

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND**

.....	:	
	:	
JERRY CINTRON,	:	
Plaintiff,	:	
	:	
v.	:	
	:	
PAUL BIBEALT, STEVE CABRAL,	:	C.A. No. 1:19-cv-00497-JJM-PAS
RUI DINIZ, MATTHEW KETTLE,	:	
PATRICIA COYNE-FAGUE, JEFFREY	:	
ACETO, and LYNNE CORRY,	:	
Defendants.	:	Jury Trial Demanded
	:	
.....	:	

SECOND AMENDED COMPLAINT

I. INTRODUCTION

1. Plaintiff Jerry Cintron has been in the most restrictive form of solitary confinement at the Rhode Island Department of Corrections since June 2019 and is not scheduled to leave restrictive housing until at least November 2020.
2. Defendants initiated disciplinary charges against Mr. Cintron in retaliation for exercising his First and Fifth Amendment rights to refuse to share information with RIDOC investigators.
3. The initiation of disciplinary charges was intended to, and did as a result, cause Mr. Cintron great emotional and physical harm, including experiencing severe depression and anxiety, engaging in self-injurious behaviors, and losing almost 70 pounds.
4. The extended placement in solitary confinement has violated Mr. Cintron’s Eighth Amendment right to be free from cruel and unusual punishment.

5. Retaliation against Mr. Cintron subsequent to filing his First Amended Complaint violates his First Amendment right to petition the courts and constitutes abuse of process.

II. JURISDICTION AND VENUE

6. This Court has original subject matter jurisdiction over the claims in this complaint that allege violations of 42 U.S.C. § 1983 pursuant to 28 U.S.C. § 1331.
7. This Court has supplemental jurisdiction over the claims within this complaint that arise under state law pursuant to 28 U.S.C. § 1367.
8. Venue is proper in this Court because the acts and omissions at issue occurred in the District of Rhode Island.

III. PARTIES

9. Plaintiff Jerry Cintron is a 38-year-old man incarcerated in the High Security Center of the Rhode Island Department of Corrections (RIDOC).
10. Defendant Paul Bibeault is a Correctional Officer Investigator, and at all relevant times has acted within the scope of his employment. As Investigator, Bibeault gathers intelligence on inmate activities, investigates threats to prison security, maintains evidence and contraband, and provides testimony at discipline and parole board hearings. Bibeault willfully and knowingly participated in unlawful and retaliatory disciplinary and classification proceedings against Mr. Cintron, initiating disciplinary proceedings against him for narcotics trafficking in retaliation for exercising his Constitutional rights, and caused substantial harm to Mr. Cintron's emotional health. He is sued in his individual and official capacity.

11. Defendant Steve Cabral is a Correctional Officer Investigator, and at all relevant times has acted within the scope of his employment. As Investigator, Cabral gathers intelligence on inmate activities, investigates threats to prison security, maintains evidence and contraband, and provides testimony at discipline and parole board hearings. Cabral willfully and knowingly participated in unlawful and retaliatory disciplinary proceedings against Mr. Cintron, initiating disciplinary proceedings against him for narcotics trafficking in retaliation for exercising his Constitutional rights, and caused substantial harm to Mr. Cintron's emotional health. He is sued in his individual and official capacity.
12. Defendant Rui Diniz is the Deputy Warden of the John J. Moran Medium Security Facility at RIDOC, and at all relevant times has acted within the scope of his employment. As Deputy Warden, Diniz is responsible for planning, organizing, and directing custodial and correctional services in the Medium Security facility; ensuring compliance with facility policies; and maintaining humane levels of inmate care. Diniz oversaw, condoned, and/or supported Investigators Bibeault and Cabral's scheme to initiate a disciplinary proceeding against Mr. Cintron in retaliation for exercising his Constitutional rights. He is sued in his individual and official capacity.
13. Defendant Matthew Kettle is Assistant Director of Institutions and Operations at RIDOC and at all relevant times has acted within the scope of his employment. As Assistant Director, Kettle oversees all adult correctional facilities, the Security Office, the Special Investigations Unit (SIU), the Correctional Emergency Response Team (CERT), Correctional Industries, Facilities and Maintenance Unit, and Food Service. Kettle authorized or condoned the unlawful retaliation inflicted upon Cintron, the denial of adequate mental health care, and his placement in a correctional setting that

