

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

CLERK'S OFFICE U.S. DIST. COURT
AT ROANOKE, VA
FILED

DEC 19 2014

ERIC J. DE PAOLA et al.

JULIA C. DUNLEY, CLERK
BY: *[Signature]*
DEPUTY CLERK

V.

Civil Action No. 7:14-cv-00692

VIRGINIA DEPARTMENT OF CORRECTIONS et al.

MOTION FOR CONDITIONAL FILING OF § 1983 CIVIL
RIGHTS ACTION

Comes now the Plaintiffs E. De Paola, D. Rivera and L. Velazquez and respectfully moves this Ct. to allow above named Plaintiffs to conditionally file their § 1983 civil rights action, based upon above named Plaintiffs intent to file IN FORMA PAUPERIS motions.

1. The above named Plaintiffs fully intend to comply w/ the requirements set forth in 28 U.S.C. 1915(a) in re. to requesting IFP status.
2. The Plaintiffs (all above named) request this Ct. Conditionally file their Complaint and forward them this Courts Customary IFP Motion documents so that above stated Plaintiffs may fill them out and return them for processing, etc.

WHEREFORE, for the above stated reasons Plaintiff requests this Ct. Grant their Mo. for Conditional Filing of their § 1983 Complaint.

Respectfully Submitted,

Date: 12-16-14

by: ERIC De PAOLA / Eric De Paola

DENIS RIVERA / ~~Denis Rivera~~

LUIS VELAZQUEZ / Luis Velazquez

RED ONION STATE PRISON

P.O. BOX 1900

POUND, VA 24279

CERTIFICATE OF SERVICE

I ERIC De PAOLA, hereby certify that I mailed
Via U.S.P.S. the foregoing mo. for Conditional Filing of §1983
Compl. along w/ a Completed and Signed §1983 Complaint (by
all Plaintiffs). TO the U.S.D.C. office of the clerk, 210
Franklin Rd. S.W. Suite 530, Roanoke, VA 24011. ON the
date of. 12-16-14.

Signed. Eric De Paola

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JULIA C. BUDLEY, CLERK
BY: *[Signature]*

ERIC J. DE PAOLA

DENIS RIVERA

LUIS VELAZQUEZ

CIVIL ACTION NO. 7:14-CV-00692

(PLAINTIFFS)

(CIVIL RIGHTS ACTION 42 U.S.C. §1983)

VIRGINIA DEPARTMENT OF CORRECTIONS, Sued in its Official Capacity

HAROLD CLARKE, Sued in his individual and Official Capacities

DAVID ROBINSON, Sued in his individual and Official Capacities

G.K. WASHINGTON, Sued in his individual and Official Capacities

BRANDALL MATHEA, Sued in his individual and Official Capacities

GREGORY HOLLOWAY, Sued in his individual and Official Capacities

EXTERNAL REVIEW TEAM, Sued in their individual and Official
Capacities

DUAL TREATMENT TEAM, Sued in their individual and Official
Capacities

UNIT MANAGEMENT TEAM, Sued in their individual and Official
Capacities

(DEFENDANTS)

A. JURISDICTION

1. Jurisdiction is proper in this Court pursuant to 42 U.S.C. §1983, 28 U.S.C. §§1331 and 1343 (a)(3), Plaintiffs Claims for injunctive relief are authorized by 28 U.S.C. § 2283-2284 and Rule 65 of the Fed. R. Civ. P. All named Defendants have acted and continue to act under color of state law at all times relevant to this Complaint.

B. PARTIES

2. NAME OF FIRST PLAINTIFF. ERIC J. DE PAOLA #1145137
Is a Virginia state Prisoner. His present address is Red Onion State Prison, P.O. Box 1900, Pound, VA 24279.
3. NAME OF SECOND PLAINTIFF. DENIS RIVERA #1185086
Is a Virginia state Prisoner. His present address is Red Onion State Prison, P.O. Box 1900, Pound, VA 24279.
4. NAME OF THIRD PLAINTIFF. LUIS VELAZQUEZ #1059719
Is a Virginia state Prisoner. His present address is Red Onion State Prison, P.O. Box 1900, Pound, VA.. 24279
(PLAINTIFFS).

