

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

Paul Edmund Liles
Disability Rights Florida, Inc.
1000 North Ashley Drive
Suite 640
Tampa, FL 33602
800-342-0823
Fax: 850-488-8640
Email: paul@disabilityrightsflorida.org

*TERMINATED: 02/15/2012
ATTORNEY TO BE NOTICED*

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.

represented by **Alexander Spicola Bokor**
(See above for address)

*Hospital**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: 07/06/2010)

		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	53	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	56	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 Amemded Complaint by John Christopher Spaulding. (jcy) (Entered: 04/13/2011)
04/14/2011	<u>60</u>	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	<u>61</u>	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 Magistrate 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	<u>73</u>	*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	<u>78</u>	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	<u>81</u>	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	<u>83</u>	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.(<i>Discovery</i> 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 <i>Discovery</i> 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 <i>Discovery</i> 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 <i>Discovery</i> Documents by John Christopher Spaulding. (jua) (Entered: 12/20/2011)
12/19/2011	<u>105</u>	NOTICE of Filing <i>Discovery</i> : 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 <i>Discovery</i> 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	111	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</i>

		<i>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)
01/10/2012	124	ORDER deferring ruling on <u>95</u> Motion to Compel; deferring ruling on <u>96</u> Motion to Compel, the defendants must file a response to these motions on or before 1/23/12; denying <u>102</u> Motion to Compel; denying <u>103</u> Motion to Compel; denying <u>106</u> Motion to Produce; denying <u>107</u> Motion to Compel; denying <u>108</u> Motion ; DE# 107, DE 108 denying DE <u>109</u> Motion for the reasons stated in the defendants resonse (DE#123) ; denying <u>114</u> Motion for sanctions for reasons stated in the defendants' resonse (DE#112); denying <u>119</u> Motion to Compel, defendants have responded to requests for medical records previously; denying <u>120</u> amended Motion for Sanctions for same reasons ; denying <u>122</u> Motion for Clarification, the plaintiff is attempting to obtain discovery from non party.. Signed by Magistrate Judge Patrick A. White on 1/10/2012. (cz) (Entered: 01/10/2012)
01/10/2012		Set/Reset Deadlines as to <u>95</u> MOTION to Compel <i>Discovery</i> , <u>96</u> MOTION to Compel <i>Discovery</i> . Responses due by 1/23/2012 (ls)(per DE #124) (Entered: 01/10/2012)
01/17/2012	<u>125</u>	MOTION for Submission of Authority by John Christopher Spaulding. (jua) (Entered: 01/18/2012)
01/19/2012	126	ORDER granting <u>125</u> Motion. Signed by Magistrate Judge Patrick A. White on 1/19/2012. (cz) (Entered: 01/19/2012)
01/23/2012	<u>127</u>	RESPONSE to Motion re <u>96</u> MOTION to Compel <i>Discovery</i> , <u>95</u> MOTION to Compel <i>Discovery</i> and incorporated <i>memorandum of law</i> filed by Janeen Abonze, Etienne, Guery Jasmin, Marsh, Daniel Mera, Beverly Neal, Joseph Poitier, Demora Prudent. Replies due by 2/2/2012. (Bokor, Alexander) (Entered: 01/23/2012)
01/23/2012	<u>128</u>	REPLY in Opposition to <u>127</u> RESPONSE to 96 MOTION to Compel Discovery, 95 MOTION to Compel Discovery and incorporated memorandum of law by John Christopher Spaulding. (ar2) (Entered: 01/24/2012)
01/23/2012	<u>129</u>	RESPONSE/Motion of Objection to 124 ORDER deferring ruling on 95 Motion to Compel; deferring ruling on 96 Motion to Compel, the defendants must file a response to these motions on or before 1/23/12; denying 102 Motion to Compel; denying 103 Motion to Compel; denying 106 Motion to Produce; denying 107 Motion to Compel; denying 108 Motion ; DE# 107, DE 108 denying DE 109 Motion for the reasons stated in the defendants resonse (DE#123) ; denying 114 Motion for sanctions for reasons stated in the defendants ' resonse (DE#112); denying 119 Motion to Compel, defendants have responded to requests for medical records previously; denying 120 amended Motion for Sanctions for same reasons ; denying 122 Motion for Clarification by John Christopher Spaulding. (ar2) (Entered: 01/24/2012)
01/23/2012	<u>130</u>	MOTION for Leave to File an Amended Complaint by John Christopher Spaulding. (Attachments: # <u>1</u> Second Amended Complaint)(ar2) (Entered: 01/24/2012)

01/23/2012	<u>132</u>	MOTION for an Order Compelling <i>Discovery</i> by John Christopher Spaulding. Responses due by 2/9/2012 (ar2) (Entered: 01/24/2012)
01/24/2012	131	ORDER denying <u>95</u> Motion to Compel; denying <u>96</u> Motion to Compel for the reasons stated in the defendants' response (DE#127).. Signed by Magistrate Judge Patrick A. White on 1/24/2012. (cz) (Entered: 01/24/2012)
01/26/2012	133	ORDER denying <u>130</u> Motion for Leave to File amended complaint. Nurse Ettiene has been served and is part of the lawsuit ; denying <u>132</u> Motion to Compel.. Signed by Magistrate Judge Patrick A. White on 1/26/2012. (cz) (Entered: 01/26/2012)
01/26/2012	<u>134</u>	Unopposed MOTION for Appearance Ad Hoc of Attorney Paul E. Liles by John Christopher Spaulding. (Liles, Paul) (Entered: 01/26/2012)
01/30/2012	<u>135</u>	Unopposed MOTION for Extension of Time to Complete Discovery by John Christopher Spaulding. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Text of Proposed Order)(Liles, Paul) (Entered: 01/30/2012)
01/30/2012	<u>136</u>	MEMORANDUM by John Christopher Spaulding. (jua) (Entered: 01/30/2012)
02/03/2012	<u>137</u>	MOTION for Summary Judgment by John Christopher Spaulding. Responses due by 2/21/2012 (Attachments: # <u>1</u> Exhibit Continued)(jua) (Entered: 02/06/2012)
02/03/2012	<u>138</u>	MOTION for Submission of Authority by John Christopher Spaulding. (jua) (Entered: 02/06/2012)
02/03/2012	<u>139</u>	MEMORANDUM by John Christopher Spaulding. (jua) (Entered: 02/06/2012)
02/06/2012	<u>140</u>	MOTION for Leave to File An Second Amended Complaint by John Christopher Spaulding. (jua) (Entered: 02/06/2012)
02/06/2012	<u>141</u>	OBJECTION to 133 ORDER denying <u>130</u> Motion for Leave to File amended complaint. Nurse Ettiene has been served and is part of the lawsuit ; denying <u>132</u> Motion to Compel.. by John Christopher Spaulding. (jua) (Entered: 02/06/2012)
02/06/2012	<u>142</u>	MOTION for submission of Authority by John Christopher Spaulding. (lk) (Entered: 02/07/2012)
02/13/2012	143	ORDER respectfully deferring ruling on <u>134</u> MOTION for Appearance Ad Hoc to United States District Judge Donald Graham.. Signed by Magistrate Judge Patrick A. White on 2/13/2012. (cz) (Entered: 02/13/2012)
02/13/2012	144	ORDER granting <u>135</u> Motion for Extension of Time to Complete Discovery with the aid of VLP attorney to 3/30/12, ; granting <u>138</u> Motion miscellaneous relief; denying <u>140</u> Motion for Leave to File amended complaint, a)the plaintiff has a motion for summary judgment pending which may be rendered moot and b) the plaintiff may file an proposed amended complaint upon the completion of discovery only if necessary; denying <u>142</u> Motion for miscellaneous relief.. Signed by Magistrate Judge Patrick A. White on