- was, and continues to be, harmful to his health. Kettle also failed to exercise reasonable care in supervising, controlling, and investigating Defendants Bibeault and Cabral. He is sued in his individual and official capacity.
14. Defendant Patricia Coyne-Fague is the Director of the Rhode Island Department of Corrections, and at all relevant times has acted within the scope of her employment. As Director, Coyne-Fague has the authority to establish correctional facilities and enforce correctional standards and policies; appoint Department employees; manage, direct, and supervise RIDOC operations; establish, maintain, and administer programs for sentenced and detained prisoners; and establish and oversee the RIDOC classification system. Coyne-Fague authorized or condoned the unlawful retaliation inflicted upon Mr. Cintron, the denial of adequate mental health care, and his placement in a correctional setting that was, and continues to be, harmful to his health. Coyne-Fague also failed to exercise reasonable care in supervising, controlling, and investigating Defendants Bibeault and Cabral. She is sued in her individual and official capacity.
15. Defendant Jeffrey Aceto was the Deputy Warden of the High Security Center, and at all relevant times has acted within the scope of his employment. As Deputy Warden, Aceto planned, organized, and directed the custodial and correctional services and programs in the High Security Facility; was in charge of establishing facilities' policies and maintaining humane levels of inmate care; and had final discretion on disciplinary sanctions. Aceto was aware of Mr. Cintron's suffering yet refused to take any action, including suspending some or all of his disciplinary segregation time. He is sued in his individual and official capacity.

16. Defendant Lynne Corry is the current Warden of the High Security Center, and at all relevant times has acted within the scope of his employment. As Warden, Corry plans, organizes, and directs the custodial and correctional services and programs in the High Security Facility; is in charge of establishing facilities' policies and maintaining humane levels of inmate care; and has final discretion on disciplinary sanctions. Corry was aware of Cintron's suffering yet refused to take any action, including suspending some or all of his disciplinary segregation time. She is sued in her individual and official capacity.

IV. STATEMENT OF FACTS

A. July Bookings for Possessing and Ingesting Narcotics

17. Plaintiff Jerry Cintron has been in the custody of the Rhode Island Department of Corrections (RIDOC) since February 2016 and has a good time release date of September 2025.

18. On July 12, 2019, while incarcerated in the Medium Security facility, Mr. Cintron was offered, and ingested, half a pill of what he was told was Percocet. The substance turned out to be laced with fentanyl.

19. He was found unconscious in his cell a few hours later and was taken to the Rhode Island Hospital Emergency Room for a suspected overdose and head trauma. He was revived with multiple doses of Narcan.

20. Shortly after being admitted to the Emergency Room, and before Mr. Cintron had regained full consciousness, he was questioned by Defendant Paul Bibeault, an Investigator with RIDOC's Special Investigations Unit. Defendant Bibeault demanded that Mr. Cintron disclose what he had taken and from whom he had

