

and (4). Venue is properly found in this District pursuant to 28 U.S.C. §1391(b), in that all plaintiffs reside, and plaintiffs' claims arose, within the District.

PLAINTIFF

2. Plaintiff Marlin Riggs is an adult citizen of the United States. Mr. Riggs is incarcerated at the Idaho Correctional Institution in Kuna, Idaho.

DEFENDANTS

3. Defendants Philip Valdez (Warden), Norma Rodriguez (Unit Manager), Christopher Rose (Sergeant), Steven Danforth (Correctional Officer), and William Dean (Correctional Officer) were at all relevant times residents of Idaho and employees of ICC in the positions noted. Each defendant is sued in his/her individual capacity.
4. Defendant Corrections Corporation of America (CCA) is a for-profit business incorporated under the laws of Maryland with its principle place of business in Tennessee. As part of its profitable enterprises, CCA operates ICC.

STATEMENT OF FACT

5. ICC was constructed on state-owned land in Kuna, Idaho, with public tax funds. ICC is operated under the jurisdiction of the Idaho Department of Correction (IDOC). IDOC entered into a contract with CCA under which CCA is paid to manage and operate ICC on a day-to-day basis. It is the only privately run for profit prison in the State of Idaho.

COMPLAINT OF MARLIN RIGGS

6. Plaintiff Marlin Riggs is 48 years-old.
7. In May 2008, Riggs was living in L-Pod at ICC. L-Pod was a general population housing unit.

8. Beginning in 2007, ICC assigned an increasing number of prisoners affiliated with organized gangs, such as Arian Knights, to Pods J, K, and L, which are living units at ICC.
9. Defendants knew by 2007 that organized gang members often steal property from non-members and charge them "rent," and that they enforce their demands with violence.
10. By May 10, 2008, Riggs had been living on L-Pod for some fifteen months. Riggs had seen numerous assaults--nearly one a day--on L-Pod. Riggs feared that he eventually would be targeted.
11. On the evening of May 10, 2008, Riggs was approached in his cell by prisoners whose names he did not know. They told Riggs that unless he started paying "rent" to live in L-Pod, he would be beaten. They then stole Riggs' stereo headphones, two boxes of hobby-craft items, and all of his consumable commissary items.
12. The following evening, at least four prisoners returned to Riggs' cell and told him that he must either leave the Pod or be prepared to fight all of them.
13. Riggs took this threat very seriously. He knew he would be assaulted unless he left the housing unit. Riggs told the prisoners he would leave the Pod, and he pressed the emergency button located in front of Pod Control.
14. The emergency call was received by Correctional Officer (C.O.) Johnson in the Control Center. Riggs advised Johnson that he needed to leave the Pod. Officer Johnson opened the necessary doors for Riggs to exit the Pod.
15. Once outside the Pod, Riggs was met by C.O. Dean, defendant herein, in the multi-purpose room. Riggs nervously told Dean what had transpired and begged Dean to

transfer him to another housing unit. Dean asked Riggs to name the prisoners who had threatened him.

16. Riggs informed Dean that he did not know the prisoners' names. Riggs said that Dean could examine the video tape from the security camera to identify the prisoners, or Dean could show Riggs the photographs of L-Pod prisoners that are kept in the Control Center and Riggs would identify them.
17. Dean, however, refused to do either of those things. Instead, he ordered Riggs to return to his cell so that, Dean explained, he could watch what happened and identify the prisoners threatening or assaulting Riggs.
18. Riggs refused to return to his cell, as he was sure he would be assaulted. Riggs asked to speak with the Unit Sergeant.
19. A short time later, Sgt. Rose arrived, defendant herein, and interviewed Riggs. Rose had been the Gang Coordinator at ICC and thus was particularly knowledgeable about gang activities, the threat that gangs (known at ICC as Security Threat Groups or STGs) posed, and the fact that numerous prisoners had been assaulted in J, K, and L Pods by STG members. Rose also knew that gangs often strong-arm prisoners for "rent."
20. Riggs told Rose what had happened, including the fact that his property had been stolen, that he had been ordered to pay rent, and that he had just been threatened with assault. Riggs was extremely nervous and he asked Rose to remove him from L-Pod. Rose asked Riggs to identify the prisoners who had threatened him. Riggs told Rose that he did not know their names but that Rose could examine the security video tape or show him photographs and Riggs would identify them.

