

(Del. Rev. 11/14) Pro Se Prisoner Civil Rights Complaint

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

McIvor, Bashan # 00758002

(In the space above enter the full name(s) of the plaintiff(s).)

-against-

Civ. Action No. _____
(To be assigned by Clerk's
Office)

DE Dept. of Corrections Training Center,
Lt. Matthew Long, Sgt. Kirk Neal,
Cpl. Unknown Purdy, Cpl. Nurudeen
Jubril, and Correctional Officer E. Galon

COMPLAINT
(Pro Se Prisoner)

Jury Demand?

☒ Yes
☐ No

(In the space above enter the full name(s) of the defendant(s).

If you cannot fit the names of all of the defendants in the
space provided, please write "see attached" in the space
above and attach an additional sheet of paper with the full list
of names. The names listed in the above caption must be
identical to those contained in Section IV. Do not include
addresses here.)

Sued in Official and individual capacities.

NOTICE

Federal Rule of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

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I. COMPLAINT

Indicate below the federal legal basis for your claim, if known. This form is designed primarily for pro se prisoners challenging the constitutionality of their conditions of confinement, claims which are often brought under 42 U.S.C. § 1983 (against state, county, or municipal defendants) or in a "Bivens" action (against federal defendants).

Check one:

- ☒ 42 U.S.C. § 1983 (state, county, or municipal defendants)
- ☐ Action under *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971) (federal defendants)

II. PLAINTIFF INFORMATION

McIvor, Bashon, H.
Name (Last, First, MI) Aliases

00758002
Prisoner ID #

James T. Vaughn Correctional Center
Place of Detention

1181 Paddock Road
Institutional Address

Smyrna DE 19577
County, City State Zip Code

III. PRISONER STATUS

Indicate whether you are a prisoner or other confined person as follows:

- ☒ Pretrial detainee
- ☐ Civilly committed detainee
- ☐ Immigration detainee
- ☐ Convicted and sentenced state prisoner
- ☐ Convicted and sentenced federal prisoner

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IV. DEFENDANT(S) INFORMATION

Please list the following information for each defendant. If the correct information is not provided, it could result in the delay or prevention of service. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant 1:

DE Dept. of Corr.'s Training Center
Name (Last, First)

Train Correctional Officers, etc.,
Current Job Title

245 McKee Road
Current Work Address

Dover
County, City

DE
State

1990
Zip Code

Defendant 2:

Long Matthew
Name (Last, First)

Lt. for DE Dept. of Corrections
Current Job Title

23201 DuPont Boulevard
Current Work Address

Georgetown
County, City

DE
State

19947
Zip Code

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Defendant(s) Continued

Defendant 3:

Neal, Kirk

Name (Last, First)

Sergeant for the DE Dept. of Corrections

Current Job Title

23207 DuPont Boulevard

Current Work Address

Georgetown

DE

19947

County, City

State

Zip Code

Defendant 4:

Purdy, Unknown

Name (Last, First)

Corporal for the DE Dept. of Corrections

Current Job Title

23207 DuPont Boulevard

Current Work Address

Georgetown

DE

19947

County, City

State

Zip Code

Defendant 5: Jubril, Nurudeen

Corporal for the DE Dept. of Corrections

1181 Paddock Road

Smyrna, DE

19977

Defendant 6: Galon, E.

Correctional Officer for the DE Dept. of Corrections

1181 Paddock Road

Smyrna, DE

19977

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V. STATEMENT OF CLAIMPlace(s) of
occurrence:Sussex Correctional Institute and
James T. Vaughn Correctional Center

Date(s) of occurrence:

September 16 2020 and unknown dates,
July 9, 2021 and unknown dates,

State which of your federal constitutional or federal statutory rights have been violated:

Failure to Train Failure to Protect Excessive Force,
Brutality, and Sexual Assault

State here briefly the FACTS that support your case. Describe how each defendant was personally involved in the alleged wrongful actions, state whether you were physically injured as a result of those actions, and if so, state your injury and what medical attention was provided to you.

FACTS:

What
happened to
you?

1. On September 16 2020, Plaintiff alleges that Sgt. Kirk Neal and Cpl Unknown Purdy told Plaintiff to lock in His cell for loss of recreation on Hastings Unit 4.
2. Shortly after, both Defendants Neal and Purdy come to Plaintiff's cell door, tell His room/cell mate to go downstairs and sit.
3. Next, Defendant Neal states "We are going to have to teach you the rules and regulations of this institution," then punches Plaintiff twice in the chest while calling Him names and stating "hit me bxxch."
4. Plaintiff requested Defendant Neal to stop and Neal stated "take your clothes off and I'm going to show you are a bitch" while Neal pulled at Plaintiff's clothes with the intent to sexually assault Plaintiff.

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5. Defendant Cpl. Unknown Purdy failed His obligation to protect Plaintiff from both physical and a sexual assault while failing to report a Prison Rape Elimination Act incident.

6. After the previous incident, Plaintiff ran out of His cell hoping to get help, but instead found Defendants Neal and Purdy further assaulting him and using excessive force by pepper spraying Plaintiff up his nose and in His face while Plaintiff posed no opposition or a threat to any and all staff members.

Who did
what?

7. Defendant DE Dept. of Corrections' Training Academy failed to train all other Defendants as to not physically and sexually assault inmates, to report misconduct by officers who engage in professional misconduct against inmates, and if necessary intervene in stopping professional misconduct against inmates; these failures resulted in constitutional violations against Plaintiff amounting to Failure to Protect Assault/Brutality, Excessive Force, Sexual Assault and Failure to Perform a Duty owed to Plaintiff.

8. On July 9, 2021, Plaintiff alleges that Corporal Napoleon Tubril used excessive force against His person because Plaintiff didn't move as fast as desired.

9. During this July 9, 2021 incident,

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Was anyone
else
involved?

Defendant Jubril said to Plaintiff "You don't know me so when I saw cuff if you better cuff up" while saying this he yanked Plaintiff's arm up high behind his back which caused Plaintiff to receive nerve problems/damage and react to the excessive force that been piled upon him.

10. Both Defendants Jubril and Galon failed to perform the duty of calling a "Code 6" (refusal to lock in) violating operating procedures and caused Plaintiff to be physically harmed by excessive force usage.

11. Plaintiff filed a grievance which was unprocessed and simply returned; also, the write-up system was basically a closed-minded process with due process violations, all incidents of abuse except parts of the September 16, 2020 incident are on video footage.

12. Plaintiff is starting to have physical and mental issues regarding these events.

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IX. PLAINTIFF'S DECLARATION AND WARNING

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending or modifying existing law; and (3) complies with the requirements of Rule 11.

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Plaintiff must sign and date the complaint and provide prison identification number and prison address.

11-11-21

Dated



Plaintiff's Signature

Mcivor-Bosman Bashan H

Printed Name (Last, First, MI)

00758062

Prison Identification #

1187 Paddock 2D Smyrna Delaware 19977

Prison Address

City

State

Zip Code

Plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.