- received the pill. Mr. Cintron admitted to having taken narcotics but, due to his condition, was unable to respond in a coherent manner.
21. Mr. Cintron knew Bibeault from several years prior, when Mr. Cintron was in the Medium Security facility and Bibeault was a Correctional Officer in the same block. He was told at that time that Bibeault forced Mr. Cintron out of “his” block because Bibeault didn’t like him.
 22. Mr. Cintron was discharged from Rhode Island Hospital and returned to the RIDOC Adult Correctional Institutions (ACI) on July 13, 2019.
 23. Defendant Bibeault was waiting for Mr. Cintron as soon as he arrived at the ACI and questioned Mr. Cintron before he was escorted back to his cell block. Bibeault demanded to know when Mr. Cintron took the pill and where it had come from. He threatened to send Mr. Cintron to the High Security Center for trafficking if he did not cooperate.
 24. The High Security Center is Rhode Island’s “supermax” facility and is the most restrictive, locked-down facility in the ACI.
 25. Mr. Cintron had no involvement in bringing the pill into the ACI and heard about the pill for the first time when he was offered it.
 26. He refused to cooperate with the investigation or provide information about the pill’s provenance to Bibeault.
 27. On July 17, 2019, Mr. Cintron was issued a disciplinary booking for being under the influence of unauthorized drugs on the basis of the July 12th incident. At a disciplinary hearing on July 19, he was adjudicated guilty and given 25 days in disciplinary segregation, 182 days loss of visits, and 25 days loss of good time.

28. On July 22, Defendant Bibeault issued Cintron a second booking, for possessing homemade or purchased intoxicants.
29. This second booking alleged, without proof and contrary to facts, that Mr. Cintron had purchased the pill; in fact, he had been offered it for free.
30. Mr. Cintron was found guilty of the second booking on July 26 and was given 30 additional days in disciplinary segregation and 30 days loss of good time.
31. Per RIDOC policy 11.01-7, Code of Inmate Discipline, only “[u]nder extenuating and serious circumstances and at the discretion of supervisory personnel” may “multiple bookings ... result from a single incident.”
32. By the time Defendant Bibeault issued the second booking against Mr. Cintron for possessing intoxicants, he had already been found guilty of being under the influence of narcotics and was serving time in disciplinary segregation for that first infraction. Bibeault issued the second booking in spite of the absence of “extenuating and serious circumstances.”
33. At the second disciplinary hearing, Mr. Cintron informed the hearing officer about the difficult time he would have if he were forced to spend an additional 30 days in disciplinary segregation. His statement was documented in the Offender Report.

B. Retaliation for Exercise of Constitutional Rights in Refusing to Cooperate with Investigators; August Bookings

34. Defendant Bibeault interrogated Mr. Cintron on at least two other occasions—after Mr. Cintron had already begun serving time in disciplinary confinement for possessing and ingesting the pill—about how it had entered the Medium Security facility.

35. In total, Defendant Bibeault interrogated Mr. Cintron at least four times, despite Mr. Cintron's explicit refusal to cooperate and repeated requests that Bibeault leave him alone.
36. During at least one of these meetings, Bibeault called Mr. Cintron a "piece of shit" and threatened him with state charges.
37. Mr. Cintron was credibly concerned about the possibility of having state criminal charges initiated against him on the basis of Bibeault's allegations.
38. He refused to discuss the means by which the pill had entered the facility.
39. On or about August 5, 2019, Bibeault and Defendant Steve Cabral, also an Investigator with the Special Investigations Unit, together interrogated Mr. Cintron about how the pill had entered the facility.
40. They threatened to put Mr. Cintron in disciplinary segregation for a year if he refused to cooperate.
41. When Mr. Cintron again refused to disclose how the pill entered the facility, Defendant Bibeault told him, "We'll see if you're still normal when you get out of seg[regation], kid. You're fucking buried alive. I'm going to bury you alive."
42. Defendant Bibeault told Mr. Cintron that he would write him a booking for trafficking. When Mr. Cintron asked why, Bibeault replied that it was because Mr. Cintron was "being a hard-ass."
43. On or about August 6, 2019, Mr. Cintron told Defendant Rui Diniz, Warden of Medium Security, about his conversation with Bibeault and Cabral. Defendant Diniz told Mr. Cintron that he did not care what Mr. Cintron had to say and that he would personally make sure that he got 365 days in disciplinary segregation—the maximum sanction for narcotics trafficking.