5. NAME OF FIRST DEFENDANT. VIRGINIA DEPARTMENT OF CORRECTIONS. Is a state agency of VIRGINIA. OF which all named Plaintiffs herein are currently imprisoned and were imprisoned during relevant times when stated violations took place pursuant to VDOC Policy and procedure.
6. NAME OF SECOND DEFENDANT. HAROLD CLARKE. IS the current Director of the VDOC. Is responsible for the

general administration of policies/procedures, etc. pursuant to Co.V. § 53-1-10. Has a general duty to oversee enforcement of laws/regulations governing penal institutions as well as to oversee supervision of same. Payne v. Rollings, 402 F.Supp. 1225, 1228 (E.D.Va. 1975).

7. NAME OF THIRD DEFENDANT. DAVID ROBINSON. IS the current Chief of operations of the VDOC. IS responsible for the oversight of all Regional Directors in the VDOC. IS responsible for the approval of all members of the External Review Team, (E.R.T.), pursuant to O.p. 830.A.

8. NAME OF FOURTH DEFENDANT G.K. WASHINGTON. IS the current Western Regional Operations Chief/Administrator of the VDOC. IS partly responsible for the implementation/promulgation of O.p. 830.A and placed his signature on said policy on March 19, 2013. (See, Pl. EX. A attached hereto).

9. NAME OF FIFTH DEFENDANT. RANDALL MATHENA. IS the current WARDEN of Red Onion State Prison (ROSP). IS responsible for the general oversight of institutional procedures at ROSP. Signed O.p. 830.A on Feb. 26, 2013. (See supra.).

10. NAME OF SIXTH DEFENDANT. GREGORY HOLLOWAY. IS the current warden of Wallers Ridge State Prison (WRSP). IS responsible for the general oversight of institutional procedures at WRSP. Signed O.p. 830.A on Feb. 26, 2013. (See supra.).

11. NAME OF SEVENTH DEFENDANT. EXTERNAL REVIEW TEAM. IS a review team within VDOC whom reviews prisoners for placement in various segregational statuses, pseudo

general populations, general populations, security levels etc. (i.e. S, G, S, Intensive management (IM), Special Management (SM), etc.). members also review decisions/recommendations of the Dual Treatment Team (D.T.T). ERT members include (but are not limited to) Regional Operations Chief, Chief of Classification, Chief Deputy/Re-entry and Programs Dir./statewide EBP Manager, mental Health Program Dir., Chief Psychiatrist (as needed) Chief Nurse. All members of the ERT are approved by the Chief of Corr. operations. All Plaintiffs herein were stated (by the Def.) to have been reviewed by the E.R.T.

12. NAME OF EIGHTH DEFENDANT. DUAL TREATMENT TEAM. IS a team within VDOC which reviews, recommends and/or decides upon prisoners placement in various Segregational Statutes, pseudo general populations, General populations security levels, etc. (i.e. S, G, S, Intensive management, (IM), Special management (SM), etc.) D.T.T. members are headed by the Evidence Based Practice (EBP) Managers and represent both ROSP and WRSP. D.T.T members include (but are (not limited to) EBP managers, Unit managers (UM), Institutional Program Managers (IPM), Intelligence Officer, Qualified mental Health Professional (QMHP), Facility Med. Dir. Counselors, Corr. Officers, and/or any other staff member w/ relevant information that is assigned by respective facilities EBP Manager. All Plaintiffs herein were stated (by the Def.) to have been reviewed by the D.T.T. (and/or recommended).

13. NAME OF NINTH DEFENDANT. UNIT MANAGEMENT TEAM. Is a Multi-Disciplinary team within ROSP/WRSP comprised of staff assigned to work in housing units, that tracks, measures, and advances and/or lowers offenders to appropriate privilege/pathway levels. U.M.T. members consist of Unit manager, security Supervisor, Counselor, officer, mental Health and Investigator. Additional members can be included as needed. All named Plaintiffs have been reviewed by the U.M.T.
(DEFENDANTS).

