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IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS

DEON HAMPTON,)
)
Plaintiff,)
)
v.) No. 3:18-cv-00550-NJR-RJD
) East St. Louis, Illinois
JOHN BALDWIN, et al.,)
)
Defendants.)

TRANSCRIPT OF PROCEEDINGS
MOTION HEARING

BEFORE THE HONORABLE REONA J. DALY
UNITED STATES MAGISTRATE JUDGE

NOVEMBER 19, 2018

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I N D E X

WITNESS CALLED ON BEHALF OF THE DEFENDANT:

	<u>DX</u>	<u>CX</u>
David White	61	77

E X H I B I T S

<u>Exhibit No.</u>	<u>Description</u>	<u>ID'd</u>	<u>ADMT'd</u>
Deft's 1	E-mail String	50	50
Plf's 1	Declaration of Torres	51	51
Plf's 2	9/12/18 Hampton Testimony	60	60
Deft's 2	I'Grieve Inmate History	76	77

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THE CLERK: Case #18-550, *Deon Hampton v. John Baldwin, et al.* Case is called for a Motion Hearing. Will the parties please identify themselves for the record?

MR. MILLS: Good morning, Your Honor. Alan Mills representing Ms. Strawberry.

THE COURT: Good afternoon.

MR. MILLS: Good afternoon; sorry.

MS. MAZUR: Elizabeth Mazur for the Plaintiff.

THE COURT: Good afternoon. Ms. Hampton, how are you?

MS. HAMPTON: Hey, Ms. Daly. I'm okay. Can they take these off?

THE COURT: I'm not going to tell them to take them off. I think you will be okay. If we run into a problem we will bring it up, okay?

MS. HAMPTON: Okay.

MS. McCLIMANS: Kay McClimans. I'm here for IDOC Defendants.

THE COURT: All right. Good afternoon, Ms. McClimans. Thanks everybody for driving down. I appreciate it. We are here for Defendant's Motion for Summary Judgment and Motion for Summary Judgment on Exhaustion. I'm going to handle this a little out of the ordinary. I apologize for springing things on you, but I am trying to find out the best

1 way to manage our time that we have, which is this afternoon.

2 The first thing I want to address -- and I will get
3 to that in a second -- is the motion to quash the subpoenas.

4 MR. MILLS: So, we are withdrawing our subpoenas
5 based on a stipulation that we entered into with the
6 Defendants, and we have a copy for Your Honor.

7 THE COURT: Perfect.

8 MS. MAZUR: May I?

9 THE COURT: Yes. So, is this with regard to all
10 three, you are withdrawing the subpoenas?

11 MR. MILLS: Yes.

12 THE COURT: Is Ms. McCarty prepared here to testify
13 anyway? That's what I saw in the motion.

14 MS. McCLIMANS: She is available to testify if she
15 needs to.

16 THE COURT: We will determine that at a later point
17 in time, but generally these are Stipulation of Facts
18 regarding what the witnesses would have testified to if they
19 were here.

20 MR. MILLS: That's correct.

21 MS. MAZUR: And there's also one more witness on this
22 stipulation who was not one of those three who were the
23 subject of a motion. It was just a paralegal from Plaintiff
24 Counsel's office, and we are prepared to deal with that at the
25 appropriate time during the hearing.

1 THE COURT: Okay. The Declaration of Anissa Torres?

2 MR. MILLS: Yes.

3 THE COURT: There is a declaration dated 8/15/18?

4 MS. MAZUR: Yes.

5 THE COURT: And you agree that it can be considered
6 as evidence?

7 MR. MILLS: Yes.

8 THE COURT: And you will give this to me when it's
9 appropriate?

10 MS. MAZUR: Yes.

11 THE COURT: All right. Very good. I will take those
12 and consider them.

13 Now, with regard to the Motion for Summary Judgment,
14 here is my plan:

15 My plan is -- Okay. I recognize that the Defendant
16 has the burden of proof, but what I generally do on these is I
17 start with the Plaintiff anyway recognizing that, because I
18 just think it's more helpful for my purposes to hear what the
19 Plaintiff has to say. Rest assured, I understand who has the
20 burden of proof. What I would like to do -- And, I have read
21 what's been submitted. What I would like to do is go through
22 these grievances chronologically, okay? Not by issue or
23 content; chronologically. Frankly, I can read the content of
24 the grievances and I am comfortable in making determinations
25 as to which issues are addressed or exhausted in which

1 grievances. What I would like to do is go through them
2 chronologically, hear argument from the Plaintiff's attorneys
3 and Defendants' attorneys with regard to why that grievance
4 was exhausted or not exhausted, and to the extent I need
5 testimony from the Plaintiff, we will do that.

