

PC-FL-0007-0036

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDAANTHONY LAMARCA,  
MARTIN SAUNDERS, and  
EDWIN JOHNSON,

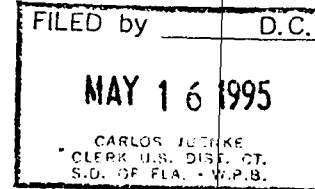
Case No. 82-8196-Civ-Paine

Plaintiffs,

vs.

R.V. TURNER, individually  
in his former capacity as  
Superintendent of Glades  
Correctional Institution, and  
GERALD ABDUL-WASI, in his official  
capacity as Superintendent of  
Glades Correctional Institution,

Defendants.

FINDINGS OF FACT AND CONCLUSIONS OF LAW REGARDING  
THE THREE NON-JURY PLAINTIFFSSTATEMENT OF THE FACTS

This court adopts the facts as previously set forth in the 1987 opinion, LaMarca v. Turner, 662 F.Supp. 647, 655-662 (S.D. Fla. 1987) and the Magistrate's Judge's Report and Recommendation, LaMarca, 662 F.Supp. at 671-705.<sup>1</sup> This court

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While the Eleventh Circuit held that previous findings of fact are not binding on future proceedings, the defendant did not present any evidence at the 1994 trial, relating to the three (3) non-jury plaintiffs, that differed significantly from the evidence at the initial trial. Turner's testimony, for example, was substantially the same as is had been nine (9) years earlier. The only new evidence was a composite of some one-hundred (100) referrals to the Palm Beach Sheriff's Office. The consideration of the P.B.S.O. reports does not alter this Court's earlier conclusion that Turner did not significantly involve outside law enforcement agencies in an

again concludes that the three non-jury Plaintiffs were prisoners who were subjected to a longstanding, pervasive and excessive risk to prisoner safety at Glades Correctional Institution. The defendant was aware of the substantial and excessive risk of serious harm to prisoners at GCI, deliberately ignored that risk, and deliberately failed to use available, inexpensive means to reduce the risk to prisoner safety. As a result of the Defendant's deliberate indifference to inhumane conditions at GCI, the Plaintiffs LaMarca, Saunders and Johnson were harassed, threatened, beaten and raped. Each of the incidents in which the plaintiffs were injured took place in a prison where the manufacture of prison wine, screening of sexually explicit videotapes, maintenance of poorly trained and corrupt staff, and lack of adequate inmate movement controls were tolerated by the then-Superintendent, Defendant Turner.

The Eleventh Circuit remanded this case for three purposes: (1) for application of the proper subjective standard, (2) for findings on causation as to each plaintiff, and (3) for this Court's determination whether it would accept into evidence the defendant's "new proffer." LaMarca, 995

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attempt to stem the crime wave at GCI. Indeed, Turner acknowledged from the stand during the 1994 trial that he had not called for help from federal law enforcement agencies. Thus, the finding by the Magistrate that GCI was "an atmosphere nurtured by Defendant Turner's refusal to seek assistance from outside state investigators [...] as well as seek assistance from federal officials...." LaMarca, 995 F.2d at 681, is still supported by the evidence.

F.2d 1526, 1549 (11th Cir. 1993). This court will not exercise its discretion to limit its review of evidence merely to the contents of the "new proffer," some one-hundred (100) referrals to the Palm Beach County Sheriff's Office.<sup>2</sup> Rather, upon consideration of all of the additional testimony presented at the second trial, including Defendant's new proffer, and the record evidence from the first trial, as well as the Eleventh Circuit remand and the intervening Supreme Court case of Farmer v. Brennan, 114 S.Ct. 1970 (1994), the court finds that the conclusions reached 9 years ago have not been undermined by any new evidence presented at the 1994 trial and are supported by the current law.

#### Applicable Standard

After the Eleventh Circuit issued its mandate in this case, in Farmer v. Brennan, 114 S.Ct. 1970 (1994), the Supreme Court refined the legal standard by which the second or "subjective" component of Eighth Amendment claims are measured. The Court noted that under its recent holdings in Wilson v. Seiter, 111 S.Ct. 2321 (1991), Hudson v. McMillian, 112 S.Ct. 995 (1992), and Helling v. McKinney, 113 S.Ct. 2475 (1993), a prison official could be held to have violated an inmate's Eighth Amendment rights in a prison conditions case

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The Eleventh Circuit specifically stated that it "intimate[d] no view...as to whether the court should accept it and reopen the proceedings as to these three plaintiffs." LaMarca, 995 F.2d at 1549.

only if the inmate suffers a deprivation which is "sufficiently serious." The Court held that this term requires a showing that the inmate be "incarcerated under conditions posing substantial risk of serious harm." Farmer at 1977. Second, the accused official must be shown to have been deliberately indifferent to the risk. Id. The Farmer Court held that this second element was one of subjective recklessness similar to that used in the criminal law:

That said, subjective recklessness as used in the criminal law is a familiar and workable standard that is consistent with the Cruel and Unusual Punishment Clause as integrated in our cases, and we adopt it as the test for "deliberate indifference" under the Eighth Amendment.

...

Under the test we adopt today, an Eighth Amendment claimant need not show that a prison official acted or failed to act believing that harm would befall an inmate, it is enough that the official acted or failed to act despite his knowledge of a substantial risk of serious harm.

Id. at 1980-81.

While the Court in Farmer did not specifically analyze the point at which the first, or "objective" element of such a claim becomes sufficiently "substantial," its following formulation provides some guidance:

We hold instead that a prison official cannot be found liable under the Eighth Amendment for denying an inmate humane conditions of confinement unless the official knows of and disregards an

excessive risk to inmate health or safety; the official must both be aware of facts from which the inference could be drawn that a substantial risk of serious harm exists, and he must also draw the inference.

Id. at 1979.

The Eleventh Circuit held that the evidence already presented in this case in the first trial supports this Court's previous finding that conditions at GCI were objectively unconstitutional. For example, the court found:

(1) "The evidence presented at trial of an unjustified constant and unreasonable exposure to violence at GCI ... clearly satisfies the [objective] standard." LaMarca, 995 F.2d at 1535.

(2) "The plaintiffs presented evidence supporting five conditions of confinement that were under Turner's control and that together created an unconstitutional risk of violence at GCI: (1) a 'prevalence of...weapons' at GCI, (2) lack of adequate patrols, (3) the lack of adequate reporting procedures for rapes and assaults, (4) the presence of 'obvious and rampant indicia of homosexual activity,' and (5) a lack of supervision of officers leading to corruption and incompetence.'" Id. at 1539. (citations omitted).

Additionally, in a separate case, the Eleventh Circuit, recognized that a prison official's failure to use reasonable measures to protect inmates from other inmates constitutes a constitutional violation. Zattler v. Wainwright, 802 F.2d

397, 400 (11th Cir. 1986). With respect to these three Plaintiffs, this court is not persuaded by any of the additional evidence presented by the Defendant that these Plaintiffs were free from a substantial and excessive risk as anticipated by Farmer. As hereafter discussed, Defendant Turner's failure to address prison conditions exposed these three plaintiffs to an excessive risk of serious harm.

