

CASREF,PAW

**U.S. District Court  
Southern District of Florida (Miami)  
CIVIL DOCKET FOR CASE #: 1:10-cv-21898-DLG**

Spaulding v. Poitier et al  
Assigned to: Judge Donald L. Graham  
Referred to: Magistrate Judge Patrick A. White  
Case in other court: USCA, 10-13781-C  
Cause: 42:1983 State Prisoner Civil Rights

Date Filed: 06/08/2010  
Jury Demand: Plaintiff  
Nature of Suit: 550 Prisoner: Civil  
Rights  
Jurisdiction: Federal Question

**Plaintiff**

**John Christopher Spaulding**  
Prisoner ID: 183425

represented by **John Christopher Spaulding**  
183425  
Florida State Prison  
7819 N.W. 228 Street  
Raiford, FL 32026-1200  
PRO SE

V.

**Defendant**

**Dr. Joseph Poitier**  
*also known as*  
John Poitier

represented by **Alexander Spicola Bokor**  
Miami-Dade County Attorney's Office  
111 NW First Street  
Suite 2810  
Miami, FL 33128  
305-375-5151  
Fax: 305-375-5611  
Email: abokor@miamidade.gov  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Defendant**

**Jackson Health Services**  
*TERMINATED: 03/25/2011*  
*also known as*  
Miami Jackson Hospital  
*TERMINATED: 03/25/2011*

**Defendant**

**Timothy Ryan**  
*Miami Dade Corrections and*  
*Rehabilitation*  
*TERMINATED: 03/25/2011*

**Defendant**

**Captain Daniel Mera**  
*Miami Dade Department and  
Rehabilitation*

represented by **Alexander Spicola Bokor**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Defendant**

**Officer Willie Rodgers**  
*Miami Dade Department and  
Rehabilitation*

**Defendant**

**Officer Janeen Abonze**  
*Miami Dade Department and  
Rehabilitation*

represented by **Alexander Spicola Bokor**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Defendant**

**Officer Demora Prudent**  
*Miami Dade Department of Corrections*

represented by **Alexander Spicola Bokor**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Defendant**

**Officer Beverly Neal**  
*Miami Dade Department and  
Rehabilitation*

represented by **Alexander Spicola Bokor**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Defendant**

**Officer Guery Jasmin**  
*Miami Dade Department of Corrections*

represented by **Alexander Spicola Bokor**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Defendant**

**Nurse Etienne**  
*Jackson Health Services/ Jackson M.  
Hospital*

represented by **Alexander Spicola Bokor**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Defendant**

**Nurse Marsh**  
*Jackson Health Services/ Jackson M.  
Hospital*

represented by **Alexander Spicola Bokor**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Defendant**

**Miami Dade County Corrections and  
Rehabilitation Department**

TERMINATED: 03/25/2011

Date Filed	#	Docket Text
06/08/2010	<u>1</u>	COMPLAINT under Civil Rights Act against Janeen Abonze, Etienne, Jackson Health Services, Guery Jasmin, Marsh, Daniel Mera, Miami Dade County Corrections and Rehabilitation Department, Beverly Neal, John Poitier, Demora Prudent, Willie Rodgers, Timothy Ryan. Filing fee \$ 350.00, filed by John Christopher Spaulding.(ebs) Modified event 3/2010 (yc). (Entered: 06/09/2010)
06/08/2010	2	Judge Assignment RE: Electronic Complaint to Judge Donald L. Graham (ebs) (Entered: 06/09/2010)
06/08/2010	3	Clerks Notice of Magistrate Judge Assignment to Magistrate Judge Patrick A. White. Pursuant to Administrative Order 2003-19 for a ruling on all pre-trial, non-dispositive matters and for a Report and Recommendation on any dispositive matters. (ebs) (Entered: 06/09/2010)
06/08/2010	<u>4</u>	MOTION for Leave to Proceed in forma pauperis by John Christopher Spaulding. (ebs) (Entered: 06/09/2010)
06/17/2010	<u>5</u>	ORDER PERMITTING PLAINTIFF TO PROCEED WITHOUT PAYMENT OF FILING FEE BUT ESTABLISHING DEBT TO CLERK OF \$350.00 and Granting <u>4</u> Motion for Leave to Proceed in forma pauperis. Signed by Magistrate Judge Patrick A. White on 6/16/2010. (tw) (Entered: 06/17/2010)
06/17/2010	<u>6</u>	ORDER OF INSTRUCTIONS TO PRO SE CIVIL RIGHTS LITIGANTS. Signed by Magistrate Judge Patrick A. White on 6/16/2010. (tw) (Entered: 06/17/2010)
07/06/2010	<u>7</u>	REPORT AND RECOMMENDATIONS on 42 USC 1983 case re <u>1</u> Complaint, filed by John Christopher Spaulding. Recommending that the Complaint be dismissed pursuant to 28 U.S.C. §1915(e)(2)(B)(ii) for failure to state a claim upon which relief may be granted. Objections to R&R due by 7/23/2010. Signed by Magistrate Judge Patrick A. White on 7/6/2010. (tw) (Entered: 07/06/2010)
07/06/2010	<u>8</u>	NOTICE of Change of Address by John Christopher Spaulding (tb) (Entered: 07/07/2010)
07/28/2010	<u>9</u>	ORDER adopting <u>7</u> Report and Recommendations; Dismissing Complaint; Denying all Pending Motions as Moot; Closing Case. Signed by Judge Donald L. Graham on 7/27/2010. (ebs) (Entered: 07/28/2010)
08/02/2010	<u>10</u>	OBJECTIONS to <u>7</u> Report and Recommendations Magistrate Judge Dismissal of 1983 Complaint by John Christopher Spaulding. (dj) (Entered: 08/04/2010)
08/02/2010	<u>11</u>	MOTION for Leave to File An Amended Complaint by John Christopher Spaulding. (dj) (Entered: 08/04/2010)
08/02/2010	<u>12</u>	AMENDED COMPLAINT against Janeen Abonze, Etienne, Jackson Health