6 And I understand this is unconventional, but I just
7 think that will be more productive than just having her
8 testify on each one of these grievances. Does that make
9 sense?

10 MR. MILLS: So, I agree that that makes sense; that
11 part of it makes sense.

12 And I think I understand your concerns for
13 efficiency, but to protect the record I am objecting, because
14 I don't think that they can carry their burden of proof with
15 the witnesses that they have listed. And if we were to go in
16 normal order where they put on their witnesses first, I would
17 expect to make a motion for a finding at the end of their case
18 in our favor. So, this sort of puts us -- This does put us at
19 a disadvantage, because evidence may well come in in this part
20 of the hearing which they were not planning on introducing,
21 and so that I think puts us at a disadvantage. I think they
22 should be put to their proof.

23 THE COURT: Okay. And the other thing I would say is
24 after I go through each of these I'm going to give Plaintiff
25 an opportunity -- I'm going to give both sides an opportunity

1 to circle back and talk about whatever it is that I didn't
2 specifically ask, because I don't want to limit you in that
3 way. I'm just trying to focus us.

4 So, your objection will be noted and you can -- I
5 guess that motion won't happen, then, but we can address that
6 anyway. But, I would prefer to do it this way, because I
7 think it will focus our issues a little bit.

8 So, as I understand it, Judge Rosenstengel addressed
9 in her order on the preliminary injunction, she addressed the
10 February 7, 2017 grievance, and she's very clear in her order
11 as to what that exhausted, and my plan is to skip that one
12 unless anybody wants to talk about it again.

13 MR. MILLS: No, we agree that -- I'm not sure we
14 agree what she found that that exhausted, but we certainly
15 agree that she found that everything in that grievance was
16 exhausted, I think.

17 THE COURT: Right. Kay, did you want to be heard on
18 that grievance at all?

19 MS. McCLIMANS: I don't think so. I think we can
20 stand on that order.

21 THE COURT: Okay. Before we go on, I think we should
22 swear in the Plaintiff so we can move into questioning her as
23 we need to.

24 MS. MAZUR: She is still handcuffed.

25 MS. McCLIMANS: Your Honor, if I could say something.

1 There are a couple that have been exhausted since the filing
2 of our lawsuit, so I did want to bring that up.

3 THE COURT: After the complaint was filed?

4 MS. McCLIMANS: After, yes.

5 THE COURT: We can talk about that as we go through
6 each one of them.

7 MS. McCLIMANS: Okay, that's fine.

8 THE COURT: Can you raise your right hand, Ms.
9 Hampton, to the extent that you can?

10 MS. HAMPTON: Yes.

11 (Plaintiff, Deon Hampton, sworn.)

12 THE COURT: I was talking to your lawyers more than
13 addressing you when I was talking, but did you understand what
14 I was saying about hearing argument from the lawyers first and
15 to the extent we need your testimony we will ask you for it,
16 okay?

17 MS. HAMPTON: Yes, ma'am.

18 THE COURT: Thanks for your patience.

19 MS. HAMPTON: All right.

20 THE COURT: Okay. Skipping the February 7, 2018
21 grievance, the next I have is grouping dated February 8th,
22 February 13th, and February 14th, because this is the Inmate
23 Grievance Log. So, my plan at this point -- Am I out of
24 order?

25 MS. MAZUR: I'm not sure which ones are --

1 THE COURT: It's the one where all there is is the
2 2018 Inmate Grievance Log.

3 MS. MAZUR: So, you are looking at the exhibits
4 attached to the Plaintiff's response?

5 THE COURT: Yes.

6 MS. MAZUR: Okay.

7 MS. HAMPTON: Excuse me.

8 THE COURT: Yes.

9 MS. HAMPTON: Ms. Daly, a lot of my grievances that
10 was processed aren't on that log, either, so it was in a
11 complaint from Ms. Rosenstengel and my attorneys that they put
12 in there that there was grievances processed, but never placed
13 on that roster, on their log that was already processed.