C. NATURE OF CAUSE

14. The Plaintiffs, pro se, all Prisoners at ROSP bring this § 1983 Civil Rights action (seeking Cert. as a class action) requesting money damages, Declarative and injunctive relief.
15. Plaintiffs allege VDOC O.P. 830.A is a violation of their Substantive and Procedural (facially and as applied) Fourteenth Amend. (Due process clause) of the U.S. Constitution. (See Pl. EX. A attached hereto)
16. Plaintiffs also allege VDOC O.P. 830.A is a violation of their rights against discrimination/equal protection under the laws of the Fourteenth Amend. of the U.S. Constitution both on its face and as applied. (See Pl. EX. A. attached hereto.)
17. Plaintiffs further allege that VDOC O.P. 830.A, facially and as applied, violates their Eighth Amendment of the U.S. Constitution (in the past, present and/or future).
Due to conditions that already exist and/or for the length of time conditions will

18. Although O.p. 830.A encompasses both Im and Sm Prisoners held at ROSP and WRSP, all Named Plaintiffs are currently Co-classified as Im states and are currently held at ROSP, (as are most if not all Im states prisoners).
19. Although there are currently three (3) named Plaintiffs in this action, there are approx. sixty (60) plus prisoners Co-classified as Im states and an even larger number of Sm states prisoners the exact No. of Im/sm prisoners is unknown and is fluid and increasing as this action proceeds.
20. Although all named Plaintiffs are currently assigned to administrative Segregation (Ad. seg) and Im/sm status is a Co-Classification of Ad. seg. this action is not about Challenging the Classifications of Ad. Seg., per se. This is an action Challenging the Co-Classifications of Prisoners to Im states, an immutable, punitive, invidious and immensely higher, more restrictive status than mere Ad. seg. status Pursuant to O.p. 830.A. (i.e. the practice of o.p. 830.A.).
21. All Plaintiffs assert herein that the provisions/procedures within O.p. 830.A have lead to and will continue to lead to the invidious, arbitrary, punitive, discriminatory and UNCONSTITUTIONAL Co-Classification of Prisoners to Im states. (this is due to the fact that there is no due process afforded to prisoners when initial Classification is made nor is any due process afforded in relation to any aspect of the progression/regression within the phases/pathways of said statuses.) without intervention from this Court.

II. CAUSE OF ACTION

22. COUNT I: The Defendants via O.p. 830.A have violated Plaintiff's (Substantive, Procedural Due Process/equal protection) Fourteenth Amend. U.S. Constitutional; Eighth Amend. U.S. Constitutional rights. Rights clearly est. and further described in Weems v. United States, 217 U.S. 349, 367 (1910); Mathews v. Eldridge, 424 U.S. 319, 335 (1976); Wolff v. McDonnell, 418 U.S. 539, 557-559 (1974); Turner v. Sailey 482 U.S. 78, 89-90 (1987); Sandlin v. Conner, 515 U.S. 472, 483 (1995) Helling v. McKinney, 509 U.S. 25, 33-34 (1993); Austin v. Wilkinson, 545 U.S. 209, 224-226 (2005), (and cases cited); Landman v. Royster, 333 F.supp. 621, 650-655 (4th Cir. 1971) as well as Brooks v. Dunn, 376 Fed. Supp. 976, 978 (W.D. Va. 1974). To name a few.
23. On Feb. 18, 2013 a new policy was implemented by the Defendants titled, O.p. 830.A, Segregation Reduction Step Down Program. (Although it is stated by Def. that O.p. 830.A effective date is Feb. 18, 2013 the Defendants did not officially sign said policy until the dates of Feb. 26 2013 and March 19, 2013. (See Pl. EX. A. attached hereto).
24. In theory (as alleged by the Defendants) O.p. 830.A was implemented to facilitate Ad. Seg. Prisoners to a quicker/more productive "pathway" into general population and lower security levels/statuses by participating in the "step down program" (e.g. the Prisoner participates in group i.e. The Challenge series, and completes various standards of compliance therefore obtains greater privilege statuses and lesser restrictions

Until the Prisoner is finally released back into general population and lower security levels, etc., using two separate pathways, Intensive/special management (SM/SM)

25. However in Practice, Prisoners Co-classified as IM status are subjected to an invidious, immutable stigma of being the most violent and incorrigible. Even amongst the so-called worst of the worst. This is the case regardless how long an IM Prisoner has been in treatment free and/or completes w/programs, is polite, etc. just by being labeled an IM status Prisoner, pursuant to O.P. 830.A.