		Services, Guery Jasmin, Marsh, Daniel Mera, Miami Dade County Corrections and Rehabilitation Department, Beverly Neal, John Poitier, Demora Prudent, Willie Rodgers, Timothy Ryan, filed by John Christopher Spaulding.(dj) Modified MJSTAR event on 1/6/2011 (yc). (Entered: 08/04/2010)
08/09/2010	<u>13</u>	NOTICE OF APPEAL filed by John C. Spaulding re <u>9</u> Order Adopting Report and Recommendations by John Christopher Spaulding. Filing Fee: (FEE NOT PAID). Within fourteen days of the filing date of a Notice of Appeal, the appellant must complete the Eleventh Circuit Transcript Order Form regardless of whether transcripts are being ordered [Pursuant to FRAP 10(b)]. For information go to our FLSD website under Transcript Information. (amb) (Entered: 08/10/2010)
08/10/2010		Transmission of Notice of Appeal, Order Under Appeal and Docket Sheet to US Court of Appeals re <u>13</u> Notice of Appeal, (amb) (Entered: 08/10/2010)
08/24/2010	<u>14</u>	Acknowledgment of Receipt of NOA from USCA re <u>13</u> Notice of Appeal, filed by John Christopher Spaulding. Date received by USCA: 08/16/2010. USCA Case Number: 10-13781-C. (amb) (Entered: 08/24/2010)
08/24/2010	<u>15</u>	TRANSCRIPT INFORMATION FORM by John Christopher Spaulding re <u>13</u> Notice of Appeal,. Email sent to Court Reporter Coordinator. (amb) (Entered: 08/25/2010)
08/26/2010	<u>16</u>	MOTION for Leave to Proceed in forma pauperis on appeal by John Christopher Spaulding. (amb) (Entered: 08/27/2010)
10/19/2010	<u>17</u>	ORDER denying as moot <u>11</u> Motion for Leave to File ; denying as moot <u>16</u> Motion for Leave to Proceed in Forma Pauperis on Appeal. Signed by Judge Donald L. Graham on 10/19/2010. (lk) (Entered: 10/20/2010)
10/19/2010	<u>18</u>	Order Vacating <u>9</u> Order Adopting Report and Recommendations and Reopening case. Plaintiff shall be permitted to proceed on his initial complaint. Signed by Judge Donald L. Graham on 10/19/2010. (lk) (Entered: 10/20/2010)
11/03/2010	<u>19</u>	NOTICE of Filing Discovery: Deposition upon written Questions by John Christopher Spaulding.(lk) (Entered: 11/04/2010)
11/03/2010	<u>20</u>	NOTICE of Filing Discovery: Request for production of documents and evidence by John Christopher Spaulding.(lk) (Entered: 11/04/2010)
11/03/2010	<u>21</u>	NOTICE of Filing Discovery: Deposition upon written questions on Willie Rogers, Officer by John Christopher Spaulding.(lk) (Entered: 11/04/2010)
11/03/2010	<u>22</u>	Declaration signed by : John C. Spaulding by John Christopher Spaulding (lk) (Entered: 11/04/2010)
11/03/2010	<u>23</u>	LETTER MOTION for issuance of summons to be served upon on defendants re <u>1</u> Complaint/Petition by John Christopher Spaulding. (lk) (Entered: 11/04/2010)
11/03/2010	<u>24</u>	MOTION to Appoint Counsel by John Christopher Spaulding. Responses due

		by 11/22/2010 (lk) (Entered: 11/04/2010)
11/03/2010	<u>25</u>	NOTICE of redaction requirements and Privacy Policy by John Christopher Spaulding (lk) (Entered: 11/04/2010)
11/03/2010	<u>26</u>	MOTION for Leave to File amended complaint by John Christopher Spaulding. (lk) (Entered: 11/04/2010)
11/04/2010		Case Reopened as per DE <u>18</u> (lk) (Entered: 11/04/2010)
11/08/2010	<u>27</u>	ORDER denying <u>23</u> Motion for summons, this case has not yet been screened; denying <u>24</u> Motion to Appoint Counsel ; granting <u>26</u> Motion for Leave to File, the defendant's name shall be corrected.. Signed by Magistrate Judge Patrick A. White on 11/8/2010. (cz) Modified signatory on 11/9/2010 (wc). (Entered: 11/08/2010)
11/19/2010	<u>28</u>	NOTICE of Change of Address by John Christopher Spaulding. Address Updated (jcy) (Entered: 11/19/2010)
12/29/2010	<u>29</u>	ORDER of DISMISSAL from USCA, sua sponte, for lack of jurisdiction re <u>13</u> Notice of Appeal, filed by John Christopher Spaulding. No motion for reconsideration may be filed unless it complies with the timing and other requirements of 11th Cir.R. 27-2 and all other applicable rules. USCA #10-13781-C (amb) (Entered: 12/30/2010)
01/03/2011	<u>30</u>	REPORT AND RECOMMENDATIONS on 42 USC 1983 case re Complaint, filed by John Christopher Spaulding; Recommending that 1) the claims against Poitier, Mera, Rodgers, Abonzer, Prudent, Neal, Jasmin, Etienne and Marsh shall continue; 2) Claims against Jackson Health Services (Jackson Hospital), Director Ryan and Miami Dade County Corrections and Rehabilitation Department shall be dismissed pursuant to 28 U.S.C. §1915(e)(2)(B)(ii) for failure to state a claim upon which relief may be granted. Objections to R&R due by 1/20/2011. Signed by Magistrate Judge Patrick A. White on 1/3/2011. (br) (Entered: 01/03/2011)
01/10/2011	<u>31</u>	Notice of Inquiry Regarding Status of Case by John Christopher Spaulding. Copy of Docket Sheet Mailed to Party's Last Address. (jcy) (Entered: 01/10/2011)
01/14/2011	<u>32</u>	ORDER RE SERVICE OF PROCESS REQUIRING PERSONAL SERVICE UPON AND INDIVIDUAL.The United States Marshal shall serve a copy of the complaint and appropriate summons upon:Dr. Joseph Poitier, Pretrial Detention Center, 1321 N.W. 13th Street, Miami, FL 33125; Nurse Etienne, Pretrial Detention Center, 1321 N.W. 13th Street, Miami, FL 33125; Nurse Marsh, Pretrial Detention Center, 1321 N.W. 13th Street, Miami, FL 33125; Captain Daniel Mera, Dade County Corrections Dept., 2525 N.W. 62nd Street, Miami, FL 33147-7718; Officer Willie Rodgers, Dade County Corrections Dept., 2525 N.W. 62nd Street, Miami, FL 33147-7718; Officer Demora Prudent. Dade County Corrections Dept., 2525 N.W. 62nd Street, Miami, FL 33147-7718; Officer Beverly Neal, Dade County Corrections Dept., 2525 N.W. 62nd Street, Miami, FL 33147-7718; Officer Janeen Abonze, Dade County Corrections Dept., 2525 N.W. 62nd Street, Miami, FL 33147-7718 and Officer Guery Jasmin, Dade County Corrections Dept., 2525