14 THE COURT: I understand that. I am just going
15 through chronologically, and these are ones on the log that
16 there is no copy of otherwise, is my understanding, okay?

17 MS. HAMPTON: I got it. Okay.

18 THE COURT: Ms. Mazur, at this point I would like to
19 know what you know about the February 8th, February 13th, and
20 February 14 grievances that are only appearing on the log and
21 whether there's any argument that those are exhausted or
22 unavailable.

23 MS. MAZUR: You know, I'm sorry, I need one moment.

24 THE COURT: That's okay. I have totally thrown off
25 how we are doing this, I understand. What I think is more

1 efficient for me may not be more efficient for you.

2 MR. MILLS: You may have to give us a little leeway
3 here.

4 MS. MAZUR: I have got that --

5 MR. MILLS: We don't know the content of those
6 grievances, but I would argue that they are exhausted since
7 there's nothing here that indicates what happened to them and,
8 therefore, the presumption, based on the Defendants having the
9 burden of proof here, is that they died and, therefore, that
10 was the end of them. So, those are exhausted in the sense of
11 them no longer -- they were never answered, therefore being
12 exhausted, but we don't know the contents of those.

13 THE COURT: Right, and so my question that I would
14 like to talk to your client about is what she knows or
15 remembers about those grievances. And I can ask her or you
16 can ask her, I don't care.

17 MS. MAZUR: If I could just add one point of
18 clarification, I believe that neither Alan or I -- Well, I
19 believe that this log was included as an exhibit, because
20 there was some question about the February 7th grievance and
21 what happened to it, and I think maybe this was offered to
22 show some evidence that it was actually received somewhere as
23 just sort of tending to show a paper trail of grievances about
24 which there may be a dispute about whether it was received.

25 I don't know whether these actually are, and we

1 weren't intending to rely on the contents of these grievances,
2 whatever they were.

3 MR. MILLS: Right.

4 THE COURT: Okay. So, we can skip them?

5 MS. MAZUR: I believe so.

6 MR. MILLS: I think so, yes.

7 MS. HAMPTON: Excuse me. I would like to comment on
8 that, Ms. Daly.

9 THE COURT: Well, actually, you have lawyers who do
10 that for you, and so they're doing a great job on your end
11 here and so I would like to keep this to hearing from them,
12 and then we will ask you when we have a question for you,
13 okay?

14 MS. HAMPTON: Okay. Yes, ma'am.

15 THE COURT: All right. So far so good.

16 That takes me to your Exhibit C, which is February
17 19, 2018.

18 MS. MAZUR: Yes. And this is a series of grievances
19 submitted by Plaintiff. They were submitted as emergency
20 grievances, and it's our position that they were -- these are
21 exhausted because they were not responded to as emergency
22 grievances. And I know Your Honor said you can, you know,
23 read the contents yourself, and certainly you can, but much of
24 this has to do with an incident that occurred with an officer
25 named Burley at Lawrence Correctional Center.

1 THE COURT: Okay.

2 MR. MILLS: Just to clarify, I don't know if you want
3 to hear argument on the law at this point as to why we think
4 the emergency grievance --

5 THE COURT: Sure.

6 MR. MILLS: Okay. So, the affidavit that was
7 submitted by the Defendants in support of their motion, we
8 think, clearly misstates the rule. The administrative rules
9 -- His affidavit says if it's denied as emergency then it must
10 be -- go through the regular process. The rule actually uses
11 *may* rather than *must*, and the Seventh Circuit has been very
12 clear that if, in fact, an emergency does exist and they turn
13 it down, that since there is no procedure for appealing a
14 finding that there's not, in fact, an emergency, then that is
15 the end of it. And Judge Rosenstengel has already found that,
16 in fact, there was irreparable harm in this case continuing
17 onward and, therefore, we think the denial of this as an
18 emergency is the final ruling and, therefore, those grievances
19 are all exhausted because of the finding of no emergency and
20 because there's no right to appeal that anyway.