44. On August 8, 2019, Mr. Cintron was taken before the RIDOC Classification Board. Defendant Bibeault was a voting member at the classification hearing. Mr. Cintron asked that the classification proceeding be tape-recorded, but was told that there was no tape recorder. He was reclassified from Medium to High Security.
45. After the classification hearing on August 8, Mr. Cintron wrote to Defendant Matthew Kettle, Assistant Director of Institutions and Operations at RIDOC, asking to remain in Medium Security.
46. On August 22, Defendant Patricia Coyne-Fague, Director of the Rhode Island Department of Corrections, responded to Mr. Cintron by noting that the downgrade “was approved by [Defendant] Matthew Kettle,” to whom she had delegated authority with respect to final decisions regarding classification.
47. On August 22, 2019, in retaliation for failing to cooperate with his investigation, Bibeault issued Mr. Cintron a booking for trafficking in illegal substances.
48. A booking for trafficking—specifically, engaging in “an organized effort to convey [an illicit] substance throughout the facility, or distribute to other inmates, and profit from the operation”—can carry 31 days to 1 year in disciplinary confinement.
49. This was Mr. Cintron’s third booking stemming from the same incident, again in apparent violation of RIDOC Policy 11.01-7.
50. The Infraction Narrative, as written by Bibeault, alleged that—contrary to the allegations in Bibeault’s previous booking—Mr. Cintron had not purchased, but had in fact trafficked the pill into the facility.¹

¹ The Infraction Narrative for Booking #388599, filed by Bibeault on July 22, 2019, for Possessing Homemade or Purchased Intoxicants, states: “On the above date information was obtained that inmate Cintron #110802 and [Inmate B] purchased a pill laced with fentanyl. The

51. The Infraction Narrative further failed to allege that Mr. Cintron had profited in any way from the alleged conveyance of narcotics into the facility, a prerequisite to issuing a booking for trafficking.
52. The disciplinary board adjudicated Mr. Cintron guilty and sanctioned him with 365 days in disciplinary segregation and 365 days loss of good time.
53. The disciplinary board, during that same hearing, also adjudicated Mr. Cintron of circumventing phone security procedures, a booking they alleged to be related to the accusation of narcotics trafficking. For that fourth booking, he was given 30 days in segregation and an additional 30 days loss of good time.
54. In total, Mr. Cintron received four separate bookings, and four separate sanctions, for the same alleged incident.
55. As a result of these four bookings, Mr. Cintron was given a total of 450 days, or almost 15 months, in disciplinary segregation.
56. Defendant Kettle denied all of Mr. Cintron's disciplinary appeals.

C. Conditions of Confinement in Disciplinary Segregation and Effect on Mr. Cintron

57. Prior to his disciplinary bookings and classification to High Security, while Mr. Cintron was still in general population in Medium Security, he had 10 hours out-of-cell a day; access to visits and phone calls with family; educational and programming

cost of the pill was \$120.00 in which they split the cost, (\$60 each). Later that afternoon inmate Cintron was transported by rescue to RI Hospital ER for a possible overdose.”

The Infraction Narrative for Booking #389232, filed by Bibeault on August 22, 2019, for Trafficking in Illicit Substances, states: “On [July 12, 2019] inmate Cintron and [Inmate C] conspired and succeeded in conveying narcotics through [Inmate C’s] visit on 7/10/2019. The results of this investigation has [sic] been corroborated and validated.”

