunities guaranteed him by the Constitution and laws of the United States, specifically the rights guaranteed to plaintiff by the Fourteenth Amendment, by violating his protected liberty interest and depriving him of due process of law as plaintiff was in custody when he was cruelly, needlessly and viciously shoved, tripped, and beaten at the Robeson County Detention Center.

91. Sergeant Brown, Officer Sampson, Corporal Harris, and Lieutenant Revels used unreasonable and excessive force and deprived plaintiff of the rights, privileges and immunities guaranteed him by the Constitution and laws of the United States, specifically the rights guaranteed to plaintiff by the Eighth Amendment to be free from cruel and unusual punishment, as plaintiff was in custody when he was cruelly, needlessly and viciously shoved, tripped, and beaten at the Robeson County Detention Center.

92. At all times complained of, Sheriff Sealey, despite having actual or constructive knowledge that upon information and belief certain detention officers and others in his employ, including but not limited to Corporal Harris, had previously on multiple occasions at the Robeson County Detention Center cruelly, needlessly and

viciously beaten inmates at the Robeson County Detention Center while said detention officers and others in his employ were acting under color of state law and by virtue of their authority as employees of the Robeson County Sheriff's Department and detention officers at the Robeson County Detention Center as they were purporting to act in the performance of official duties, wrongfully decided to allow this conduct to continue, or, in the alternative, failed to appropriately discipline, or terminate the employment of, detention officers and others who engaged in this conduct, or to otherwise implement and/or enforce policies and procedures sufficient to eliminate such conduct, thereby acting with deliberate indifference to the acts of his subordinates and manifesting deliberate indifference by Sheriff Sealey towards the rights of citizens, including plaintiff.

93. At all times complained of, Sheriff Sealey had actual or constructive knowledge of a pervasive, unreasonable risk of harm to citizens, including plaintiff, in custody at the Robeson County Detention Center, specifically that such citizens, including plaintiff, were likely to be cruelly, needlessly and viciously beaten and/or subjected to the use of unreasonable and excessive force by detention officers and others in the Sheriff's employ, and thereby deprived of the rights, privileges and immunities guaranteed by the Constitution and laws of the United States, and Sheriff Sealey, through his acts and omissions as described in the preceding paragraphs, was deliberately indifferent to said risk.

B. Causation and Damages

94. Paragraphs 1-93 above are incorporated by reference as if fully set forth herein.

95. As a direct and proximate result of the willful, malicious, and vicious conduct and unreasonable and excessive force of Sergeant Brown, Officer Sampson, Corporal Harris, and Lieutenant Revels, plaintiff suffered a deprivation of his constitutionally protected rights, egregious pain and suffering, scarring and disfigurement, and permanent injury as described in the preceding paragraphs, and has incurred substantial medical bills, lost earning capacity and other damages. The conduct of Sergeant Brown, Officer Sampson, Corporal Harris, and Lieutenant Revels was of such a nature that a reasonable and prudent person could have foreseen that it could produce such injury and damage or some similar injurious result.

96. As a direct and proximate result of Sheriff Sealey's decision to allow the detention officers and others in his employ to continue to cruelly, needlessly and viciously beat citizens, including plaintiff, in custody at the Robeson County Detention Center and/or to subject citizens, including plaintiff, in custody at the Robeson County Detention Center to the use of unreasonable and excessive force; or, in the alternative, as a direct and proximate result of Sheriff Sealeys' failure to appropriately discipline, or terminate the employment of, detention officers and others who engaged in this conduct, or to otherwise implement and/or enforce policies and procedures sufficient to eliminate such conduct, plaintiff suffered a deprivation of his constitutionally protected rights, egregious pain and suffering, scarring and disfigurement, and permanent injury when he was maliciously and viciously beaten and subjected to the use of unreasonable and excessive force by Sheriff Sealey's subordinates Sergeant Brown, Officer Sampson, Corporal Harris, and Lieutenant Revels as described in the preceding paragraphs, and has incurred substantial medical bills, lost earning capacity and other damages. The conduct

of Sheriff Sealey was of such a nature that a reasonable and prudent person could have foreseen that it could produce such injury and damage or some similar injurious result.