I. Were Conditions at GCI Unconstitutional?

A. TURNER'S FAILURE TO PROPERLY SUPERVISE PERSONNEL, MANAGE THE INSTITUTION, AND DISCOURAGE STAFF CORRUPTION EXPOSED PRISONERS TO AN EXCESSIVE RISK OF SERIOUS HARM

1. STAFF TRAINING

Inadequate training of staff on, inter alia, the use of weapons contributed to an atmosphere at GCI in which staff was not in control. Internal GCI records reveal poor staff training, maintenance, and supervision. GCI incident reports, reviewed by Plaintiffs' expert witness Dr. Swanson, revealed a lack of familiarity among staff with weapons. (Former P.Ex. 33; New P.Ex.). Lt. Peters, GCI investigator during Turner's tenure, testified in the 1985 hearing that a new system implemented by Superintendent Music may solve what he perceived as a weapons problem. The day-to-day weapons problems encountered by staff, as shown by incident reports, were compounded by the lack of regard for proper issuance and use of weapons, as was demonstrated in the incident involving Lt. Barrett. (Former P.Ex. 9; New P.Ex.4). Defendant presented no additional evidence during the 1994 trial that

contradicted the previous evidence of laxity in management of staff.

## 2. LOW STAFF MORALE

The Lt. Barrett incident and the investigation of Officer Dixon reveal that Turner lacked control over staff at GCI. A Management Review conducted in 1980 encompassed an employee questionnaire in which staff expressed low morale. In the questionnaire, staff stated that they believed GCI did not employ enough officers to do the job correctly, and that GCI provided insufficient instruction and guidelines to officers who became supervisors. (Former P.Ex.4, Tab B). Coupled with low staff morale was high turnover. (D.Ex. 14); (P.Ex. 39, Summary Statistics of Turnover Rate) (Swanson Testimony 1985, 1994); (P.Ex. 31, Superintendent Monthly Reports Reflecting Turnover).

As a result of low morale, high turnover, lack of training and excessive hours worked, the staff at GCI was ill prepared to deal with its day-to-day operation. The staff was simply unable to protect inmates. Chronic incompetence among staff contributed to GCI's climate of high security risk. (Swanson Testimony, 1985, 1994).

## 3. FAILURE TO ENSURE STAFF PATROLLING OF DORMITORIES

The lack of proper staff supervision in the dormitories deprived the Plaintiffs of the minimum protection against assault from other inmates. Two factors contributed to the failure of staff to adequately patrol the dormitories. First,

Turner failed to remove obstructions which hung down from bunks obscuring observation of the bunk area. Although at least one defense witness denied the existence of obstructions during the 1994 jury trial, Lt. Peters admitted during the 1985 hearing that sheets, clothing and personal lockers hung from bunks in the dormitories. (Peters Testimony, 1985). The view from the wicket to the shower area was also obscured. Based on his interviews with inmates, Dr. Swanson was able, during both trials, to confirm the existence of the obstructions which made it difficult not only to see along the rows of bunks, but particularly into the shower area. (Swanson Testimony, 1985, 1994) Superintendent Music's 1985 testimony confirmed that obstructions hanging from bunks were commonplace when he took over administration of GCI from the Defendant.

Further. although officers were supposed to patrol the dormitories constantly, overwhelming evidence showed that they did not do so.

#### 4. FAILURE TO DISCIPLINE STAFF CORRUPTION

##### (a) LT. BARRETT

Turner's failure to respond adequately to staff corruption contributed to an atmosphere at GCI in which inmates learned that the officers assigned to protect them were permitted to engage in violence, extortion and other illegal behavior without consequence. As a result, inmates were encouraged that their own illicit behavior would be



ignored or tolerated by staff.<sup>3</sup>

The infamous "Barrett Incident," in which the drunken Chief Correctional Officer exercised power on the prison compound when he was off duty, is a window into life at GCI. Defendant Turner's tolerance of corruption among staff and violence toward inmates is exemplified by his response to the behavior of Lt. Barrett, who was still on duty as chief correctional officer one week after the incident, signing off as the reviewing officer on reports about it.<sup>4</sup>

Both Turner and Lt. Peters testified that neither of them contacted the Inspector General's Office to report Barrett.

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Inmate Pryor's 1985 testimony corroborates the evidence accrued during the Dixon and Barrett investigations regarding wholesale staff corruption. Pryor worked as an inmate-informant for various officers who either permitted him or ordered him to harass other inmates. (Deposition of Pryor, P.35). When Pryor told Lt. Barrett that he was going to do something about Inmate Cobb, Lt. Barrett told him that whatever he chose to do should be done on Barrett's shift. Id. Pgs. 39-40). Pryor took this to mean that if he attacked Cobb on Barrett's shift he "wouldn't go to jail or get prosecuted for it." Id. at 17. Following a fight with Cobb in which Pryor stabbed him, Pryor was put in a confinement cell but was never issued a disciplinary report for the incident. Id. at 19.

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Plaintiff's correctional expert, Dr. Richard Swanson, testified that Lt. Barrett made gross errors in judgment and should have been immediately suspended from GCI on the night of the incident. The Defendant's undue delay in taking action against Lt. Barrett is typical of his poor management of prison violence. Dr. Swanson testified that the Defendant's reaction was "oddly mild" considering the flagrant abuse of power in which Lt. Barrett engaged. (Swanson Testimony, 1985, 1994).

(Turner Testimony, 1985; Peters Testimony, 1985). Moreover, on the night of the beatings Turner specifically told a correctional officer later interviewed by the Inspector General's Office to get the Palm Beach Sheriffs off of the compound because he wanted to handle the incident internally. (Former P.Ex.9).

Turner's reaction to his Chief Correctional Officer's abuse of power evidences his indifference to inmate safety on the compound and sent a clear message to the staff and inmates: violent, reprehensible acts against prisoners will be tolerated without punishment therefore.

(b) OFFICER DIXON

The investigation of Officer Dixon further demonstrates that (1) Turner failed to adequately screen prospective employees, (2) Turner failed to discipline staff engaged in widespread extortion of inmates and exchange of contraband, and (3) Turner had the means to adequately discipline corrupt staff.

According to evidence gathered by the Prison Inspectors, Officer Dixon extorted inmates and their families and regularly brought contraband into the compound. (Former P.Ex. 10, New P.Ex.5). Officer Dixon was investigated while Turner was Superintendent yet the Defendant failed to suspend or terminate him. It was Turner's successor, Superintendent Music, who terminated Officer Dixon based on much of the same evidence available to the Defendant during his tenure, such

as, information that before Dixon was hired by GCI he was fired from Pahokee High School after his teaching certificate had been revoked. (Former P.Ex.10, Tab C, New P.Ex.5); (Swanson Testimony, 1985, 1994).

Turner presented no new evidence during the jury trial to rebut this Court's former finding that the investigation of Officer Dixon "corroborates other inmate allegations of wholesale staff corruption with regard to extortion of inmates, and the free flow of contraband within GCI." LaMarca, 662 F.Supp at 676.

5. FAILURE TO INSTITUTE PROCEDURE FOR REPORTING AND INVESTIGATING RAPES AND DISCIPLINING OFFENDERS

There existed at GCI no procedure known by the highest ranking investigator for the reporting of rapes through the chain of command. (Peters Testimony, 1985). No process or procedure was used to ensure that reports of rape were fully investigated. For example, alleged victims and assailants were not administered polygraph tests, there were no psychiatric or psychological examinations of victims, and there were no thorough interviews of victims by trained investigators.<sup>5</sup> (Peters Testimony, 1985; Turner Testimony

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For example, Plaintiff Martin Saunders reported his rape to Lt. Pipta after having started a fight with his attacker, Larry Pryor. Saunders received medical treatment because of the fight but no rectal examination was done. Not only didn't Lt. Pipta report the rape to the institutional investigator, Lt. Peters, or further up the chain of command, but he (1) failed to issue disciplinary reports to the inmates for fighting, (2) failed to note in Saunders' inmate file that

1985; Caddy Testimony, 1985).