21 THE COURT: My understanding, Mr. Mills, or whoever
22 wants to deal with this, is that -- How did it get to the ARB?

23 MR. MILLS: I assume that Ms. -- I don't have
24 personal knowledge, but my understanding is Ms. Hampton sent
25 it up.

1 MS. HAMPTON: I sent it.

2 THE COURT: You sent it directly to the ARB?

3 MS. HAMPTON: Yes. Once the warden denied me, I sent
4 it directly to the ARB and the director, and they denied me,
5 as well, because I was in the hospital. So, once I got out of
6 the hospital I immediately filed my grievance, and I processed
7 this from the warden to the director, from the director to the
8 ARB.

9 THE COURT: Okay. Did you send the denial of the
10 emergency to the ARB or did you send it separately to the ARB?

11 MS. HAMPTON: No, I sent them, because at first I
12 made copies, I sent one to the ARB, one to the director, and I
13 sent the other copy to my attorney.

14 THE COURT: So, you sent them all at the same time?

15 MS. HAMPTON: Yes.

16 THE COURT: I'm sorry. Go ahead.

17 MS. HAMPTON: Once I got the response back from the
18 warden telling me it was a nonemergency, I made three copies,
19 sent it to the ARB, the director, and my attorney.

20 THE COURT: So, what you are telling me is that you
21 got the nonemergency determination and you sent that grievance
22 to the -- with that nonemergency determination to the ARB?

23 MS. HAMPTON: Yes, but something based on their
24 response saying they agreed with the institution, but they
25 never sent the grievance back that was signed *emergency* on

1 there.

2 MR. MILLS: Well, to be clear, the next page in the
3 exhibit Bates-stamped 358 is, in fact, the response from the
4 ARB which sends it back saying there's no response from the
5 grievant, the counselor, or the grievance officer and the
6 Chief Administrative Officer and, therefore, additional
7 information is required, so they just sent it back.

8 THE COURT: Okay. Ms. McClimans, do you want to
9 respond to that argument? And then I have a question for you.

10 There was no Motion for Summary Judgment with regard
11 to Mr. Burley that was filed.

12 MS. McCLIMANS: Okay. I thought there was.

13 THE COURT: I was going to ask you if this is a
14 concession that it has been exhausted with regard to Burley.
15 I know there's a number of Defendants.

16 MS. McCLIMANS: There are. Well, I can look at that.
17 As far as my response to this, though, it looks like if she
18 just testified she sent it to the Administrative Review Board
19 after the warden denied it that they're opposite, because the
20 warden denied it on February 23rd, and my stamp from the
21 Administrative Review Board says February 22. So, it should
22 have been that the warden denied it on the 23rd, and it should
23 have gone from there to the ARB, so it should have been after
24 that.

25 THE COURT: That's what it looks like to me, too.

1 MS. HAMPTON: Can I comment?

2 THE COURT: Not yet, ma'am. Go ahead, Kay.

3 MS. McCLIMANS: I would also add with regard to this
4 incident regarding Burley, it's not only a couple of people
5 that are referenced that stood by and watched, I think Givens
6 and Clark, but Lanpley is also alleged to have stood by and
7 watched, and his name is not referenced anywhere that I see.

8 THE COURT: Okay. You don't know as you sit here
9 whether you intend to file a Motion for Summary Judgment on
10 behalf of Burley?

11 MS. McCLIMANS: I probably intended to, but whether
12 or not I did --

13 THE COURT: All right. So, that's not a concession
14 that it is exhausted.

15 MS. McCLIMANS: No.

16 MR. MILLS: Except she didn't. I mean, whether she
17 intended to or not, it's -- he hasn't moved for --

18 THE COURT: Okay, I understand. I understand.

19 So, it looks like the ARB received it on February 22,
20 2018, which is before it was signed by the warden. Any
21 response to that?

22 MS. HAMPTON: I would like to be saying that they be
23 switching the dates.

24 THE COURT: I'm going to ask you in a second for
25 whatever input you have, okay? I will try to give you a

1 chance each time, okay?