26. Prisoners Co-classified as SM, although they have to complete the same status levels (i.e. there are IM/SM 0, 2, 2) as well as the same Challenge series group as IM status Prisoners. SM Prisoners groups are separated from IM groups. SM Prisoners are also housed in different pods (for the most part). SM Prisoners are able to have jobs while in Ad.Seg. status (IM Prisoners are not). SM Prisoners face cards that are placed on all Prisoners Cell doors change colors as they progress thru the pathways (i.e. Red is SM 0 Green is SM 1 Blue is SM 2). IM Status Prisoners face cards stay Red no matter what pathway they have earned (i.e. IM 0, 1, 2). Further SM status Prisoners are able to complete said group and elevate thru the pathways earning privileges quicker (i.e. 90 days per pathway) ultimately getting released from Ad.Seg. This process takes SM Prisoners approx. 18-24 months (un-provoked). SM Classifications are shed afterwards.

27. Although IM Prisoners must complete the same group as SM Prisoners, IM Prisoners are unable to obtain jobs, progress thru the pathways/privilege levels for at least six months per pathway/privilege status and their face cards stay Red (which signals no privilege's for SM Prisoners i.e. SM 0.) No matter what their privilege status level is while in Ad.Seg., SLS.

28. Prisoners Co-classified IM status are automatically and permanently assigned to Supermax Segregational Confinement

(Some IM Prisoners were in General Population assigned IM status, removed from Gen. Pop. and placed in Ad. Seg. based on their IM Classifications.) for the duration of their sentence (eg. if a IM Prisoner has a life sentence and on IM status, he is permanently assigned to Supermax Segregational Confinement for the remainder of his life.) This is pursuant to O.P. 830.A.

29. Prisoners co-classified as IM status (to Plaintiff's belief) have been denied parole based upon their assignment to ROSP IM seg. status.

30. There are three (3) stages in the IM/SM pathways (IM/SM O, 1 and 2). Pursuant to O.P. 830.A the manner in which an IM/SM Prisoner progresses (if he is allowed) through the pathway/privilege levels earning privileges (i.e. T.V. Radio, etc.) is based on the sole discretion of the Unit Management Team (U.M.T.). The U.M.T. also has the authority to revoke/regress a Prisoner's status. These decisions in practice are not evenly applied some IM/SM Prisoners are allowed to progress quicker than others. Some are not allowed to progress at all regardless of compliance w/ programs, etc. These decisions are done w/ no due process and are non-appealable and non-grievable. Once the decision is made that's it.

31. Any Supervisor may revoke/regress a Prisoner's pathway/privilege level status for any reason w/ no due process. This decision is non-appealable and non-grievable. If a guard does not like a prisoner he can just talk to a Supervisor and that's all it takes to lower/revoke a prisoner's status.

32. SM Prisoners must complete all three stages of the SM pathway to be reviewed for release from Ad. Seg. and lowered in security status.

33. IM Prisoners must complete all three stages of the IM pathway to be released from Ad. seg. status and moved into their so-called General Population pod that the Defendants have labeled the Intervenor Management Closed Security Level 6 pod (IMC SL6/IM Closed pod).

34. The Defendants have created a pseudo General Population Unit/pod labeled the Im Closed pod security Level 6 (Imc SL6) at ROSP to which Prisoners are assigned to after they are allowed to progress thru all 3 pathway/privilege statuses (In theory) However in practice certain "targeted" Im status prisoners are set up, provoked and not allowed to progress thru the pathways to even get to this pod.
35. Im status prisoners are not allowed to progress any further than the Imc SL6 pod for the duration of their sentence, pursuant to C.P. 830.A. (Most Im Prisoners are serving extensive sentences).
36. Although the Defendants have labeled this Unit/pod a Population Level 6 (Security) and not a Ad. Seg. Unit, this Unit is operated under Supermax Segregational high standard operations, even more so than what the Defendants actually label Ad-seg. Level 5. Reviews to get to this pod are done by the D.T.T./E.R.T. and Warden.
37. In the Imc SL6 unit (currently) Prisoners are never allowed out of their cells without metal restraints. Prisoners are escorted to all out of cell activities by two or more specially certified/trained and approved/authorized guards (ie. Only guards who are specifically approved are allowed to work in the Imc SL6 pod) who wear shank proof vests at all times. Contact is made with Imc pod Prisoners, A sign is posted outside the Imc pod door stating all who enter must be on the approved list and must wear shank proof vests at all times.