V. CLAIMS UNDER NORTH CAROLINA LAW

A. Violation of N.C.G.S. § 162-55

97. Paragraphs 1-96 above are incorporated by reference as if fully set forth herein.

98. The conduct of Sergeant Brown, Officer Sampson, Corporal Harris, and Lieutenant Revels at the Robeson County Detention Center on December 1, 2007, as described in the preceding paragraphs, violated N.C.G.S. § 162-55, which provides that “[i]f the keeper of a jail shall do, or cause to be done, any wrong or injury to the prisoners committed to his custody, contrary to law, he shall not only pay treble damages to the person injured, but shall be guilty of a Class I misdemeanor.”

99. In cruelly, needlessly and viciously shoving, tripping, beating and kicking plaintiff at the Robeson County Detention Center as described in the preceding paragraphs, Sergeant Brown, Officer Sampson, Corporal Harris, and Lieutenant Revels acted intentionally, wantonly and willfully and exhibited thoughtless disregard to the consequences of their actions and heedless indifference to the safety and rights of plaintiff, which directly and proximately caused injury to plaintiff, as described in the preceding paragraphs.

100. Sheriff Sealey is liable for the actions and/or inactions of his detention officers and employees Sergeant Brown, Officer Sampson, and Corporal Harris and his employee Lieutenant Revels in cruelly, needlessly and viciously shoving, tripping, beating and kicking plaintiff at the Robeson County Detention Center at the time and

place and on the occasion complained of herein, which actions and/or inactions are described in the preceding paragraphs, under the doctrines of principal and agent and *respondeat superior*.

101. The Robeson County Sheriff's Department is liable for the actions and/or inactions of its employees, detention officers Sergeant Brown, Officer Sampson, and Corporal Harris, and its employee Lieutenant Revels, in cruelly, needlessly and viciously shoving, tripping, beating and kicking plaintiff at the Robeson County Detention Center at the time and place and on the occasion complained of herein, which actions and/or inactions are described in the preceding paragraphs, under the doctrines of principal and agent and *respondeat superior*.

102. Plaintiff is entitled to recover his actual damages proximately and directly caused by such conduct of Robeson County Sheriff's Department employees and detention officers Sergeant Brown, Officer Sampson, and Corporal Harris, and Robeson County Sheriff's employee Lieutenant Revels, which conduct is imputed to Robeson County Sheriff Kenneth Sealey and the Robeson County Sheriff's Department, jointly and severally, and to have his damages trebled.

B. Negligent Training and Supervision – Sheriff Sealey and the Robeson County Sheriff's Department

103. Paragraphs 1-102 above are incorporated by reference as if fully set forth herein.

104. Sheriff Sealey, as the Sheriff of Robeson County, owed the citizens of Robeson County, including plaintiff, a duty to properly train and supervise the employees of the Robeson County Sheriff's Department, including Robeson County Detention Center detention officers Sergeant Brown, Officer Sampson, and Corporal Harris, and

Robeson County Sheriff's Department Narcotics Unit Lieutenant Revels, in a manner requiring their adherence to the Sheriff's written rules and procedures, including Policy # 8.02 of the "Robeson County Detention Center Standard Operating Guidelines," entitled "Use of Force" and described in the preceding paragraphs, which was in effect at all times complained of herein.

105. Upon information and belief, Sheriff Sealey breached this duty by wrongfully and tortiously failing to properly train and supervise Sergeant Brown, Officer Sampson, Corporal Harris, and Lieutenant Revels in a manner requiring their adherence to the Sheriff's written rules and procedures regarding the proper use of force by a detention officer or other Robeson County Sheriff's Department employee on Robeson County Detention Center inmates, including plaintiff.