		2/13/2012. (cz) (Entered: 02/13/2012)
02/13/2012	<u>145</u>	MEMORANDUM in Support re <u>137</u> MOTION for Summary Judgment by John Christopher Spaulding. (yha) (Entered: 02/13/2012)
02/13/2012	<u>146</u>	MOTION for Submission of Authority in Support of re <u>140</u> MOTION for Leave to File by John Christopher Spaulding. (yha) (Entered: 02/13/2012)
02/15/2012	<u>147</u>	Unopposed MOTION to Withdraw as Attorney by Paul E Liles. by John Christopher Spaulding. Responses due by 3/5/2012 (Liles, Paul) (Entered: 02/15/2012)
02/15/2012	<u>148</u>	Order on Motion. Signed by Judge Donald L. Graham on 2/15/2012. (jcy) (Entered: 02/15/2012)
02/16/2012	149	Clerks Notice to Filer re <u>147</u> Unopposed MOTION to Withdraw as Attorney by Paul E Liles.. Document not filed in Text Searchable Format; ERROR - The document was not filed in Text Searchable Format. All future filings must be submitted in Text Searchable format as instructed in the CM/ECF Administrative Procedure 3G(5) -Page 10-. It is not necessary to refile this document. (jcy) (Entered: 02/16/2012)
02/21/2012	<u>150</u>	Defendant's MOTION for clarification <u>137</u> MOTION for Summary Judgment, <u>145</u> Memorandum <i>in support of motion for summary judgment</i> (Responses due by 3/9/2012), Defendant's MOTION for Extension of Time to File Response/Reply as to <u>137</u> MOTION for Summary Judgment, <u>145</u> Memorandum <i>in support of motion for summary judgment</i> by Janeen Abonze, Etienne, Guery Jasmin, Marsh, Daniel Mera, Beverly Neal, Joseph Poitier, Demora Prudent. (Attachments: # <u>1</u> Text of Proposed Order)(Bokor, Alexander) (Entered: 02/21/2012)
02/27/2012	<u>151</u>	MOTION/Declaration for Entry of Default as to All Defendants by John Christopher Spaulding. (yha) (Entered: 02/28/2012)
02/28/2012	152	ORDER by Clerk of Non-Entry of Default re <u>151</u> Motion for Clerks 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. Reason: Responsive pleading (i.e. Motion for Extention of Time to File Answer to Complaint, Motion to Dismiss Complaint, etc) has been filed. Signed by DEPUTY CLERK on 2/28/2012. (yha) (Entered: 02/28/2012)
02/29/2012	<u>153</u>	Defendant's MOTION for Summary Judgment by Janeen Abonze, Etienne, Guery Jasmin, Marsh, Daniel Mera, Beverly Neal, Joseph Poitier, Demora Prudent. Responses due by 3/19/2012 (Attachments: # <u>1</u> Exhibit A: Prescription and Administration of Medication, # <u>2</u> Exhibit B: Inmate Grievance and Appeal Documentation, # <u>3</u> Exhibit C: Internal Affairs Memo, # <u>4</u> Exhibit D: Redacted Medical Records, # <u>5</u> Exhibit E: Documentation of Transfer to General Population, # <u>6</u> Exhibit F: Dr. Poitier Declaration)(Bokor, Alexander) (Entered: 02/29/2012)
03/01/2012	<u>154</u>	RESPONSE in Opposition re <u>137</u> MOTION for Summary Judgment filed by

		Janeen Abonze, Etienne, Guery Jasmin, Marsh, Daniel Mera, Beverly Neal, Joseph Poitier, Demora Prudent. (Attachments: # <u>1</u> Exhibit A: Prescription and Administration of Medication, # <u>2</u> Exhibit B: Inmate Grievance and Appeal Documentation, # <u>3</u> Exhibit C: Internal Affairs Memo, # <u>4</u> Exhibit D: Redacted Medical Records, # <u>5</u> Exhibit E: Documentation of Transfer to General Population, # <u>6</u> Exhibit F: Dr. Poitier Declaration)(Bokor, Alexander) (Entered: 03/01/2012)
03/05/2012	<u>155</u>	MOTION for Submission of Authority in Support of <u>151</u> MOTION for Clerks Entry of Default as to All Defendants by John Christopher Spaulding. (yha) (Entered: 03/05/2012)
03/12/2012	<u>156</u>	RESPONSE in Opposition re <u>153</u> Defendant's MOTION for Summary Judgment and Motion In Consolidation filed by John Christopher Spaulding. (cqs) (Entered: 03/12/2012)
03/12/2012	<u>157</u>	SUPPLEMENT Argument In Support Of Exhaustion of Administrative Remedies to <u>156</u> Response in Opposition to Motion by John Christopher Spaulding (cqs) (Entered: 03/12/2012)

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

UNITED STATES DISTRICT COURT

Southern District of Florida

cat/div SSD/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
Janeesh 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
Maiticello, 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. 62ND STREET
MIAMI, FLORIDA 33147

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

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

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

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

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

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

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

1611 N. W. 10TH AVE.
MIAMI, FLORIDA 33127

1321 N.W. 13TH STREET
MIAMI, FLORIDA 33125

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

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

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

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

PLAINTIFF

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

STATEMENT OF FACTS

ON May 15th 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 5th 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 9th 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 Ettiienne 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 Dentention 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 11th 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.

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 (11th 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 (11th 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

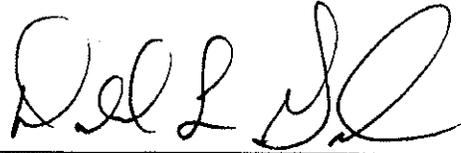
ORDERED AND ADJUDGED that the clerk of Court shall reopen this case. It is further

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 19th day
of October, 2010.

A handwritten signature in black ink, appearing to read 'D L G', written over a horizontal line.

DONALD L. GRAHAM
UNITED STATES DISTRICT JUDGE

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

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 10-21898-CIV-GRAHAM
MAGISTRATE JUDGE P.A. WHITE

JOHN C. SPAULDING, :
 :
Plaintiff, : SUPPLEMENTAL
v. : REPORT OF
 : MAGISTRATE JUDGE
JOHN POITIER, et al., :
 :
Defendants. :

I. Introduction

John C. Spaulding has filed a pro se civil rights complaint pursuant to 42 U.S.C. §1983, while confined in the Charlotte Correctional Institution. (DE#1). The plaintiff has been granted leave to proceed in forma pauperis.

The Magistrate Judge entered a Report on July 6, 2010, recommending that this complaint be dismissed for failure to state a claim. The Report was adopted by United States District Judge Donald Graham. Upon objections from the plaintiff, the case has been re-referred for service of the named defendants.

Facts of the Case

The plaintiff names the following defendants: Jackson Health Services (Jackson Hospital), Dr. Poitier, Jackson Health Services, Director Timothy Ryan, Miami Dade Officers Mera, Rodgers, Abonze, Prudent, Neal, Jasmin, Nurse Marsh, Miami Dade Department Of Corrections, and Nurse Etienne of Jackson Memorial Hospital.

The plaintiff states that on May 15, 2008, while confined at the Miami Dade County Pretrial Detention Center, he declared himself suicidal to escape threats made by Corporal Cushnie, who tore up his religious material and told him he hated Muslims. He states that while on the Psychological Suicide Watch Floor, he was forcibly held by the named officers and given an injection of Haldol by Nurse Marsh. He states that Dr. Poitier was not present, but ordered the injection on the phone. He claims that as a result of this strong dose his vision has been declining. He further claims he suffered a pinched nerve, but has regained feeling back in his hands. He adds that he has been suffering from Glaucoma and is being treated for the disease since 2002. He alleges a violation of his religious rights and a violation resulting from an "illegal injection of Haldol". He seeks over ten and one half million dollars in monetary damages.

II. Sufficiency of the complaint

To successfully state a §1983 cause of action, the plaintiff must demonstrate that person or persons acting under color of state law deprived him of a constitutionally protected right. 42 U.S.C. §1983. The Report of the Undersigned recommended dismissal, finding that an injection of Haldol administered to a plaintiff on the Suicide Watch Floor, prescribed by a doctor, did not demonstrate a violation of a constitutional right, and that a difference of opinion between doctors and the plaintiff failed to state a claim. The Courts have long recognized that a difference of opinion between an inmate and the prison medical staff regarding medical matters, including the diagnosis or treatment which the inmate receives, cannot in itself rise to the level of a cause of action for cruel and unusual punishment, and have consistently held that the propriety of a certain course of medical treatment is not a

proper subject for review in a civil rights action. Estelle v. Gamble at 107 ("matter[s] of medical judgment" do not give rise to a §1983 claim); see also Ledoux v. Davies, 961 F.2d 1536 (10 Cir. 1992) (inmate's claim he was denied medication was contradicted by his own statement, and inmate's belief that he needed additional medication other than that prescribed by treating physician was insufficient to establish constitutional violation); Ramos v. Lamm, 639 F.2d 559, 575 (10 Cir. 1980) (difference of opinion between inmate and prison medical staff regarding treatment or diagnosis does not itself state a constitutional violation), cert. denied, 450 U.S. 1041 (1981).

The Report, although initially adopted was vacated, upon a finding by the District Judge that the Court cannot make a factual determination as to whether the Haldol, used against the plaintiff's will, caused his visual problems, and denied him a liberty interest. (DE#18).

Service will therefore be Ordered by separate Order upon all the named defendants, with the exception of Jackson Hospital, Timothy Ryan, and Miami Dade County Corrections and Rehabilitation Department.

Jackson Memorial Hospital is not a proper defendant in this §1983 action. Claims under § 1983 are directed at "persons" and the hospital is not a person amenable to suit. See Staelens v. Yake, 432 F. Supp. 834 (N.D. Ill. 1977) (private hospital not a person under §1983).