38. Any time IMC Prisoners are out of their cells he/they are under constant aim of a 40 mm assault weapon that shoots live rounds (tear gas, Mace Projectiles and rubber/foam Projectiles, according to what guards say). A K-9 dog and K-9 officer are always right outside of the unit. A guard must be available to operate the 40 mm and a K-9 dog and guard must be available or NO IMC pod Prisoners can exit their cell until they are available.
39. Showers are segregated and Recreation is not only segregated (i.e. 1 prisoner per 5x9 dog style cage) but the IMC pod is placed on the back rec. yard cages which is closed off and far more restrictive than the front rec. yard that Ad. Seg. (SLs) prisoners are allowed to use. A great effort is made so that IMC pod prisoners cannot socialize w/ prisoners in any other pod. These back Rec. cages also receive less sun/outside environment.
40. A great effort is made so that IMC pod prisoners are not assigned cells next to one another and are spaced out. Also IMC pod prisoners are rotated and moved/switched from cell to cell every 90 days during the annual prison wide shake down. The cells are almost never cleaned out before a new prisoner is moved into it and said prisoner is then required to clean it himself.
41. IMC pod Prisoners are locked in their cell 23-24 hrs a day except for a select few whom are required (on a rotating basis) to be leg shackled to a steel

desk chair (labeled a Secure Chair) at the front of the pod (under arm of 40mm and threat of K-9) to roll spoons, salt and pepper into napkins for the prison's kitchen for several hrs. per day. On average a prisoner will work twice a week approx. 4-6 hrs if he is assigned this job. If one refuses to work they are written a charge and moved back/reassigned to Ad. Seg. and all privileges are stripped. (i.e. T.V. Radio, commissary.)

42. IMC pod prisoners are under constant threat of retaliation if they attempt to or exercise their right to utilize grievance system, (complain, etc.)

43. Some prisoners classified IM/SM states were done so before the Defendants ever created the Policy/provisions of O.P. 830.A (for as early as a yr. or more (approx) before O.P. 830.A was created).

44. To Plaintiff's knowledge no prisoner initially classified IM/SM states was ever able to appear at any hearing, present evidence, witnesses and/or any statements what so ever to defend himself during the Defendants alleged meetings to classify him as a IM/SM states prisoner.

45. To Plaintiff's knowledge no prisoner upon initial classification to IM/SM states received any written or verbal notice advising them of any rights in re. to his placement in IM/SM states or the recommendations thereof

46. To Plaintiff's knowledge no prisoner (upon initial classification) ever received written or verbal explanation as to why they were classified IM/SM states.

47. Im status Prisoners will never be able to, have cell partners contact visits w/ family, friends, etc., Group religious services, walk to Chow hall, Law library, D.C.E. Library, Go to gym or population rec. yard w/ other prisoners, Walk more than the cubic feet of their cell, shower or rec. cage with out metal restraints and two guard escorts under aim of 40mm and threat of K-9, Earn lower security level obtaining more freedoms w/ such. Most Im prisoners (who are eligible) fear they will never be granted parole due to their Im status. This is pursuant to Current O.p. 830.A Policy.

48. Prisoners Classified Im status are released from Ad. Seg. status and their SLC pd provides for all above mentioned activities/liberties, etc.

49. O.p. 830.A states Prisoners are classified as sm/im status based upon behavior issues and/or high profile street crimes. A Prisoner can exhibit immaculate behavior for yrs. on end; and/or no evidence exists that a Prisoner poses a threat or anyone poses a threat to him (due to a high profile crime), Nonetheless pursuant to Current O.p. 830.A Policy said prisoners will remain Classified Im status and remain in Supermax Segregational Confinement (regardless of what euphemized label the Defendants create to describe the conditions, Custody and/or their actions.)

50. A Plaintiff E. De Paula, #1145137 was in Gen. population at Rosp in 2009 when he got into an altercation w/ a guard. Pl. De Paula was placed in Ad. Seg. due to this incident.