106. As a direct and proximate result of Sheriff Sealey's failure to, upon information and belief, properly train and supervise Robeson County Sheriff's Department employees and detention officers Sergeant Brown, Officer Sampson, and Corporal Harris, and Robeson County Sheriff's Department employee Lieutenant Revels, in a manner requiring their adherence to the Sheriff's written rules and procedures regarding the proper use of force by a detention officer or other Robeson County Sheriff's Department employee on Robeson County Detention Center inmates, plaintiff suffered a deprivation of his constitutionally protected rights, egregious pain and suffering, scarring and disfigurement, and permanent injury as described in the preceding paragraphs, and has incurred substantial medical bills, lost earning capacity and other damages. The conduct of Sheriff Sealey was of such a nature that a reasonable and

prudent person could have foreseen that it could produce such injury and damage or some similar injurious result.

107. The Robeson County Sheriff's Department owed the citizens of Robeson County, including plaintiff, a duty to properly train and supervise its employees, including Robeson County Detention Center detention officers Sergeant Brown, Officer Sampson, and Corporal Harris, and Robeson County Sheriff's Department employee Lieutenant Revels, in a manner requiring their adherence to its written rules and procedures, including Policy # 8.02 of the "Robeson County Detention Center Standard Operating Guidelines," entitled "Use of Force" and described in the preceding paragraphs, which was in effect at all times complained of herein.

108. Upon information and belief, the Robeson County Sheriff's Department breached this duty by wrongfully and tortiously failing to properly train and supervise its employees Sergeant Brown, Officer Sampson, Corporal Harris, and Lieutenant Revels in a manner requiring their adherence to its written rules and procedures regarding the proper use of force by a detention officer or other Robeson County Sheriff's Department employee on Robeson County Detention Center inmates, including plaintiff.

109. As a direct and proximate result of the Robeson County Sheriff's Department's failure to, upon information and belief, properly train and supervise its employees Sergeant Brown, Officer Sampson, Corporal Harris, and Lieutenant Revels in a manner requiring their adherence to its written rules and procedures regarding the proper use of force by a detention officer or other Robeson County Sheriff's Department employee on Robeson County Detention Center inmates, plaintiff suffered a deprivation of his constitutionally protected rights, egregious pain and suffering, scarring and

disfigurement, and permanent injury as described in the preceding paragraphs, and has incurred substantial medical bills, lost earning capacity and other damages. The conduct of the Robeson County Sheriff's Department was of such a nature that a reasonable and prudent person could have foreseen that it could produce such injury and damage or some similar injurious result.

C. Negligent Retention – Sheriff Sealey and the Robeson County Sheriff's Department

110. Paragraphs 1-109 above are incorporated by reference as if fully set forth herein.

111. Sheriff Sealey, as the Sheriff of Robeson County, owed the citizens of Robeson County, including plaintiff, a duty to employ and retain detention officers and other employees who abided by the Sheriff's written rules and procedures regarding the proper use of force by a detention officer or other Robeson County Sheriff's Department employee on Robeson County Detention Center inmates, and who would thereby refrain from shoving, tripping, beating and/or using unreasonable and excessive force on said inmates, including plaintiff, and a duty to terminate the employment of detention officers, including Sergeant Brown, Officer Sampson, and Corporal Harris, and other employees, including Lieutenant Revels, who wrongfully and tortiously demonstrated an inability or unwillingness to abide by said written rules and procedures.

112. Upon information and belief, Sheriff Sealey breached this duty by wrongfully and tortiously employing and retaining detention officers, including Sergeant Brown, Officer Sampson, and Corporal Harris, and other employees, including Lieutenant Revels, who failed to abide by the Sheriff's written rules and procedures regarding the proper use of force by a detention officer or other Robeson County

Sheriff's Department employee on Robeson County Detention Center inmates, and who thereby failed to refrain from wrongfully and tortiously shoving, tripping, beating and/or using unreasonable and excessive force on said inmates, including plaintiff, and by failing to terminate the employment of detention officers, including Sergeant Brown, Officer Sampson, and Corporal Harris, and other employees, including Lieutenant Revels, who wrongfully and tortiously demonstrated an inability or unwillingness to abide by said written rules and procedures.