2 MS. HAMPTON: All right. Thank you, Ms. Daly.

3 MS. MAZUR: I will just note that on the first page
4 of this exhibit -- looking at Exhibit C, Plaintiff's response
5 to the motion, which would be the first page of the 2/19
6 grievance, it looks like --

7 And, Strawberry, are you able to look at this, too?
8 I think that might help clarify.

9 MS. HAMPTON: I'm cuffed up, so I can't get to the
10 grievances, like I can't see them. That's why I asked to be
11 uncuffed. Give me just one second, because there's a lot of
12 them.

13 Exhibit C?

14 THE COURT: Okay.

15 MS. HAMPTON: And this is for all of Lawrence stuff,
16 right?

17 MS. MAZUR: Yes, this is a grievance dated 2/19/18.

18 MS. HAMPTON: Yeah, the cuffs are slowing me down, so
19 give me a second.

20 THE COURT: That's okay. Take your time.

21 MS. HAMPTON: Okay. I got it.

22 MS. MAZUR: Okay. So, I'm looking at the top of the
23 first page, and there's a handwritten note on there. It looks
24 like it's in Ms. Hampton's writing. It says, "Three copy was
25 made and sent out to ARB John Baldwin on 2/19/18, and Warden

1 Kink 2/19/18." So, I wonder if perhaps that was sort of the
2 way the initial grievance was routed, which would account for
3 the receipt date at ARB of 2/22/18.

4 THE COURT: I think that's what she was just trying
5 to say, was that she sent them -- Well, no, it's not --

6 MS. MAZUR: I think that she might have been
7 mistaken. But, now that Strawberry has had a chance to read
8 that maybe she could comment.

9 THE COURT: Is it possible, Ms. Hampton, that you
10 actually sent the copies to the ARB, the director, and the
11 warden all on the same day of 2/19?

12 MS. HAMPTON: Yes, I'm looking at this one, yes. I
13 have filled a lot of grievances out, so I thought this was
14 different. I made like three grievances reciting the same
15 stuff. This one actually I filed to the director and the ARB
16 and the warden at the same time. I sent it out on the 19th,
17 so all three.

18 THE COURT: Okay. When you got the warden's decision
19 saying it's not an emergency, did you do anything else with
20 that grievance because you already sent it to her?

21 MS. HAMPTON: Yes, they sent me them back and I wrote
22 a letter to them saying that the warden had said it was
23 nonemergent, and they told me that they concurred with the
24 institution, which they didn't --

25 THE COURT: You sent a letter to the ARB once you

1 got --

2 MS. HAMPTON: Yes, once the ARB wrote me back saying
3 I had needed more information, I wrote them back with a
4 letter, because I explained to them. But, it look like the
5 letter's not even in here, and I believe -- You know, Ms.
6 Daly, I'm straight upfront, I believe they didn't even process
7 the written affidavit that I put on the behalf of explaining
8 to them that my grievance was denied by the warden, because a
9 lot of stuff is missing; a lot of affidavits, a lot of written
10 statements and a lot of grievances, and at this moment a lot
11 of my grievances was misdated. So, like they respond, but
12 they put different dates on it.

13 THE COURT: Ms. Mazur, do you --

14 MS. HAMPTON: But I believe with this --

15 THE COURT: Do you have anything you want to add to
16 that?

17 MS. MAZUR: I don't think so.

18 MR. MILLS: I'm only adding here, because it's come
19 up over and over again -- or it's going to come up several
20 times. I might as well address it now. They have taken the
21 position here that a grievance sent to Director Baldwin is not
22 an appropriate grievance. I'm looking at the statute which
23 specifically says in 730 ILCS 5/3-8-8, subparagraph C, "Such
24 procedures," meaning the grievance procedures, "shall allow
25 committed persons to communicate grievances directly to the

1 Director or some person designated by the Director outside of
2 the institution or facility where the person is confined."

3 So, our contention is that Ms. Hampton complied with
4 that statute by sending it directly to Director Baldwin.

5 THE COURT: Any response, Kay?

6 MS. McCLIMANS: No, none other than what we've
7 already argued that it should have been sent to the
8 Administrative Review Board after it was denied by the warden.

9 I would like to make another comment as to why it
10 didn't on behalf Burley. It may have been because he wasn't
11 served until after the original motion was filed.