Director Ryan was named in his supervisory capacity. It has long been established, however, that public officials in supervisory positions cannot simply be held vicariously liable for

the acts of their subordinates. Robertson v. Sichel, 127 U.S. 507 (1888); Byrd v. Clark, 783 F.2d 1002, 1008 (11 Cir. 1986). Nor can liability be predicated solely upon the doctrine of respondeat superior in a §1983 action. Monell v. Department of Social Services, 436 U.S. 658 (1978). Supervisory liability requires a causal connection between actions of the supervisory official and an alleged deprivation [for example, a showing of knowledge of a history of abuses and failure to take corrective action]. Byrd v. Clark, supra at 1008. The plaintiff has failed to demonstrate that Director Ryan was responsible for his alleged violation.

Lastly, The Miami Dade County Corrections and Rehabilitation Department is a County Agency. To successfully state a claim against the county the plaintiff must show a policy of violations resulting in a denial of his civil rights. Monell, supra. The plaintiff has demonstrated no such policy, and this defendant must be dismissed.

III. Conclusion

It is therefore recommended as follows:

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 this report may be filed with the District Judge within fourteen days of receipt of a copy of the report.

Dated at Miami, Florida, this 3rd day of January, 2011.



UNITED STATES MAGISTRATE JUDGE

cc: John Christopher Spaulding, Pro se
DC #183425
R.M.C. Main Unit
Lake Butler, FL 32054
Address of record

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

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

JOHN C. SPAULDING

Plaintiff,

vs.

JOHN POITIER, et. al.,

Defendants.

ORDER

THIS CAUSE comes before the Court upon the Supplemental Report of Magistrate Judge [D.E. 30] and Plaintiff's Motion of Objections to Magistrate Judge Dismissal of Defendants in §1983 Complaint [D.E. 33].

The Magistrate Judge issued a Supplemental Report recommending the claims against Defendants Poitier, Mera, Rodgers, Abonzer, Prudent, Neal, Jasmin, Etienne and March continue and that the claims against Jackson Health Services, Director Ryan and Miami Dade County Corrections and Rehabilitation Department be dismissed for failure to state a claim. Plaintiff has objected to that portion of the report recommending dismissal of the claims against Defendants Jackson, Ryan and Miami Dade County Corrections.

THE COURT has conducted an independent review of the record and is otherwise fully advised in the premises.

The Court finds Plaintiff's objections are without merit. Based thereon, it is hereby

ORDERED AND ADJUDGED that the Magistrate Judge's Supplemental Report and Recommendation [D.E. 30] is **AFFIRMED, ADOPTED AND RATIFIED** in its entirety. It is further

ORDERED AND ADJUDGED that Plaintiff's Claims against Defendants Jackson Health Services, Director Ryan and Miami Dade County Corrections and Rehabilitations Department are **DISMISSED**. It is further

ORDERED AND ADJUDGED that Plaintiff's Motion of Objections to Magistrate Judge Dismissal of Defendants in §1983 Complaint [D.E. 33] is **DENIED**.

DONE AND ORDERED in Chambers at Miami, Florida, this 25th day of March, 2010.

s/Donald L. Graham
DONALD L. GRAHAM
UNITED STATES DISTRICT JUDGE

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

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 10CV21898 DLG

**The attached hand-written
document
has been scanned and is
also available in the
SUPPLEMENTAL
PAPER FILE**

FILED by [Signature] D.C.
APR 13 2011
STEVEN M. LARIMORE
CLERK U.S. DIST. CT.
S.D. of FLA. - MIAMI

John C. Spaulding, Pro Se,
Plaintiff,
v.

Case No.: 1:10-cv-21898-DLG
Magistrate Judge(s) [Signature] Donald
Graham

Dr. Joseph Poitier; Nurse LeMarche, Nurse Etienne
Jackson Health Services/Jackson Memorial Hospital/ Miami-
Dade Corrections and Rehabilitation
Ofc. Demora Prudent; Ofc. Beverly Neal; Ofc.
Sareen Agborze; Ofc. Query Jasmin;
Miami-Dade Corrections and Rehabilitation,
Defendants,

SUWANNEE CORRECTIONAL INSTITUTION
Provided for Mailing
APR 07 2011
on This Date
DEPT. OF CORRECTIONS

Individually and in their official capacities

Amended
Complaint

I. Jurisdiction and Venue

1) This is a civil action authorized by 42 U.S.C. Section 1983 to redress the deprivation, under color of state law, of right, secured by the Constitution of the United States. The court has jurisdiction under 28 U.S.C. Section 1331 and 1343 (a) (3). Plaintiff seeks declaratory relief pursuant to 28 U.S.C. Section 2201 and 2202. Plaintiff's claims for injunctive relief are authorized by 28 U.S.C. Section 2283 and 2284 and Rule 65 of the Federal Rules of Civil Procedure.

2) The Southern District of Florida is an appropriate venue under 28 U.S.C. Section 1391(b)(2) because it is where the events giving rise to this claim occurred.

II. Plaintiff

3) Plaintiff John C. Spaulding is and was at all times mentioned herein an inmate of the Miami Dade Corrections and Rehabilitation, Pretrial Detention Center in the custody of Miami-Dade County. He is currently confined in the Florida Department of Corrections, in Live Oak, Florida.

III. Defendants

4) Defendant Joseph Poitier, is a doctor of Jackson Health Services/Jackson Memorial Hospital contracted by Miami Dade Corrections and

Rehabilitation and is legally responsible for the overall operation of the Psychiatric Department at Miami Dade County Corrections and Rehabilitation / Pretrial Detention Center.

5) Defendant Nurse Etienne, is a nurse at Miami Dade County Corrections and Rehabilitation contracted under Jackson Health Services / Jackson Memorial Hospital, assigned to the Psychiatric Floor.

6) Defendant Nurse LeMarcke, is a nurse at Miami Dade County Corrections and Rehabilitation contracted under Jackson Health Services / Jackson Memorial Hospital, assigned to the Psychiatric Floor.

All three are addressed as:

1321 N.W. 13th and 2525 N.W. 62nd by contract of
Miami, Florida 33125 Miami, Florida Miami Dade Corrections

7) Defendant Demora Prudent is a corrections officer of Miami Dade Corrections and Rehabilitation who, at all times mentioned in this complaint held the rank of officer and was assigned to the Pre-trial Detention Center / Psychiatric Floor.

8) Defendant Beverly Neal is a correctional officer of Miami Dade Corrections and Rehabilitation who, at all times mentioned in this complaint held the rank of officer and was assigned to the Pretrial Detention Center / Psychiatric Floor.

9) Defendant Saneen Agbonze is a correctional officer of Miami Dade Corrections and Rehabilitation who, at all times mentioned in this complaint held the rank of officer and was assigned to the Pretrial Detention Center / Psychiatric Floor.

10) Defendant Guey Sasmin is a correctional officer of Miami Dade Corrections and Rehabilitation who, at all times mentioned in this complaint held the rank of officer and was assigned to the Pretrial Detention Center / Psychiatric Floor.

All four (7 thru 10) are addressed as:

2525 N.W. 62nd
Miami, Florida 33147

11) Each defendant is sued individually and in his or her official capacity. At all times mentioned in this complaint each defendant acted under the color of law.

IV. Statement of Facts

12) On May 14, 2008 the plaintiff John C. Spaulding was harassed by Corporal Cushnie of the Pretrial Detention Center (Fifth Floor) to which this official searched his cell tearing up his religious material, took his magazines, and other personal items.

13) He then threatened the plaintiff by stating, "All of you Muslims are suicide bombers and murderers - if I could get away with it I'll kill you right now."

14) As an alternative to get out of that bad situation and guarantee access in reporting the incident to a superior officer, the plaintiff waited until they changed shift and declared himself suicidal, (3-11 shift).

15) At the time the Plaintiff was classified and housed as a Level 1A safety cell inmate - meaning he must be housed alone and there must be a supervisor present when he's moved or during an altercation.

* (1) Note also that the Plaintiff has never been diagnosed for having any mental disorder nor has he ever in his life taken any antipsychotic drugs nor consented in writing to take any which is a legal requirement before psychiatric or healthcare staff and officials can issue them to any pretrial inmate or patient...

* (2) Anti-Psychotic drugs causes a negative reaction if administered to Glaucoma patients which result in blurry vision, headaches, etc. Psychiatrists and their nurses are trained and educated to know all the side effects of the drugs they administer, especially their effects when combined with different diseases. This is a major responsibility in the practice of medicine.

* (3) Note that the Plaintiff has been diagnosed with the disease Glaucoma since 2002 and has been going to regular check ups and treatment for it. Glaucoma is a disease which affects its victims by taking away their peripheral vision causing them to have what is called

"tunnel vision" until finally they lose their vision totally. (This can be supported by the doctor at Bascom and Palmer in Miami who has been treating Mr. Spaulding's Glaucoma in testimony, also he didn't acquire blurry vision until the incident below mention).

16) On May 15, 2008 at approximately 1:00 a.m. the Plaintiff was housed alone on the video surveillance equipped psychiatric suicidal watch unit (9-C-1) in cell # 9. All he was doing was talking to another inmate in another cell (not trying to hurt himself or any body else) - freedom of speech. That's when former defendant (deceased) Ofc. Rogers approached the plaintiff's cell and asked him to "cutt up." As a gesture of obedience and not being belligerent, the plaintiff humbly complied.