56. During the time Pl. DePaola has been in Prison he has only had the above mentioned major incident involving Violence, no others. Pl. DePaola entered Prison at 17 yrs. old and was housed at Walkers Ridge in Population (General) for three yrs. until he was sent to ROSP in 2007. Pl. DePaola was in General Population at ROSP from 2008 until 2009 when the above stated altercation happened. Pl. DePaola is 28 yrs. old now.
57. During Pl. DePaola's time in Ad. seg. at ROSP he has never received a Violent or Major Infraction (to Pl. DePaola's recollection).
58. Pl. DePaola was initially assigned to SM status in Aug. of 2012 before O.P. 830.A ever existed/was made known.
59. On account of Pl. DePaola's Cooperative/compliant and infraction free behavior Pl. DePaola was approved for progression to SM 1 status in Oct. of 2012, again before O.P. 830.A ever existed/was made known.
60. On the date of Nov. 7 2012 Pl. DePaola was told by his then Building Lt. that his SM status had been changed up to IM status, again before O.P. 830.A existed/was made known.
61. Pl. DePaola was assigned placement in the IMC SL6 pod in Aug. 2013 and subjected to the conditions described in ¶ 36-42 herein until Sept. 2014. Pl. DePaola is now currently back in Ad. seg. IM status.
62. Pl. DePaola will never be able to participate in any of the activities/liberties described in ¶ 47 herein, pursuant to current O.P. 830.A.
63. Pl. DePaola was never provided any due process as described in ¶ 44-46 herein in re. to his initial Classifications to SM and/or IM status. Although Pl. DePaola has been assigned IM status for over 2 yrs. and counting he still has not been given an official specific reason for his IM Classification.

64. B. Pl. RIVERA #1125686 has been at ROSP approx. 11 yrs. has been in Gen. Population and has functioned well while in such (i.e. he has never received any charges for any fights/physical altercations) (or for escape/attempted escape.)
65. During his (Pl. Rivera) placement in Ad. seg. (for what Pl. Rivera described/asserts is a false minor infraction) Pl. Rivera was also classified as IM status before O.p. 830.A even existed. (Aug. 2012 approx.)
66. It was not until Pl. Rivera filed a grievance in re. to his IM status that Det. Mathera responded stating that he (Pl. Rivera) meets the IM status criteria due to the high profile and nature of your crime also you (Pl. Rivera) warranted IM status due to posing a high risk of escape, (over approx. a month after his IM classification).
67. Pl. Rivera has been in Gen. Population and during such placement his alleged/asserted crime was never at issue (i.e. security threat/safety risk, etc.).
68. Pl. Rivera will never be able to participate in activities/liberties described in ¶ 47 herein, pursuant to current O.p. 830.A.
69. Pl. Rivera was assigned placement in the IMC SLG pod. in Aug. 2013 and subjected to conditions described in ¶ 36-42 herein until March 2014 when he was removed from this pod and placed all the way back to SLS IMC status. (He is currently IM 1).
70. Pl. Rivera was never provided any due process as described in ¶ 44-46 herein in re. to his initial placement in IM status.

71. C Pl. VELAZQUEZ #1059719 was in Gen. Population on ROSP, was placed on Ad. Seg SM Status for a dirty urine infraction in Feb 2013.

72. While Pl. Velazquez's property was being searched (due to his initial placement in seg. for the dirty urine) and inventoried two (2) screw bits were found in a Coa Coa butter stick that was in Pl. Velazquez's property. Due to the 2 screw bits being found in Pl. Velazquez's property Pl. Velazquez was charged w/ institutional infraction 101 B Making Plans or threats to escape on Feb. 28-2013.

73. Pl. Velazquez was reclassified up to a IM Status Prisoner on June 2013.

74. Pl. Velazquez will never be able to participate in any of the activities/liberties described in ¶ 47 herein.

75. Pl. Velazquez was never provided any due process as described in ¶ 44-46 herein in re. to his initial placement into SM or IM Status.

76. The above three (3) Plaintiffs are just a few of the many examples of how the Defendants have arbitrarily and UNCONSTITUTIONALLY Classified Prisoners at ROSP and WRSP pursuant to O.P. 830.A.

77. All named Plaintiffs herein have exhausted all necessary and/or available administrative remedies in re. to all relevant claims raised herein, in compliance with the Prison Litigation Reform Act.