The lack of procedure for investigating rapes resulted in the prosecution of only one rape during Turner's entire administration at GCI. At the jury trial, the Defendant admitted into evidence the "new proffer," a group of Palm Beach County Sheriff's Reports revealing referrals from GCI of various incidents among the prison population. Only one of the sexual assault referrals resulted in a rape prosecution.

The Defendant also offered into evidence Assault Investigative Reports generated from 1980 to 1984 at GCI. (D.Ex.6A) Despite the credible testimony of inmates regarding the pervasive fear of sexual assault, among the fifty-seven (57) reports of assaults generated during Turner's administration, only three (3) reported sexual assault. Only one of those three (3) sexual assaults, committed by an inmate named Bogan, was referred to the Palm Beach Sheriff's Office for prosecution. (D.Ex. 6A, Tab 6A-2 through 6A-6). Neither of the two remaining sexual assault reports was referred for prosecution or resulted in successful separation of victim and aggressor.

The fact that only one of these reports resulted in the

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Saunders reported having been raped, (3) failed to note in Saunders' inmate file that Saunders had been involved in a fight with Pryor, and (4) failed to confine the rapists, and (5) failed to record the fact that Saunders was confined because of the fight. (Former P.Ex. 26)

prosecution of a reported rapist demonstrates the effect of Turner's indifference to rape among inmates. If the Defendant had instituted formal, written procedures for the investigation of rape, many of the rapes which were reported to dormitory officers and then ignored likely would have made their way up the chain of command and resulted in formal interviews by Lt. Peters with victims and alleged perpetrators. Without a written policy mandated by the Superintendent, reports were lost in the day-to-day operation of GCI by poorly trained, poorly supervised and overworked staff. The lack of investigative procedure created an atmosphere of high risk in which inmates could rape other inmates without concern for being detected or punished.

**B. TURNER'S FAILURE TO CONTROL FREE FLOW OF CONTRABAND AND EXTORTION EXPOSED PRISONERS TO AN EXCESSIVE RISK OF SERIOUS HARM**

Independent, corroborative record evidence revealed the wide range of free flowing contraband at GCI during Turner's administration. Weapons, drugs, alcohol, and extortion activities all flowed from the illegal traffic Turner permitted to persist at GCI. Dr. Swanson found that "little or no effort was taken to control illicit activity" resulting in "readily available contraband" including "drugs, alcohol and weapons to inmates apparently upon demand." (Swanson Testimony, 1985, 1994). Dr. Swanson observed that the flow of contraband seemed to be common knowledge; "people carried knives, people smoke dope without worrying or trying to hide

it from officers" and that the staff was "actively involved in these illicit activities," as well as actually promoting the influx of contraband. Id.<sup>6</sup> Dr. Swanson concluded that based upon his multifaceted investigation of conditions at GCI, an unmistakable pattern of free flow of contraband existed at GCI during Turner's administration. Id.

Turner has offered no new evidence to rebut this court's previous findings that the flow of contraband at GCI persisted at an unreasonably high rate. While Turner suggests that his "new proffer"--reports of referrals to the Palm Beach Sheriff's Office--shows an appropriate response to the free flow of contraband, the collection of reports shows little more than the routine processing of arrests of visitors who were caught trying to bring drugs into the prison, the rallying of sheriff's deputies to catch escapees, and the after-the-fact arrests of inmates for assaulting guards. Despite the seemingly prevalent use of weapons by inmates, there were no weapons-possession charges among the cases that Turner's staff turned over to the Sheriff's office. The evidence establishes that contraband was widely available to inmates, (Swanson Testimony, 1985, 1994), either because corrupt officers were permitted to remain on duty (Former

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Dr. Swanson's testimony is corroborated by the investigation of Officer Dixon who, although responsible for enhancing the flow of contraband among inmates, was not dismissed until Turner left GCI.

P.Ex. 10; New P.Ex. 5, Dixon Investigation) or because the referrals resulted in no prosecution of the perpetrators. During Turner's reign, despite the overwhelming evidence of the presence of weapons, no State prosecution was ever initiated for any weapons possession by any inmate at GCI. (Peters Testimony, 1985; D.Ex. New Proffer). Based on the wholesale production of contraband,<sup>7</sup> and the cooperation of officers in the distribution of that contraband,<sup>8</sup> the some one hundred (100) phone calls to P.B.S.O. made over four (4) years of prison administration, or, roughly two (2) referrals per month, constitutes an unreasonably mild response to a substantial risk of harm faced by inmates every hour of every day at GCI.

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During jury trial testimony, Lt. Pipta recalled an incident during Turner's administration when an officer nicknamed "Bulldog" crawled underneath a trailer and fell into a 20 gallon vat of buck that inmates had been manufacturing there. The amount of prison wine found in that incident is more suggestive of wholesale manufacturing of it than it is indicative of close supervision of the compound.

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Inmate testimony revealed strikingly similar accounts of the availability of contraband at GCI: (Pryor Dep. Pg. 12) (selling of marijuana by Pryor) (Ibid. Pg.33) (access to knives by Pryor-- "I have so many knives."); (LaMarca Testimony, 1985) (inmates had money from selling reefer, making wine and weapons) *Id.*; (LaMarca Testimony, 1985)(LaMarca given knife by officer to protect himself); (Gordon Testimony, 1985) (blacks ran drugs at GCI); (Epprecht Testimony 1985) (free flow of drugs and alcohol at GCI); (Durrance Testimony, 1994) (marijuana smoke could be smelled throughout the dorms at night); (Bronson Testimony, 1994) (guards smoked marijuana).

C. TURNER'S FAILURE TO TRANSFER WOLVES EXPOSED INMATES TO AN EXCESSIVE RISK OF HARM

Aggressive inmates known as "wolves" were routinely tolerated at GCI. For example, in an investigation of Inmate Green's rape, Lt. Peters, the investigator, concluded that it would do no good even to interview the accused rapist because he had a known "hate for law enforcement personnel and for any rules and regulations." (D.Ex. 49, P.3). Turner himself created an increased risk to inmate safety when he failed to transfer known "wolves." On December 29, 1983 Turner personally cancelled Larry Pryor's transfer from GCI to Union Correctional Institution. (Former P.Ex. 26; Swanson Testimony, 1985, 1994).<sup>9</sup> When Turner deliberately cancelled Pryor's scheduled transfer, the following events had already taken place: the parole commission had issued a report in January of 1983 marking Pryor as an inmate who "reflects a serious pattern of assaultive behavior," (P.Former Ex.26), Pryor had raped Plaintiff Martin Saunders in March 1983, (Saunders Testimony 1985), and the GCI classification team had secured Pryor's transfer in November of 1983, concluding that the transfer was necessary "for security reasons." (Former P.Ex.26). Nevertheless, Turner cancelled the transfer. After Turner cancelled the transfer, Pryor stabbed Inmate Eddie

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Although Turner claimed at the jury trial that he could not control which inmates received transfers, his unilateral cancellation of Pryor's transfers shows that he had the power to control transfers, but used it selectively.