		N.W. 62nd Street, Miami, FL 33147-7718. Signed by Magistrate Judge Patrick A. White on 1/13/2011. (tw) (Entered: 01/14/2011)
01/14/2011	<u>33</u>	Motion and Objection to <u>30</u> REPORT AND RECOMMENDATION on 42 USC 1983 by John Christopher Spaulding. (jcy) (Entered: 01/18/2011)
01/18/2011	<u>34</u>	Summons Issued as to Janeen Abonze, Etienne, Guery Jasmin, Marsh, Daniel Mera, Beverly Neal, Joseph Poitier, Demora Prudent, Willie Rodgers. (jcy) (Entered: 01/18/2011)
01/18/2011	<u>35</u>	NOTICE of Change of Address by John Christopher Spaulding. Address Updated (jcy) (Entered: 01/18/2011)
01/27/2011	<u>36</u>	Summons Issued as to Timothy Ryan. (jcy) (Entered: 01/27/2011)
02/10/2011	<u>37</u>	SUMMONS (Affidavit) Returned Executed Beverly Neal served on 2/1/2011, answer due 2/22/2011. (jcy) (Entered: 02/10/2011)
02/10/2011	<u>38</u>	SUMMONS (Affidavit) Returned Executed Janeen Abonze served on 2/1/2011, answer due 2/22/2011. (jcy) (Entered: 02/10/2011)
02/10/2011	<u>39</u>	SUMMONS (Affidavit) Returned Executed Guery Jasmin served on 2/1/2011, answer due 2/22/2011. (jcy) (Entered: 02/10/2011)
02/10/2011	<u>40</u>	SUMMONS (Affidavit) Returned Executed Demora Prudent served on 2/3/2011, answer due 2/24/2011. (jcy) (Entered: 02/10/2011)
02/10/2011	<u>41</u>	SUMMONS (Affidavit) Returned Executed Etienne served on 2/1/2011, answer due 2/22/2011. (jcy) (Entered: 02/10/2011)
02/10/2011	<u>42</u>	SUMMONS (Affidavit) Returned Executed as to Joseph Poitier served on 2/3/11. (jcy) (Entered: 02/10/2011)
02/10/2011	<u>43</u>	SUMMONS (Affidavit) Returned Executed Marsh served on 2/1/2011, answer due 2/22/2011. (jcy) (Entered: 02/10/2011)
02/10/2011	<u>44</u>	SUMMONS (Affidavit) Returned Executed Daniel Mera served on 1/31/2011, answer due 2/22/2011. (jcy) (Entered: 02/10/2011)
02/10/2011	<u>45</u>	SUMMONS (Affidavit) Returned Executed Willie Rodgers served on 2/7/2011, answer due 2/28/2011. (jcy) (Entered: 02/10/2011)
02/11/2011	<u>46</u>	Defendant's MOTION for Extension of Time to File <i>Response to Complaint</i> by Janeen Abonze, Etienne, Guery Jasmin, Marsh, Daniel Mera, Beverly Neal, Joseph Poitier, Demora Prudent. (Attachments: # <u>1</u> Text of Proposed Order Granting Motion For Extension)(Bokor, Alexander) (Entered: 02/11/2011)
02/14/2011	47	ORDER granting <u>46</u> Motion for Extension of Time to File response to complaint to 3/18/11, date requested.. Signed by Magistrate Judge Patrick A. White on 2/14/2011. (cz) (Entered: 02/14/2011)
02/15/2011	<u>48</u>	ORDER that the plaintiff file a status report with the Court on or before April 15, 2011 detailing his efforts to obtain service against this defendants estate. Failure to comply shall result in dismissal of this defendant. Signed by

		Magistrate Judge Patrick A. White on 2/15/2011. (tw) (Entered: 02/15/2011)
02/15/2011		Set/Reset Answer Due Deadline: 3/18/11 (See DE# 47.) (wc) (Entered: 02/15/2011)
03/14/2011	<u>49</u>	MOTION for Transfer of Interest by John Christopher Spaulding. (jcy) (Entered: 03/14/2011)
03/18/2011	<u>50</u>	Defendant's MOTION to Dismiss <u>1</u> Complaint/Petition <i>and incorporated memorandum of law</i> , Defendant's Motion to Dismiss Case as Frivolous <u>1</u> Complaint/Petition <i>and incorporated memorandum of law</i> by Daniel Mera. Responses due by 4/4/2011 (Bokor, Alexander) (Entered: 03/18/2011)
03/18/2011	<u>51</u>	Defendant's MOTION to Dismiss <u>1</u> Complaint/Petition <i>and incorporated memorandum of law</i> by Janeen Abonze, Etienne, Guery Jasmin, Marsh, Beverly Neal, Joseph Poitier, Demora Prudent. Responses due by 4/4/2011 (Bokor, Alexander) (Entered: 03/18/2011)
03/23/2011	<u>52</u>	Declaration for Entry of Default as to Janeen Abonze, Etienne, Jackson Health Services, Guery Jasmin, Marsh, Daniel Mera, Miami Dade County Corrections and Rehabilitation Department, Beverly Neal, Joseph Poitier, Demora Prudent, Willie Rodgers, Timothy Ryan by John Christopher Spaulding. (jcy) (Entered: 03/23/2011)
03/24/2011	<u>53</u>	ORDER by Clerk of Non-Entry of Default re <u>52</u> Motion for Clerks Entry of Default. Reason: Responsive pleading (i.e. Motion to Dismiss Complaint,) has been filed.. Signed by Magistrate Judge Patrick A. White on 3/24/2011. (cz) (Entered: 03/24/2011)
03/25/2011	<u>54</u>	ORDER ADOPTING REPORT AND RECOMMENDATION. Signed by Judge Donald L. Graham on 3/25/2011. (jcy) (Entered: 03/25/2011)
04/04/2011	<u>55</u>	MOTION for Extension of Time to File Response to <u>51</u> Defendant's MOTION to Dismiss and <u>50</u> Defendant's MOTION to Dismiss. by John Christopher Spaulding. (jcy) (Entered: 04/05/2011)
04/07/2011	<u>56</u>	ORDER granting <u>55</u> Motion for Extension of Time to File Response/Reply re <u>55</u> <u>50</u> Defendant's MOTION to Dismiss <u>1</u> Complaint Responses due by 4/29/2011. Signed by Magistrate Judge Patrick A. White on 4/7/2011. (cz) (Entered: 04/07/2011)
04/13/2011	<u>57</u>	AMENDED COMPLAINT against Janeen Abonze, Etienne, Jackson Health Services, Guery Jasmin, Marsh, Daniel Mera, Miami Dade County Corrections and Rehabilitation Department, Beverly Neal, Joseph Poitier, Demora Prudent, Willie Rodgers, Timothy Ryan, filed by John Christopher Spaulding.(jcy) (Entered: 04/13/2011)
04/13/2011	<u>58</u>	RESPONSE to <u>51</u> Defendant's MOTION to Dismiss <u>1</u> Complaint/Petition <i>and incorporated memorandum of law</i> filed by John Christopher Spaulding. Replies due by 4/25/2011. (jcy) (Entered: 04/13/2011)
04/13/2011	<u>59</u>	Motion for Leave to File Amended Complaint by John Christopher Spaulding. (jcy) (Entered: 04/13/2011)

