

*a: RLP*

ERIC A. SEITZ  
ATTORNEY AT LAW  
A LAW CORPORATION

ORIGINAL

ERIC A. SEITZ 1412  
DELLA AU BELATTI 7945  
RONALD N.W. KIM 8306  
820 Mililani Street, Suite 714  
Honolulu, Hawaii 96813  
Telephone: (808) 533-7434  
Facsimile: (808) 545-3608

FILED IN THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

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Attorneys for Plaintiff  
Charles A. Cocklin II

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

CHARLES A. COCKLIN II, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
JESSE WRIGHT; FRANCIS X. )  
SEQUIERA; JOE W. BOOKER, JR.; )  
JOHN OR JANE DOES1-25; AND )  
DOE ENTITIES 1-25, )  
 )  
Defendants. )  
 )

CIVIL NO. CV12 00237  
(Other Civil Action)  
COMPLAINT FOR DAMAGES;  
DEMAND FOR JURY TRIAL;  
SUMMONS

RLP

COMPLAINT FOR DAMAGES

Plaintiff Charles A. Cocklin II (hereinafter "Plaintiff"), by and  
through his undersigned attorneys, alleges as follows:

1. This is an action for damages to redress Defendants' deprivation under color of statutes, ordinances, rules, regulations, customs, policies, practices, and/or usages of Plaintiff's rights, privileges, and immunities secured under the Fourteenth Amendment to the Constitution of the United States, inter alia, and the Constitution and other laws of the State of Hawai'i, and 42 U.S.C. Section 1983, et seq.

Jurisdiction and Venue

2. This Court is vested with jurisdiction over this matter pursuant to 42 U.S.C. § 1983 and 28 U.S.C. §§ 1331 and 1343, inter alia. Any and all state law claims contained herein form part of the same case or controversy as gives rise to Plaintiff's federal law claims and therefore fall within the Court's supplemental jurisdiction pursuant to 28 U.S.C. § 1367.

3. Venue resides in the United States District Court for the District of Hawaii pursuant to 28 U.S.C. § 1391, as all, or a substantial part, of the acts and/or omissions that are the basis for this lawsuit occurred in the State of Hawaii within the District of Hawaii, and all of the Defendants reside in the State of Hawaii.

Parties

4. Plaintiff is and has been a resident of the State of Hawai'i who is and was incarcerated at the Oahu Community Correctional Center, Honolulu, Hawai'i [hereinafter "OCCC"] at all times pertinent hereto.

5. Defendant Jesse Wright is and has been a resident of the State of Hawai'i who is and was an Adult Corrections Officer at OCCC at all times pertinent hereto. Defendant Wright is sued herein in his individual capacity.

6. Defendant Francis X. Sequiera is and has been a resident of the State of Hawai'i who is and was the Warden at OCCC at all times pertinent hereto. Defendant Sequiera is sued herein in his individual capacity.

7. Defendant Joe W. Booker, Jr. is and has been a resident of the State of Hawai'i who is and was the Deputy Director of the Department of Public Safety, Corrections Division at all times pertinent hereto. Defendant Booker is sued herein in his individual capacity.

8. John or Jane Does 1-25 and Doe Entities 1-25 are administrators, supervisors, corrections officers, counselors and/or other employees and/or staff of the Oahu Community Correctional Center and/or Corrections Division of the Department of Public Safety, State of Hawai'i

whose true names and capacities are as yet unknown to Plaintiff and his counsel despite inquiry and due diligence, who acted and/or failed to act herein as more particularly alleged below, and whose true names and capacities will be substituted as soon as the same become known. Doe Defendants are sued herein in their individual capacities.

Factual Allegations

9. On or about July 15, 2009, Plaintiff was arrested for allegedly having committed various offenses and detained at OCCC pending trial.

10. On or about May 12, 2010, Plaintiff was transferred into a cell at OCCC with a former Adult Corrections Officer (hereinafter "ACO") who was fearful of the current ACOs at OCCC and had a history of suicide attempts.

11. On May 12, 2010, at approximately 10:30 p.m., Plaintiff awoke in his cell and discovered that his cellmate had committed suicide by hanging himself.