Cobb-- during Lt. Barrett's shift, as Barrett had instructed him. Turner also permitted known "wolves" Willie Dock and Levi Fisher to remain at GCI despite the constant security risks they created. Turner failed to transfer Fisher despite common knowledge on the compound that Fisher was a "wolf" (Peters Testimony 1985).<sup>10</sup>

D. TURNER'S FAILURE TO CONTROL INMATE MOVEMENT EXPOSED INMATES TO AN EXCESSIVE RISK OF HARM

During Turner's reign inmates were free to roam through the dormitories and the compound. Inmates were allowed to crawl under the fence running along the protective confinement cells and harass or threaten inmates housed there (Swanson Testimony, 1985, 1994), and inmates roamed freely in the dormitories at night. Id. Dr. Swanson's testimony is corroborated by the Inspector General's Report of 1983 noting that inmate movements were not properly controlled nor supervised by staff. (Former P.Ex. 6).

Despite the evidence showing a lack of control over inmate movement, defense witness Lt. Pipta insisted at the jury trial that Turner did institute a "pass system." However, Lt. Pipta admitted that the "pass" system in place during Turner's reign applied only to the various work squads which required an inmate who did not report to work to have in

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Peters also testified that Willie Dock and Bone, who raped Inmate Durrance and were known "wolves" were not transferred.

his possession a particular slip of paper.<sup>11</sup> The work squad system did not account for inmate movement near the protective confinement cells nor did it apply to inmate movement within the dormitories. It was not until Superintendent Music's administration that an official institution-wide pass system was created. (Swanson Testimony, 1985, 1994).

E. OFFICIAL DOCUMENTATION SHOWS THAT INMATES AT GCI WERE EXPOSED TO AN EXCESSIVE RISK OF HARM

1. TURNER'S FIRST LETTER TO SECRETARY WAINWRIGHT

As early as 1979, Turner was aware that an unacceptable risk of serious harm existed at GCI. On March 15, 1979 Turner wrote a letter documenting the excessive risk to inmate safety at GCI in which he noted that having one-third of the staff positions vacant was "dangerous to staff and inmate population [emphasis in original] Only two officers assigned to 220 inmate dorm for supervision of inmates." (D.Ex.14) Turner added that he was "apprehensive about our ability to control this population under the circumstances." Id.

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Lt. Pipta admitted that after Turner left a "new pass system" was instituted whereby inmates were issued regulation DOC passes.

2. THE 1980 PALM BEACH COUNTY GRAND JURY PRESENTMENT

Circumstances at GCI did not improve after Turner sent the above referenced letter. Ten months and fifteen (15) days later the Palm Beach County Grand Jury issued a presentment raising serious issues of inmate security and poor prison management. (Former P.Ex.4). The Grand Jury reported having heard testimony relating to "lax security precautions," and free flow of contraband "including drugs, alcohol, gambling, theft, confiscation, and payoffs among the inmates and personnel of GCI." Id.

3. THE 1980 DEPARTMENT OF CORRECTIONS MANAGEMENT REVIEW

Approximately eight (8) months after the Grand Jury presentment, the Inspector General's Department of Corrections Office conducted a management review of GCI (P.Former Ex.4, Tab B). The lax security precautions documented by the Grand Jury had still not been cured. The review team, an independent investigative arm of DOC observed conditions at GCI and concluded, in part, that

Supervision in all three general areas of the compound must be described as serious, due to the lack of security personnel. Vacancies continue to be a serious problem. The dormitory situation is critical as there have been occasions when one dormitory officer is responsible for supervising more than one dorm at the same time.

(P.Ex.4, Tab B, p.4). The Review documented an increase of inmate-on-inmate and inmate-on-staff assaults, a trend that

had been developing over the previous six months, and concluded that security problems were exacerbated by the low morale of GCI staff. Id. An employee survey supported the DOC's conclusions. Id.

4. TURNER'S SECOND LETTER TO WAINWRIGHT

After another ten (10) months had passed, Turner finally notified Secretary Wainwright that the institution was out of control. In his letter of July 16, 1981, Turner wrote, "[o]n an almost daily basis I feel that our security staff is simply being tolerated by the inmate population rather than being in control of the operation of the institution." (emphasis added). (D.Ex. 13; New P.Ex. 6).

5. THE 1983 INSPECTOR GENERAL REPORT

Despite the series of written warnings stretching from 1979 to 1981 documenting the laxity in security, poor prison management, and lack of control over the inmate population at GCI, an excessive risk of serious harm to inmates still existed in 1983 when the Inspector General investigated the institution. (Former P.Ex. 6; New P.Ex. 8). After spending three (3) days at GCI, the Inspector General's Office wrote, "we fail to understand and appreciate laxity, and in some instances, the disregard for established procedures." Id. The Inspector General concluded that "the team found a need for a great deal of improvement at Glades Correctional

Institution." Id.<sup>12</sup>

II. Did Defendant Turner Know of and Disregard  
an Excessive Risk of Serious Harm to  
Plaintiffs at G.C.I.?

A. THE ELEVENTH CIRCUIT HELD THAT THE EVIDENCE SUPPORTS  
THIS COURT'S FINDING THAT THE DEFENDANT KNEW OF AND  
DISREGARDED AN EXCESSIVE RISK OF SERIOUS HARM TO INMATES

The Eleventh Circuit already held that the evidence previously presented in this case supports a finding that Turner knew of and disregarded unconstitutional conditions at GCI as follows:

(1) "The plaintiffs' evidence painted a dark picture of life at GCI; a picture that would be apparent to any knowledgeable observer, and certainly to an official in Turner's position." LaMarca, 995 F.2d at 1536 (emphasis added).

(2) "[P]laintiffs presented evidence (1) that Turner failed to ensure that his direct subordinates followed the policies he established, and (2) of specific, low-cost actions that Turner could have taken and that his successors successfully undertook. This evidence supports a finding that Turner knowingly 'fail[ed] adequately to supervise correctional officers up to the lieutenant level[,]' result[ing] in corruption and incompetence among the officers

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The team noted a particular need for a more orderly arrangement of inmate property which corroborates inmate testimony that staff permitted personal belongings to block observation of the bunks. Id.

and a lack of reasonable protection of inmates.'" *Id.* at 1537 (citing *LaMarca*, 662 F.Supp. at 665) (emphasis added).

(3) "We agree with the district court that the plaintiffs' evidence supports the findings that Turner could have, but did not, take steps to minimize at least the following problems at GCI:

(1) improper and inadequate staff training ..., (2) a staff out of control who did not report rapes, assaults, and illegal activities up through the chain of command, (3)[Turner's] failure to supervise staff and administer measures which would 'minimize the chance of error and maximize the full satisfaction of constitutional protection,' in (i) not stationing officers to patrol throughout the dormitories, particularly at night, and leave the wicket cage, and in (ii) permitting the obscuring of vision of the officers in the wicket by allowing inmates to hang sheets ..., (4) [Turner's] shocking failure to employ any standard procedure to investigate incidents of alleged rapes, [(5)] [Turner's] failure to provide inmate movement controls thus reducing the casual egress and ingress of aggressive assailant wolves within the open dormitories, and [(6)] [Turner's] failure to transfer know[n] assailants or inmates who should have been known to be assailants out of GCI.

*Id.* at 1537-38 (quoting *LaMarca*, 662 F.Supp. at 708)(emphasis added).