* Note that there is no supervisor present which is required by procedure (at that time) when dealing with a Level I A safety cell inmate, at that time...

17) The plaintiff was then handcuffed with metal restraints with his arms stuck out the tray flap. Ofc. Rogers then grabbed the cuffs and opened the door with the plaintiff still stuck in the door. The plaintiff asked what was going on and Ofc. Rogers replied that, "They want to give you a shot."

18) Frightened, the plaintiff asked, "For what? I haven't done anything wrong."

* Upon information and belief - the ninth floor had a reputation for injecting inmates with anti-psychotic drugs as punishment, instead of quelling violent behavior as it was designed for - by policy...

19) At that time defendants (Agbonze, Neal, Prudent, Sasmis) approached the plaintiff and started grabbing him to subdue him. Ofc. Prudent grabbed the plaintiff around his neck at first, then went around the door and grabbed the handcuffs with Ofc. Rogers. Ofc.'s Agbonze, Neal and Sasmis each grabbed him around his torso and waist. When defendant Nurse LeMarche approached the plaintiff to inject an unknown liquid in his left arm the plaintiff started bouncing up and down to keep them from putting the needle in him and protested by stating that, "I haven't done done anything wrong, I have rights and what you all are doing isn't right."

20) That's when defendants Prudent and Rogers planted their feet against the door and pulled on the handcuffs with all their might while the plaintiff's arms were still inside the tray flap. Then defendant Nurse Etienne came over and assisted them by first grabbing the plaintiff around his neck then eventually bending the plaintiff's right leg at the knee as far as it would painfully go until Nurse LeMarche hammer punched the syringe into the plaintiff's severely tightened quadriceps muscle, without sanitizing the injected area first by procedure and policy.

21) They then released the plaintiff, closed the door and uncuffed him. All of this was caught on camera.

22) The plaintiff was badly bruised on his forearms and biceps and had no feeling in his hands period- he felt tortured... Then there was dizziness, then sleep.

* Note that the plaintiff was never treated for his injuries. The plaintiff's medical records and the video surveillance proves his case as evidence.

23) During the plaintiff's protest while force was being applied upon him unconstitutionally Nurse LeMarche stated that Dr. Poitier ordered that he be given a shot because he was out of control. Nurse LeMarche made a false accusation against the plaintiff just to subject him to cruel and unusual punishment knowing his actions would cripple the plaintiff's vision. This was direct deliberate indifference to the care and safety of the plaintiff's medical ailment of Glaucoma and his treatment to force an antipsychotic drug into him, and the defendant Nurse LeMarche knew this. At the time Nurse LeMarche told him the drug was Halidol.

24) Defendant Dr. Joseph Poitier also knew that injection would negatively affect the plaintiff's vision because it's a primary responsibility by policy for a doctor to thoroughly review a patient's medical file before ordering or administering a new drug, never taken by the patient before, to them that is known to cause side effects. Dr. Poitier knew from the medical file that the plaintiff was suffering from Glaucoma.

25) To make false accusations against the plaintiff (which is supported

by video surveillance) saying the plaintiff was out of control when he was not, and even after reviewing his medical file then carrying out a planned attack against him, shows that they, the defendants, possessed a culpable state of mind while subjecting him to unnecessary and wanton infliction of pain. An act that was deliberately indifferent to the care of his disease - to the untreated of his injuries after the attack.

26) The officer defendants openly used force against the plaintiff and to hide the incident from their superiors, they did not prepare a Use of Force report, which is a mandatory requirement by policy. They knew they were wrong in carrying out what they had planned. Again, it's mandatory by their policy and training that a Use of Force report must be written by every individual involved once they forcibly put their hands on an inmate in a forceful manner. They acted outside their official duty when they didn't follow policy.

Their actions were unnecessary because the plaintiff never was violent or out of control, in fact, he voluntarily complied to be placed in metal restraints which were later used by the defendants to inflict wanton pain upon his person, causing his injuries, violating his civil rights. A Use of Force report would have required taking pictures of his injuries.

27) Later that same morning Dr. Poitier, at approximately 9:00 a.m. came and observed personally the results of his order and the plaintiff's tortured and unbalanced state of being, and instead of treating him for what he observed he intentionally released the plaintiff back to general population violating the policy that a patient has to be detained a minimum mandatory of specific hours on suicide observation. The plaintiff had not been under suicide observation for 24 hours. This is deliberate indifference added to what he forced the plaintiff to endure that night by being injected with an antipsychotic drug.

28) That same day upon waking up, the Plaintiff's vision was affected in the manner of blurriness that it seemed as though he was walking through a white cloud. Being that the plaintiff does have Glaucoma, he

does know for a fact that he's living with and has experienced all the side affects and symptoms of being injected with the antipsychotic drug known as Halidol while having this disease.
29) A few days after being taken back to the same cell Cpl. Cushnie harrassed him in, the plaintiff tried desperately to receive medical attention for his injuries, after he came to his full senses and the drug wore off.

* To this very day the plaintiff is suffering from severe near sightedness, blurry vision and headaches because of the mixture of having Glaucoma and being injected with an antipsychotic drug. He's been prescribed three different eye glasses prescriptions from the eye doctor since May 2008, when before the incident his vision was very good and all his checkups recorded in his medical file substantiates this fact.

His peripheral vision is still strong and intact.

30) The plaintiff finally saw Dr. Migrino for his injuries two weeks later to which he still had lost feelings in his hands, so this doctor set up an appointment for him to see a "hand specialists" in the Sports Medicine clinic at Jackson Memorial Hospital. Nothing was done to better his condition beyond that.

31) He never made that appointment to this day because corrections would not provide transportation for the plaintiff to go to the hospital.

32) In a matter of months he was forced to recover fully from his hand injuries on his own without treatment.

V. Exhaustion of Legal Remedies

33) Plaintiff used the inmate grievance procedure available at Miami Dade Corrections and Rehabilitation/Pretrial Detention Center to try to solve the problem. On May 18, 2008 plaintiff John C. Spaulding filed a grievance presenting the facts relating to this case of the incident. On May 26, 2008 plaintiff was sent a response stating that the grievance was

"substantiated" as having occurred and that the plaintiff was drugged. On May 28, 2008 plaintiff also filed an appeal because he requested in his first grievance that the video surveillance of the incident to be preserved for future reference and they no mention of this being done in their first response. On June 5, 2008 the plaintiff received a response of his appeal as "unsubstantiated," but they responded saying that they would review the video; an admittance that it did exist.

34) The plaintiff on June 10, 2008 then filed a Sworn Formal Complaint to Internal Affairs / Miami Dade Corrections and Rehabilitation in care of Chief Puig and an investigation was conducted by this agency. In August 2008 the plaintiff was interviewed by one of their officials at the Pretrial Detention Center, then again in November 2008 at Metro West Detention Center where the plaintiff signed a medical release form for the investigator in order to aid them in the investigation. Within this complaint the plaintiff also requested that the video surveillance be preserved for future reference as evidence.

35) Thereafter the plaintiff was never informed of the outcome of this investigation by Internal Affairs (I/A).

VI. Legal Claims

Plaintiff reallege and incorporate by reference paragraphs 1-35.

It was cruel and unusual punishment of ~~an~~ excessive and planned force with deliberate indifference when all the above mentioned defendants violated policy and procedure by:

1) Dr. Poitier ordered the injection knowing of the plaintiff's disease from his medical records and how it would negatively affect him, using his suicidal status as an excuse to do so, then knowingly violated policy by releasing the plaintiff from his care before the policy minimum mandatory time required that a suicidal patient must remain under observation. Violating his right to Due Process and the liberty to be free of harm - Eighth and Fourteenth Amendment Also not treating him for 8 out of 10 his injuries as a result of the attack

2) Nurse LeMarke made a false accusation (evidenced by video) stating that the Plaintiff was acting out of control as an excuse to violate his First Amendment Right of freedom of speech to carry out this attack (planned by him) which resulted in unnecessary and wanton infliction of pain by the defendants Ofc. Prudent, Ofc. Neal, Ofc. Agbonze, Ofc. Sasmir, Nurse Etienne and former defendant (deceased) Ofc. Rogers, Willie, when they all aided in abusing him and didn't aid in the treatment of his injuries (by policy to do so) and forcefully aided in injecting him with an anti-psychotic drug that would permanently disable his vision as a means of punishment violating his First, Fifth, Eighth and Fourteenth Amendment Rights of the United States Constitution, just for the sole reason of the plaintiff holding a conversation with another patient/inmate in another cell. They also violated policy by not preparing Use of Force reports to hide or cover up their intentional retaliation, and LeMarke not sanitizing injected area. They also violated his rights for not treating him for his injuries from the attack. This constituted deliberate indifference and direct cruel and unusual punishment with deprivation of freedom of speech and the right to refuse the psychotropic injection as a Due Process violation. Also pretrial detainee his right to not be punished without Due Process was also violated as well as, again, his liberty to remain free from harm.

