

**STATE OF NEW MEXICO
COUNTY OF SANTA FE
FIRST JUDICIAL DISTRICT COURT**

NICKOLAS MILLIGAN,

Plaintiff,

v.

**CAMERON WATSON,
JESSIE DIAZ,
NEW MEXICO CORRECTIONS DEPARTMENT, and
STATE OF NEW MEXICO,**

Defendants.

**COMPLAINT FOR CIVIL RIGHTS VIOLATIONS AND FOR VIOLATIONS OF THE
NEW MEXICO TORT CLAIMS ACT**

Plaintiff, by and through his attorneys of record (Maria Martinez Sanchez and Lalita Moskowitz, ACLU-NM, and Jason T. Wallace, Levi A. Monagle, and Shayne C. Huffman, Hall Monagle Huffman & Wallace, LLC) for his Complaint states as follows:

Jurisdiction and Venue

1. At all times material to this Complaint, Plaintiff Nickolas Milligan was an inmate incarcerated at the Central New Mexico Correctional Facility (“CNMCF”) in Valencia County, New Mexico.
2. Subsequent to the incident giving rise to this Complaint, Plaintiff was released from state carceral custody.
3. At all times material to this Complaint, Defendant Cameron Watson (“Officer Watson”) was a corrections officer at CNMCF.
4. At all times material to this Complaint, Officer Watson was a public employee of the State of New Mexico acting within the scope of his duties.

5. At all times material to this Complaint, Defendant Jessie Diaz (“Captain Diaz”) was a corrections officer and a captain of corrections officers at CNMCF.
6. At all times material to this Complaint, Captain Diaz was a public employee of the State of New Mexico acting within the scope of his duties.
7. Defendant New Mexico Corrections Department (“NMCD”) is governmental entity of the State of New Mexico headquartered in the county of Santa Fe.
8. Defendant State of New Mexico is ultimately responsible for the operations of NMCD and the public employees of NMCD.
9. Defendant NMCD regulates and operates state correctional facilities (including CNMCF) and adopts rules concerning all prisoners in state facilities (including CNMCF).
10. This Court has jurisdiction over the parties and the subject matter of this Complaint.
11. Pursuant to NMSA 1978 § 41-4-8, venue is proper in this District.

Facts: The Orchestrated Beating of Nickolas Milligan

12. Plaintiff was incarcerated at CNMCF in 2022.
13. While incarcerated at CNMCF, Plaintiff was subject to the control of Captain Diaz.
14. While incarcerated at CNMCF, Plaintiff was subject to the control of Officer Watson.
15. In their capacity as corrections officers employed by the State of New Mexico, both Captain Diaz and Officer Watson were in positions of substantial authority over Plaintiff.
16. On or about August 10, 2022, Plaintiff was assigned to a work detail overseen by Captain Diaz, known as the “Captain’s Crew.”
17. On or about August 10, 2022, Officer Watson was assigned as an on-site overseer of the “Captain’s Crew.”

18. Officer Watson was not the regular corrections officer overseeing the “Captain’s Crew,” but was standing in for another absent corrections officer.
19. The regular members of the “Captain’s Crew” were considered to be skilled workers, but the “Captain’s Crew” was also frequently utilized by the corrections staff of CNMCF (including but not limited to Captain Diaz) as a punitive work detail for noncompliant inmates.
20. Plaintiff was assigned to this work detail along with fellow inmates Leroy Doody, Gabriel Tovar, and Jose Rivera – all regular members of the “Captain’s Crew.”
21. Inmates Doody, Tovar, and Rivera were the assigned supervisors or “bosses” of several inmate work teams making up the “Captain’s Crew.”
22. In his capacity as an on-site overseer of the “Captain’s Crew,” Officer Watson ordered Plaintiff to grind paint from cellblock floors.
23. Officer Watson ordered Plaintiff to grind paint from cellblock floors without any sort of respiratory protection or eye protection.
24. Out of concern that the paint on the cellblock floors contained lead or other dangerous chemicals, Plaintiff refused to grind paint without respiratory protection or eye protection.
25. Officer Watson threatened Plaintiff with punishment, up to and including physical violence, if he did not comply with the order to grind paint.
26. When Plaintiff continued to refuse, Officer Watson alerted Captain Diaz to the situation.
27. Captain Diaz arrived on the scene along with inmates Doody, Tovar, and Rivera.
28. Captain Diaz threatened Plaintiff with punishment, up to and including physical violence, if he did not comply with the order to grind paint.