- opportunities; weather-appropriate footwear; a TV, radio, and MP3 player in-cell; a mirror, desk, and plastic bins; and in-person religious services.
58. Mr. Cintron has six children and had been participating in “Daddy Daycare,” a program which allows men in Medium Security to spend time with their children in the visiting room. He was also in the Victims Impact program.
59. In a Netflix documentary on mindfulness that was filmed when Mr. Cintron was in Medium Security, he was seen smiling and laughing as he meditates and does yoga. He said on camera that meditation had opened his eyes to beauty, even in prison: “It’s a lot of things, different, simple things that you notice. I notice the air, you know I look into the sky. If I’m on the phone in the yard, I tell my family or whoever I’m on the phone with, my loved ones, ‘It’s beautiful out here,’ and that’s not things I used to do, ‘cause I didn’t really notice it.”
60. Prior to his placement in segregation, Mr. Cintron was not taking any mental health medication.
61. He had almost completed his GED and was just waiting to finish his math portion. He had also been accepted into two other classes.
62. Between July 2019 and September 2020, Mr. Cintron was in disciplinary segregation. He spent 23-24 hours a day in an eight-by-ten foot cell, with 45-60 minutes of out-of-cell time each day on Mondays through Fridays and zero out-of-cell time on weekends and holidays; a maximum of one 10-minute phone call each month; no radio, TV, or MP3 player; no desk in his cell; and no access to education or programming.
63. Between February and September 2020, Mr. Cintron did not have access to any newspapers, a mirror, or winter boots, in violation of RIDOC Policy 12.27,

- Conditions of Confinement. During most of this time, Mr. Cintron was housed in a cell with a video camera that is always on, even when he was using the restroom. The presence of the camera, and being watched at all times, compounded the distress that Mr. Cintron experienced.²
64. In the winter, he often had to wear wet coats for outdoor recreation and outside doors were kept open, which made the cells freezing.
 65. The lights were on all night in segregation and there was a loud bang—a door locking—every thirty minutes, even at night.
 66. After his placement in disciplinary confinement, Mr. Cintron’s physical and mental health deteriorated.
 67. He lost almost 70 pounds and began exhibiting self-injurious behavior. He badly injured his hand from punching the walls of his cell and started pulling his hair out.
 68. He began taking antidepressants shortly after entering segregation. The only prior time he had taken antidepressants was in 2001, during a previous incarceration and also while he was in segregation. He also began taking sleep medication for the first time in his life.
 69. He had intrusive thoughts and severe anxiety, and cried often.
 70. His relationship with his wife of four years and his children deteriorated. He has not seen any of his family since July 2019 and has had very limited phone contact with them.
 71. In April, Mr. Cintron’s grandfather—a man who raised him and whom he considered a father figure—passed away from cancer. Mr. Cintron had been allowed one 10-

² For approximately two weeks in June/July, Mr. Cintron was in a non-camera cell.

minute phone call with his grandfather in March 2020, and otherwise had not spoken with him since July 2019. During the phone call on March 2020, Mr. Cintron found out that his 12-year-old niece had committed suicide the month before.

72. Mr. Cintron was a recovering opiate addict when he was offered the pill in July 2019 and had not taken any drugs since his arrival in RIDOC custody in 2016.
73. Prior to and since the overdose, Mr. Cintron repeatedly requested to be enrolled in the RIDOC Medication Assisted Treatment program for individuals with opiate addiction.
74. Due to the stress of being in extended solitary confinement, and to cope with the inhumane conditions of his confinement, Mr. Cintron began abusing prescription medication, accumulating additional bookings that extended his placement in solitary confinement.
75. Mr. Cintron left disciplinary segregation in September 2020 and was placed in administrative segregation—another form of restrictive housing—in the High Security Center.
76. The National Commission on Correctional Health Care, a highly respected organization of correctional medical and mental health professionals, released a set of principles on solitary confinement asserting that “[p]rolonged (greater than 15 consecutive days) solitary confinement is cruel, inhumane, and degrading treatment, and harmful to an individual’s health” and that “mentally ill individuals . . . should be excluded from solitary confinement of any duration.”
77. The U.N. Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment regards “prolonged” solitary confinement, defined as

confinement in excess of 15 consecutive days, as torture which can “cause serious and irreparable mental and physical harm.”