E. CLAIMS FOR RELIEF

78. The actions/inactions and/or policies of the Defendants Virginia Department of Corrections (VDOC), Clarke, Robinson, Washington, Mathena, Holloway, External Review Team (E.R.T.), Dual Treatment Team (D.T.T.) and the Unit Management Team (U.M.T.) has violated Plaintiff's substantive and Procedural Due Process rights of the 14th Amend. of the U.S. Constitution, when they implemented/exercised and/or approved for the implementation/exercise of O.p. 830.A and/or Classified Plaintiff's Inmate status, in the Past, Present and/or future.
79. The actions/inactions and/or policies of the above named Defendants Violated Plaintiff's equal protection 14th Amend. U.S. Constitutional rights when they implemented/exercised and/or approved for the implementation/exercise of O.p. 830.A against the Plaintiff.
80. The actions/inactions and/or policies of the above named Defendants have (and/or will in the future) violated Plaintiff's 8th Amend. U.S. Constitutional rights in re. to the Conditions Defendants have (and/or will in the future) subjected the Plaintiff to Pursuant to O.p. 830.A. and/or for the length of time Plaintiff will be Subjected to said Conditions Pursuant to O.p. 830.A.
81. In the event that any above named Defendant did not directly violate any above stated rights, Plaintiff's assert said Defendants Contributed to said Violations Via Deliberate Indifference when they approved of and/or became aware of said Violations, when they approved of and/or upheld said Violations Via policy, complaints, grievances, etc.

F. INJURIES

82. Due to the extreme circumstances, Plaintiffs have been subjected to (and/or will be subjected to in the future). Plaintiffs have suffered the following injuries:
- a. mental illness/anguish/deterioration/night terrors.
 - b. Denial of good time credits (for prolonged period of time regardless of good behavior.)
 - c. Unavailability of activities which are conducive to pro-social interactions w/ other human beings in furtherance of Plaintiffs rehabilitation, well being, etc. which prepares prisoners for real world productivity.
 - d. anxiety, headaches, loss of sleep, and (to the Plaintiffs belief) akathisia.
 - e. Physical deterioration/loss of weight, etc.

G. REQUEST FOR RELIEF

83. WHEREFORE, all Plaintiffs herein request this court enter judgment Granting Plaintiffs the following:
- 1. Declaratory Relief: Stating that all named Defendants violated rights of all named Plaintiffs/Prisoners. That all named Defendants will work with each other along w/ Prisoners/Plaintiffs to insure said violations do not happen in the future.
 - 2. Permanent Injunction: Ordering Defendants to immediately abolish O.P. 830.A as currently applied/written. To reclassify all Prisoners/Plaintiffs w/ proper due process protections. For a new system of classification in re. to the review of seg. release, admission and/or retainment in seg. and/or any other inventions which serve as extensions of seg. under the guise of another table in

the future.

3. Nominal Damages: IN the amount of \$500.00 against ea. named Defendant to be awarded to each named Plaintiff/Prisoner for the violations of Plaintiff/Prisoners U.S. Constitutional rights.

4. Compensatory Damages: Against ea. named Defendant (Jointly and severally) IN the amount of \$150.00 per day Plaintiff/Prisoners were unconstitutionally Classified IN status for the mental, physical injuries (Past, present and future) sustained as a result of Defendants violations of Plaintiff/Prisoners U.S. Constitutional rights to be awarded to ea. Plaintiff/Prisoner (Jointly and severally).

5. Punitive Damages: Against ea. named Defendant (Jointly and severally) IN the amount of \$100.00 per day Plaintiff/Prisoners were unconstitutionally Classified. To be awarded to ea. Plaintiff (Jointly and severally) for the blatant, willful, arbitrary actions taken against Plaintiff/Prisoners by the Defendants. Further to curb any future violations Defendants may wish to act upon and to set an example.

6. Plaintiffs also request this Court Order Defendants of this action to pay for costs/fees of Court and legal expenses as well as provide what other relief this court may find necessary and/or fair.

Respectfully Submitted

Date 12-15-14

by: ERIC J. DePaola / Eric DePaola

DENIS RIVERA /

LUIS VELAZQUEZ /

H. DECLARATION UNDER PENALTY OF PERJURY

By signing below I hereby Declare under penalty of Perjury Pursuant to 28 U.S.C. § 1746. That I have read the foregoing actions. That I am a Plaintiff in this foregoing action. That information contained in the foregoing action is true and correct, except as to that which is stated to be based upon belief and as to that I believe said information to be true and correct as well. Executed at Wise County, VA. on the date of: 12-15-14.

Signed / Dated.

ERIC J. DePaola #1145132 / Eric DePaola 12-15-14

DENIS RIVERA #1125686 /

LUIS VELAZQUEZ #1059719 /