04/14/2011	60	ORDER granting in part and denying in part <u>59</u> Motion for Leave to File amendment to correct names of defendants. Defendant LaMarche has been served. To the extent that plaintiff states defendant is named Agbonze, defendant Abonze has been successfully served.. Signed by Magistrate Judge Patrick A. White on 4/14/2011. (cz) (Entered: 04/14/2011)
05/10/2011	61	ORDER denying <u>49</u> Motion motion for transfer of interest. The plaintiff states that he has attempted to serve the estate of the deceased defendant Willie Rogers. He is attempting to now substitute the Miami Dade County Corrections and Rehabilitation. The plaintiff must determine the estate of the deceased and serve the proper party.. Signed by Magistrate Judge Patrick A. White on 5/10/2011. (cz) (Entered: 05/10/2011)
05/16/2011	<u>62</u>	REPORT AND RECOMMENDATIONS on 42 USC 1983 case. Denying <u>51</u> Defendant's MOTION to Dismiss <u>1</u> Complaint/Petition <i>and incorporated memorandum of law</i> filed by Beverly Neal, Guery Jasmin, Demora Prudent, Marsh, Joseph Poitier, Etienne, Janeen Abonze and granting in part <u>50</u> Defendant's MOTION to Dismiss <u>1</u> Complaint/Petition <i>and incorporated memorandum of law</i> Defendant's MOTION to Dismiss <u>1</u> Complaint/Petition <i>and incorporated memorandum of law</i> Defendant's Motion to Dismiss Case as Frivolous <u>1</u> Complaint/Petition <i>and incorporated memorandum of law</i> Defendant's Motion to Dismiss Case as Frivolous <u>1</u> Complaint/Petition <i>and incorporated memorandum of law</i> filed by Daniel Mera. The operative complaints in this case are the initial complaint (DE#1) and the second amended complaint (DE#57). Objections to R&R due by 6/3/2011. Signed by Magistrate Judge Patrick A. White on 5/13/2011. (tw) (Entered: 05/16/2011)
05/31/2011	<u>63</u>	OBJECTIONS to <u>62</u> Report and Recommendations by Janeen Abonze, Etienne, Guery Jasmin, Marsh, Daniel Mera, Beverly Neal, Joseph Poitier, Demora Prudent. (Bokor, Alexander) (Entered: 05/31/2011)
06/01/2011	<u>64</u>	SCHEDULING ORDER: Amended Pleadings due by 8/15/2011. Discovery due by 8/1/2011. Joinder of Parties due by 8/15/2011. Motions due by 9/12/2011.. Signed by Magistrate Judge Patrick A. White on 5/31/2011. (tw) (Entered: 06/01/2011)
06/06/2011	<u>65</u>	Letter from Joh C. Spaulding to Magistrate Judge Patrick White (drz) (Entered: 06/06/2011)
06/06/2011	<u>66</u>	Letter from John C. Spaulding to Magistrate Judge Patrick A White (drz) (Entered: 06/06/2011)
06/06/2011	<u>67</u>	Letter from John C. Spaulding to Magistarte Judge Patrick A. White (drz) (Entered: 06/06/2011)
06/06/2011	<u>68</u>	Letter from John C. Spaulding to Magistrate Judge Patrick A White (drz) (Entered: 06/06/2011)
06/06/2011	<u>69</u>	Letter from John C. Spaulding to Magistrate Judge Patrick A White (drz) (Entered: 06/06/2011)
06/20/2011	<u>70</u>	ORDER ADOPTING REPORT AND RECOMMENDATION. Signed by Judge Donald L. Graham on 6/17/2011. (jcy) (Entered: 06/20/2011)

06/22/2011	<u>71</u>	Letter from John C. Spaulding (drz) (Entered: 06/22/2011)
06/27/2011	<u>72</u>	Letter from John C. Spaulding (drz) (Entered: 06/27/2011)
06/30/2011	73	*Endorsed Order, As previously instructed the Court does not respond to letters. If the plaintiff has not received responses to his discovery requests he must file a motion to compel.. Signed by Magistrate Judge Patrick A. White on 6/30/2011. (cz) (Entered: 06/30/2011)
07/05/2011	<u>74</u>	<i>Composite</i> ANSWER and Affirmative Defenses to Amended Complaint, <i>and</i> ANSWER and Affirmative Defenses to Complaint by Janeen Abonze, Etienne, Guery Jasmin, Marsh, Daniel Mera, Beverly Neal, Joseph Poitier, Demora Prudent.(Bokor, Alexander) (Entered: 07/05/2011)
07/13/2011	<u>75</u>	Plaitiff's First Request for Production of Documents by John Christopher Spaulding. (drz) (Entered: 07/13/2011)
07/19/2011	<u>76</u>	Plaintiff's RESPONSE to Defendant's Answer and Defense <u>74</u> Answer to Amended Complaint, Answer to Complaint,, by John Christopher Spaulding. (drz) (Entered: 07/19/2011)
08/19/2011	<u>77</u>	MOTION of Inquiry by John Christopher Spaulding. (drz) (Entered: 08/19/2011)
08/22/2011	78	ORDER denying <u>75</u> Motion to Produce, this is a discovery request and must be sent directly to defendants; granting <u>77</u> Motion for inquiry, the motion for discovery was received and ruled upon.. Signed by Magistrate Judge Patrick A. White on 8/22/2011. (cz) (Entered: 08/22/2011)
08/29/2011	<u>79</u>	NOTICE of Change of Address by John Christopher Spaulding (Address Updated) (drz) (Entered: 08/29/2011)
09/06/2011	<u>80</u>	MOTION to Compel <i>Production and Release of Documents and Evidence</i> by John Christopher Spaulding. Responses due by 9/23/2011 (jcy) (Entered: 09/06/2011)
09/07/2011	81	ORDER denying <u>80</u> Motion to Compel without prejudice. Plaintiff must state in motion what requests were made to defendants and not responded to.. Signed by Magistrate Judge Patrick A. White on 9/7/2011. (cz) (Entered: 09/07/2011)
09/28/2011	<u>82</u>	MOTION for Appointment of Counsel by John Christopher Spaulding. Responses due by 10/17/2011 (yha) (Entered: 09/28/2011)
10/03/2011	83	ORDER denying <u>82</u> Motion to Appoint Counsel. Signed by Magistrate Judge Patrick A. White on 10/3/2011. (cz) (Entered: 10/03/2011)
10/28/2011	<u>84</u>	MOTION/REQUEST for Production of Documents by John Christopher Spaulding. (jua) (Entered: 10/31/2011)
10/28/2011	<u>85</u>	MOTION for Appointment of Counsel by John Christopher Spaulding. Responses due by 11/17/2011 (jua) (Entered: 10/31/2011)
10/28/2011	<u>86</u>	MOTION for an Order Compelling <i>Discovery</i> by John Christopher Spaulding. Responses due by 11/17/2011 (jua) (Entered: 10/31/2011)