The plaintiff has no plain, adequate or complete remedy at law to redress the wrongs described herein. Plaintiff has been and will continue to be irreparably injured by the conduct of the defendants unless this court grants the declaratory and injunctive relief plaintiff seeks.

VII. Relief Sought

Wherefore, plaintiff respectfully prays that this Honorable Court enter judgement granting plaintiff:

1) A declaration that the acts and omissions described herein violated plaintiff's rights under the Constitution and laws of the United States;

- 2) A preliminary and permanent injunction ordering defendants Dr. Joseph Poirier, Nurse Le Marche, Nurse Etienne, Ofc. Demora Prudent, Ofc. Janeen Agbonze, Ofc. Query Sasmia and Ofc. Beverly Neal to establish a written criteria as policy of their employed agencies to be aware and concerned of the care of inmates/patients suffering with Glaucoma, ensure them proper and adequate medical care as to not contribute to the hindrance of this disease - and to not use anti-psychotic drug injections of any form as a form of punishment towards inmate/patients;
- 3) Compensatory damages in the amount of \$2,500,000 against each defendant; jointly and severally;
- 4) Punitive damages in the amount of \$7,500,000 against each defendant;
- 5) A jury trial on all issues triable by jury;
- 6) Plaintiff's cost in this suit;
- 7) Any additional relief this court deems just, proper and equitable.

Date: April 7, 2011

By: John C. Spaulding

VIII. Verification

I have read the foregoing complaint and hereby verify that the matters alleged therein are true, except as to matters alleged on information and belief, and, as to those, I believe them to be true. I certify under penalty of perjury that the foregoing is true and correct...

Executed at:
Live Oak, Florida
on April 7, 2011

Respectfully Submitted;
John C. Spaulding, Pro Se
John C. Spaulding, C-183425
Suwannee Correctional Institution
5964 U.S. Hwy 90
Live Oak, Florida 32060

himself suicidal to escape threats made by Corporal Cushnie, who tore up his religious material and told him he hated Muslims. He states that while on the Psychological Suicide Watch Floor, he was forcibly held by the named officers and given an injection of Haldol by Nurse Marsh. He stated that Dr. Poitier was not present, but ordered the injection on the phone. He claimed that as a result of this strong dose, his vision has been declining. He further claimed he suffered a pinched nerve, but regained feeling back in his hands. He added that he had been suffering from Glaucoma and was being treated for the disease since 2002. He alleged a violation of his religious rights and a violation resulting from an "illegal injection of Haldol". He seeks over ten and one half million dollars in monetary damages.

A Report was entered by the Undersigned recommending that the complaint be dismissed, finding that an injection of Haldol, administered to a plaintiff on the Suicide Watch Floor, and prescribed by a doctor, did not demonstrate a violation of a constitutional right, and that a difference of opinion between doctors and the plaintiff failed to state a claim. The Courts have long recognized that a difference of opinion between an inmate and the prison medical staff regarding medical matters, including the diagnosis or treatment which the inmate receives, cannot in itself rise to the level of a cause of action for cruel and unusual punishment, and have consistently held that the propriety of a certain course of medical treatment is not a proper subject for review in a civil rights action. Estelle v. Gamble at 107 ("matter[s] of medical judgment" do not give rise to a §1983 claim); see also Ledoux v. Davies, 961 F.2d 1536 (10 Cir. 1992) (inmate's claim he was denied medication was contradicted by his own statement, and inmate's belief that he needed additional medication other than that prescribed by treating physician was

insufficient to establish constitutional violation); Ramos v. Lamm, 639 F.2d 559, 575 (10 Cir. 1980) (difference of opinion between inmate and prison medical staff regarding treatment or diagnosis does not itself state a constitutional violation), cert. denied, 450 U.S. 1041 (1981).¹

On July 28, 2010, the Report was adopted. Upon review of the plaintiff's untimely objections and a motion to amend (DE#11), with an amended complaint (DE#12), the Order adopting the Report and Recommendation was vacated by the District Judge on October 19, 2010. The Order read that in his Objections to the Report, the plaintiff asserted that Haldol causes a negative reaction in patients with Glaucoma and that the Court cannot make a factual determination as to whether the Haldol, used against the plaintiff's will, caused his visual problems, and denied him a liberty interest. (DE#18). The case was ordered to proceed upon the plaintiff's initial complaint (DE#1). The plaintiff's motion to file an amended complaint (DE#11) was denied as moot, and the case was to proceed on the initial complaint. (DE#1). The motion to amend (DE#11) was denied as moot. The case was re-referred for service of the named defendants.

A Supplemental Report was entered on January 3, 2011, and service was ordered upon all the named defendants, with the exception of Jackson Hospital, Timothy Ryan, and Miami Dade County Corrections and Rehabilitation Department, whom the Report recommended were not proper defendants.

Amended Complaints (DE#12 & 57)

¹The plaintiff further alleged that Officer Prudent, together with Officers Neal, Abonze, Jasmin and Rogers (now deceased) used force while administering the injection, resulting in a bruises, cuts and a period of numbness in his hands.

The plaintiff's motion to file the first amended complaint was denied as moot by United States District Judge Graham in his Order dated October 2010, and the case was to proceed on the initial complaint. Review of the amended complaint (DE#12) reveals that it names the same defendants and raises the same allegations as in the initial complaint.

The plaintiff filed a second amended complaint (DE#57), on April 13, 2011 (DE#57). Review of this amended complaint reveals that the plaintiff again names the same defendants as he did in his initial complaint, and raises the same allegations, that he was forcefully injected with Haldol and suffered adverse consequences. The plaintiff further states again that the named officers used excessive force when administering the injection. Although the amended complaint provides additional facts, it does not change the substance of the complaint. The operative complaint in this case therefore should be the initial complaint (DE#1), and the amended complaint (DE#57).²

This Cause is before the Court upon the Motions to Dismiss filed by Defendant Captain Mera (DE#50), and Defendants Dr. Poitier, Nurse Etienne and Marsh, and Officers Prudent, Neal, Abonze and Jasmin (DE#51).³

II. Analysis of Motions to Dismiss

² The complaints include the allegation that his religious materials, along with other material, were ripped and a verbal religious slur was used. These facts are too conclusory to state a claim for denial of religious freedom. Twombly, supra.

³ Although these motions were filed before the plaintiff's second amended complaint (DE#57) the allegations remain the same.

Pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, a defendant may move to dismiss a complaint because the plaintiff has failed to state a claim upon which relief may be granted. See Fed.R.Civ.P. 12(b)(6). The complaint may be dismissed if the plaintiff fails to plead facts that state a claim to relief that is plausible on its face. See Bell Atlantic Corp. v. Twombly, 127 S.Ct. 1955 (2007) (retiring the oft-criticized "no set of facts" language previously used to describe the motion to dismiss standard and determining that because plaintiffs had "not nudged their claims across the line from conceivable to plausible, their complaint must be dismissed" for failure to state a claim); Watts v. FIU, 495 F.3d 1289 (11 Cir. 2007). While a complaint attacked for failure to state a claim upon which relief can be granted does not need detailed factual allegations, a plaintiff's obligation to provide the grounds of his entitlement to relief "requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do." Twombly, 127 S.Ct. at 1964-65. The rules of pleading do "not require heightened fact pleading of specifics" The Court's inquiry at this stage focuses on whether the challenged pleadings "give the defendant fair notice of what the . . . claim is and the grounds upon which it rests." Erickson v. Pardus, 127 S.Ct. 2197, 2200 (2007) (quoting Twombly, 127 S.Ct. at 1964).

A. Motion to Dismiss of Captain Mera (DE#50)

Captain Mera seeks to dismiss the complaint against him claiming the following; 1)that he was named purely in his supervisory capacity upon the theory of respondeat superior, 2)that he is entitled to qualified immunity, and 3)that the complaint fails to state a claim against this defendant.

Further review of the complaint (DE#1) indicates that the plaintiff alleges that on May 15, 2008, he declared himself suicidal and was sent to the Psychological Suicide Watch Floor. Based upon orders from Dr. Poitier, Nurse Marsh injected the plaintiff with Haldol, an anti-psychotic drug.

Mera contends that the only allegation against him was that he failed to train the guards and ensure that the prisoners were transported to the hospital when necessary. Review of the initial complaint reveals that Mera is named both in his supervisory capacity, and because he allegedly gave the direct order to use unnecessary force to restrain the plaintiff to submit to the injection. (DE#1 p7). There is no further reference to this defendant and he is not named as participating in the giving of the injection. Further, he is not named in the amended complaint (DE#57). However, if the defendant gave a direct order to use force to inject the plaintiff against his will, his liability is greater than that simply based upon a theory of respondeat superior. The plaintiff alleges a causal connection between the defendant and the alleged act. Therefore Mera would not be entitled to qualified immunity on this claim. At this stage, the facts are insufficient to determine whether Mera violated the plaintiff's constitutional rights in ordering the injection, and the case shall proceed against him solely on that claim.