12 THE COURT: But he was served before the supplemental
13 motion was filed?

14 MS. McCLIMANS: I will have to check.

15 THE COURT: All right. Anything else with regard to
16 the February 19, 2018 grievance?

17 MR. MILLS: No.

18 THE COURT: Okay. That takes us to February 20,
19 2018, an emergency grievance which is labeled as Exhibit D.

20 MS. MAZUR: And I think for this grievance we would
21 make the same argument that we made with the last one, which
22 was that it was filed as an emergency grievance, and once it
23 was -- We can see here that the warden made a decision that it
24 wasn't an emergency and, as Mr. Mills just argued, at that
25 point it's our position that Ms. Hampton exhausted as to this

1 particular grievance.

2 THE COURT: But there is no filing with the ARB,
3 correct?

4 MS. MAZUR: Correct.

5 THE COURT: So, once it was determined it was not an
6 emergency, your position is that was exhausted?

7 MR. MILLS: Correct, as long as, in fact, there was
8 irreparable harm going on, which Judge Rosenstengel has
9 already found.

10 THE COURT: Okay. Kay?

11 MS. McCLIMANS: I'm going to object to that, because
12 I believe since there was no finding at that time and there's
13 other things included in that grievance aside from what would
14 have been irreparable harm, so I believe it should have been
15 sent to the ARB or it should have gone on forward after the
16 emergency grievance was denied by the board.

17 THE COURT: In this situation this grievance -- I'm
18 sorry, I'm having to read things as we go.

19 This grievance was filed by the Plaintiff on February
20 20, 2018, and she got her response that it was not an
21 emergency from the warden on February 23rd, 2018, which is
22 just three days later.

23 So, Mr. Mills, are you saying that -- So, my
24 interpretation -- and I'm going to have to go back and look at
25 it again -- was that Judge Rosenstengel was saying you don't

1 have to wait forever to get a response to an nonemergency
2 grievance, at some point it's not available. But, at this
3 point she got a response within three days.

4 MR. MILLS: I think there's actually two different
5 arguments going on here. One is the Administrative Code does
6 not provide any appeal from a finding that is not an emergency
7 grievance and it doesn't require you to do anything else.
8 And, therefore, if the prisoner is correct, that when they
9 file the emergency grievance it meets the criteria for
10 emergency, then they have exhausted, there's nothing more they
11 can do and that's the end of it. And Seventh Circuit has
12 found that in at least two cases I'm aware of, maybe more,
13 which we cite in our brief.

14 So, our position is that if it's, in fact, an
15 emergency and they denied it as and emergency, then you can
16 stop and go to court and get your relief there. You don't
17 have to wait for the rest of the process to roll out.
18 Because, yes, he responded saying it's not an emergency within
19 three days, but that just means that if we followed his
20 direction she would have had to call the counselor, wait for
21 the grievance officer, wait for the warden, wait for the ARB
22 and wait for the director, all of which can take, as we know,
23 up to a year. So, the point is, once it's denied as a
24 emergency, then if it's, in fact, an emergency, you can then
25 go to court.

1 THE COURT: Ms. McClimans, would you like to respond
2 to that?

3 MS. McCLIMANS: Only to the extent that, again, it
4 includes more issues than what was addressed by Judge
5 Rosenstengel. I don't think everything included was
6 irreparable harm.

7 THE COURT: Is there anything in there that's
8 irreparable harm, though?

9 MS. MAZUR: I'm sorry, you are --

10 THE COURT: I'm addressing to Kay.

11 MS. McCLIMANS: I'm going to argue that there is not.
12 There's retaliation, there's -- She talks about bogus tickets,
13 not getting mental health care.

14 THE COURT: Okay. All right.

15 MS. HAMPTON: Excuse me, Ms. Daly.

16 THE COURT: Yes.

17 MS. HAMPTON: If I can get these off I can move much
18 quicker, because I'm lost and trying to find these grievances,
19 because I got like responses to them and I really am trying to
20 catch up and I can't get nothing, like I'm lost all the way.

21 THE COURT: Do you have all the grievances in front
22 of you? It looks like you have got a big stack of papers
23 there.

24 MS. HAMPTON: Yes, they are all grievances.

25 THE COURT: Okay. Are they organized the way your

1 attorneys organized them?