10/28/2011	<u>87</u>	MOTION for an Order Compelling <i>Discovery</i> by John Christopher Spaulding. Responses due by 11/17/2011 (jua) (Entered: 10/31/2011)
11/03/2011	<u>88</u>	ORDER denying <u>84</u> Motion to Produce, this is not a motion but a discovery request; denying <u>85</u> Motion to Appoint Counsel; denying <u>86</u> Motion to Compel without prejudice ; denying <u>87</u> Motion to Compel without prejudice, the plaintiff must allow time for the defendants to respond to his discovery requests before filing motions to compel.. Signed by Magistrate Judge Patrick A. White on 11/3/2011. (cz) (Entered: 11/03/2011)
11/28/2011	<u>89</u>	REPORT AND RECOMMENDATIONS on 42 USC 1983 case re <u>1</u> Complaint/Petition filed by John Christopher Spaulding. Recommending that this case be placed upon the trial calendar of the District Judge. Objections to R&R due by 12/15/2011. Signed by Magistrate Judge Patrick A. White on 11/28/2011. (tw) (Entered: 11/28/2011)
12/01/2011	<u>90</u>	ORDER/NOTICE Setting Status Conference:, Telephonic Status Conference set for 12/14/2011 01:45 PM in Miami Division before Judge Donald L. Graham. Signed by Judge Donald L. Graham on 12/1/11. (gfw) (Entered: 12/01/2011)
12/02/2011	<u>91</u>	Defendant's MOTION for Extension of Time To File Motion for Summary Judgment re <u>64</u> Scheduling Order by Janeen Abonze, Etienne, Guery Jasmin, Marsh, Daniel Mera, Beverly Neal, Joseph Poitier, Demora Prudent. Responses due by 12/19/2011 (Attachments: # <u>1</u> Exhibit A: Proposed Order) (Bokor, Alexander) (Entered: 12/02/2011)
12/09/2011	<u>92</u>	OBJECTIONS to <u>89</u> Report and Recommendations by Janeen Abonze, Etienne, Guery Jasmin, Marsh, Daniel Mera, Beverly Neal, Joseph Poitier, Demora Prudent. (Attachments: # <u>1</u> Exhibit A: Defendants' Motion and Incorporated Memorandum of Law For Extension of Time to File a Motion For Summary Judgment on or Before December 12, 2011)(Bokor, Alexander) (Entered: 12/09/2011)
12/09/2011	<u>93</u>	OBJECTIONS to <u>89</u> Report and Recommendations by John Christopher Spaulding. (gp) (Entered: 12/12/2011)
12/09/2011	<u>94</u>	MOTION for Appointment of Counsel by John Christopher Spaulding. Responses due by 12/27/2011 (gp) (Entered: 12/12/2011)
12/09/2011	<u>95</u>	MOTION for Order Compelling <i>Discovery</i> by John Christopher Spaulding. Responses due by 12/27/2011 (gp) (Entered: 12/12/2011)
12/09/2011	<u>96</u>	MOTION for an Order Compelling <i>Discovery</i> by John Christopher Spaulding. Responses due by 12/27/2011 (gp) (Entered: 12/12/2011)
12/09/2011	<u>97</u>	Letter NOTICE to Defendants Undersigned Counsel by John Christopher Spaulding (gp) (Entered: 12/12/2011)
12/09/2011	<u>98</u>	MEMORANDUM re <u>96</u> MOTION to Compel <i>Discovery</i> , <u>95</u> MOTION to Compel <i>Discovery</i> by John Christopher Spaulding. (gp) (Entered: 12/12/2011)
12/14/2011	<u>99</u>	Minute Entry for proceedings held before Judge Donald L. Graham: Status

		Conference held on 12/14/2011. Court Reporter: Carly Horenkamp, 305-523-5138 / Carleen_Horenkamp@flsd.uscourts.gov (cf) (Entered: 12/15/2011)
12/15/2011	<u>100</u>	Order on Motions.( Discovery due by 1/30/2012., Dispositive Motions due by 2/29/2012.). Signed by Judge Donald L. Graham on 12/15/2011. (jcy) (Entered: 12/15/2011)
12/19/2011	<u>101</u>	Objection to <u>91</u> Defendant's MOTION for Extension of Time To File Motion for Summary Judgment re <u>64</u> Scheduling Order filed by John Christopher Spaulding. (jua) (Entered: 12/20/2011)
12/19/2011	<u>102</u>	MOTION for an Order Compelling Discovery by John Christopher Spaulding. Responses due by 1/6/2012 (jua) (Entered: 12/20/2011)
12/19/2011	<u>103</u>	MOTION for an Order Compelling Discovery by John Christopher Spaulding. Responses due by 1/6/2012 (jua) (Entered: 12/20/2011)
12/19/2011	<u>104</u>	MOTION for Sanctions for Defendants Unduly Delay of Discovery Documents by John Christopher Spaulding. (jua) (Entered: 12/20/2011)
12/19/2011	<u>105</u>	NOTICE of Filing Discovery: Request for Documents by John Christopher Spaulding.(jc) (Entered: 12/20/2011)
12/23/2011	<u>106</u>	SECOND MOTION/Request for Production of Documents by John Christopher Spaulding. (yha) (Entered: 12/27/2011)
12/23/2011	<u>107</u>	MOTION for an Order Compelling Discovery by John Christopher Spaulding. Responses due by 1/9/2012 (yha) (Entered: 12/27/2011)
12/23/2011	<u>108</u>	MOTION for Court to Order Defendant Daniel Mera to Answer Written Questions by John Christopher Spaulding. (yha) (Entered: 12/27/2011)
12/23/2011	<u>109</u>	MOTION for the Court to Order Dr. Joseph Poitier to Answer Written Questions by John Christopher Spaulding. (yha) (Entered: 12/27/2011)
12/23/2011	<u>110</u>	MOTION for Court to Order the Witness Sonia Grannum to Answer Written Questions by John Christopher Spaulding. (yha) (Entered: 12/27/2011)
12/29/2011	<u>111</u>	ORDER deferring ruling on <u>95</u> Motion to Compel; deferring ruling on <u>96</u> Motion to Compel; deferring ruling on <u>102</u> Motion to Compel; deferring ruling on <u>103</u> Motion to Compel; deferring ruling on <u>104</u> Motion for Sanctions; deferring ruling on <u>106</u> Motion to Produce; deferring ruling on <u>107</u> Motion to Compel; deferring ruling on <u>108</u> Motion ; deferring ruling on <u>109</u> Motion ; denying <u>110</u> Motion to compel a non party to respond to requests for written answers. The defendants shall file a response to the plaintiff's multiple motions to compel discovery responses and to the motion for sanctions.. Signed by Magistrate Judge Patrick A. White on 12/29/2011. (cz) (Entered: 12/29/2011)
01/03/2012	<u>112</u>	RESPONSE in Opposition re <u>104</u> MOTION for Sanctions <i>and incorporated memorandum of law</i> filed by Janeen Abonze, Etienne, Guery Jasmin, Marsh, Daniel Mera, Beverly Neal, Joseph Poitier, Demora Prudent. (Bokor, Alexander) (Entered: 01/03/2012)
01/03/2012	<u>113</u>	MOTION for Leave to File Amended Motion for Sanctions by John