78. The American Bar Association Standards on Treatment of Prisoners state that “[n]o prisoner diagnosed with serious mental illness should be placed in long-term segregated housing,” defined as greater than 15 days.
79. On June 16, 2016, the Rhode Island House of Representatives unanimously passed House Resolution H8206, Creating a Special Legislative Commission (“Commission”) to Study and Assess the Use of Solitary Confinement in the RIDOC.
80. Defendant Kettle testified at the October 26, 2016 session of the Commission. Speaking about disciplinary confinement, he said: “I review the appeal, I look at every case, I listen to it... Anyone doing long-term disciplinary confinement has the ability to write to the Warden and have their time suspended. I will look at it, I review it, and I talk to the staff members, how are they doing, I will suspend some of their time. ... If Mental Health writes me and says that being housed in disciplinary confinement has been detrimental to that inmate’s health, automatically we’re releasing them and moving them out because something is going on.”
81. The Commission’s final report, issued on June 29, 2017, recommended a 15-day maximum sentence for disciplinary confinement and the exclusion of inmates with serious and persistent mental illness from solitary confinement.
82. The report noted that going forward, “[t]hose with SPMI or those for whom segregation would have a significantly damaging impact will not be placed in restrictive housing except for an evaluation period, if necessary.”

D. Appeals to Staff and RIDOC Administrators

83. Mr. Cintron appealed each booking to Defendant Kettle. Each appeal was denied.
84. Around November 2019, Mr. Cintron requested that Defendant Diniz, in his capacity as Warden of Medium Security, suspend the remainder of his disciplinary time. Warden Diniz refused.
85. Mr. Cintron repeatedly asked correctional officers and counselors for access to mental health services before he finally saw a social worker.
86. Mr. Cintron wrote multiple letters to Defendant Aceto, the former Warden of High Security, telling him about his mental health breakdowns and appealing for his remaining time in segregation to be suspended. Defendant Aceto refused.
87. Upon information and belief, Mr. Cintron's social worker spoke separately with Warden Aceto and then-Deputy Warden Lynne Corry about Mr. Cintron's deteriorating mental health condition. Both refused to suspend the remainder of his disciplinary time.
88. When Defendant Corry became the new Warden of High Security, Mr. Cintron wrote again asking for the remainder of his disciplinary time to be suspended. She responded on May 1st: "I understand that you are going through things at this time however the way to suspend your discipline time is as easy as stop being disciplined. This is a difficult time for all, and sacrifices must be made for the greater health of all around us. Occupy your time by writing letters, journal things and share with Social Worker Ferro are a few suggestions to occupy your time. Your actions and behavior are what is holding you back from a discipline time suspension."
89. Each Defendant knew or should have known that their actions and inaction would seriously harm, and was seriously harming, Mr. Cintron.

E. Supervisory Authority at the RIDOC

90. Pursuant to R.I. Gen. Laws § 42-56-5, Defendant Coyne-Fague, as Director of the Rhode Island Department of Corrections, must:

- “(2) Maintain security, safety, and order at all state correctional facilities . . .
- (3) Establish and enforce standards for all state correctional facilities;
- (4) Supervise and/or approve the administration by the assistant directors of the department;
- (5) Manage, direct, and supervise the operations of the department;
- (6) Direct employees in the performance of their official duties;
- (7) Hire, promote, transfer, assign, and retain employees and suspend, demote, discharge, or take other necessary disciplinary action;
- (8) Maintain the efficiency of the operations of the department;
- (9) Determine the methods, means, and personnel by which those operations of the department are to be conducted;
- (10) Relieve employees from duties because of lack of work or for other legitimate reasons; . . .
- (15) Investigate grievances and inquire into alleged misconduct within the department; . . . [and]
- (22) Make and promulgate necessary rules and regulations incident to the exercise of his or her powers and the performance of his or her duties, including, but not limited to, rules and regulations regarding nutrition, sanitation, safety, discipline, recreation, religious services, communication, and visiting privileges, classification, education, training, employment, care, and custody for all persons committed to correctional facilities . . .”

91. Director Coyne-Fague, pursuant to R.I. Gen. Laws § 42-56-5, is also the appointing authority for all employees of the Department.