21. Rose could easily have helped Riggs, and should have helped Riggs. At the very least, Rose should have placed Riggs in a safe environment and conducted an investigation to determine whether Riggs might be at risk if he returned to his cell.
22. Instead, Rose became belligerent. He seized on Riggs' inability to identify the prisoners and used it as an excuse, a pretext, for avoiding his own constitutional duties. He called Riggs a "son-of-a-bitch," accused Riggs of wasting his time, and told Riggs to "get out of my f***** sight." Rose told Riggs that unless he returned to his cell, he would receive a Disciplinary Offense Report (DOR) for failing to obey a direct order.
23. Riggs knew that a DOR would hurt his chances for parole and would become a permanent mark against him. He felt forced to return to his cell, even though he knew it meant being assaulted.
24. As he left the room, Riggs saw C.O. Danforth, defendant herein. Riggs told Danforth the danger he was in and begged Danforth to summon the Captain. Danforth refused.
25. Defendants Dean, Rose, and Danforth had to have known that Riggs faced a high risk--if not a 100 percent likelihood--of assault in returning to his cell.
26. At the time that Riggs entered L-Pod, the other prisoners were at dinner. Riggs had access to the telephone in the Pod, and he called his family. He told them what had happened, how the guards refused to help him, and that he would likely be assaulted.
27. Riggs subsequently requested in writing that ICC preserve the tape of the telephone call he made on May 11, 2008, to his family.
28. Riggs received written confirmation that the tape will be preserved.
29. Riggs finished his telephone call and returned to his cell. Within moments, he was attacked and savagely beaten by prisoners. After being knocked to the floor, Riggs was

repeatedly kicked in the face and torso. His nose was broken and the left side of his face was smashed in. Blood was all over the cell, including on the ceiling.

30. Defendant Dean, who had told Riggs to return to his cell so that Dean could identify the assailants, watched the assault unfold and entered L-Pod (although not very hurriedly). According to the incident report that Dean subsequently wrote, as Dean approached Riggs' cell, he saw a prisoner flee while another prisoner continued to kick Riggs. By the time Dean reached Riggs' cell, Riggs "was laying face down on the blood covered floor" while this prisoner continued to kick him.
31. Eventually, Dean was able to get this prisoner to stop kicking Riggs. Riggs was placed in handcuffs and taken to the prison infirmary.
32. The doctor who examined Riggs confirmed that his nose was broken. The doctor attempted to reset it by wrenching it back towards the center of Riggs' face. But the doctor refused to order x-rays, although Riggs requested them, and no x-rays were taken.
33. The doctor who examined Riggs was Dr. Steven Garrett, an employee of CCA.
34. Based on information and belief, Dr. Garrett left his job at ICC the following day.
35. The failure of the medical department to take x-rays to determine the extent of Riggs' injuries constituted deliberate indifference. Reasonably competent medical personnel, given the nature of the assault and the patient's symptoms, would have taken x-rays.
36. The failure to take x-rays of Riggs' extensive facial injuries was consistent with ICC's efforts to conceal the severity of injuries suffered by the victims of assault and to save money in violation of sound medical and penological practice.
37. By failing to take x-rays, ICC overlooked, ignored, and failed to treat the broken bones in Riggs' face.