(4) "The evidence supports the plaintiffs' assertion that Turner could have brought GCI within constitutional norms through more diligent supervision of his officers, by establishing and enforcing rules and procedures to eliminate specific source of danger to prisoners, and through low-cost modifications to GCI's physical plant. In particular, Turner

could have taken significant steps to eliminate the highly permissive atmosphere at GCI both as to officers shirking their duties and as to prisoners engaging in extortion, harassment, sexual activity, and sexual and other assaults." *Id.* at 1539 (emphasis added).

(5) "[T]he evidence strongly supports a finding that, even within the constraints he faced, Turner had the means substantially to improve prisoner safety at GCI. This evidence also supports findings that Turner knew that the actions he undertook would be insufficient to provide inmates with reasonable protection from violence, and that other means were available to him which he nevertheless disregarded. Such evidence provides the necessary causal link between Turner and the infirm conditions at GCI." *Id.* at 1539 (emphasis added).

(6) "[T]he evidence supports the plaintiffs' position that Turner recklessly disregarded the necessary means to protect inmate safety." *Id.* at 1538 (emphasis added).

**B. THE DEFENDANT KNEW OF AND DISREGARDED AN EXCESSIVE RISK TO INMATE SAFETY WHICH EXISTED AT GCI**

Plaintiffs may prove a prison official's knowledge of an excessive risk of harm to inmates by showing, (1) that the risk was obvious, or (2) that the risk was longstanding, pervasive, well-documented, or that the risk was expressly noted by prison officials in the past, and (3) that the defendant-prison official was exposed to information concerning the risk. Farmer v. Brennan, 112 S. Ct 1979. It

is no defense to evidence showing an obvious risk that the defendant-prison official "merely refused to verify underlying facts that he strongly suspected to be true, or declined to confirm inferences of risk that he strongly suspected to exist...." Id.

1. THE EXCESSIVE RISK TO INMATE SAFETY AT GCI WAS LONGSTANDING, PERVASIVE, WELL-DOCUMENTED AND NOTED BY PRISON OFFICIALS

As early as 1979, Turner admitted, in writing, that he knew of an excessive risk to inmate safety at GCI. (New. P.Ex. 6). The letters to Wainwright, along with the other official documentation discussed, infra, show, conclusively, that a longstanding, pervasive and expressly noted risk to inmate safety existed: (1) "longstanding," in that it was officially documented from 1979 to 1983, (2) "pervasive," in that it resulted in severe security breaches and violation of prison regulations and manifested itself in inmate-on-inmate violence, inmate-on-staff violence, free flow of contraband, inmates in possession of weapons, rampant drug use, failure to train and supervise staff, and failure to insure the assignment of at least one officer to patrol each dorm, and (3) "expressly noted by prison officials," in that the DOC, Inspector General's Office, Correctional Officers and Superintendent Turner all noted that an excessive risk existed. While the DOC and the Inspector General's Office are not parties to this action, each's knowledge can be imputed to Turner who was both privy to official documents from each



office and himself communicated with each regarding the conditions at GCI.

2. TURNER WAS EXPOSED TO INFORMATION CONCERNING THE RISK TO INMATES

In addition to the documentation reviewed infra, Turner was also exposed to investigation-of-assault reports generated by his staff. One such report details the investigation of a reported rape in 1982. (D.Ex. 49, Pg. 1-3). The victim, Inmate Green, was confined to a single cell with two other inmates. Green reported that his cell-mate, Inmate Dunfee, forced him to have anal sex at knifepoint. After the first incident, Green was too terrified to report the incident. The morning following the second rape, Green told Lt. Peters what had happened to him. Id. Green's third cell-mate, Inmate Summers, admitted that he heard "tussling on the upper berth" of the cell bunks, where Green told Lt. Peters he had been raped. Summers also told Lt. Peters that Green told Summers he had been raped and Summers suggested that he report it.<sup>13</sup> The response, or lack thereof, to the rapes is shocking. The case was "exceptionally cleared" with no referral to the Palm Beach Sheriff's Office, no counseling for the victim, and no disciplinary charge for the suspect. Id. The rapes were ignored despite the Chief Investigator's knowledge that the

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The report also noted that sometime after the rape/s, Green became so despondent over the rapes that he cut a main artery in his arm with a razor blade. Id.

rape suspect was a "wolf." The following excerpt from the investigative memo reveals that Lt. Peters, Turner's Chief Investigator, specifically instructed the officer not to speak to the rape suspect about the incident:

Writer asked Lt. Peters of his opinion on Dunfee and he states that Dunfee is a constant source of trouble at the prison. He is doing a life sentence and he is extremely hard core, will not communicate with the administrative personnel and felt that speaking with Dunfee in relation with this would be a totally fruitless act as Dunfee has an outspoken and [sic] disregard and hate for law enforcement personnel and for any rules and regulations.

(D.Ex. 49, P.3). The only action taken by the reporting officer and Chief Investigator regarding the rape was to transfer the victim to another confinement cell. Id.<sup>14</sup>

It can hardly be disputed that allowing a known "extremely hard core" inmate to continue harassing, beating and raping inmates simply because to confront him would be

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Another report of an inmate-on-inmate assault reveals more evidence of indifference to inmate safety. In 1982 Inmate Padilla was attacked by a group of inmates. The officer who filed the investigative report remarked that Sgt. Nappi (who testified in Turner's behalf at the Jury Trial) and Lt. Peters told him that the perpetrators had been heavily involved in strong arm robberies, assaults and harassment, "over a long period of time, but were never brought to task due to the fact that all the victims declined to report the incidents for whatever reasons(s)." (D.Ex.6A, Tab 15). The fact that Sgt. Nappi and Lt. Peters knew that the victim's attackers were "wolves" even though all prior victims refused to report their assaults reveals the inadequacy of Turner's claim that he did not know about inmate rape because it was underreported. Obviously, staff, including high ranking officers like Nappi, Peters and Turner, knew quite a lot about inmate-on-inmate assault at GCI.

"fruitless" constitutes knowledge of an excessive risk to inmate safety, and reckless disregard of that risk. Turner was exposed to information related in the report yet failed to take even minimal steps to prevent Dunfee from raping again.

Turner claimed during his most recent trial testimony that he was present on the compound daily, occasionally went into a dormitory and sat on an inmate's bunk to talk, would lie in wait for escaping inmates whose plan the administration had detected, and personally sent a computer message cancelling the transfer of known "wolf" Larry Pryor. (Turner Testimony, 1994; P.Former Ex.26; Swanson Testimony 1985, 1994).

A Superintendent as intent as Turner in involving himself in daily prison life could not help but notice the indicators that a substantial risk of serious harm to inmates existed. Daily life at GCI, by both parties' accounts, encompassed the following bizarre incidents: (1) the day a correctional officer fell into a 20-gallon vat of buck hidden underneath a trailer (Lt. Pipta Testimony, 1994), (2) the day four inmates remained unsupervised long enough for them to saw through prison bars on a restroom window and escape (D.Ex.42, Pg.6), (3) the day protective confinement records showed that twenty white inmates and only one black inmate were "checked in," (4) the day a correctional officer reported that he had observed three inmates, one of whom had exposed his penis, preparing to engage in non-consensual homosexual act and then dropped the

incident without further action because the victim had engaged in consensual homosexual sex in the past (D.Ex. 49, Pg.13-16), and (5) the day Turner's Chief Correctional Officer in charge of security staggered onto the compound wearing clown make-up, inebriated, requested and received a shotgun and fifteen (15) rounds of ammunition, and, *assisted by Lt. Pipta*, rounded up inmates, forced them to lie face down on a sidewalk, and struck three of them in their heads with the butt of his shotgun.