92. Defendant Kettle, as Assistant Director of Institutions and Operations at the RIDOC, has delegated authority under R.I. Gen. Laws § 42-56-5 over the various facilities, including Medium and High Security, and over the Special Investigations Unit.

F. Actions Subsequent to Filing the Amended Complaint

93. On July 21, 2020, Plaintiff filed his first Amended Complaint in the instant case.

94. On October 7, 2020, the State of Rhode Island filed a Criminal Complaint against Mr. Cintron, Case No. 32-2020-06674, for four drug trafficking-related felonies, per allegations that Defendant Bibeault had made against him.

95. The following information is provided, upon information and belief, from the 32(f) Violation Report filed by the Attorney General in P2/16-1525A, *State of Rhode Island v. Cintron*, based upon an incident report written by Rhode Island State Police Corporal Herbert Tilson:
- a. On August 16, 2019, Defendants Bibeault and Cabral obtained a signed statement from Jane Doe, who had conveyed narcotics into Medium Security in July 2019. The same narcotics were believed to have caused Plaintiff's overdose. Jane Doe implicated Davante Neves, her boyfriend at the time, in the trafficking operation. Jane Doe did not implicate the Plaintiff.
 - b. On August 16, 2019, Defendant Bibeault interviewed John Doe, a prisoner in Medium Security, who admitted to purchasing narcotics from Davante Neves. John Doe stated that he did not purchase narcotics from, or sell them to, Plaintiff.
 - c. No investigatory action by Defendant Bibeault or Corporal Tilson was documented between August 22, 2019 and September 8, 2020.
 - d. Davante Neves passed away in February 2020.
 - e. On September 8, 2020, Defendant Bibeault and Corporal Tilson again met with John Doe. John Doe refused to make a statement on the record and indicated that he "would stand by the declaration he made to SI Bibeault on August 16, 2019."
 - f. Notwithstanding his refusal to make a statement on the record, Defendant Bibeault and Corporal Tilson alleged that John Doe—over a year after making his original statement implicating only Davante Neves, and seven months after Neves' passing—now decided to implicate Plaintiff. Whereas in his original statement he claimed to have purchased narcotics from Neves, he was now claiming that Plaintiff—not Neves—personally sold him narcotics.

- g. On September 10, 2020, Defendant Bibeault and Corporal Tilson met with Jane Doe. According to Defendant Bibeault and Corporal Tilson, Jane Doe—over a year after making her original statement implicating only Davante Neves, and seven months after Neves’ passing—now stated that Plaintiff was also involved.
96. Upon information and belief, Defendant Bibeault suspended, paused, or completed his trafficking investigation in or shortly after August 2019.
97. Upon information and belief, Defendant Bibeault resumed or restarted his trafficking investigation in or around September 2020, shortly after Plaintiff filed an Amended Complaint naming Bibeault as lead defendant.

V. CLAIMS FOR RELIEF

Count 1: Violation of the Eighth Amendment to the U.S. Constitution (Cruel and Unusual Punishment)

98. Plaintiff incorporates and re-alleges all the allegations in paragraphs 1-97.
99. All Defendants violated Mr. Cintron’s right to be free from cruel and unusual punishment by deliberately and recklessly placing him at substantial risk of serious harm.
100. The Defendants’ deliberate indifference to the substantial risks of serious harm to Mr. Cintron is the proximate cause of the harm he has suffered.
101. Plaintiff seeks injunctive and declaratory relief and damages for the violation of his Eighth Amendment rights.

Count 2: Violation of the First Amendment to the U.S. Constitution (Freedom of Speech)

102. Plaintiff incorporates and re-alleges all the allegations in paragraphs 1-101.
103. Defendants Bibeault, Cabral, and Diniz violated Mr. Cintron’s right to freedom of speech by initiating and sanctioning disciplinary proceedings against him in

- retaliation for exercising constitutionally-protected conduct, namely for refusing to serve as an informant and for refusing to provide false information to prison investigators.
104. Issuance of a booking is a prehearing action that does not implicate the issuance or elimination of good time credits.
105. Plaintiff seeks damages and declaratory relief for the violation of his First Amendment rights.