113. As a direct and proximate result of Sheriff Sealey's failure to, upon information and belief, employ and retain detention officers and other Robeson County Sheriff's Department employee who abided by the Sheriff's written rules and procedures regarding the proper use of force by a detention officer or other Robeson County Sheriff's Department employee on Robeson County Detention Center inmates, and Sheriff Sealey's failure to terminate the employment of detention officers, including Sergeant Brown, Officer Sampson, and Corporal Harris, and other employees, including Lieutenant Revels, who wrongfully and tortiously demonstrated an inability or unwillingness to abide by said written rules and procedures, plaintiff suffered a deprivation of his constitutionally protected rights, egregious pain and suffering, scarring and disfigurement, and permanent injury as described in the preceding paragraphs, and has incurred substantial medical bills, lost earning capacity and other damages. The conduct of Sheriff Sealey was of such a nature that a reasonable and prudent person could have foreseen that it could produce such injury and damage or some similar injurious result.

114. The Robeson County Sheriff's Department owed the citizens of Robeson County, including plaintiff, a duty to employ and retain detention officers and other employees who abided by its written rules and procedures regarding the proper use of force by a detention officer or other Robeson County Sheriff's Department employee on Robeson County Detention Center inmates, and who would thereby refrain from beating and/or using unreasonable and excessive force on said inmates, including plaintiff, and a duty to terminate the employment of detention officers, including Sergeant Brown, Officer Sampson, and Corporal Harris, and other employees, including Lieutenant Revels, who wrongfully and tortiously demonstrated an inability or unwillingness to abide by said written rules and procedures.

115. Upon information and belief, the Robeson County Sheriff's Department breached this duty by wrongfully and tortiously employing and retaining detention officers, including Sergeant Brown, Officer Sampson, and Corporal Harris, and other employees, including Lieutenant Revels, who failed to abide by its written rules and procedures regarding the proper use of force by a detention officer or other Robeson County Sheriff's Department employee on Robeson County Detention Center inmates, and who thereby failed to refrain from wrongfully and tortiously shoving, tripping, beating and/or using unreasonable and excessive force on said inmates, including plaintiff, and by failing to terminate the employment of detention officers, including Sergeant Brown, Officer Sampson, and Corporal Harris, and other employees, including Lieutenant Revels, who wrongfully and tortiously demonstrated an inability or unwillingness to abide by said written rules and procedures.

116. As a direct and proximate result of the Robeson County Sheriff's Department's failure to, upon information and belief, employ and retain detention officers who abided by its written rules and procedures regarding the proper use of force by a detention officer or other Robeson County Sheriff's Department employee on Robeson County Detention Center inmates, and the Robeson County Sheriff's Department's failure to terminate the employment of detention officers, including Sergeant Brown, Officer Sampson, and Corporal Harris, and other employees, including Lieutenant Revels, who wrongfully and tortiously demonstrated an inability or unwillingness to abide by said written rules and procedures, plaintiff suffered a deprivation of his constitutionally protected rights, egregious pain and suffering, scarring and disfigurement, and permanent injury as described in the preceding paragraphs, and has incurred substantial medical bills, lost earning capacity and other damages. The conduct of the Robeson County Sheriff's Department was of such a nature that a reasonable and prudent person could have foreseen that it could produce such injury and damage or some similar injurious result.

D. Punitive Damages

117. Paragraphs 1-116 above are incorporated by reference as if fully set forth herein.

118. The acts and misconduct of Sergeant Brown, Officer Sampson, Corporal Harris, and Lieutenant Revels underlying plaintiff's claims of deprivation of his civil rights and violation of N.C.G.S. § 162-55, as described in the preceding paragraphs, were accompanied by certain aggravating factors that are related to the injury and damages for which plaintiff seeks to recover, and the previously described conduct of Sergeant

Brown, Officer Sampson, Corporal Harris, and Lieutenant Revels, as described in the preceding paragraphs, was intentional, malicious, and otherwise willful and wanton.