2 MS. HAMPTON: Yes.

3 THE COURT: So, you can take your time. We just
4 talked about Exhibit D.

5 MS. HAMPTON: Yeah, I'm looking for it. It looks
6 like some of them got mixed up from last night, me putting
7 them in order, because I can't find D.

8 THE COURT: What we are going to do is I'm going to
9 move on to the next one, and when we need you to look at
10 something we will take all the time we need to make sure that
11 you have got it in front of you, okay?

12 MS. HAMPTON: All right.

13 THE COURT: That takes us to February 22, 2018, an
14 emergency grievance, --

15 MS. MAZUR: Yes.

16 THE COURT: -- Exhibit E.

17 MS. MAZUR: So, this is an emergency grievance that
18 was drafted by Ms. Hampton's counsel and submitted by counsel.
19 It was submitted directly to Warden Kink, Director Baldwin,
20 and the ARB. The contents are typed, so they, I guess, speak
21 for themselves. And this grievance was treated, I believe, as
22 an emergency by the facility and there was a final decision at
23 the facility level, and that is on page -- it looks like
24 Bates-number 614 in this packet. And it says, "Based upon a
25 total review of all information, this Grievance Officer

1 recommends that the grievance be partially upheld. All PREA
2 allegations/staff conduct have been or are being investigated
3 by Internal Affairs. All mental health issues are currently
4 being addressed. Allegations that happened at other
5 facilities are out of the jurisdiction of this facility."

6 So, there was some aspect of the grievance that
7 mentions Pinckneyville, and, you know, the decision is that
8 that's outside the jurisdiction of this facility, which is
9 correct. And, it looks like as to everything else the
10 determination is that the grievance is upheld, and at that
11 point I guess that's --

12 MR. MILLS: Right, and the argument is she won, so
13 there's no reason to go any further. There's nothing to
14 appeal. She won. It says it's upheld. And whether or not
15 they ultimately implement those things is a whole different
16 question. And, again, the Seventh Circuit has said if you win
17 a grievance and then they don't do it, you don't have to file
18 a second grievance saying they didn't do what they said they
19 were going to do in the first grievance, because that would go
20 on forever. So, as long as she gets a favorable decision,
21 then there's nothing to appeal and it's over.

22 THE COURT: I thought your argument was that it was
23 on facility placement and that didn't need to be filed.

24 MR. MILLS: Well, there's that, too. I mean, there
25 is a lot of things in this grievance. The facility placement

1 question, I think everybody agrees, is not a grievable issue.
2 It's not in the regulations and you can't use grievance
3 process at all. To the extent that this talks about things
4 outside the facility, it was sent directly to the ARB, which
5 is what you are supposed to do for things that are outside of
6 the facility. As to things that happen inside the facility,
7 her grievance was upheld, so there's nothing to appeal.

8 THE COURT: Ms. McClimans?

9 MS. McCLIMANS: She didn't get all the relief that
10 she requested, though, so it should have gone on.

11 THE COURT: Yeah, I thought that was the *Thornton*
12 case; if you get all the relief that you've requested, you
13 don't have to go on. But if there is relief that you didn't
14 get, then you do.

15 MR. MILLS: Well, if they are denying some of the
16 relief that you want, that's correct. But, there's no denial
17 of anything here. This is upheld. There's not it's, like,
18 partially upheld and partly denied. This is upheld. So,
19 whether or not they actually finished the process, that's up
20 to them and that's a whole different story. But, there's
21 nothing in this grievance that was denied, so there's nothing
22 to appeal. That's my understanding of *Thornton*. *Thornton* was
23 a case where they upheld part and denied part. There's
24 nothing here denied.

25 THE COURT: Okay. Any response to that?

1 MS. McCLIMANS: I think he is playing words. I think
2 just because it was not specifically denied, the fact that it
3 was only partially upheld means she did not get the relief she
4 requested.

5 MR. MILLS: Well, the partial is the things that
6 happened outside the facility. And, as I said, that's why it
7 was also sent to the ARB to cover that. And, again, of
8 course, we sent it directly to Director Baldwin, which is
9 also, as I just read from the statute, a proper way to file a
10 grievance.

