

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
CASE NO. 5:15-CT-3118-FL

THOMAS PATTEN, LESLIE TEACHEY, )  
RYAN TURNER, BUDDHA VICTORIA, )  
CHRIS YERRY, CEDRIC WILLIAMS, )  
STUART GAIDOSH, DONNIE IVEY, )  
SCOTT IVEY, TJ LOCKLEAR, PHILLIP )  
JARMAN, XAVIER MOORE, GARY )  
PARKER, JAMEY LEE DOWLESS, )  
BRYAN CRUMP, JR., JEREMY CLINE, )  
DEXTER BROWN, JOSHUA BOYKIN, )  
MARCELL ALSBROOK, STEVIE )  
WILLIAMS, DONALD MORRISEY, )  
PAUL BARTON, ADEMAR MARTINEZ )  
JOHNNY FAISON, and LEROY HUNT, )

Plaintiffs, )

v. )

NORTH CAROLINA DEPARTMENT OF )  
PUBLIC SAFETY, SECRETARY )  
FRANK PERRY in his official capacity )  
LAFAYETTE HALL, in )  
his official and individual capacity, )  
JEFFERY MARKS, in his official and )  
individual capacity, ANTHONY )  
JACKSON, in his individual capacity, )  
DAVID JONES, in his individual capacity, )  
KENNETH N. JONES JR., in his individual )  
capacity, SEARGEANT WILSON, in his )  
individual capacity, HENRY OUTLAW, )  
in his individual capacity, )  
CLEMENT BURNEY, in his individual )  
capacity, CHARLES HOLLAND, in his )  
individual capacity, OFFICER HUDSON, in )  
his individual capacity, EUGENE )  
MURPHY, in his individual capacity, )  
RONNIE BRITT, in his individual )  
capacity, WILLIAM M. WARD, in his )  
individual capacity, NELSON SANCHEZ, )  
in his individual capacity, )  
Defendants. )

FIRST AMENDED COMPLAINT  
(Jury Trial Requested)

NOW COME Plaintiffs, by and through their undersigned counsel, complaining of Defendants NORTH CAROLINA DEPARTMENT OF PUBLIC SAFETY, SECRETARY FRANK PERRY, in his official capacity, LAFAYETTE HALL, in his official and individual capacity, JEFFERY MARKS, in his official and individual capacity, ANTHONY JACKSON, in his official and individual capacity, DAVID JONES, in his official and individual capacity, KENNETH N. JONES, in his official and individual capacity, SEARGEANT WILSON, in his official and individual capacity, HENRY OUTLAW, in his official and individual capacity, CLEMENT BURNYE, in his official and individual capacity, CHARLES HOLLAND, in his official and individual capacity, OFFICER HUDSON, in his official and individual capacity, EUGENE MURPHY, in his official and individual capacity, RONNIE BRITT, in his official and individual capacity, WILLIAM M. WARD, in his official and individual capacity, NELSON SANCHEZ, in his official and individual capacity, and these officers working together in a joint venture partnership and conspiracy to do plaintiffs harm and violate their rights guaranteed by the Constitution of the United States of America. Plaintiffs allege and say:

### **FACTS**

1. The Plaintiffs in this matter were prisoners in the custody of the State of North Carolina as inmates in the North Carolina Department of Public Safety, Division of Adult Correction (“DAC”) system, in the Sampson County Correctional (“Prison”) Facility.
2. At some point in 2011, Defendants David Jones and Anthony Jackson, along with other employees and officers at the prison, entered into an agreement to abuse and humiliate Plaintiffs in violation of the rights endowed by their Creator and guaranteed by the United States Constitution, specifically the 1<sup>st</sup>, 4<sup>th</sup>, and 14<sup>th</sup> Amendments, by 42 U.S.C. §§ 1983, 1985, and 1988, and by the laws and constitution of the State of North Carolina.

3. During the course of the Plaintiffs' incarceration and continuing until July of 2012, Defendants Anthony Jackson, David Jones, Officer Hudson, Eugene Murphy, Ronnie Britt, William M. Ward, and Nelson Sanchez ("The Abusers") were conspiring together to systematically abuse and humiliate the Plaintiffs.
4. During the course of the Plaintiffs' incarceration and continuing until July of 2012, Defendants Kenneth N. Jones Jr., Sergeant Wilson, Henry Outlaw, Clement Burney, Charles Holland ("The Supervisors") were aware, or should have been aware of the conduct of The Abusers.
5. During the course of the Plaintiffs' incarceration and continuing until July of 2012, Defendants Frank Perry, Warden Lafayette Hall and Jeffery Marks ("The Superiors") were aware, or should have been aware, of the conduct of the Abusers.
6. Around the end of 2011, Defendants David Jones and Anthony Jackson, as the primary guards in charge of the road crew at the Prison, began using their position to orchestrate a financially lucrative enterprise using prisoners on the road crew to smuggle contraband into the prison.
7. This contraband generated tens of thousands of dollars in illicit profits.
8. The Abusers, relying on their superior position of power and influence, conspired to control, subjugate, intimidate and order Plaintiffs into doing unnatural and humiliating acts such that they had no choice but to subject themselves to participation in the smuggling to limit the abuse.
9. The Superiors were aware that the Abusers were violating procedure with prisoners with whom they were entrusted and over whom they had responsibility and control but did not investigate, which allowed the known violations to continue and intensify.