		Christopher Spaulding. (gp) (Entered: 01/04/2012)
01/03/2012	<u>114</u>	MOTION for an Order to Compel <i>Discovery</i> by John Christopher Spaulding. Responses due by 1/20/2012 (gp) (Entered: 01/04/2012)
01/03/2012	<u>115</u>	NOTICE of Deposition by John Christopher Spaulding.(gp) (Entered: 01/04/2012)
01/03/2012	<u>116</u>	NOTICE of Deposition of Daniel Junior by John Christopher Spaulding. (gp) (Entered: 01/04/2012)
01/03/2012	<u>117</u>	Deposition Upon Written Questions by John Christopher Spaulding (gp) (Entered: 01/04/2012)
01/05/2012	<u>118</u>	ORDER denying <u>104</u> Motion for Sanctions; denying <u>113</u> Motion for Leave to amend motion for sanctions for reasons stated in the defendants response (DE#112). Defendants must reply forthwith to plaintiff's motions to compel discovery, DE#102, 103, 106, 107, 108, 109 and 114. Discovery is to be resolved on or before January 30, 2012 by Order of Judge Donald Graham.. Signed by Magistrate Judge Patrick A. White on 1/5/2012. (cz) (Entered: 01/05/2012)
01/09/2012	<u>119</u>	MOTION for an Order Compelling <i>Discovery</i> by John Christopher Spaulding. Responses due by 1/26/2012 (ral) (Entered: 01/09/2012)
01/09/2012	<u>120</u>	AMENDED MOTION for Sanctions due to Discovery Violations by John Christopher Spaulding. (ral) (Entered: 01/09/2012)
01/09/2012	<u>121</u>	MEMORANDUM; re <u>120</u> MOTION for Sanctions by John Christopher Spaulding. (ral) (Entered: 01/09/2012)
01/09/2012	<u>122</u>	MOTION for Clarification by John Christopher Spaulding. Responses due by 1/26/2012 (ral) (Entered: 01/09/2012)
01/09/2012	<u>123</u>	RESPONSE in Opposition re <u>103</u> MOTION to Compel <i>for an Order Compelling Discovery</i> , <u>108</u> MOTION for Court to Order Defendant Daniel Mera to Answer Written Questions, <u>114</u> MOTION to Compel <i>Discovery</i> , <u>106</u> MOTION to Produce, <u>102</u> MOTION to Compel <i>for an Order Compelling Discovery</i> , <u>109</u> MOTION for the Court to Order Dr. Joseph Poitier to Answer Written Questions, <u>107</u> MOTION to Compel <i>Discovery and incorporated memorandum of law</i> filed by Janeen Abonze, Etienne, Guery Jasmin, Marsh, Daniel Mera, Beverly Neal, Joseph Poitier, Demora Prudent. (Bokor, Alexander) (Entered: 01/09/2012)

<b>PACER Service Center</b>			
<b>Transaction Receipt</b>			
01/10/2012 10:29:10			
<b>PACER Login:</b>	vl0006	<b>Client Code:</b>	
<b>Description:</b>	Docket Report	<b>Search Criteria:</b>	1:10-cv-21898-DLG
<b>Billable Pages:</b>	9	<b>Cost:</b>	0.72

(Rev. 11/2002) Complaint Under The Civil Rights Act, 42 U.S.C. § 1983

UNITED STATES DISTRICT COURT

Southern District of Florida

cat/div SSB/1983/

Case # \_\_\_\_\_

Judge \_\_\_\_\_ Mag White Number: \_\_\_\_\_

Motn lfp NO Fee pd \$ NO

Receipt # \_\_\_\_\_  
John Christopher Spaulding

FILED by EB D.C.  
JUN 08 2010  
STEVEN M. LARIMORE  
CLERK U. S. DIST. CT.  
S. D. of FLA. - MIAMI

(Enter above the full name of the plaintiff or plaintiffs in this action.)

v. MIAMI DADE County / CORRECTIONS AND REHABILITATION  
JACKSON HEALTH SERVICES / JACKSON M. HOSPITAL  
MIAMI, DADE CORRECTIONS AND REHABILITATION  
DR. JOSEPH PORTIER - JACKSON M. HOSPITAL  
TIMOTHY RYAN - DIRECTOR - MIAMI-DADE CORRECTION + REHABILITATION  
DANIEL MERA - CAPTAIN - MIAMI-DADE CORRECTION + REHABILITATION

(Enter above the full name of the defendant or defendants in this action.)

Willie Rogers - OFC. / DENVERA  
BEVERLY NEEL - OFC. Prudent OFC  
JANEEN ABUNZE - OFC. MARSH / NURSE  
GUEVY JASMIN - OFC. ETIENNE / NURSE

A COMPLAINT UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983

Instructions for Filing:

This packet includes four copies of the complaint form and two copies of the Application to Proceed without Prepayment of Fees and Affidavit. To start an action you must file an original and one copy of your complaint for the court and one copy for each defendant you name. For example, if you name two defendants, you must file the original and three copies of the complaint (a total of four) with the court. You should also keep an additional copy of the complaint for your own records. All copies of the complaint must be identical to the original.

Your complaint must be legibly handwritten or typewritten. Please do not use pencil to complete these forms. The plaintiff or plaintiffs must sign and swear to the complaint. If you need additional space to answer a question, use an additional blank page.

Your complaint can be brought in this court only if one or more of the named defendants is located within this district. Further, it is necessary for you to file a separate complaint for each claim that you have unless they are all related to the same incident or issue.

There is a filing fee of \$150.00 for this complaint to be filed. If you are unable to pay the filing fee and service costs for this action, you may petition the court to proceed in forma pauperis.

(Rev. 09/2007) Complaint Under The Civil Rights Act, 42 U.S.C. § 1983

There is a filing fee of \$350.00 for this complaint to be filed. If you are unable to pay the filing fee and service costs for this action, you may petition the court to proceed in forma pauperis.

Two blank Applications to Proceed without Prepayment of Fees and Affidavit for this purpose are included in this packet. Both should be completed and filed with your complaint.

You will note that you are required to give facts. THIS COMPLAINT SHOULD NOT CONTAIN LEGAL ARGUMENTS OR CITATIONS.

When these forms are completed, mail the original and the copies to the Clerk's Office of the United States District Court, Southern District of Florida, 400 North Miami Avenue, Room 8N09, Miami, Florida 33128-7788.

**I. Parties**

In Item A below, place your name in the first blank and place your present address in the third blank.

A. Name of plaintiff: John Christopher Spaulding  
Inmate #: C-183425  
Address: 1050 Big Sue Road  
Masticella, Florida 32344

In Item B below, place the full name of the defendant in the first blank, his/her official position in the second blank, and his/her place of employment in the third blank. Use Item C for the names, positions, and places of employment for any additional defendants.

B. Defendant: Joseph Portier  
is employed as Doctor  
at Jackson Health Services / Jackson Memorial Hospital  
Miami Dade Correctional Rehabilitation

C. Additional Defendants: Jackson Health Services / Miami Jackson  
Hospital;

*Names And Addresses Of All Defendants*

A) TIMOTHY RYAN/DIRECTOR  
(MIAMI DADE CORRECTIONS AND REHABILITATION)  
2525 N.W. 62<sup>ND</sup> STREET  
MIAMI, FLORIDA 33147

B) DANIEL MERA/ CAPTAIN  
(MIAMI DADE DEPARTMENT AND REHABILITATION)  
2525 N.W. 62<sup>ND</sup> STREET  
MIAMI, FLORIDA 33147

C) WILLIE RODGERS/ OFFICER  
(MIAMI DADE DEPARTMENT AND REHABILITATION)  
2525 NW 62<sup>ND</sup> STREET      1321 N.W. 13<sup>TH</sup> STREET  
MIAMI, FLORIDA 33147      MIAMI, FLORIDA 33125

D) JANEEN ABONZE/OFFICER  
(MIAMI DADE DEPARTMENT AND REHABILITATION)  
2525 N.W. 62<sup>ND</sup> STREET      1321 N.W. 13<sup>TH</sup> STREET  
MIAMI. FLORIDA 33147      MIAMI, FLORIDA 33125

E) DEMORA PRUDENT/ OFFICER  
(MIAMI DADE DEPARTMENT AND CORRECTIONS )  
2525 N.W. 62<sup>ND</sup> STREET      1321 N.W. 13<sup>TH</sup> STREET  
MIAMI. FLORIDA 33147      MIAMI.FLORIDA 33125