The defendant further correctly argues he is entitled to qualified immunity as to his supervisory role in arranging transportation of prisoners, and supervising personnel. All claims related to the defendant's failure to perform general supervisory responsibilities should be dismissed. A defendant cannot be held

liable based upon the theory of respondeat superior. Monell v Department of Social Services, 436 U.S. 658 (1978).

Lastly, the defendant correctly asserts that the injunctive relief sought in the form of various training programs and other matters of internal procedure is not relief available in a civil rights complaint. It will be recommended that the defendant's motion to dismiss be granted and denied in part.

Defendants' Poitier, Etienne, Marsh, Prudent, Neal, Abonze and Jasmin's Motion to Dismiss (DE#51).

The defendants seek dismissal of the complaint based upon a theory of qualified immunity. The defendants refer to the amended complaint (DE#12) declared moot by Judge Graham, who stated that the case shall proceed on the initial complaint (DE#1).⁴

Dr. Poitier and Nurses Etienne and Marsh argue they are entitled to qualified immunity. They performed their official duties with a patient who was self-identified as suicidal, as well as uncooperative, and acted according to policy when providing him with an injection of Haldol. The nurses were performing their jobs in evaluating the patient, seeking medical guidance from a doctor, and then carrying out the doctor's orders for a one time injection for a suicidal inmate, to prevent the inmate from harming himself.

Qualified immunity is "an entitlement not to stand trial or face the other burdens of litigation." Saucier v. Katz, 533 U.S. 194, 200 (2001) (quoting Mitchell v. Forsyth, 472 U.S. 511, 526

⁴The operative complaints are now the initial complaint (DE#1) and the second amended complaint (DE#57) which does not change the claims or defendants.

(1985)). The purpose of this immunity is to allow government officials to carry out their discretionary duties without the fear of personal liability or harassing litigation, Lee v. Ferraro, 284 F.3d 1188, 1194 (11 Cir. 2002) (citing Anderson v. Creighton, 483 U.S. 635, 638 (1987)), and it shields from suit "all but the plainly incompetent or one who is knowingly violating the federal law." Lee, supra, 284 F.3d at 1194 (quoting Willingham v. Loughnan, 261 F.3d 1178, 1187 (11 Cir. 2001)). Since qualified immunity is a defense not only from personal liability for government officials sued in their individual capacities, but also a defense from suit, it is important for the Court to determine the validity of a qualified immunity defense as early in the lawsuit as is possible. Lee v. Ferraro, supra, at 1194; GJR Invs., Inc. v. County of Escambia, 132 F.3d 1359, 1370 (11th Cir. 1998).

Generally, government officials performing discretionary functions are protected by qualified immunity if their conduct does not violate "clearly established statutory or constitutional rights of which a reasonable person would have known." Harlow v. Fitzgerald, 457 U.S. 800, 818 (1982).

In Saucier, supra, the Supreme Court set forth a two-part test for evaluating a claim of qualified immunity. As a "threshold question," a court must ask, "[t]aken in the light most favorable to the party asserting the injury, do the facts alleged show the officer's conduct violated a constitutional right?" Lee, supra at 1194 (quoting Saucier, 533 U.S. 194, 201); and then, if a constitutional right would have been violated under the *plaintiff's* version of the facts, the court must then determine "whether the right was clearly established." Lee, supra, 284 F.3d at 1194 (quoting Saucier, supra). This second inquiry "must be undertaken in light of the specific context of the case, not as a broad

general proposition." Id.; see also Marsh v. Butler County, 268 F.3d 1014, 1031-33 (11 Cir. 2001) (en banc).

In this Case Judge Graham has determined that the Court could not make a factual medical predetermination regarding the injection given to the plaintiff. The Order states that the inmate has a liberty interest in the decision to refuse the administration of anti-psychotic drugs unless preconditions are met, citing to Washington v Harper, 494 US 201, (1990), such as when the inmate is dangerous to himself or others. The Court cannot determine at this time whether the Haldol caused the plaintiff's ensuing visual problems and whether there was a legitimate purpose for the injection against his will. Therefore, until further facts are developed, the argument for qualified immunity by Dr. Poitier and Nurses Etienne and Marsh should be denied.

The plaintiff further alleges that Officers Prudent, Neal, Abonze and Jasmin used unlawful force while injecting him.

Claims of excessive force by guards are cognizable under 42 U.S.C. §1983, as a violation of the Eighth Amendment. Booth v Chumer, et al, 206 F.3d 289 (3rd Cir. 2000), Perry v thompson, 786 F.2d 1093 (11 Cir. 1986). In order to be held liable under §1983, an officer need only be present at the scene and fail to take steps to protect the victim of another officer's use of excessive force, can be held liable for his nonfeasance"); Fundiller v City of Cooper City, 777 F.2d 1436 (11 Cir. 1985); Harris v Chanclor, 537 F.2d 203, 206 (5 Cir. 1976).

Defendant Officers Prudent, Neal, Abonze and Jasmin argue that they are entitled to qualified immunity, as the force used was that needed to subdue the plaintiff to inject him. The plaintiff

resisted by "bouncing up and down to keep them from putting the needle in him", and a certain amount of force was used to complete the injection. The plaintiff alleges bruises and a numbness in his arm for a period of about six months. Although the defendants argue that the amount of force used does not rise to an Eighth Amendment level, again at this early stage it cannot be determined whether the force used was justified. At a later date, further factual development may determine that less than unlawful force was used. Further, the Court has determined that in holding the plaintiff down while the injection was administered, his liberty interests may have been violated. These claims must continue against the named defendants.

It is therefore recommended that the Defendants' Motion to Dismiss (DE#51) be denied.

IV. Conclusion

It is therefore recommended as follows:

1. Defendant Mera's motion to dismiss (DE#50) be granted in part as to all supervisory claims, and injunctive relief, and denied as to the claim against him for his role in the forced injection.

2. Defendants Poitier, Etienne, Marsh, Prudent, Neal, Abonze and Jasmin's Motion to Dismiss (DE#51) be denied.

3. The operative complaints in this case are the initial complaint (DE#1) and the second amended complaint (DE#57).

Objections to this report may be filed with the District Judge within fourteen days of receipt of a copy of the report.

Dated at Miami, Florida, this 13th day of May, 2011.



UNITED STATES MAGISTRATE JUDGE

cc: John Christopher Spaulding, Pro se
DC #183425
Suwanee Correctional Institution
Address of record

Alexander Bokor, Esq.
Rachel Wilhelm, Esq.
Assistant County Attorneys of record

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

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

JOHN C. SPAULDING

Plaintiff,

vs.

JOHN POITIER, et. al.,

Defendants.

ORDER

THIS CAUSE comes before the Court upon Defendant Mera's Motion to Dismiss [D.E. 50] and the Motion to Dismiss of Defendants Poitier, Etienne, Mash, Prudent, Neal, Abonze and Jasmin [D.E. 51].

The Magistrate Judge issued a Report recommending that Defendant Mera's motion to dismiss be granted in part as to all supervisory claims and injunctive relief and denied as to the claim against him for his role in the forced injection. The Magistrate Judge also recommended that the Motion to Dismiss of Defendants Poitier, Etienne, Mash, Prudent, Neal, Abonze and Jasmin be denied. Defendants have filed objections to the report.

THE COURT has conducted an independent review of the record and is otherwise fully advised in the premises.

The Court finds Defendants' objections are without merit. Based thereon, it is hereby

ORDERED AND ADJUDGED that the Magistrate Judge's Report and Recommendation [D.E. 62] is **AFFIRMED, ADOPTED AND RATIFIED** in its

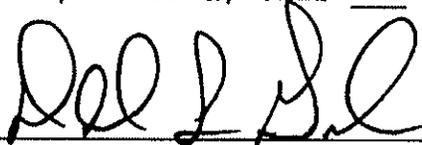
entirety. It is further

ORDERED AND ADJUDGED that Defendant Mera's Motion to Dismiss [D.E. 50] is **GRANTED in PART and DENIED in PART**. All supervisory claims and claims for injunctive relief are **DISMISSED**. The claim against Defendant Mera for his role in the forced injection shall proceed. It is further

ORDERED AND ADJUDGED that the Motion to Dismiss of Defendants Poitier, Etienne, Mash, Prudent, Neal, Abonze and Jasmin [D.E. 52] is **DENIED**. It is further

ORDERED AND ADJUDGED that the operative complaints in this case are the initial complaint [D.E. 1] and the second amended complaint [D.E. 57].

DONE AND ORDERED in Chambers at Miami, Florida, this 17th day of June, 2011.



DONALD L. GRAHAM
UNITED STATES DISTRICT JUDGE

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

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 10-21898-CIV-GRAHAM/WHITE

JOHN C. SPAULDING,

Plaintiff,

v.