10. Although the specific abusive actions were not explicitly approved by the State of North Carolina (“The State”), all actions were in furtherance of the State’s prison business, were on prison premises or on State-supervised work trips and were committed in the discharge of the duties of employment, and all were under color of State law.
11. Upon information and belief, The Supervisors were all aware that mistreatment was occurring but were deliberately indifferent to the known violation, which indifference allowed more serious and humiliating abuses to go unchecked for months and years.
12. Upon information and belief, The Supervisors were all aware, or would have been aware of the criminal enterprise for profit that existed, had they not been indifferent to and had they not failed and refused to investigate the known incidents of wrongdoing.
13. Records of dates of various road crew trips, what prisoners were on the trips, and who supervised specific trips are in the control of the Defendants and will be listed after further discovery, and dates as known to the Plaintiffs are attached as Appendix A.
14. The Plaintiffs, due to their incarceration and deprivation from outside communication, were placed in a position of absolute reliance on the Defendants.
15. While all prisoners are reliant upon the prison to provide them with food and shelter, the Defendants also have a duty to supervise and protect prisoners from unreasonable danger and reasonably preventable harm.
16. Through a series of actions, the Abusers abused the power of the State and created a culture in which prisoners who cooperated and obeyed their demands, no matter how obscene or humiliating or illicit, would be rewarded or spared from further abuse or both, and those who did not would be punished, or humiliated and dehumanized.

17. Punishments included forcing prisoners to consume hot sauce, forcing prisoners to put hot sauce on their own genitals, ordering prisoners to “gang-up” on and beat other prisoners, being held down and having their genitals squeezed until they said particular racist phrases convincingly enough, and having to rub hot sauce on their anus, among other abuse and indignities.
18. The heat of hot sauce available on the market varies from Texas Pete, which one source rates at 747 Scoville units to extreme hot sauces that are over 6,000,000 Scoville units (stronger than law enforcement pepper spray); these latter sauces must be handled with extreme caution as they can cause serious burns if mishandled. Upon information and belief, the sauce used by the Abusers was of the latter type, which cause injury if mishandled.
19. On multiple occasions, when taking the road crew out, the Abusers would force one prisoner to stick several fingers into a sandwich bag of hot sauce (referred to as “taking the sauce”) and lick the hot sauce off their hand.
20. Every new member of the road crew had to “take the sauce” on his first day.
21. New road crew members often had to eat the hot sauce more than once on his first day.
22. The road crew members were also randomly subjected to having to eat the hot sauce once they had been initiated.
23. The Abusers would only touch the hot sauce while wearing surgical gloves.
24. Several Plaintiffs were burned by the hot sauce, including blistering on the skin and in the mouth.
25. Plaintiff Christopher Yerry had blisters in his mouth after drinking hot sauce and lost his sense of taste.

26. When forced to rub hot sauce on their genitals and anuses, the Plaintiffs experienced blistering in those areas.
27. Several Plaintiffs experienced vomiting, diarrhea, and gastric distress as a result of ingesting the hot sauce.
28. Plaintiff Donnie Ivey's mouth blistered to the point that he could not wear his dentures for weeks.
29. The Abusers also forced Plaintiff Cedric Williams to lick hot sauce off the white line on the road causing him to vomit for the rest of that day.
30. Defendant David Jones would force inmates to eat hot sauce if they said the word "Goddamn".
31. If a prisoner refused to "take the sauce" the Abusers would direct other prisoners to beat the refusing prisoner or he would be subjected to other punishment.
32. Also, if a prisoner refused to "take the sauce," all the prisoners would have their privileges that had been granted by Defendants Jackson and David Jones (such as being able to smoke, eating food from outside the prison, etc.) taken away, placing more pressure to comply.
33. If a prisoner continually refused to comply with the Abusers' demands, he was likely to be removed from the road crew, jeopardizing any "gain time" he had accrued towards an early release.
34. Other occurrences of the abuse took the form of "challenges," as the Abusers referred to them.