12. Plaintiff found a suicide note along with his cellmate's body and discovered that his cellmate had called his family earlier that day to say "goodbye".

13. Plaintiff fell out of his bunk in a panic, slipped and hit his head, and then ran over to the cell door to pound on the door and yell for assistance.

14. Although Plaintiff could see three ACOs, including Defendant Wright, who were supposed to be monitoring his cell, none of those ACOs responded to Plaintiff pounding on the cell door and yelling for assistance.

15. Plaintiff is presently unaware of the identity of the two other ACOs, who are named herein as John Does 1 and 2, and will substitute their true names as soon as they are identified.

16. Plaintiff observed that one of the ACOs appeared to be sleeping and that another ACO was sitting in his chair with a towel draped over his head.

17. Plaintiff heard the telephone ringing where the three ACOs were located, and one of the ACOs answered that telephone call, so Plaintiff continued banging on his cell door and yelling for assistance; however, no one responded to him.

18. On or about May 13, 2010, at a time between approximately 4:00-4:30 a.m., ACOs came to Plaintiff's cell to deliver breakfast and discovered Plaintiff's cellmate's body.

19. Plaintiff is informed and believes and thereupon alleges, that Defendant Wright was subsequently suspended from duty as an ACO for a brief period due to the failure to monitor Plaintiff's cell and/or respond to his pleas for assistance.

20. Plaintiff is informed and believes and thereupon alleges, that Defendants Wright, John Does 1 and 2, and/or other ACOs subsequently falsified the cell check work logs in an attempt to cover-up the fact that Defendants Wright, John Does 1 and 2 had not monitored Plaintiff's cell.

21. Plaintiff is informed and believes and thereupon alleges, that Defendants Wright, John Does 1 and 2, and/or other ACOs were not sufficiently disciplined by Defendants Sequiera and/or Booker for the failure to adequately monitor Plaintiff's cell, respond to his pleas for assistance, and/or for falsifying the cell check work logs.

22. An ACO subsequently threatened Plaintiff verbally and Plaintiff received a threatening letter relating to the fact that Defendant Wright had been disciplined.

23. Plaintiff suffered from headaches and vomiting for three to four days after May 13, 2010, but his requests to see a physician were denied.

24. Although Plaintiff has suffered and is suffering from severe emotional distress due to his ordeal of being locked in a cell overnight with a dead body, OCCC provided minimal treatment and medication; however, the prison doctor told Plaintiff that because his psychiatric treatment requires greater expertise than that doctor possesses he has stopped treating Plaintiff for emotional distress.

25. Plaintiff's emotional distress is so severe that he has made two suicide attempts, and he suffers from a variety of ailments including, but not limited to, insomnia, neck pain, phantom smells, and visions of his cellmate's dead body.

26. As a direct and proximate result of the foregoing Plaintiff suffered the deprivation of his liberties and rights, great mental anguish, emotional distress, anxiety, embarrassment, humiliation, worry, anger, and other consequential damages in amounts to be proven at trial.

First Cause of Action  
(42 U.S.C. § 1983)

27. Plaintiff hereby incorporates all of the allegations contained in paragraphs 1 through 26, above.

28. Plaintiff is informed and believes, and thereupon alleges, that Defendants Wright, Sequiera, Booker, John or Jane Does 1-25, and/or Doe Entities 1-25 acted and/or purported to act herein under color of

statutes, regulations, customs, practices, and/or usages of the State of Hawaii.

29. Plaintiff is informed and believes, and thereupon alleges, that Defendants Wright, Sequiera, Booker, John or Jane Does 1-25, and/or Doe Entities 1-25 violated Plaintiff's rights to Due Process under the Fourteenth Amendment to the United States Constitution and 42 U.S.C. Section 1983, inter alia, by exposing Plaintiff to conditions at OCCC that amounted to severe punishment thereby causing the deprivation of Plaintiff's liberty interests in his rights to personal security, safe conditions, shelter, and adequate medical care.

30. The conditions alleged herein which Defendants imposed upon Plaintiff such as, but not limited to, failing to monitor Plaintiff's cell despite his cellmate's prior suicide attempts, being left overnight with his cellmate's dead body while his repeated pleas for assistance were ignored, and failing to provide Plaintiff with adequate psychiatric treatment amount to punishment because they were wholly unrelated to any legitimate governmental objective or goal such as maintaining security and order or operating the facility in a manageable fashion and are instead arbitrary and purposeless.