F) BEVERLY NEAL/OFFICER  
2525 N.W. 62<sup>ND</sup> STREET      1321 N.W. 13<sup>TH</sup> STREET  
MIAMI, FLORIDA 33147      MIAMI, FLORIDA 33125

G)GUERY JASMIN/OFFICER  
(MIAMI DADE DEPARTMENT AND CORRECTIONS)  
2525 N. W. 62<sup>ND</sup> STREET      1321 N.W. 13<sup>TH</sup> STREET  
MIAMI, FLORIDA 33147      MIAMI, FLORIDA 33125

H)            ETIENNE/NURSE  
JACKSON HEALTH SERVICES/ JACKSON M. HOSPITAL

1611 N. W. 10<sup>TH</sup> AVE.  
MIAMI, FLORIDA 33127

1321 N.W. 13<sup>TH</sup> STREET  
MIAMI, FLORIDA 33125

I) MARSH/NURSE  
JACKSON HEALTH SERVICES/ JACKSON M. HOSPITAL  
1611 N. W. 10<sup>TH</sup> AVE. 1321 N. W. 13<sup>TH</sup> STREET  
MIAMI, FLORIDA 33127 MIAMI, FLORIDA 33125

J) MIAMI, DADE COUNTY/ CORRECTIONS AND REHABILITATION  
2525 N.W. 62<sup>ND</sup> STREET 1321 NW 13<sup>th</sup> Street  
Miami, Florida 33147 Miami, Florida 33125

K) Dr. Joseph Poitier  
Jackson Health Services/Jackson M. Hospital  
1321 NW 13<sup>th</sup> Street /1611 NW 10<sup>th</sup> Ave.  
Miami, Florida 33125 Miami, Florida 33127

L) Jackson Health Services/ Jackson M. Hospital  
1611 NW 10<sup>th</sup> Ave.  
Miami, Florida 33127

**PLAINTIFF**

John Christopher Spaulding  
Inmate No. 183425  
33123 Oil Well Road  
Punta, Gorda, Florida 33995

### STATEMENT OF FACTS

*ON May 15<sup>th</sup> 2008 at approximately 1.00pm, I was housed in the Miami Dade County Pretrial Detention Center ( unit 9-C-1 cell number 9) termed the Psychological Floor-Suicide Watch. This was facilitated because my life had been threatened by Corporal Cushnie of the 5<sup>th</sup> floor, who tore up my religious material ( during a shake down) unlawfully took my radio and other personal properties including magazines, and made demeaning statements, about the Islamic religion, stating how much he hated all (Muslims) and that all of us (Muslims) were nothing but suicide bombers and murders. If it were left up to him he would kill me right now.*

*I later declared myself suicidal to get off that floor away from him and report it to a supervisor. While on the 9<sup>th</sup> floor I was conversing with an inmate (2) two cells down from me when (officer Rogers) asked me to cuff up, so I complied with his request and order. After I stuck my arms out the tray flap to be placed in restraints, he surprisingly grabbed the middle of the cuffs and told me, They want to give you a shot. He then opened the door, I asked for what? That's when Defendants: (Prudent) (Abonze) (Jasmin), (Neal), Nurse Marsh and Nurse Etienne attempted to inject an unknown medication into my person. I panicked and resisted, and wouldn't let them inject the unknown liquid in the syringe into me.*

*I kept telling the defendants that, It was against my religion to do drugs, I didn't do anything to deserve this, I never consented by signing a consent form, and I m an American Citizen, this is against the law. As I reminded the defendants of these facts no attention was paid to me.*

*Defendants (Prudent) then grabbed the cuffs and together with defendant (Rogers), placed their feet against the door and pulled with all their might (It was extremely painful), while officers (Neal, Abonze, Jasmin ) along with nurse Ettienne held still bending my right knee as far as it would go, while nurse Marsh injected me in my right quadriceps with a very strong dose of what I learned later was the drug, Haldol. I was then released from the restraints after they closed the cell door back shut. The entire incident was caught on camera, which was positioned right in the front of the cell. I sustained deep bruises to my forearms and biceps, cuts and bruises to my wrist and lost feelings (experienced numbness) to my hands. I never was treated for my injuries sustained as a result of this attack. I was seen a*

*couple of weeks later for my* injuries and an appointment was made for me at Jackson M. Hospital (Sports Medicine Clinic) but they never took me to appointment to see a hand doctor. When I woke up the next morning my vision was blurry white and fuzzy, and I was having a very serious headache, dizzy spells. Dr. Poiter came to see me that same morning and released me in that condition. I felt tortured..... Being that at the time of the attack I was a classified level 1A safety cell inmate-a supervisor must always be present anytime staff interact with me, or I,m being moved, but there wasn't one there during the entire incident. This was these officials duty and responsibility, and they neglected it just to make me suffer and to this day I still don't know why.

Note also that my vision has never been the same.I,m forced to wear eye glasses, when before this attack I didn't need any, and my vision is steadily declining at a rapid pace. I will never see well again for the rest of my life. Even though it felt like as though they they severly pinched nerves in my hands with the pulling, of the hand cuffs during the attack. I did regain feeling back in my hands after (6) six months. But it was (6) six months of suffering with no treatment even after I reported it. Also note that (use of force report) was not prepared or written by defendants (Prudent,Rogers,Abonze, Neal, or Jasmin ) as is required under this nature occurs, in an effort to cover up or conceal their foul actions.

*I exhausted my administrative remedies to seek justice and relief in the form of grievances, appeal of grievances, and sworn formal complaints, to Interna Affairs for the Miami dade Correctiond where in I requested that the video survelliance of the incident be preserved forfuture reference. An investigation was conducted by that office. It is a known fact by medical staff that I,m suffering andbeing treated for Glaucoma since the year 2002.*

### **Defendant**

Dr. Poiter- at all times material to this complaint was the Psychiatric Medical Director employed by Jackson Health Services/ Jackson M. Hospital for Miami dade Corrections and Rehabilitation County Jail, and gave the order Via telephone and wasn't on the scene when plaintiff was forced by the medical staff under his direct orders to inject the drug, Haldol into his system without his written consent or permission orally- resulting in

the partial loss of his sight, constant headaches, nose bleeds, and complete memory lapse at time.

**Defendant**

Dainel Mera- at all times material to this complaint was acting in the capacity of Captain over the Miami Dade Corrections And Rehabilitation Pretrial Detention Center, and is directly responsible for guidance over defendants,(Demora Prudent, Janeen Abonze, Guery Jasmin,Beverly Neal,Willie Rogers, Nurse Ettiene and Nurse Marsh);all others similarly situated and gave the direct order to use unnecessary force to restrain plaintiff and inject him with the psychotic drug Haldol.

**Defendant**

Timothy Ryan - at all times material to this complaint, was acting in the capacity of Director of Miami Dade Correction And Rehabilitation, and is directly responsible for the training of these officials, their knowledge and application of the rules and procedures. Under Oath required of them in the act of duty. When they knowingly and deliberately used force to inject the plaintiff with the Psychiatric drug Haldol to which th plaintiff sustained injuries as well ; against his will and permission.