35. The “challenges” involved the Abusers ordering the Plaintiffs to do certain dangerous or offensive acts, for which they were rewarded with cigarettes, alcohol, access to their own cell phones, non-institutional food, and being allowed to stay on the road crew.
36. The challenges were ostensibly optional, however, due to the fact that the Plaintiffs were subjected to further abuse if they refused to comply, they were not, in reality.
37. On one occasion Plaintiff Thomas Patten was forced to squeeze Plaintiff TJ Locklear’s testicles while he was held against a tree.
38. The Abusers made Plaintiff Jeremy Cline pull his pants down and dance on the prison bus.
39. Defendant Jackson took a video of this abuse on his cell phone.
40. The Abusers ordered Plaintiff Phillip Jarmon to stick his finger in Plaintiff Jamey Dowless’s rectum.
41. Plaintiff Jarmon refused to comply with this order and was later attacked by other prisoners on Defendant Jackson’s orders.
42. The Abusers forced Plaintiff Cedric Williams to rub the hot sauce on his testicles while his pants were down, in front of other prisoners.
43. Defendant Jackson made Plaintiff Thomas Patten lick Plaintiff TJ Locklear’s feet.
44. Defendant Jackson ordered Plaintiff Thomas Patten to go into a swamp after a beer can, despite the fact that Plaintiff Patten could not swim.
45. It was only through the efforts of other members of the road crew that Plaintiff Patten did not drown.
46. Plaintiff Gary Parker was made to wade into a deep pond while wearing waders that quickly filled with water, also risking drowning.

47. Plaintiff Patten was held down had his testicles squeezed until he was forced to say "I'm white and I'm proud," on the orders of Defendant Jackson.
48. Plaintiff Parker was, at the Abusers' instigation, hit in the testicles, punched, kicked, bitten, had his body hair ripped out.
49. Officer Jackson ordered Plaintiffs Jarman, Parker and Dowless to hold Plaintiff Patten down and grab his testicles until he yelled "Jones is my master."
50. Two of Plaintiff Parker's fingers were broken in this incident.
51. Plaintiff Parker was discouraged by the Abusers from seeking medical treatment for his broken fingers.
52. When Plaintiff Jarman was ordered by Defendant Jackson to grab Plaintiff Patten's testicles a second time, he refused.
53. As retaliation for his refusal, Defendant Jackson ordered Plaintiff Jarman held down by Plaintiffs Patten, Parker and Dowless while Plaintiff Patten bit his back, leaving a permanent scar.
54. Plaintiffs were also punished by being forced to catch and kiss venomous snakes and other wild animals.
55. Other "challenges" Plaintiffs were forced to perform included throwing live animals into traffic, killing animals with bush axes, and putting dead animals onto each other.
56. In 2012, Defendant Jackson began making racial slurs and inciting race violence.
57. Defendant Jackson called the African-American men on the road crew things like "boy," "cotton picker," and "nigger."
58. Defendants Jackson and David Jones would make the prisoners on the road crew line up from "lightest to darkest."

59. Defendants Jackson and David Jones also made the African-American prisoners on the road crew get on the work bus after the other members of the road crew.
60. Defendant Jackson bought cigarettes for white inmates and told them not to share with black inmates.
61. Plaintiffs Patten and Victoria, (both African-Americans), were told by Defendant Jackson how he “felt about their kind” and Plaintiff Patten was told he would be the last black man allowed on the road crew.
62. Defendant Jackson regularly cocked his shotgun and pointed it at Plaintiffs in a threatening manner to get cooperation; upon information and belief this shotgun was provided by the State as part of Defendant Jackson’s employment.
63. If the Plaintiffs refused to comply with the day’s “challenges”, the Abusers would withhold water (despite working in the hot sun), gloves, and vests from the Plaintiffs while they performed their hard labor.
64. The Abusers threatened (and issued) write-ups to the road crew members who refused to comply.
65. The Abusers conspired to create a submissive and obedient set of prisoners who would cooperate and comply and not report outrageous behavior by the Abusers.
66. The Abusers identified a select group of prisoners who were especially compliant and sufficiently convinced of the conspirators’ power to punish, to reward, and to extend their period of incarceration.
67. The Abusers then ordered these prisoners to perform acts which would make money for the conspirators.
68. Specifically, some Plaintiffs had to agree to be used as “suitcases.”