JOHN POITIER, et al.,

Defendants.

**ANSWER AND DEFENSES OF DEFENDANTS
CAPTAIN MERA, DR. POITIER, NURSES ETIENNE AND LAMARCHE AND
OFFICERS PRUDENT, NEAL, AGBONZE AND JASMIN**

Pursuant to Rule 8 of the Federal Rules of Civil Procedure, Defendants Captain Daniel Mera ("Captain Mera"), Dr. Joseph Poitier ("Dr. Poitier"), Nurses Etienne and Lamarche (collectively, "Nurses"), and Officers Prudent, Neal, Agbonze and Jasmin (collectively, "Officers") answer Plaintiff's Complaint and Second Amended Complaint ("SAC") and assert the following defenses:

ANSWER TO THE COMPLAINT

1. As to the Complaint, Statement of Facts, Paragraph I, Defendants admit that Plaintiff was transported to the Psychological Floor-Suicide Watch at the Miami-Dade County Pretrial Detention Center; however Defendants deny that this occurred at 1 pm. Defendants further deny that the Plaintiff's life was threatened by an officer or that the officer conducted a cell search in which he destroyed religious material and insulted Plaintiff. Defendants deny all remaining allegations not specifically responded to and demand strict proof thereof.

2. As to the Complaint, Statement of Facts, Paragraph 2, Defendants admit that Plaintiff declared himself suicidal but are without knowledge as to any supposed ulterior motive

by Plaintiff in declaring himself suicidal. It is admitted that Plaintiff was asked to “cuff up,” or present his hands through the food tray for handcuffing and restraint, in order to have a shot administered. Defendants deny that plaintiff complied and deny that the reason for ordering the shot was because he was conversing with another inmate. Rather, Defendant was loud, obstreperous, resisted commands, and in the opinion of staff was a danger to himself or others. Defendants deny all remaining allegations not specifically responded to and demand strict proof thereof.

3. As to the Complaint, Statement of Facts, Paragraph 3, Defendants are without knowledge of the specific statements made by Plaintiff and therefore deny any allegations related thereto. Additionally, Defendants deny that “no attention was paid to” Plaintiff.

4. As to the Complaint, Statement of Facts, Paragraph 4, Defendants Prudent, Neal, Abonze and Jasmin deny that Officer Prudent grabbed the handcuffs as described but admit that Officer Prudent attempted to secure Plaintiff. Officers Neal, Abonze, Jasmin and Nurse Etienne deny all holding Plaintiff and bending his knee as described and admit only that they were trying to secure Plaintiff as he pushed, pulled, and resisted. Defendants admit that Nurse Lamarche injected Plaintiff with a prescribed injection but deny that Plaintiff was injected with Haldol. Defendants are without knowledge to the allegation that this incident was “caught on camera” and therefore deny all allegations pertaining thereto. Defendants deny that Plaintiff sustained injuries as described and to the extent described in this paragraph. Defendants deny that Plaintiff “never was treated for his injuries” and admits that Plaintiff saw doctors, including Dr. Poitier later the same morning of the alleged incident and that Dr. Poitier examined and released Plaintiff. Defendants further admit that Plaintiff saw a doctor at Jackson Memorial Hospital Sports Medicine Clinic. Defendants admit that Plaintiff was classified as a “level 1A safety cell

inmate” but deny that there is any requirement that a “supervisor must always be present anytime staff interacts with [Plaintiff]...” Defendants deny all remaining allegations not specifically responded to and demand strict proof thereof.

5. As to the Complaint, Statement of Facts, Paragraph 5, Defendants admit that Plaintiff has no permanent hand injury, admit that no use of force report was written, and deny the remainder of the allegations contained therein. Defendants deny all remaining allegations not specifically responded to and demand strict proof thereof.

6. As to the Complaint, Statement of Facts, Paragraph 6, Defendants admit that Plaintiff sought an administrative review and subsequently appealed. Defendants admit that Plaintiff’s medical records were reviewed prior to administration and in any event Plaintiff was not given Haldol.

7. As to the section of the Complaint entitled “Defendant” and identifying “Dr. Poitier,” Dr. Poitier admits that he was employed as a staff doctor by Jackson Health Services assigned to Miami-Dade Department of Corrections, but Dr. Poitier denies that he was the doctor on duty, and denies he was called, and denies that he gave medical staff an order to inject Haldol. who was called and gave the order to medical staff to inject Plaintiff with Haldol. Defendants deny all remaining allegations not specifically responded to and demand strict proof thereof.

8. As to the section of the Complaint entitled “Defendant” and identifying “Daniel Mera,” Mera admits that at all material times he was acting in the capacity of captain of the facility but Mera denies that he gave “the direct order to use unnecessary force to restrain plaintiff and inject him with the psychotropic [sic] drug Haldol.” Defendants deny all remaining allegations not specifically responded to and demand strict proof thereof.

9. As to the section of the Complaint entitled "Relief," to the extent that Plaintiff makes any allegations to which a response is required, Defendants deny the allegations contained in paragraphs 1, 2, 3, 4, 5 and 6.

10. Defendants deny all remaining allegations of the Complaint not specifically responded to and demand strict proof thereof.

ANSWER TO THE SECOND AMENDED COMPLAINT

As to the portions of the Second Amended Complaint [D.E. 57] ("SAC") to which Defendants are required to respond, pursuant to Rule 8 of the Federal Rules of Civil Procedure, Defendants Captain Daniel Mera ("Captain Mera"), Dr. Joseph Poitier ("Dr. Poitier"), Nurses Etienne and Lamarche (collectively, "Nurses"), and Officers Prudent, Neal, Agbonze and Jasmin (collectively, "Officers") respond as follows:

1. As to Paragraph 1 of the SAC, Defendants deny that this civil action is "authorized" by the statutory framework cited therein, otherwise this paragraph cites to conclusions of law for which no response is required.

2. Defendants admit the allegations contained in Paragraph 2 of the SAC.

3. Defendants admit the allegations contained in Paragraph 3 of the SAC.

4. As to Paragraph 4 of the SAC, admit that Defendant Joseph Poitier is a doctor of Jackson health Services/Jackson Memorial Hospital contracted by Miami-Dade Corrections, but Defendants are without knowledge as to the remainder of the allegations contained therein and therefore deny same demand strict proof thereof.

5. Defendants admit Paragraph 5 of the SAC.

6. Defendants admit Paragraph 6 of the SAC.

7. Defendants admit Paragraph 7 of the SAC.

8. Defendants admit Paragraph 8 of the SAC.

9. Defendants admit Paragraph 9 of the SAC.

10. Defendants admit Paragraph 10 of the SAC.

11. Defendants admit that Plaintiff attempted to sue each defendant individually and in their official capacity as stated in Paragraph 11 of the SAC, and defendants admit that each Defendant acted under color of law. Defendants deny all remaining allegations not specifically responded to and demand strict proof thereof.

12. Defendants deny the allegations contained in paragraph 12 of the SAC.

13. Defendants deny the allegations contained in paragraph 13 of the SAC.

14. Defendants admit that Plaintiff declared himself suicidal at or after the end of the 3-11 pm shift, but are without knowledge as to Plaintiff's alleged purported motivation, if any, in declaring himself suicidal and therefore deny same. Defendants deny all remaining allegations not specifically responded to and demand strict proof thereof.

15. Defendants admit the allegation contained in Paragraph 15 that Plaintiff was classified as a "Level 1A safety cell inmate" but deny the remainder of the allegations contained in Paragraph 15.

16. Defendants admit the first sentence contained in paragraph 16 of the SAC. Defendants deny that Plaintiff was "not trying to hurt himself or anybody else." Defendants deny that "all [Plaintiff] was doing was talking to another inmate in another cell." Defendants admit Plaintiff was asked to "cuff up" and Defendants deny that Plaintiff "humbly complied," rather, Plaintiff resisted at all stages. Defendants deny all remaining allegations not specifically responded to and demand strict proof thereof.

17. Defendants admit that pursuant to Paragraph 17 of the SAC, Plaintiff was “handcuffed with metal restraints with his arms stuck out of the tray flap” but deny the remainder of the allegations contained in Paragraph 17.

18. As to Paragraph 18 of the SAC, Defendants are without knowledge of what, if anything, Plaintiff said at this time and therefore deny same and demand strict proof thereof. Defendants deny the remainder of the allegations contained in Paragraph 18.

19. As to Paragraph 19 of the SAC, Defendants admit that Plaintiff was resisting Defendants and admit that Plaintiff “started bouncing up and down to keep them from putting the needle in him...” Defendants deny the remaining allegations contained in paragraph 19. Specifically, upon observing Plaintiff’s loud and obstreperous behavior and determining Plaintiff was a danger to himself or others, Nurse Lamarche called the doctor on duty received a telephonic order from the doctor on duty to administer an injection of a prescribed substance. Defendants braced Plaintiff in order for Nurse Lamarche to inject Plaintiff with the prescribed medication. Defendants deny all remaining allegations not specifically responded to and demand strict proof thereof.