III. Did the Unconstitutional Conditions Cause Each of Plaintiffs' Damages?

A. THE ELEVENTH CIRCUIT HAS HELD THAT THE EVIDENCE SUPPORTS THIS COURT'S FINDING THAT THE DEFENDANT'S DELIBERATE INDIFFERENCE WAS A CAUSE OF THE PLAINTIFFS' CONSTITUTIONAL DEPRIVATIONS

(1) "[T]he evidence strongly supports a finding that, even within the constraints he faced, Turner had the means substantially to improve prisoner safety at GCI. This evidence also supports findings that Turner knew that the actions he undertook would be insufficient to provide inmates with reasonable protection from violence, and that other means were available to him which he nevertheless disregarded." *Id.* at 1539 (emphasis added).

(2) "[The] evidence provides *the necessary causal link* between Turner and the infirm conditions at GCI." *Id.* at 1539 (emphasis added).

(3) "Finally, the evidence shows a link between the unconstitutional conditions and the plaintiffs' injuries. [...] The evidence thus permits a finding of a causal link between the objectively intolerable conditions at GCI and the plaintiffs' injuries." Id. at 1539.

B. MARTIN SAUNDERS' INCIDENT

1. Causation

When Martin Saunders stepped out of the prison van at the GCI compound he witnessed a "great multitude" of black inmates line up at the prison gate. Immediately, he felt like he was in a meat market. (Saunders Testimony, 1985). Saunders received no orientation from the GCI administration on the day he arrived or on any other day that followed.

Saunders' only orientation to life at GCI came the evening of his arrival when a group of black inmates approached him offering friendship that had homosexual overtones. (Saunders Testimony, 1985). Inmates James Roper and Larry Pryor would not give up when Saunders refused their offers of "friendship." When Saunders refused, Roper and Pryor attacked him. Id. Following a visit with his family, Saunders returned to his dorm to find Pryor, armed with a knife, demanding that Saunders give him \$5.00 his parents had just given him. Saunders gave Pryor his money on that day and on another occasion when Pryor demanded money. Id. Another time, Pryor and Roper snuck up behind Saunders while he was watching television, punched him in the side of the head, took

his personal property, and threw it in the shower. Id. Saunders knew that Pryor and Roper were the culprits because he saw his towel hanging from one of their bunks. Id.

Although Saunders complained to several correctional officers about the abuse, they told him that he should deal with his problems and should fight back. Id. One of the correctional officers who was supposed to help Saunders instead responded by making homosexual advances.<sup>15</sup>

Saunders was raped in March of 1983 while using a small bathroom in the classification building. He was sitting on the toilet with his pants down when Pryor and Roper came into the bathroom. Id. The two told Saunders to keep his pants down because they were going to "get theirs." Saunders was forced to stand directly over the toilet and face the wall in the narrow bathroom. Roper stopped Saunders from leaving the room, telling him that he would be killed if he tried to escape. Roper lubricated his penis and entered Saunders' anus. Id. Saunders could tell that Roper ejaculated because of the groans he made. When Roper finished, Pryor followed Id. Saunders testified that Pryor also ejaculated inside of Saunders. The incident took about 25 minutes to a half-hour. Pryor and Roper left the bathroom laughing about how, "That's some good pussy." Id.

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The officer pressed himself against Saunders from behind and ran his hands down Saunders' arms which Saunders took to be a homosexual advance. Id.

After the rape Saunders sat on the recreation field and cried for an hour. Then he went in search of his rapists. When he found Pryor he attacked him; after the fight broke up Saunders told Lt. Pipta that Pryor and Roper had raped him. Id. Saunders thought that Pipta didn't believe him; although Pipta had Saunders taken to the clinic for injuries received during the fight, there was no rectal examination done. Id. On the way to the clinic, the officer escorting Saunders told him, with regards to the rape, "That's not what we're here for." Because of the fight, Saunders was placed in administrative confinement for three (3) to four (4) days. In confinement, Saunders was subjected to punitive conditions including being housed in a one-person, roach infested cell with three (3) other inmates.

Saunders' inmate file is void of any record of the reported rape, the fight, the physical examination of Saunders, or Saunders' admittance into confinement. (Former P.Ex.26). Saunders testified that Roper and Pryor were not confined concerning the rape and no disciplinary reports were issued concerning the fight. Id. The institutional investigator testified that no one told him about Saunders' rape nor told him to investigate it. Id.

When he was released from confinement, Saunders arranged a transfer to C dormitory so that he could escape Pryor and Roper. He managed to get the transfer by giving up his prestigious job as steward in the staff dining room and taking

a job cutting sugar cane. Id.

Dormitory "C" was not much of an improvement. While in "C dorm," Saunders was harassed sexually by inmate Charles Street. Street kicked Saunders in the groin. (Former P.Ex. 29). Street, who slept next to Saunders, told Saunders that he would "get him;" Saunders feared that Street would succeed because Saunders' bunk was obscured from the dormitory officer's view by towels that were draped from the top bunk to form a tent. (Saunders Testimony, 1985). From where the dormitory officer was stationed at night, he could not see Saunders when Saunders was in his assigned bed. The only way Saunders could see the guard was to hang his head over the bed perimeter. Id. Saunders knew that if someone wanted to kill or rape him they would get away with it. Id.

When he could no longer bear conditions in C dormitory, Saunders checked himself into protective confinement on November 10, 1983.<sup>16</sup> (Former P.Ex. 29, Section B). Saunders was one of the seventy-six (76) persons who went into either administrative or protective confinement during the month.

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Saunders reported that the conditions in protective confinement had not changed since the time he was confined for fighting with Pryor. (Saunders Testimony, 1985). Notwithstanding § 33-3.082(4), Florida Administrative Code, and GCI's Operating Procedure 83-40, which required treatment of PC inmates "as near that of the general population as assignment to protective confinement as the housing area will permit" (Former P.Ex.3, Tab F 2), protective confinement at GCI stripped an inmate of all privileges. (Swanson Testimony 1985, 1994).



The assault by Street on Saunders went unreported both in logs recording assaults and those recording sex acts; Turner failed to report either incident in his monthly reports to the regional director. (D.Ex.14).

2. SAUNDERS' DAMAGES

This Court has previously granted Martin Saunders \$30,000.00 in damages. LaMarca, 662 F.Supp. at 667, 715. Defendant presented absolutely no evidence to counter Dr. Caddy's damage testimony in 1985 or in 1994.

In his most recent assessment of Saunders' psychological profile, Dr. Caddy concluded that Saunders suffers from Post Traumatic Stress Disorder. (Caddy Testimony, 1994). Saunders cannot discuss the rape without crying from the degradation and fear he still feels. Id. At the time Caddy interviewed Saunders in 1994, Saunders was being housed in Martin Correctional Institution alongside his rapist, James Roper. Caddy concluded that this living arrangement caused heightened anxiety and depression for Saunders. The court finds that the previous award of \$30,000 is sufficient to compensate Saunders for his injuries.

C. EDWIN JOHNSON'S INCIDENT

1. Causation

Four weeks after Plaintiff Edwin Johnson arrived at GCI he was attacked by a black inmate with a knife who told him that he had to choose a "sugar daddy" or check into protective confinement. (Johnson Testimony, 1985). Johnson reported the

incident; his report met with indifference from his classification officer who told him that he could either go into protective confinement or find a weapon and fight back. Id.