**Statement Of Facts (continued)**

**Defendant**

*Jackson Health Services/ Jackson M. Hospital- at all times material are the corporate employers of Dr. Joseph Poiter, Nurse Ettiene, Nurse Marsh, and are material to this complaint and are held responsible for the intentionally negligent actions of these employees, as they committed malpractice under the Oath of Licensed Mental Health and Medical practitioners by administering and injection the psychotic drug known as Haldol, into the plaintiff against his will, and/or permission for no other*

*reason but to punish and torture the plaintiff. Causing irreparable damage on his eyes, permanently. Impairing his vision partially with ongoing deterioration, he suffered headaches, complete memory loss at times and nose bleeds. Knowing all the while he was diagnosed with Glaucoma....*

**Defendant**

*Miami Dade County/ Corrections And Rehabilitation- at all times material to this complaint are the corporate employers of all of the above mentioned officials, and staff mentioned in this complaint, and are solely responsible for their actions. Where in they unlawfully restrained plaintiff with unnecessary use of force against his will or permission. Without show cause justifiably, and injected him with the psychotic drug Haldol, causing him physical injuries left untreated, headaches, nose bleeds, complete memory loss at times and permanent impairment of his vision that's gradually and constantly deteriorating due to the fact he suffering with Glaucoma.*

**End Of Statement Of Facts**

(Rev. 09/2007) Complaint Under The Civil Rights Act, 42 U.S.C. § 1983

**II. Statement of Claim**

State here as briefly as possible the facts of your case. Describe how each defendant is involved. Include also the names of other persons involved, dates, and places.

Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Use as much space as you need. Attach an additional blank page if necessary.

*SEE ATTACHED PAPERS*



(Rev. 09/2007) Complaint Under The Civil Rights Act, 42 U.S.C. § 1983

Signed this 11<sup>th</sup> day of May, 20 10

John C. Spaulding  
(Signature of Plaintiff)

I declare under penalty of perjury that the foregoing is true and correct. *(optional)*

Executed on: \_\_\_\_\_

John C. Spaulding  
(Signature of Plaintiff)

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION

Case No. 10-21898-CIV-GRAHAM/WHITE

JOHN C. SPAULDING

Plaintiff,

vs.

JOHN POITIER, et. al.,

Defendants.

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ORDER

**THIS CAUSE** comes before the Court upon Plaintiff's Objections to Magistrate Judge Dismissal of §1983 Complaint construed as a Motion for Reconsideration [D.E. 10].

**THE COURT** has reviewed the motion, the pertinent portions of the record and is otherwise fully advised in the premises.

**BACKGROUND**

Plaintiff John C. Spaulding ("Plaintiff") has filed a pro se civil rights complaint under 42 U.S.C. §1983 asserting his constitutional rights were violated when the Defendants, various guards, physicians and nurses, injected him with Haldol against his will. Plaintiff asserts he suffered injuries as a result of Defendants restraining him to administer the anti-psychotic drug. In addition, Plaintiff asserts that the drug made his vision blurry and that he has Glaucoma.

United States Magistrate Judge Patrick A. White reviewed the Complaint for an initial screening pursuant to 28 U.S.C. § 1915. The Magistrate Judge issued a Preliminary Report recommending the Complaint be dismissed for failure to state a claim. In particular, the Magistrate Judge found that Plaintiff's difference of opinion with the prison medical staff regarding medical matters did not rise to the level of a cause of action for cruel and unusual punishment. In addition, the Magistrate noted that Plaintiff's allegations regarding deteriorating eyesight were clearly a symptom of his Glaucoma and not a result of the injection.

Plaintiff failed to file timely objections. The Court adopted the Magistrate's report and dismissed Plaintiff's claims. Shortly thereafter, Plaintiff filed his objections to the report. In his objections, Plaintiff asserts that Haldol causes a negative reaction in patients with Glaucoma and that the Magistrate Judge erroneously made a factual medical determination when recommending dismissal of the Complaint.

Before the Court could rule on Plaintiff's objections, Plaintiff filed both a motion to amend his complaint, a notice of appeal and a motion to proceed in forma pauperis on appeal.

LAW

To state a claim under 42 U.S.C. § 1983, Plaintiff must allege: (1) Defendants deprived him of a right secured under the United States Constitution or federal law, and (2) such deprivation occurred under color of state law. Arington v. Cobb County, 139 F.3d 865, 872 (11<sup>th</sup> Cir. 1198). In addition, Plaintiff must allege an establish an affirmative causal connection between the defendant's conduct and the constitutional deprivation. McDowell v. Brown, 392 F.3d 1283 (11<sup>th</sup> Cir. 2004).

Under the Due Process Clause of the Fourteenth Amendment, inmates have a significant liberty interest in the decision to refuse the administration of anti-psychotic drugs, unless certain preconditions are met. Washington v. Harper, 494 U.S. 201, 110 S.Ct. 1028, 108 L.Ed. 2d 178 (1990). These preconditions have been met where the inmate is dangerous to himself or others. Id; Riggins v. Nevada, 504 U.S. 127, 112 S.Ct. 1810, 118 L.Ed.2d 479 (1992).

Although the Government might be able to establish that Plaintiff was a danger to himself and/or others, thus justifying the use of Haldol, the Government has yet to respond to the Complaint. The Court cannot make its own factual determinations as to the propriety of the use of Haldol and/or whether the Haldol caused his vision problems. Plaintiff has alleged the use of Haldol against his will and therefore has allege the deprivation of

his liberty interest under the Due Process clause. Accordingly, Plaintiff should be permitted to proceed past the initial screening of his Complaint.

Based thereon, it is

**ORDERED AND ADJUDGED** that Plaintiff's Objections to Magistrate Judge Dismissal of §1983 Complaint construed as a Motion for Reconsideration [D.E. 10] is **GRANTED**. It is further

**ORDERED AND ADJUDGED** that the Court rescinds its Order adopting the Magistrate Judge's Report and Recommendation [D.E. 7]. Plaintiff shall be permitted to proceed on his initial Complaint. It is further

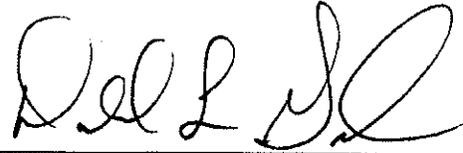
**ORDERED AND ADJUDGED** that the clerk of Court shall reopen this case. It is further

**ORDERED AND ADJUDGED** that pursuant to 28 U.S.C. § 636 and the Magistrate Rules of the Local Rules of the Southern District of Florida, the above-captioned cause is hereby referred to **United States Magistrate Patrick A. White** to take all necessary and proper action as required by law regarding all pre-trial, non-dispositive matters and for a Report and Recommendation on any dispositive matters.

**ORDERED AND ADJUDGED** that Plaintiff's Motion for Leave to File an Amended Complaint [D.E. 11] is **DENIED as MOOT**. It is further

**ORDERED AND ADJUDGED** that Plaintiff's Motion to Proceed In Forma Pauperis on Appeal [D.E. 16] is **DENIED as MOOT**.

**DONE AND ORDERED** in Chambers at Miami, Florida, this 19<sup>th</sup> day  
of October, 2010.



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DONALD L. GRAHAM  
UNITED STATES DISTRICT JUDGE

cc: U.S. Magistrate Judge White  
Counsel of Record  
John C. Spaulding, pro se