29. When Plaintiff continued to refuse, Captain Diaz ordered inmates Doody, Tovar, and Rivera to punish Plaintiff for his non-compliance.
30. Captain Diaz threatened inmates Doody, Tovar, and Rivera that they would suffer serious consequences (including insinuated physical violence and the loss of their supervisory positions) if they did not punish Plaintiff for his non-compliance.
31. Inmates Doody, Tovar, and Rivera each independently understood that when Captain Diaz ordered them to punish Plaintiff for his non-compliance, he was ordering them to physically attack and beat Plaintiff for his refusal to grind paint.
32. Inmates Doody, Tovar, and Rivera took Captain Diaz's threats seriously, in part because CNMCF has a reputation amongst inmates as a facility where inmates are subjected to physical beatings by corrections officers or by other inmates at the behest of corrections officers.
33. As a result of the orders and threats they received from Captain Diaz, inmates Doody, Tovar, and Rivera attacked and beat Plaintiff.
34. A fourth inmate named Nathaniel Castillo also participated in the beating.
35. Officer Watson and Captain Diaz watched this beating take place and made no effort to intervene.
36. This orchestrated beating, and the failure of Officer Watson or Captain Diaz to intervene or prevent this orchestrated beating, was captured by one or more security cameras and is now a matter of public record.
37. Plaintiff suffered substantial physical and psychological harm as a result of this beating.

Facts: The Cover-Up

38. Following the beating by inmates Doody, Tovar, and Rivera, Plaintiff was sent to the CNMCF medical unit to receive treatment for his injuries.
39. While waiting in the CNMCF medical unit, Plaintiff was approached by Captain Diaz, who mocked Plaintiff for receiving the beating and asked “was it worth it?”
40. When Plaintiff began to argue with Captain Diaz that the beating was unjust and unlawful, he was refused medical treatment by CNMCF nurse Kristen Herrera and was sent back to his cell.
41. Upon information and belief, Kristen Herrera subsequently falsified documentation indicating that Plaintiff had “refused” or “waived” medical treatment.
42. Plaintiff neither “refused” nor “waived” medical treatment, and in fact actively requested medical treatment from CNMCF staff on multiple occasions.
43. Any documentation indicating that Plaintiff “refused” or “waived” medical treatment has been falsified.
44. Once it became clear that Plaintiff would receive no documented medical treatment for his injuries, both Captain Diaz and Officer Watson filed signed reports stating that no one was injured during the four-on-one inmate assault of Plaintiff.
45. These reports were false.
46. Captain Diaz also filed a report indicating that there was no video of the area where the assault occurred.
47. This report was false.