69. These Plaintiffs were forced to hide various contraband items (such as cell phones, cigarettes, synthetic marijuana, and other illegal drugs) in their anal cavities and bring them into the prison.
70. The Abusers would arrange for contraband to be planted in roadside areas where the crew would be working and then “found” by road crew members.
71. The Abusers would supply surgical gloves and Vaseline to facilitate insertion of the contraband into the anal cavity.
72. This contraband would later be sold inside the prison, by the Plaintiffs, at the direction of the Abusers.
73. The Plaintiffs were also forced to carry contraband back into the prison, such as bricks of tobacco taped to the bottom of coolers.
74. As part of the Abusers’ conspiracy, the contraband was purposely overlooked by other prison officials and employees when the Plaintiffs were searched upon their return to the prison each day.
75. A single cell phone that cost less than \$20 at Walmart could be sold for as much as \$300 inside the prison.
76. Plaintiffs who agreed to engage in the smuggling and selling of the contraband were given the privilege of keeping and using a cell phone.
77. The profits from the sale of the contraband went directly to the Abusers, earning the Abusers as much as several thousand dollars a week.
78. Upon information and belief, this concerted plan for the Abusers’ profit was a partnership or joint venture, and was never separately incorporated.

79. Defendant Jackson frequently emphasized the powerlessness of the Plaintiffs asking them, "Who would they believe?"
80. Upon information and belief, Defendant Jackson was referring to what would happen if the Plaintiffs attempted to make the abuse known.
81. Plaintiffs who refused or complained were framed by having contraband planted in their cell only to be found by supposedly random searches immediately after they showed inclination to resist the Abusers system of rewards and punishments.
82. In the alternative, the Abusers would arrange for a Plaintiff to be searched when it was known to the Abusers that he had contraband on his person.
83. Usually this contraband in question had been obtained from the Abusers themselves and was returned to the Abusers after the search, upon information and belief.
84. Not only would this cause the Plaintiff in question to be written up, but in some circumstances it resulted in Plaintiffs being placed in segregation, being sent to a close custody prison, or receiving new criminal charges for possessing the contraband.
85. Defendant Ward, a yard Officer, would perform additional searches upon Defendant Jackson's request and would find contraband that was planted upon information and belief, by Defendant Jackson or Defendant Ward, or by both acting in concert.
86. Defendant Sanchez, also a yard Officer, would perform additional searches upon Defendant Jackson's request and would find contraband that was planted upon information and belief, by Defendant Jackson or Sanchez, or by both acting in concert.
87. Upon finding the planted contraband, Defendant Sanchez would return it to Defendant Jackson.

88. The knowledge of the abuse was so widespread that the Plaintiffs believed that the supervisors of the Abusers either knew and approved of the abuse, or were deliberately turning a blind eye.
89. At one point Defendant Assistant Superintendent Jeffery Marks came onto the bus, looked at the hot sauce and asked the officers supervising the road crew if this is what they used, which, upon information and belief, indicated his knowledge and support of some of the ongoing abusive practices.
90. In the hearing of Plaintiff Donnie Ivey, Defendant Holland joked with Defendants Jackson and David Jones about activities of the road crew, including use of hot sauce.
91. In the hearing of a member of the road crew, Superintendent Lafayette Hall discussed cigarettes and cell phones with Defendant Jackson.
92. By abusing and perverting the power the State gives prisons over prisoners, these guards and their supervisors put these prisoners into a position where access to water and their safety were dependent upon obeying perverse and dehumanizing orders.
93. Attempts to report the behavior to the State Department of Corrections by one Plaintiff's girlfriend was not investigated by the State, and the abuse continued.
94. Attempts to report the behavior to the State Department of Corrections by one prisoner's wife was not investigated on by the State, and the abuse continued.
95. After the conspiracy was exposed, a sweep of the prison allegedly collected over 400 illicit cell phones in the hands of prisoners.
96. Hundreds of cell phones could not have been imported into the prison and remained undiscovered over a two-year period without deliberate indifference on the part of prison personnel.

### **NATURE OF ACTION, JURISDICTION and VENUE**

97. This is an action for money damages, declaratory, and injunctive relief brought pursuant to 42 U.S.C. §§ 1983 and 1985 & 1988, 18 U.S.C. § 1961 *et. seq.*, the First, Fourth and Fourteenth Amendments to the United States Constitution, and under the laws of the State of North Carolina.
98. This Court has jurisdiction in this matter because the central allegations of this case are based on federal law (federal question).
99. There are also state Court causes of action arising from the same facts and circumstances which can properly be heard in this court.
100. Upon information and belief, and at all times relevant to this action, Defendants Lafayette Hall, Marks, Jackson, David Jones, Kenneth N. Jones Jr., Wilson, Outlaw, Burney, Holland, Hudson, Murphy, Britt, Ward, and Sanchez were adult residents of the State of North Carolina, of sound mind, and under no legal disability.
101. Venue is appropriate in the Eastern District of North Carolina because the events at issue occurred in Sampson County.

### **WAIVER OF SOVEREIGN IMMUNITY**

102. Upon information and belief Defendant North Carolina Department of Public Safety has waived sovereign immunity by the purchase of insurance.
103. Further information about this insurance is currently in control of the State and will be learned by the Plaintiffs through discovery.