Count 3: Violation of the Fifth Amendment to the U.S. Constitution (Right Against Self-Incrimination)

106. Plaintiff incorporates and re-alleges all the allegations in paragraphs 1-105.
107. Defendants Bibeault, Cabral, and Diniz violated Mr. Cintron's right to freedom against self-incrimination by initiating and condoning disciplinary proceedings against him in retaliation for exercising constitutionally-protected conduct, namely for refusing to provide information to investigators that could have been used against him in a criminal proceeding.
108. Issuance of a booking is a prehearing action that does not implicate the issuance or elimination of good time credits.
109. Plaintiff seeks damages and declaratory relief for the violation of his Fifth Amendment rights.

Count 4: Intentional Infliction of Emotional Distress (State Tort Claim)

110. Plaintiff incorporates and re-alleges all the allegations in paragraphs 1-109.
111. Defendants Bibeault and Cabral intended to, and did, cause Mr. Cintron severe emotional distress in retaliation for not cooperating with their investigation.

112. The emotional distress that Mr. Cintron suffered resulted in loss of sleep, weight, and hair, and injuries to his hand.

113. Plaintiff seeks damages and declaratory relief for the emotional distress he suffered.

Count 5: Negligent Supervision (State Tort Claim)

114. Plaintiff incorporates and re-alleges all the allegations in paragraphs 1-113.

115. Defendants Coyne-Fague and Kettle failed to exercise reasonable care in supervising, controlling, and investigating Defendants Bibeault and Cabral, whose conduct resulted in the deterioration of Mr. Cintron's mental and physical health.

116. Defendants Coyne-Fague and Kettle either knew or should have known about the allegations of misconduct against Defendants Bibeault and Cabral, and failed to take sufficient action, such as conducting an investigation or initiating internal disciplinary proceedings, or training the employees.

117. As such, Defendants Coyne-Fague and Kettle are liable for the harm resulting from Bibeault and Cabral's tortious acts.

118. Plaintiff seeks damages and declaratory relief for the negligent supervision which resulted in physical and emotional distress.

Count 6: Abuse of Process (State Tort Claim)

119. Plaintiff incorporates and re-alleges all the allegations in paragraphs 1-118.

120. Defendant Bibeault abused the state criminal justice process by initiating criminal legal proceedings against Plaintiff in retaliation for advancing litigation against him. The initiation of criminal charges was an ulterior or wrongful use of the criminal process.

121. Plaintiff seeks damages, injunctive, and declaratory relief for the abuse of process.

Count 7: Violation of the First Amendment to the U.S. Constitution (Access to the Courts)

122. Plaintiff incorporates and re-alleges all the allegations in paragraphs 1-121.
123. Defendant Bibeault violated Plaintiff's right to petition the courts for redress of grievances by initiating criminal charges against Plaintiff in retaliation for advancing litigation against him.
124. Plaintiff seeks damages, injunctive, declaratory relief for the violation of his First Amendment right to petition the courts.

VI. Relief Requested

Plaintiff requests that this Court grant the following relief:

- A. A preliminary and permanent injunction requiring removal of Plaintiff from disciplinary segregation and a reclassification to Medium Security;
- B. A preliminary and permanent injunction prohibiting Defendants from further retaliation against Plaintiff;
- C. An award of compensatory, punitive, and nominal damages;
- D. An award of costs and attorneys' fees arising out of this litigation; and
- E. Any other relief this Court deems appropriate.

Plaintiff,

By his attorneys,

/s/ Natalia Friedlander

Natalia Friedlander (#10003)

Jennifer L. Wood (#3582)

Rhode Island Center for Justice

One Empire Plaza, Suite 410

Providence, RI 02903

Tel: 401.491.1101 | Fax: 401.228.6955

nfriedlander@centerforjustice.org

jwood@centerforjustice.org