119. Sergeant Brown, Officer Sampson, Corporal Harris, and Lieutenant Revels participated in the acts or misconduct constituting the aggravating factors that give rise to plaintiff's claim for punitive damages.

120. As a direct and proximate result of the acts and misconduct of Sergeant Brown, Officer Sampson, Corporal Harris, and Lieutenant Revels, which have been accompanied by the aggravating factors previously described, plaintiff is entitled to recover, in addition to compensatory damages, punitive damages against Sergeant Brown, Officer Sampson, Corporal Harris, and Lieutenant Revels.

WHEREFORE, having fully complained of defendants Sergeant Robert Brown, Officer Bobby Ray Sampson, Corporal Ben Harris, Lieutenant Charlie Revels, Sheriff Kenneth Sealey, the Robeson County Sheriff's Department, and Western Surety Company, plaintiff David Earl Scott respectfully prays the Court for a judgment against defendants, jointly and severally, as follows:

1. That plaintiff David Earl Scott have and recover from defendants, jointly and severally, such amounts as will compensate plaintiff for the deprivation of his Constitutional rights and violation of state law as alleged herein, for his pain and suffering, for his permanent injury and for his other compensatory damages as will be proven at trial;
2. That plaintiff David Earl Scott have and recover such punitive damages, jointly and severally, for the deprivation of his Constitutional rights and violation of state law, as allowed by law;

3. That Plaintiff David Earl Scott have and recover his costs, expenses, pre-judgment and post-judgment interest and reasonable attorney fees as allowed by 42 U.S.C. § 1988(b) or other applicable law;
4. That plaintiff David Earl Scott be granted a jury trial of all issues raised herein so triable; and
5. That plaintiff David Earl Scott have and recover such other and further amounts and relief as the Court deems appropriate.

This the ____ day of June, 2009.

/S/ W. Stacy Miller, II (Of Counsel)
N.C. Bar No. 21198

/S/ Bruce W. Berger
N.C. Bar No. 14470

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E-mail: wsm@knott-berger.com
bwb@knott-berger.com

EXHIBIT A (DVD)

The Exhibit "A" referenced in the foregoing Complaint is a single DVD containing video footage of certain events at the Robeson County Detention Center which form the basis of the Complaint, which video footage was recorded by a Robeson County Detention Center camera on December 1, 2007, at the time and place complained of in the Complaint. Because this Exhibit "A" is not susceptible to contemporaneous electronic filing with the Complaint using the Case Management/Electronic Case Filing System ("CM/ECF"), this Exhibit A to the Complaint, consisting of a single DVD, will be hand delivered, with a cover letter, to the Raleigh Office of the United States District Court for the Eastern District of North Carolina's Clerk's Office, Western Division, located at the Terry Sanford Federal Building and Courthouse, 310 New Bern Avenue, Raleigh, North Carolina, 27601 on the same day the Complaint is filed using CM/ECF.

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

DAVID EARL SCOTT

(b) County of Residence of First Listed Plaintiff Robeson
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

William Stacy Miller, II, Bruce W. Berger, Knott & Berger, LLP
4800 Six Forks Road, Suite 100, Raleigh, NC 27609

DEFENDANTS

Robert Brown, Ben Harris, Bobby Ray Sampson, Charlie Revels, Kenneth Sealey, (see Complaint)

County of Residence of First Listed Defendant Robeson
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veterans' Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input checked="" type="checkbox"/> 440 Other Civil Rights	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	FORFEITURE/PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395b) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSDI Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
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V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 USC 1983

Brief description of cause:
police brutality/excessive use of force

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

06/17/2009

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____