**FIRST CLAIM FOR RELIEF – VIOLATIONS OF RICO, 18 U.S.C. § 1962(c) –  
DEFENDANTS JACKSON, DAVID JONES, HUDSON, MURPHY, BRITT, WARD, AND  
SANCHEZ**

104. The paragraphs above and below are herein incorporated by reference.
105. At all relevant times, Plaintiffs are and were persons within the meaning of 18 U.S.C. §§ 1961(3) and 1962(3).
106. Defendants Jackson, David Jones, Hudson, Murphy, Britt, Ward, and Sanchez are a group of persons associated together in fact for the common purpose of carrying out an ongoing criminal enterprise, as described in the foregoing paragraphs of this Complaint; namely: through violence, threats, coercion, and abuse of State power, to force Plaintiffs into participation in a smuggling and selling ring, to Plaintiffs' physical, mental, and emotional detriment. The goal of this criminal enterprise was to produce profits for Defendants Jackson and David Jones, as well as other individuals, upon information and belief.
107. Defendants Jackson, David Jones, Hudson, Murphy, Britt, Ward, and Sanchez acted with a plan and purpose to coerce the Plaintiffs and other prisoners into participating in this scheme through actual violence and the threat of violence in order to accomplish the overt aims of the criminal enterprise.
108. Defendants Jackson and David Jones served as the main point of contact between the criminal enterprise and the Plaintiffs.
109. Defendants Jackson, David Jones, Hudson, Murphy, Britt, Ward, and Sanchez constituted an association-in-fact enterprise within the meaning of 18 U.S.C. §§ 1961(4) and 1962(c),

referred to hereinafter as the “Enterprise”. Defendants Jackson and David Jones both participated in the operation or management of the Enterprise.

109. At all relevant times, the Enterprise was engaged in, and its activities affected, interstate and foreign commerce within the meaning of 18 U.S.C. § 1962(c).
110. Defendants Jackson, David Jones, Hudson, Murphy, Britt, Ward, and Sanchez conducted or participated, directly or indirectly, in the conduct, management, or operation of the Enterprise’s affairs through a “pattern of racketeering activity” within the meaning of 18 U.S.C. § 1961(5) and in violation of 18 U.S.C. § 1962(c), to wit:
  - a) Defendants Jackson, David Jones, Hudson, Murphy, Britt, Ward, and Sanchez committed numerous violent crimes (as described in paragraphs 17-63, *supra*) against Plaintiffs and other prisoners in order to force them into obeying and being used as couriers in the Enterprise.
  - b) Defendants Jackson, David Jones, Hudson, Murphy, Britt, Ward, and Sanchez violated state and federal drug laws and criminal statutes in order to further the common purpose of realizing illicit profits for the Enterprise through the sale of contraband inside the Prison over a period of approximately two years.
111. Defendants Jackson, David Jones, Hudson, Murphy, Britt, Ward, and Sanchez have engaged in multiple predicate acts, as described herein, *supra*. The conduct of Defendants Jackson, David Jones, Hudson, Murphy, Britt, Ward, and Sanchez described herein, *supra*, constitutes a pattern of racketeering activity within the meaning of 18 U.S.C. § 1961(5).
112. Plaintiffs were injured in their property by reason of the Defendants Jackson, David Jones, Hudson, Murphy, Britt, Ward, and Sanchez’s violations of 18 U.S.C. § 1962(c).

The injuries to Plaintiffs caused by reason of the violations of 18 U.S.C. § 1962(c) include but are not limited to injury to the bodies and personal property of Plaintiffs, loss of liberty due to lost gain-time as a result of fraudulent violations fabricated by Defendants Jackson, David Jones, Hudson, Murphy, Britt, Ward, and Sanchez, loss of dignity, and mental and emotional anguish.

113. Further, these injuries to Plaintiffs were a direct, proximate, and reasonably foreseeable result of Defendants Jackson, David Jones, Hudson, Murphy, Britt, Ward, and Officer Sanchez's violation of 18 U.S.C. § 1962.
114. Pursuant to 18 U.S.C. § 1964(c), Plaintiffs are entitled to recover treble damages plus costs and attorneys' fees from Defendants Jackson, David Jones, Hudson, Murphy, Britt, Ward, and Sanchez.

#### **SECOND CLAIM FOR RELIEF - CONSTRUCTIVE FRAUD – ALL DEFENDANTS**

115. The North Carolina Department of Public Safety-Division of Adult Corrections ("DAC") has absolute power over all prisoners.
116. North Carolina Department of Public Safety has a duty to protect prisoners in its custody from harm.
117. This power and the responsibilities flowing therefrom create a fiduciary relationship between the DAC, employees of the DAC and the prisoners entrusted to the care of the DAC and its employees.
118. While all prisoners are, to a great extent, dependent upon DAC officers and employees, this peculiar relationship complained of herein, where the guards could freely abuse or reward prisoners, and where the abuses continued for years, and where the prisoners were

unable to get help or redress, placed the prisoners absolutely at the mercy of the Abusers who systematically violated the trust the prisoners had a right to place in them.