38. Riggs should have been taken to the emergency room of the local hospital, given the severity of his injuries, but he was not taken to a hospital.
39. After seeing the doctor, Riggs was taken to administrative segregation, where he remained for fifteen days.
40. During those fifteen days, Riggs was constantly bleeding from the nose, bones in his face were loose, there was a noticeable dent in his face, he was bleeding from the ears and nose, and he had difficulty breathing. When he slept, Riggs would lie in a pool of blood. Riggs was in enormous and constant pain.
41. As a result of the broken bones in his face, it hurt Riggs to eat. Riggs would experience shooting pain in the roof of his mouth each time he chewed.
42. Staff issued Riggs a DOR for disruptive violence, even though Riggs was the *victim*--and not the aggressor--of an assault.
43. The issuance of a DOR to Riggs served no legitimate penological function. It was motivated entirely by a desire to conceal the truth by deflecting scrutiny away from the guards whose malfeasance contributed to the assault.
44. The DOR issued to Riggs was eventually dismissed by ICC.
45. No evidence existed then or exists now to accuse Riggs of having initiated the altercation on May 11, 2008, that gave rise to his injuries or to believe that he was anything other than a victim of an unprovoked assault.
46. While in administrative segregation, Riggs repeatedly requested to be supplied with Concern Forms and with Grievance Forms so that he could request medical care and commence the grievance process. These requests were denied.

47. During the time that Riggs was in segregation, Defendant Norma Rodriguez, the Unit Manager of J, K, and L Pods, ordered staff to escort Riggs to an office in which she was sitting. (Mr. Riggs does not know if it was her office.)
48. Upon his arrival, Rodriguez asked Riggs if he knew anything about efforts made by his family to contact officials following the telephone call Riggs had made on May 11. Riggs told her that he was unaware of any efforts they might have made.
49. During the conversation, Riggs told Rodriguez what had happened to him and how officers had refused to protect him. Rodriguez responded with indifference. It was clear to Riggs that Rodriguez's only concern was to find out if Riggs' family was making any complaints about the way Riggs had been treated, and she was not concerned about whether staff had refused to protect him or if he was being denied medical care.
50. Indeed, when Riggs told Rodriguez that he thought he had been assaulted by STG members, Rodriguez seemed to accept that as likely. She pointed to a huge stack of files on her desk and told Riggs that they were files of known gang members at ICC.
51. Rodriguez conducted no investigation into the incident, and commissioned no written report or findings, despite Riggs' allegations that officers had failed to protect him.
52. During their conversation, Riggs also told Rodriguez that he desperately needed medical attention, and that the guards in the segregation unit were refusing to provide him with Concern Forms and Grievance Forms.
53. Rodriguez did not arrange for Riggs to receive any medical care.
54. Had Rodriguez properly performed her responsibility to investigate earlier assaults in J, K, and L Pods, she could have prevented the assault on Riggs.

55. The failure of Rodriguez to adequately investigate prior assaults in her housing units, to reach a reasoned conclusion regarding them, and to take effective remedial action to prevent their recurrence, exhibits deliberate indifference to the safety of all prisoners in her housing units.
56. The entry into Riggs' cell on May 11, 2008, by prisoners not assigned to that cell should have been observed by guards (and, Riggs believes, *was* observed by Defendant Dean), who should have taken swift action to prevent the assault and to halt the assault. Had L-Pod been adequately staffed, the assault on Riggs could have been prevented or at least interrupted much sooner, sparing Riggs many of the injuries he suffered.
57. To this day, Riggs suffers from blurry vision, headaches, pain, discomfort, and mental trauma. Riggs has a dent on the left side of his face because ICC refused to provide adequate medical care.
58. Riggs was denied medical care for so long that when he finally was taken to see an ear, nose, and throat specialist some six months after the assault, the doctor stated that Riggs needed an operation immediately. Yet due to additional unnecessary delay by ICC, Riggs was forced to wait another three months before he was given an operation to permit him to breathe normally.
59. All of the acts and omissions that occurred in connection with the assault on Marlin Riggs, including the placement of Riggs in an unsafe environment; the failure and refusal of guards to appropriately respond to his pleas for protection; the failure to provide proper medical care following the assault; the failure to adequately investigate the assault; the failure to discipline the employees whose malfeasance contributed to the

assault; and the issuance of a DOR to Riggs were the direct and proximate result of policies and practices of defendants CCA and Warden Valdez.