Johnson decided not to fight back for fear that a fight would jeopardize his approaching parole date; he checked into protective confinement instead. In protective confinement, Johnson was housed with two other men and was stripped of his privileges. Id.<sup>17</sup> After a month and a half, Johnson checked out of confinement on the advice of the lawyer representing him on the parole matter; Johnson's lawyer told him to leave confinement because there were no programs there to assist him in getting his parole. Id.

Two weeks after Johnson checked out of confinement he was beaten by a group of inmates who stole some of his personal property. Because of the fight he was interviewed by Lt. Lawson, to whom Johnson declined to give the names of his attackers for fear of being labeled a "snitch." Id.

The day after the interview with Lawson Johnson was again attacked by one of the same inmates who had assaulted him before. Id. After the fight Johnson asked Lt. Lawson for a dormitory change. Lawson refused to transfer Johnson to another dorm. Id. Faced with the prospect of living in an

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During this time there was no gymnasium for inmates in confinement.

open dormitory with his attackers, Johnson once again opted for punitive living conditions and checked into protective confinement for three (3) days. Id. When Johnson came out of confinement he was assigned to a dormitory where five (5) inmates covered him with a blanket and beat him. Id. Johnson immediately checked back into protective confinement. Id.

Back in protective confinement for the third time, Johnson experienced the same punitive living conditions that he had in his previous visits to confinement. The only difference was that protective confinement inmates were allowed to go to the gymnasium with inmates who were being housed in administrative confinement.<sup>18</sup> Id. One day when the mixed group was coming back from the gymnasium, one of the administrative confinement inmates hit Johnson in the head with a metal stool. Id. Johnson was hospitalized for two weeks.

## 2. JOHNSON'S DAMAGES

Out of all of the plaintiffs, Dr. Caddy marked Johnson as the plaintiff whose injuries incurred at GCI have resulted in the most neuropsychological damage. (Caddy Testimony, 1994). This Court previously assessed Johnson's damages at \$13,000.00. LaMarca, 662 F.Supp. at 667, 715. However, this

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Turner, Peters and other defense witnesses admitted at both trials that both inmates awaiting protection and those awaiting disciplinary reports were housed in administrative confinement. (Turner Testimony, 1985, 1994; Peters Testimony, 1985; Pipta Testimony, 1994).

Court's previous assessment was calculated before Dr. Caddy was able to discern the degree of neuropsychological damage caused when Johnson was hit on the head with a metal stool at GCI. Dr. Caddy testified that after he testified in 1985 he received training in neuropsychology that allowed him to pinpoint the brain injury sustained by Johnson. (Caddy Testimony, 1994). Caddy testified that Johnson sustained a severe head injury which caused Johnson to lapse into a brief coma. Id. Caddy concluded that no amount of psychological treatment will return Johnson to his pre-assault condition. Id. Caddy predicted at trial that because of Johnson's brain injury, he was unable to re-integrate himself into society and would likely spend the rest of his life being arrested for minor crimes. Id. Accordingly, Johnson's award will be increased to \$30,000 to provide for the medical treatment he now requires.

Caddy testified that Johnson needs the following as the result of the attack at GCI: (1) a mental health manager, costing \$400.00/\$500.00 per month, (2) hospitalization, and (3) comprehensive neuropsychological evaluation. Id.

D. ANTHONY LAMARCA'S INCIDENT

1. Causation

Anthony LaMarca spent much of his time at GCI as a "hunted" man desperately seeking protection from fellow inmates. His experience demonstrates to what lengths inmates

at GCI had to go to avoid being victims.

Like Saunders, LaMarca learned the day he arrived at GCI that other inmates identified him as a sexual partner. Upon LaMarca's arrival at GCI he was confronted by a group of black inmates catcalling to him, "fat skinny white boy." LaMarca later learned that the term meant that the inmates thought of him as a young, slight white man with large buttocks. Id. After only three (3) days on the compound, LaMarca was approached by Inmate Kenneth Storys who told him that if he didn't pick Storys or someone else as his "daddy" he would not be able to live in the inmate population. Id. Unlike Saunders and Johnson, LaMarca did not immediately check into protective confinement. He was embarrassed at having been marked as a vulnerable inmate; when LaMarca finally did check into protective confinement, he had endured a year-long ordeal filled with harassment and threats from inmates and indifference from staff.

The first time LaMarca sought help was when he reported three (3) inmates who had been harassing him. As LaMarca was leaving the meeting he had arranged with prison officials, the inmates who had been harassing him came to the back door of the canteen and told LaMarca, "We know you snitched, cracker." Despite LaMarca's report, the administration did nothing. Id. Three (3) days later one of the inmates whom LaMarca had reported swung a bat at him. He told Lt. Barrett about the incident and Barrett responded by giving LaMarca a pocket

knife. Id.

At 2:30 a.m. one morning, the two aggressors whom LaMarca had reported retaliated by coming to LaMarca's bunk, carrying a bush axe, and demanding sex. Id. LaMarca responded by running to the wicket where the dorm officer was stationed. LaMarca sat outside of the wicket in his underwear all night. Id. The next morning LaMarca tried to bring a fiberglass sledgehammer onto the compound for protection; he was immediately issued a disciplinary report. Id.

Finally, in 1981, LaMarca checked into protective confinement. He was housed with two other inmates and was stripped of all privileges. When he complained to an officer about conditions in confinement, he was told to go back to the compound. Id. He was given only two options at GCI: bad conditions in confinement or dangerous conditions in the compound.

## 2. LAMARCA'S DAMAGES

This Court previously assessed LaMarca's damages at \$9,000.00. There has been no additional evidence to suggest that this assessment is inaccurate. Therefore, the award will be reinstated.

### E. THE INCIDENTS CAUSED THE PLAINTIFFS' DAMAGES

Each of the incidents in which the non-jury plaintiffs were injured were caused by Turner's deliberate indifference to inmate safety at GCI.

1. FAILURE TO TRANSFER WOLVES

First, Saunders was raped by a known "wolf" whom Turner failed to separate from the inmate population. Three (3) months before Pryor raped Saunders he was classified as an inmate who "reflects a serious pattern of assaultive behavior." (Former P.Ex.26). Surely, the parole report was based on more than an isolated incident of violence by Pryor. Nevertheless, Pryor was permitted to remain on the main compound, where it was foreseeable that he would assault an inmate like Saunders.

2. STAFF CORRUPTION

Not only was Pryor permitted to remain in general population despite the administration's knowledge that he was a "wolf," he assisted corrupt staff as an inmate-enforcer. At times, corrupt staff even directed Pryor to harass other inmates. (Pryor Testimony, 1985). Turner's failure to supervise and discipline corrupt staff contributed to an environment at GCI where inmates like Pryor were used to control, by violence, inmates whom staff had targeted for retribution. For example, when Turner's Chief Correctional Officer, Lt. Barrett, was informed that Pryor wanted to attack Inmate Cobb, Barrett simply told Pryor to be sure to do it on Barrett's shift.<sup>19</sup> Id. Pryor admitted that he felt that he

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In fact, Pryor was never issued a disciplinary report for having stabbed Cobb. Id.

could get away with anything (Pryor Testimony, 1985); he had acquired a degree of control over officers and inmates that encouraged him to continue threatening, beating and raping inmates with impunity.