119. These particular and egregious violations of that trust by a number of State agents and employees conspiring together and with knowledge of supervising personnel of the DAC of at least some of, if not all, of the outrageous conduct, was fraud upon the prisoners who had the right to rely upon the State of North Carolina and its employees not to knowingly and intentionally use their position and power to violate their rights as human beings, which rights are guaranteed by the constitutions of the United States and the State of North Carolina.
120. The Abusers then used this relationship of power and trust, which they had grossly perverted for their own profit, and in fact derived a profit (over time, upon information and belief profits amounting to over \$100,000) from these activities.
121. All the abuses were possible because of the deliberate indifference of those charged with keeping prisoners safe and free from abuse.
122. In these actions, the Abusers acted together, in concert, for their own profit.
123. For this reason each abuser should be held jointly and severally liable for the actions of all Abusers from the beginning of the conspiracy to the end.

**THIRD CLAIM FOR RELIEF – CIVIL CONSPIRACY - DEFENDANTS JACKSON,  
DAVID JONES, HUDSON, MURPHY, BRITT, WARD, AND SANCHEZ  
("THE ABUSERS")**

124. The paragraphs above and below are herein incorporated by reference.
123. The Abusers' actions were taken by agreement among the Abusers.

124. The Abusers agreed to perform actions that were unlawful (smuggle drugs, assault prisoners) and to perform lawful acts (supervision of prisoners) in an unlawful way (through coercion and abuse)
125. The result of the Abusers' actions were injuries to Plaintiffs inflicted by the Abusers pursuant to this common scheme.
126. Based upon the abusive actions of the Defendants, taken pursuant to their agreement with one another, the Plaintiffs seek relief based upon civil conspiracy which began upon information and belief on or about June 2011 and ended in July 2012.

**FOURTH CLAIM FOR RELIEF - UNCONSTITUTIONAL DENIAL OF ACCESS TO  
COURTS - FIRST AMENDMENT CLAIM – DEFENDANTS NORTH CAROLINA  
DEPARTMENT OF PUBLIC SAFETY AND PERRY, IN HIS INDIVIDUAL AND  
OFFICIAL CAPACITY**

127. The paragraphs above and below are herein incorporated by reference.
128. Inmates have a constitutional right to access the courts.<sup>1</sup>
129. Pursuant to the U.S. Supreme Court decision in *Bounds v. Smith*, North Carolina was specifically required to provide legal services to prisoners, and, to fulfill that requirement, it funded the North Carolina Prisoner Legal Services (“NCPLS”).
130. However, the State has defunded NCPLS and is no longer fulfilling its constitutional mandate; according to NCPLS: “Due to a significant reduction in the amount of funds . . . available to contract with NCPLS, we are no longer able to litigate a large amount of conditions of confinement cases.”<sup>2</sup>

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<sup>1</sup> *Bounds v. Smith*, 430 U.S. 817, 817, 821, 828, 97 S.Ct. 1491, 1492-93, 1494, 1498 (1977).

<sup>2</sup> <http://www.ncpls.org/work/>

131. Because attorneys were not generally available to handle confinement cases, and because North Carolina failed to inform prisoners about what help was available, these prisoners were hindered and stymied in their desire for relief; they believed they had no option other than to continue to suffer at the hands of their abusers, and, when they tried to seek legal help, their *pro se* efforts were legally defective.
132. As a result, Plaintiffs were tortured, humiliated, and forced to endanger themselves by carrying various dangerous items in their bodies.
133. North Carolina has defunded the NCPLS to the point that they are no longer providing inmates access to the courts to seek redress for their conditions of confinement claims.
134. In this manner, North Carolina is no longer fulfilling its constitutional obligations.

**FIFTH CLAIM FOR RELIEF - INTENTIONAL INFLECTION OF EMOTIONAL  
DISTRESS AND NEGLIGENT INFLECTION OF EMOTIONAL DISTRESS -  
DEFENDANTS JACKSON, DAVID JONES, HUDSON, MURPHY, BRITT, WARD, AND  
SANCHEZ ("THE ABUSERS")**

135. The paragraphs above and below are herein incorporated by reference.
136. The conduct of the Abusers, threatening, torturing and brutally abusing the prisoners was extreme and outrageous conduct.
137. This conduct was either intended to cause extreme emotional distress or was intentional conduct that would foreseeably cause extreme emotional distress.
138. The fact that many Defendants were working together in concert put the Plaintiffs into a situation where they believed that they could not seek help (and in fact that they would be further endangered if they sought help).