20. As to Paragraph 20 of the SAC, Defendants admit restraining Plaintiff in order to keep him secure for his injection, and admit that Nurse Lamarche injected plaintiff, but deny the remainder of the allegations contained therein.

21. Defendants admit the allegation of Paragraph 21 of the SAC to the extent Defendants released Plaintiff, closed the door and removed his handcuffs. Defendants are without knowledge of what was recorded on camera and therefore deny same.

22. Defendants deny the allegations contained in paragraph 22 of the SAC.

23. Defendants deny the allegations contained in paragraph 23 of the SAC.

24. Defendants deny the allegations contained in paragraph 24 of the SAC.

25. Defendants deny the allegations contained in paragraph 25 of the SAC.

26. Defendants deny the allegations contained in paragraph 26 of the SAC.

27. Defendants admit that Dr. Poitier did do rounds and observed the Plaintiff at approximately 9 a.m. the morning of the alleged incident but Defendants deny the remainder of the allegations contained in paragraph 27 of the SAC.

28. Defendants deny the allegations contained in paragraph 28 of the SAC.

29. Defendants deny the allegations contained in paragraph 29 of the SAC.

30. Defendants admit that Plaintiff saw Dr. Migrino for alleged injuries but otherwise Defendants deny the allegations contained in paragraph 30 of the SAC.

31. Defendants deny the allegations contained in paragraph 31 of the SAC.

32. Defendants admit the allegations contained in paragraph 32 of the SAC to the extent it alleges that Plaintiff recovered from his injuries but Defendants deny that they withheld treatment. Defendants deny all remaining allegations not specifically responded to and demand strict proof thereof.

33. Defendants admit the allegations contained in paragraph 33 of the SAC only to the extent that it alleges that Plaintiff used the inmate grievance procedure. Defendants deny Plaintiff's characterization of such inmate grievance procedure and the resulting investigation. Specifically, Defendants deny that Plaintiff's claims were "substantiated as having occurred." Defendants note that after review this grievance was deemed "unsubstantiated" after review, therefore Defendants deny all remaining allegations not specifically responded to and demand strict proof thereof.

34. Defendants admit that Plaintiff filed a complaint with the Internal Affairs Division of the Miami-Dade County Department of Corrections and admit that Plaintiff was interviewed, however Defendants are without knowledge as to the remaining allegations contained in paragraph 34 of the SAC and therefore deny same demand strict proof thereof.

35. Defendants are without knowledge as to the remainder of the allegations contained in paragraph 35 of the SAC and therefore deny same demand strict proof thereof.

36. To the extent contained therein, Defendants deny the allegations contained in the section of Plaintiff's SAC entitled "Legal Claims." Defendants also deny that Plaintiff will be able to prove everything asserted in the SAC.

37. To the extent contained therein, Defendants deny the allegations contained in the section of Plaintiff's SAC entitled "Relief Sought." Defendants also deny that Plaintiff will be able to prove everything asserted in the SAC.

38. Any allegation not specifically admitted is denied.

DEFENSES

1. Plaintiff's claims fail to state a claim upon which relief can be granted under Rule 12(c) of the Federal Rules of Civil Procedure.

2. Defendants are entitled to qualified immunity.

3. Defendants could lawfully use force necessary and proper in securing Plaintiff, an inmate who was identified as suicidal. The claim is barred to the extent Defendants are being sued for such incidental force.

4. Plaintiff's claim is barred to the extent that Plaintiff is suing Defendants for any alleged force that Defendants used in defense of themselves and/or others.

5. Defendants were justified and reasonable in any alleged use of force as to Plaintiff.

6. Any alleged use of force was authorized by federal case law and Florida law, including but not limited to sections 776.05, 776.012, and 776.032 of the Florida Statutes, and Defendants could reasonably rely on such statutory authority.

7. Defendants reserve the right to assert additional defenses as appropriate.

WHEREFORE, Defendants respectfully request that this Court dismiss the claims against Defendants with prejudice and/or enter judgment in Defendants' favor; that the Court award Defendants attorney's fees, litigation expenses, and costs, in accordance with applicable law, including 42 U.S.C. §§ 1988 and 12205; and that the Court award Defendants such other relief as the Court deems proper, equitable, and just.

Respectfully submitted,

R. A. CUEVAS, JR.
Miami-Dade County Attorney

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Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by U.S. Mail on July 5, 2011, on Plaintiff on the Service List below, and by CM/ECF on July 5, 2011, on all counsel on the Service List below.

s/ Alexander S. Bokor
Assistant County Attorney

SERVICE LIST

<p>John C. Spaulding, <i>pro se</i> DC #183425 Suwanee Correctional Institution 5964 U.S. Highway 90 Live Oak, FL 32060 <i>Service via U.S. Mail</i></p>	<p>Alexander S. Bokor Assistant County Attorney Email: abokor@miamidade.gov Miami-Dade County Attorney's Office 111 N.W. 1st Street, Suite 2810 Miami, Florida 33128 Telephone: (305) 375-5151 Facsimile: (305) 375-5634 Counsel for Defendants <i>Service via CM/ECF</i></p>
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 10-21898-CIV-GRAHAM
MAGISTRATE JUDGE P.A. WHITE

JOHN CHRISTOPHER SPAULDING, :

Plaintiff, :

v. :

REPORT THAT CASE IS
READY FOR TRIAL

DR. POITIER, et al :

Defendants. :

This prisoner civil rights case was referred to the undersigned for preliminary proceedings pursuant to 28 U.S.C. §636(b)(1).

The dates entered in the Pre-Trial Scheduling Order (DE#64) have passed and no motions for extension of time have been filed, therefore the case is now at issue.

It is therefore respectfully recommended that this case be placed upon the trial calendar of the District Judge.

Dated at Miami, Florida, this 28th day of November, 2011.



UNITED STATES MAGISTRATE JUDGE

cc: John C. Spaulding, Pro Se
183425
Florida State Prison
Address of record

Alexander Bokor, Asst County Attorney
Attorney of record

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION
Case No. 10-21898-CIV-GRAHAM

John Christopher Spaulding,

Plaintiff,

vs.

Dr. Joseph Poitier, et. al.,

Defendants.

ORDER

THIS CAUSE comes before the Court upon Judge White's Report that Case is Ready for Trial [D.E. 89].

THE MATTER was referred to the Honorable United States Magistrate Judge Patrick A. White by Clerk's Order [D.E. 3]. The Magistrate Judge's Report recommended that the case be set for trial because the dates entered in the Pre-Trial Scheduling Order passed without any motions for extensions of time being filed. The Court scheduled a status conference for December 14, 2011 in order to set the matter for trial. Before the status conference, Defendants filed a Motion for Extension of Time to File Motion for Summary Judgment [D.E. 91]. Both parties also filed objections to the Report. During the status conference, it became clear to the Court that neither party was adequately prepared to proceed with trial.

The Court is granting a limited extension of time for the parties to complete discovery and to file dispositive motions. The

Parties are cautioned that this time should be used wisely, because no further extensions will be granted. Further, Plaintiff may also file a motion for sanctions to address Defendants' failure to produce documents and video evidence that was available but not provided to him.¹ Accordingly, it is

ORDERED AND ADJUDGED that the Court **DECLINES** to adopt the Report that Case is Ready for Trial [D.E. 89]. It is further

ORDERED AND ADJUDGED that the parties shall have 45 days from the date of this Order, up to and including **January 30, 2012**, to complete all discovery, and resolve any discovery disputes. During this time, any motions for sanctions for discovery violations must also be filed. It is further

ORDERED AND ADJUDGED that Defendants' Motion for Extension of

¹Plaintiff has filed multiple motions for appointment of counsel, and also sought the Court's assistance during the status conference. Plaintiff should be aware that, in a civil case, a Plaintiff is not afforded a constitutional right to counsel. Accordingly, the Court cannot grant Plaintiff's request. However, in light of the facts disclosed at the status conference, the Court encourages Plaintiff to contact the Volunteer Lawyers Project for possible assistance.

Volunteer Lawyers Project
3750 Bank of America Tower
100 S.E. Second St.
Miami, FL 33131

Phone (305)373-4334
Fax (305)358-0910

E-mail: bforbes@volunteerlawyersproject.org

Time to File Motion for Summary Judgement [D.E. 91] is **GRANTED**.
All motions for summary judgement must be filed by **February 29, 2012**. It is further

ORDERED AND ADJUDGED that Plaintiff's Motion for Appointment of Counsel [94] is **DENIED**.

DONE AND ORDERED in Chambers at Miami, Florida, this 15th day of December, 2011.



DONALD L. GRAHAM
UNITED STATES DISTRICT JUDGE

cc: U.S. Magistrate Judge Patrick A. White
David Griffin, Pro Se
Counsel of Record