3. TURNER'S FAILURE TO TRAIN, SUPERVISE, AND CONTROL STAFF AND TURNER'S FAILURE TO PROVIDE FOR REPORTING OF RAPES AND ASSAULTS

All three (3) non-jury plaintiffs were denied protection from correctional officers to whom they reported having problems on the compound. Saunders reported his rape to Lt. Pipta but his rape went officially unreported. Johnson asked Lt. Lawson for a change in dorm assignment after he was beaten in his dorm; Lawson denied his request. LaMarca reported the three (3) inmates who tried to rape him; his reports were ignored.

If Turner had instituted a procedure for reporting of assaults, and had disciplined officers who failed to report inmate-on-inmate assault, the plaintiffs' requests for protection would not have fallen on deaf ears. Proper supervision, training, and control of staff over the inmates would have created an atmosphere in which officers were not controlled by the aggressive inmates but in control of inmate violence.

4. FREE FLOW OF CONTRABAND

As this Court has previously found, Turner's failure to control contraband on the compound increased the risk to all



inmates. Dr. Swanson testified that a prison without control over alcohol and drug use increases the risk of inmate-on-inmate rape and assault.

Turner's failure to control weapon possession led to an environment where inmates freely possessed weapons. Larry Pryor threatened Saunders with a knife the day he extorted \$5.00/week and again on the day of the rape. Johnson was attacked by an inmate with a knife; LaMarca was threatened by an inmate armed with a baseball bat.

5. FAILURE TO PATROL THE DORMS

Both Saunders and Johnson were injured because officers failed to properly supervise inmate movement. Saunders was raped in a bathroom in the classification building for 20 minutes to a half-an-hour. During that time no officer became concerned enough about the whereabouts of one new inmate and two known aggressors to discover the three of them in a bathroom. When Johnson was attacked on his way back from the gymnasium, two (2) guards stood eight (8) to ten (10) feet away and did not prevent the attack.

Many of the threats that LaMarca endured would not have occurred had officers been patrolling LaMarca's dorm. LaMarca had to spend the night sitting next to the wicket in his dorm in order to assure himself that a guard would see him if he were attacked. This very scenario which took place at G.C.I. on that night over a decade ago was expressly identified by the Supreme Court in 1994 as a basis for liability against a

prison official. The court stated:

If, for example, prison officials were aware that inmate rape was so common and uncontrolled that some potential victims dared not sleep [but] instead...would leave their beds and spend the night clinging to the bars nearest the guards station...it would obviously be irrelevant to liability that the officials could not guess beforehand precisely who would attack whom....

Farmer, 112 S. Ct. at 982. The record<sup>20</sup> in this case with respect to the three non-jury Plaintiffs, supports the conclusion that the Defendant R.V. Turner is liable for failing to protect them from the dangers of the unconstitutional conditions at GCI, which caused each damages. In the opinion of this court, it cannot be said that Defendant Turner acted reasonably to the risk which existed at G.C.I.

Regarding the amount of damages, the court has considered the additional fact that considerable time has passed since the original award was calculated, thereby warranting an upward modification. Saunders' previous award of \$30,000 will be increased to \$50,000; LaMarca's previous award of \$9,000 will be increased to \$25,000; Johnson's award will be increased both to compensate him for the brain injury which was not taken into consideration in the previous award and for the passage of time, from \$13,000 to \$40,000.

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The term "record" refers to and includes all of the evidence presented and duly admitted by each party at every stage of this proceeding, including the "new proffer."

#### IV. Is There a Present Need for Injunctive Relief

Under current law, Plaintiffs seeking injunctive relief must plead that there is a contemporary violation of a nature likely to continue. Farmer, 114 S.Ct. 1983 (quotation omitted). In order to avoid adverse judgment on a claim for injunctive relief, Plaintiffs "must come forward with evidence from which it can be inferred that the Defendant-officials were at the time suit was filed, and are at the time [final judgment is sought], knowingly and unreasonably disregarding an objectively intolerable risk of harm, and that they will continue to do so; and finally to establish eligibility for an injunction, the inmate must demonstrate the continuance of that disregard during the remainder of the litigation and into the future." Id. (emphasis added). Any litigant asking the court to exercise its discretion as a court of equity bears the burden of showing that the intervention of equity is required. Farmer, 114 S.Ct. 1984. If the court finds that the Eighth Amendment's subjective and objective requirements are satisfied, it may grant appropriate injunctive relief. Id.

The Eleventh Circuit remanded this cause for retrial of the various damage claims and for this court to determine whether there is an ongoing need for injunctive relief. Since the remand, the Plaintiffs have had ample time and opportunity to both conduct discovery and advise the court whether there presently exists a specific need for injunctive relief. In

December, 1994, the court granted Plaintiffs additional time to conduct discovery and ordered them to announce their position on injunctive relief on or before February 10, 1995. The court thereafter, gave the Plaintiffs additional time and as of the date of this order, the Plaintiffs have not identified even a single present condition which warrants the exercise of this court's discretion as a court of equity to issue further injunctive relief. While the Plaintiffs have asked for an evidentiary hearing on injunctive relief, they have not plead or otherwise alleged any factually disputed issues regarding present conditions at GCI which would require adjudication by the court.<sup>21</sup> Quite simply, Plaintiffs cannot maintain a claim for injunctive relief without pleading even a single present unconstitutional condition which establishes that a need for same presently exists at GCI. Accordingly, the court finds that the Plaintiffs have failed to establish that there presently exists an ongoing need for injunctive relief at GCI. Therefore, except as previously ordered and affirmed, the claim for injunctive relief shall be denied.

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Plaintiffs have also requested the court to take a part in implementing the Eleventh Circuit's directive on the injunctive relief previously ordered. However, absent evidence of a factual dispute regarding the Defendant's failure to comply with the Eleventh Circuit's mandate on injunctive relief which affirmed this court's previous order, the court will not undertake a role in implementing the relief already granted.

In view of all of the foregoing, it is

ORDERED and ADJUDGED that the clerk of the court is instructed to enter final judgment against the Defendant and in favor of the non-jury Plaintiffs in the following amounts: Martin Saunders \$50,000; Edwin Johnson \$40,000; Anthony LaMarca \$25,000; and in favor of the Defendant and against Plaintiffs Aldred, Bronson, Cobb, Durrance, and Harper, consistent with the jury verdict on these claims, and to close this case and to declare any and all pending motions not specifically addressed herein DENIED as moot. Further, it is

ORDERED and ADJUDGED that Plaintiffs' request for further injunctive relief except as previously granted and affirmed by the Eleventh Circuit, is DENIED. Finally, it is

ORDERED and ADJUDGED that the prevailing parties shall submit Bills of Costs and Motions for Attorneys' Fees as appropriate, pursuant to Federal Rule of Civil Procedure 54(d)(1),(2)(B),(D) within 60 days of the issuance of a mandate from the Eleventh Circuit Court of Appeals on any appeal which may be taken from this final judgment, or within 60 days of resolution of any post-trial motions, if no notice of appeal from this judgment is filed. This briefing schedule shall control in this case and failure to file a Bill of Costs or a Motion for Attorneys' Fees as appropriate prior to any

appeal in this matter shall not constitute a waiver of any right thereto previously preserved, notwithstanding the time limits contained in the Local Rules of this Court.

DONE and ORDERED at West Palm Beach, Florida, this 15<sup>th</sup> day of May, 1995.

James C. Panné  
United States District Judge

cc:

counsel of record