139. The incarcerated state of the Plaintiffs prevented them from timely seeking psychiatric care in response to these abuses, but they exhibit signs of extreme emotional distress as follows:

- a. Sleeplessness
- b. Depression
- c. Hopelessness
- d. Thoughts of suicide and self-harm etc.
- e. Post-Traumatic Stress Disorder and
- f. Delayed-onset Post-Traumatic Stress Disorder.

140. Due to the ongoing, and sometimes delayed nature of the emotional reactions, the full extent of the harm done by the Abusers is not yet fully known.

141. However, it is clear that their actions were reasonably likely to provoke and have provoked severe emotional distress.

142. In these actions, the Abusers acted together, in concert, for their own profit.

143. Therefore, the Abusers are jointly and severally liable for the damage done by their conduct.

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**SIXTH CLAIM FOR RELIEF - 42 U.S.C. §§ 1983, 1985, and 1988 AND THE FIRST, FIFTH, EIGHTH, and FOURTEENTH AMENDMENTS OF THE UNITED STATES CONSTITUTION – DEFENDANTS NORTH CAROLINA DEPARTMENT OF PUBLIC SAFETY, JACKSON, DAVID JONES, HUDSON, MURPHY, BRITT, WARD, SANCHEZ, KENNETH N. JONES, JR., WILSON, OUTLAW, BURNEY, LIEUTENANT HOLLAND, HALL, IN HIS OFFICIAL AND INDIVIDUAL CAPACITY, MARKS, IN HIS OFFICIAL AND INDIVIDUAL CAPACITY, AND PERRY, IN HIS INDIVIDUAL AND OFFICIAL CAPACITY**

144. The paragraphs above and below are herein incorporated by reference.
145. Defendants, acting under the color of State law, have subjected and caused Plaintiffs to be subjected to the deprivation of their right to freedom from the infliction of cruel and unusual punishment guaranteed by the Eighth Amendment of the United States Constitution.
146. Defendants, acting under the color of State law, have deprived Plaintiffs of the ability to petition the courts for redress of grievances, in violation of the First Amendment of the Constitution.
147. Defendants, acting under the color of State law, have humiliated black prisoners on account of their race in violation of the Fourteenth Amendment of the United States Constitution.
148. Defendants, acting under the color of State law, have deprived the Plaintiffs of the due process of law by subjecting them to coercion, false accusations and punishment, forcing prisoners to be beaten and humiliated, and threatening them with further punishments if they sought help.

149. All of the named Defendants, upon information and belief, had actual or constructive knowledge that abusive and improper acts were being committed.
150. All of the named Defendants, upon information and belief, had the power to prevent or aid in preventing the commission of the abusive acts.
151. All of the named Defendants, upon information and belief, were deliberately indifferent to the abuses, known and unknown, which continued for years without being investigated, stopped or prevented.
152. Any or all of the named Defendants, upon information and belief, could, through the exercise of reasonable diligence could have prevented the abusive actions.

**SEVENTH CLAIM FOR RELIEF - NEGLIGENT EMPLOYMENT, NEGLIGENT  
SUPERVISION – DEFENDANTS NORTH CAROLINA DEPARTMENT OF PUBLIC  
SAFETY, KENNETH N. JONES, WILSON, OUTLAW, BURNEY, HOLLAND, HALL,  
IN HIS OFFICIAL AND INDIVIDUAL CAPACITY, MARKS, IN HIS OFFICIAL AND  
INDIVIDUAL CAPACITY, AND PERRY, IN HIS INDIVIDUAL  
AND OFFICIAL CAPACITY**

153. The paragraphs above and below are herein incorporated by reference.
154. Upon information and belief, the State of North Carolina negligently continued to employ some of the Abusers, and to use public funds to make possible their continued power over prisoners after, in the exercise of reasonable care the State should have known of the abusive acts.
155. Upon information and belief, there were North Carolina state employees who, in exercise of reasonable care, should have discovered and prevented the ongoing abuses.

156. Upon information and belief, the employees who supervised the Abusers failed to exercise reasonable care, and this failure contributed to the duration and severity of the abuse.
157. The State of North Carolina is liable for this negligence by its employees.
158. The State of North Carolina continues to be negligent as, upon information and belief, it has failed to implement mechanisms to prevent further abuses.
159. As to which injuries were inflicted on the prisoners before the State in exercise of reasonable care should have known about the abuse, and which were inflicted after is a matter that requires discovery, as the extent and timing of the State's knowledge is information in possession of the State; however, upon information and belief, the State's negligence in failing to correct abusive behavior and prevent further abuses was a significant cause of abuse and injury.