60. The Idaho Commission of Pardons and Parole generally takes into account in determining parole eligibility DORs issued to the applicant. During Riggs' hearing in 2009 before the Parole Commission, the Commission repeatedly referred to the DOR that had been issued to Riggs following his assault on May 11, 2008. The Commission referred to the incident as a "fight" and clearly held this "fight" against Riggs, even though this was not a "fight" and Riggs had been attacked. Riggs was denied parole.
61. Riggs does not know if his assailant suffered any punishment as a result of assaulting him. Riggs, however, was not called to testify either in a courtroom or in a disciplinary hearing against his assailant. In fact, the assailant of Mr. Riggs, who attempted to kill him, was released on parole only 18 months later, while Mr. Riggs was denied parole.
62. About nine months after the assault, Warden Valdez entered the Pod where Riggs was residing. Riggs complained to Valdez about the assault and told him that the assault should have been prevented. Valdez refused to discuss the incident.
63. Despite having been notified by Riggs that ICC officers had failed to protect him from a vicious assault, Valdez neither investigated Riggs' complaint nor commissioned an investigation.
64. No staff were disciplined as a result of or in connection with the assaults on Riggs, not even Rose, Dean, or Danforth.
65. A few days after Riggs' conversation with Valdez, one of the prisoners who had assaulted Riggs on May 11, 2008, was moved a few cells away from Riggs. Whether Valdez did

this deliberately, Riggs does not know. Fortunately, there were a number of prisoners in that Pod who supported Riggs, and his assailant did not assault him a second time.

66. Based on information and belief, ICC failed to conduct an investigation followed by a written report to determine whether staff error contributed to this assault.

67. The acts described above are attributable to Defendant Valdez, who during his years of being warden at ICC, created a policy, practice, and custom of permitting staff to ignore the needs of prisoners for safety from assault, of refusing to ensure that vulnerable prisoners were housed apart from violent prisoners, of refusing to investigate the causes of violence at ICC, of failing to discipline guards who refused to adequately protect prisoners from assault, of refusing to adequately punish the prisoners who committed violent attacks on other prisoners, and who refused to refer for prosecution many assaults that should have been so referred.

68. The acts of Defendants CCA, Valdez, Rodriquez, Rose, Dean, and Danforth set forth above proximately caused injury to plaintiff Riggs and were an extreme deviation from reasonable conduct. These acts were willfully and deliberately performed by defendants with oppression, wantonness, and maliciousness, and with complete disregard for the federal rights of plaintiff Riggs and of society as a whole. The defendants acted with a complete and reckless indifference to the rights of Mr. Riggs.

.CLAIM FOR RELIEF

69. Based on the facts set forth above, plaintiff Marlin Riggs asserts that Defendants Valdez, Rodriguez, Rose, Danforth, Dean, and Corrections Corporation of America, Inc., enacted and/or pursued or acquiesced in the policies, practices, and customs set forth above, and engaged in the acts described above, which resulted in a violation of rights secured to

him by the Eighth and Fourteenth Amendments to the U.S. Constitution. Riggs seeks compensatory and punitive damages against those defendants jointly and severally pursuant to 42 U.S.C § 1983.

PRAYER FOR RELIEF

WHEREFORE plaintiff respectfully prays as follows:

1. Accept jurisdiction over this cause.
2. Grant Plaintiff Riggs pursuant to 42 U.S.C. § 1983 compensatory damages against defendants Valdez, Rodriguez, Dean, Rose, Danforth, and Corrections Corporation of American, Inc., jointly and severally, in an amount not to exceed \$5,000,000.00 as the proof will show at trial.
3. Grant Plaintiff Riggs pursuant to 42 U.S.C. § 1983 punitive damages in the amount of \$50,000,000.00 against defendants Valdez, Rodriguez, Dean, Rose, Danforth, and Corrections Corporation of American, Inc., jointly and severally, awarded by a jury to punish these defendants and to discourage them and other similarly situated persons and entities from engaging in this type of reprehensible conduct in the future.
7. Grant such additional and further relief, including the award of attorney's fees and costs, as the Court may deem proper under the circumstances.

DATED this 21st day of February, 2011.

/s/ James D. Huegli

James D. Huegli

Attorney for the Plaintiff