48. After orchestrating the beating of Plaintiff by inmates Doody, Tovar, and Rivera, Captain Diaz went to each of these inmates and ordered them to provide the following false narrative regarding their assault on Plaintiff:
- a. That Plaintiff had threatened to attack Officer Watson;
 - b. That Doody, Tovar, and Rivera believed that Plaintiff was going to attack Officer Watson;
 - c. That Doody, Tovar, and Rivera had attacked Plaintiff to protect Officer Watson;
 - d. That inmates Doody, Tovar, and Rivera sought to protect Officer Watson because they “respected [him] for doing his job;”
 - e. That when Captain Diaz ordered inmates Doody, Tovar, and Rivera to stop beating Plaintiff, they complied.
49. Captain Diaz told inmates Doody, Tovar, and Rivera that if they adopted this false narrative as their own and provided this false narrative to subsequent investigators, that they would be insulated from negative consequences for attacking Plaintiff.
50. Captain Diaz also told inmates Doody, Tovar, and Rivera that if they refused to adopt this false narrative or disclosed the truth of what had happened to subsequent investigators, they would suffer severe consequences.
51. In the face of this coercion, inmates Doody, Tovar, and Rivera each made formal reports to investigators that were in accord with the fabricated narrative foisted upon them by Captain Diaz.
52. These formal reports to investigators – coerced and coordinated by Captain Diaz – were false, damaging, and defamatory with respect to Plaintiff, and Plaintiff suffered reputational harm as a result of these reports.

COUNT I: Defendants' Liability under NMTCA 41-4-12

53. Plaintiff reiterates all prior allegations as though fully stated herein.

54. Pursuant to NMSA 1978, § 41-4-12, the Defendants lack immunity for assaults, batteries, deprivations of rights, and/or failures to comply with duties established pursuant to statute or law when caused by law enforcement officers while acting within the scope of their duties.

55. The beating suffered by Plaintiff constitutes assault, battery, deprivation of rights, and failure to comply with duties established pursuant to statute or law.

56. Captain Diaz caused this beating by explicitly orchestrating it through orders to inmates Doody, Tovar, and Rivera.

57. In addition or in the alternative, Captain Diaz and Officer Watson caused this beating (or its prolongation) by failing to intervene and cease the beating immediately.

58. The cover-up of the orchestrated beating was rooted in the manufacture of false and damaging statements about Plaintiff amounting to defamation.

59. Captain Diaz and Officer Watson caused this defamatory cover-up by ordering inmates Doody, Tovar, and Rivera to falsify their formal reports regarding Plaintiff's actions.

60. In addition, or in the alternative, Captain Diaz and Officer Watson caused this defamatory cover-up by falsifying their own reports.

61. As of August 10, 2022, Captain Diaz and Officer Watson were "law enforcement officers" for purposes of NMSA 1978, § 41-4-12.

62. The abuse of Plaintiff at CNMCF by Captain Diaz and Officer Watson occurred while they were acting within the scope of their duties as corrections officers and law enforcement officers.

63. At all times material to this Complaint, Captain Diaz and Officer Watson were public employees operating within the scope of their duties.

64. The Defendants are liable for the various abuses of power of Captain Diaz and Officer Watson.

65. Plaintiff has suffered personal injury and bodily injury as a direct result of the various abuses of power of Captain Diaz and Officer Watson.

COUNT II: Defendants' Liability under the New Mexico Civil Rights Act

66. Plaintiff reiterates all prior allegations as though fully stated herein.

67. The various abuses of power inflicted upon Plaintiff by Captain Diaz and Officer Watson constitute the clear deprivation of numerous rights secured to Plaintiff under the bill of rights of the constitution of New Mexico (including but not limited to those rights secured to Plaintiff by Article II, Sections 13, 18, and 24).

68. At all times material to this Complaint, Captain Diaz and Officer Watson were acting on behalf of, under color of, or within the course and scope of the authority of NMCD and the State of New Mexico.

69. Plaintiff has suffered serious harm as a direct result of the deprivation of his state constitutional rights by Captain Diaz and Officer Watson, and these deprivations of rights are the proximate cause of serious harm to Plaintiff.

WHEREFORE, Plaintiff requests judgment against the Defendants in an amount reasonable to compensate him for damages, for interest including pre-judgment interest, costs, reasonable attorneys' fees, and such other and further relief as this Court may deem appropriate.

Respectfully submitted,

HALL MONAGLE HUFFMAN & WALLACE, LLC

/s/ Jason Wallace 02/13/2023

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