**EIGHTH CLAIM FOR RELIEF - NEGLIGENCE BY PRIVATE CONTRACTORS –  
UNKNOWN DEFENDANT MEDICAL CONTRACTORS**

163. The paragraphs above and below are herein incorporated by reference.
164. Upon information and belief, medical services were provided to the North Carolina prison system by private entities "Medical Contractors" through State contracts.
165. Upon information and belief, further discovery from the State will provide the names of these contractors and the dates on which they provided services.
166. As soon as this information is available, these Medical Contractors will be added as named defendants.
167. Upon information and belief, any medical or psychiatric doctor treating a victim of severe abuse would, in the exercise of reasonable care, recognize such profound abuse.

**NINTH CLAIM FOR RELIEF – PUNITIVE DAMAGES UNDER 42 U.S.C. § 1983 –  
DEFENDANT JACKSON, IN HIS INDIVIDUAL CAPACITY, AND DEFENDANT  
DAVID JONES, IN HIS INDIVIDUAL CAPACITY**

175. The paragraphs above and below are herein incorporated by reference.
176. Defendant Jackson and Defendant David Jones's conduct was motivated by evil motive or intent and/or involved reckless or callous indifference to the federally protected rights of other.
177. As such, Defendant Jackson and Defendant David Jones's are liable to Plaintiffs for punitive damages in an amount to be proved at trial.

**EQUITABLE TOLLING**

178. The paragraphs above and below are herein incorporated by reference.
179. This continuation of the State's employment of the Abusers created a belief among the prisoners that they would endanger themselves or their fellow prisoners who remained in prison if they sought legal redress.
180. In fact, when attempts to report this conduct were made, the Abusers took punitive action.
181. Reports to the State by at least one prisoner's wife and/or girlfriend were disregarded.
182. Additionally, the defunding of NCPLS occurred during substantially the same time period in which the abuses complained of were perpetrated by the Abusers.
183. In equity, any statute of limitations that might apply to some of these claims should be tolled to prevent the further deprivation of redress, the patent unfair outcome of preventing justice for these plaintiffs and the perverse incentive to prolong incarceration

that would occur if the State were allowed to simply keep people incarcerated and deny them access to legal redress until a statute of limitations had run.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs respectfully prays unto the Court as follows:

##### **On the First Claim for Relief:**

1. That Plaintiffs recover actual damages with respect to First Claim for Relief, trebled according to statute, 18 U.S.C. § 1964(c);
2. For Plaintiffs' reasonable attorneys' fees and costs according to statute, 18 U.S.C. § 1964(c).

##### **On the Second through Eighth Claims for Relief:**

3. Plaintiffs recover from Defendants the actual damages incurred as a result of Defendants' wrongful conduct, in an amount to be determined by a jury;
4. All costs of this action including but not limited to pre-judgment interest and post-judgment interest be taxed against Defendants;
5. Plaintiffs recover reasonable attorney fees and costs as allowed by law, including, but not limited to, 42 U.S.C. § 1988(b) and N.C. Gen. Stat. § 6-21.1;
6. That the Court issue an injunction ordering the State to fund NCPLS or similar legal services to a level that prisoners will have meaningful access to the courts, bringing the State into compliance with the Constitution; and
7. Plaintiffs have and recover from Defendants any further legal and equitable relief that this honorable Court may deem just and proper;

##### **On the Ninth Claim for Relief:**

8. Plaintiffs recover from the Defendants punitive damages in an amount to be determined by a jury.

### REQUEST FOR JURY TRIAL

Plaintiffs request a trial by jury upon all issues of fact for any such claims that they are so entitled.

Respectfully submitted this 2<sup>nd</sup> day of September, 2015.

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Appendix A

PLAINTIFF NAME	APPROX. DATES ON ROAD CREW
Marcell Alsbrook	July/August 2011 - end date unknown
Harker Paul Barton	records in State controls, need discovery
Joshua Boykin	March 2012 – June 2012
Dexter Brown	records in State controls, need discovery
Jeremy Cline	records in State controls, need discovery
Bryan Crump	records in State controls, need discovery
Jamey Lee Dowless	Early 2012-June 2012
Stuart Gaidosh	records in State controls, need discovery
Leroy Hunt	records in State controls, need discovery
Donnie Ivey	start date unknown – June 2012
Scott Ivey	September 2011 – June 2012
Phillip Jarman	January 2012 – June 2012
TJ Locklear	September 2011 - end date shown in records in State controls, need discovery
Xavier Moore	records in State controls, need discovery
Donald Morrissey	records in State controls, need discovery
Gary Parker	April 2012 – June 2012
Thomas Patten	April 2012 – June 2012
Leslie Teachey	records in State controls, need discovery
Ryan Turner	records in State controls, need discovery
Buddha Victoria	records in State controls, need discovery
Cedric Williams	June 2011 – November 2011, January 2012 – June 2012
Stevie Williams	August 2011 – December 2011