31. Defendants Wright, Sequiera, Booker, John or Jane Does 1-25, and/or Doe Entities 1-25 acted affirmatively, participated in, and/or omitted to perform acts legally required of them in deliberate indifference to a substantial risk of serious harm to Plaintiff and/or the deprivation of his liberty interests and rights, and/or or acted unnecessarily, wantonly, and/or recklessly with respect to the unjustified infliction of harm so that it was tantamount to a knowing willingness that such a harm would occur by failing to monitor Plaintiff's cell despite his cellmate's two prior suicide attempts, to respond to Plaintiff's repeated pleas for assistance thereby trapping him in his cell with his cellmate's dead body overnight, and failing to provide Plaintiff with adequate psychiatric treatment.

32. Defendants Sequiera and Booker further acted wrongfully and caused the violation of Plaintiff's constitutional rights by failing to adequately train, supervise, and/or discipline Defendants Wright and/or John Does 1 and 2.

Second Cause of Action  
(Alternative to Count I-Negligent Training/Supervision  
Against Defendants Sequiera, Booker, and/or John or Jane Does 3-7)

33. Plaintiff hereby incorporates all of the allegations contained in paragraphs 1 through 26, above.

34. Plaintiff is informed and believes, and thereupon alleges, that Defendants Sequiera, Booker, and/or John or Jane Does 3-7 negligently failed and refused to properly train, supervise, and/or discipline Defendants Wright and John Does 1 and 2 when they, in the alternative, improperly and illegally acted outside of the scope of their employment to proximately cause the aforementioned injuries to Plaintiff.

35. Defendants Sequiera, Booker, and/or John or Jane Does 3-7 knew or should have known about the necessity and opportunity to exercise control over Defendants Wright and John Does 1 and 2, and failed to do so.

36. Defendants Sequiera, Booker, and/or John or Jane Does 3-7 acted with malice.

Third Cause of Action

(Negligence Against Defendants Wright and John Does 1 and 2)

37. Plaintiff hereby incorporates all of the allegations contained in Paragraphs 1 through 26, above.

38. Defendants Defendants Wright and John Does 1 and 2 negligently failed to exercise reasonable care in their custody of Plaintiff thereby directly and proximately causing the injuries to Plaintiff alleged herein.

39. Defendants Defendants Wright and John Does 1 and 2 acted with malice.

Fourth Cause of Action  
(Negligent Infliction of Emotional Distress  
Against Defendants Wright and John Does 1 and 2)

40. Plaintiff hereby incorporates all of the allegations contained in Paragraphs 1 through 26, above.

41. Defendants Wright and John Does 1 and 2 negligently caused Plaintiff to suffer severe emotional distress.

42. Defendants Wright and John Does 1 and 2 acted with malice.

Fifth Cause of Action  
(Intentional Infliction of Emotional Distress)

43. Plaintiff hereby incorporates all of the allegations contained in Paragraphs 1 through 26, above.

44. The acts of Defendants Wright and John Does 1 and 2 complained of herein were intentional and/or reckless, outrageous, unreasonable, and without just cause or excuse, thereby causing Plaintiff severe and extreme emotional distress.

45. Plaintiff is informed and believes and thereupon alleges, that Defendants Wright and John Does 1 and 2 acted herein knowingly,

intentionally, willfully, and/or recklessly, with deliberate indifference for the rights, interests, and/or well-being of Plaintiff.

WHEREFORE, Plaintiff prays for relief as follows:

1. For special damages, including consequential damages, in amounts to be proven at trial;
2. For general damages according to the proof thereof at trial;
3. For reimbursement of Plaintiff's costs and expenses herein, including reasonable provision for his attorneys' fees;
4. For punitive damages against the Defendants in their individual capacities; and
5. For such further and additional relief as the Court deems appropriate and just.

DATED: Honolulu, Hawaii, MAY 07, 2012.



ERIC A. SEITZ  
DELLA A. BELATTI  
RONALD N.W. KIM

Attorneys for Plaintiff