11 THE COURT: Okay. Did you find where we were,
12 Ms. Hampton?

13 MS. HAMPTON: I have got the February 23rd,
14 grievance.

15 THE COURT: This is the February 22, but we are going
16 to move on to the February 23rd now.

17 Okay. That takes us to February 23, which is Exhibit
18 F, correct?

19 MS. MAZUR: Yeah.

20 THE COURT: Do you have that in front of you?

21 MS. HAMPTON: Yes, it should be like three copies
22 made, written affidavits by a Jones and --

23 MS. MAZUR: Yeah.

24 MR. MILLS: That's it.

25 MS. HAMPTON: Okay; yes.

1 THE COURT: Okay.

2 MS. MAZUR: So, this grievance is like the one two
3 grievances ago where this grievance deals with many of the
4 same issues that were raised in the preliminary injunction
5 hearing and Ms. Hampton designated it an emergency grievance,
6 the warden denied it as nonemergent, and we think that the
7 issues raised here that brought harassment, some PREA
8 allegations kind of were ones that go to the risk of
9 irreparable harm, so once she got the decision from the warden
10 that it wasn't an emergency that this grievance was exhausted.

11 THE COURT: Any response, Kay?

12 MS. McCLIMANS: I think the same as before; that if
13 it was denied by the warden it should have then gone on. And
14 he denied it on -- found that it was nonemergency on February
15 28, and as far as I know it didn't go anywhere further.

16 THE COURT: Right. At this point, Ms. Mazur, this is
17 something that the Plaintiff filed on her own.

18 MS. MAZUR: Correct.

19 MR. MILLS: Correct.

20 THE COURT: So, sometimes we have things filed by
21 Counsel, sometimes we have things filed by the Plaintiff. I'm
22 going to assume that you were in contact with your client
23 about how this process was working.

24 MR. MILLS: Well, yes, we were in contact with our
25 client as to what we were doing, but that doesn't mean she

1 necessarily was not filing things on her own. As she
2 continued not getting relief, she kept filing grievance after
3 grievance after grievance hoping that somebody would move her.

4 THE COURT: Okay. I understand your argument.

5 Okay. That takes us to the February 25, 2018,
6 emergency grievance. Is this the same issue, same thing? We
7 have got a denial of an emergency on 2/28, and it was not
8 received by ARB.

9 MS. MAZUR: Correct.

10 THE COURT: And your position is that's exhausted?

11 MS. MAZUR: Correct.

12 THE COURT: Any response other than what we have
13 already talked about?

14 MS. McCLIMANS: None other than the fact that once it
15 was denied by the warden it should have been sent on to the
16 ARB.

17 MR. MILLS: I do know that this one also indicates
18 that it was sent directly to Director Baldwin. Both of these
19 last two were also sent directly to Director Baldwin.

20 THE COURT: February 25th was sent to Director
21 Baldwin?

22 MR. MILLS: I may be confused, too.

23 I'm sorry, no. The 23rd. I meant the 23rd, the one
24 that we had before.

25 THE COURT: So, Exhibit F, the 23rd, was sent -- Oh,

1 because it says at the top --

2 MR. MILLS: Yes; exactly.

3 THE COURT: -- the first copy to Warden Kink?

4 MR. MILLS: Right.

5 THE COURT: Three copies made. Does it say on there
6 it was sent to the director?

7 MR. MILLS: Looks like 2/23. There's two -- It's a
8 little confusing, because there are two that look very
9 similar, 2/23 grievances. The second one -- the second to
10 *something* and Director John Baldwin.

11 MS. HAMPTON: Ms. Daly, it says the second copy to
12 Director Baldwin, three copies made, written affidavit by
13 Jones attached. That's on the February 23rd. It should be at
14 the top of the page. And it's got something like SB-11 under
15 it, under the second copy, too.

16 MR. MILLS: Yeah.

17 MS. HAMPTON: That's where Director John Baldwin's
18 name is at.

19 THE COURT: Okay. So, on February 23rd, 2018, is
20 this the exact same grievance or is it different?

21 MS. HAMPTON: All of them is the same, because I
22 speak about the same issues all -- Like I put them in every
23 grievance so they can have an understanding of what I was
24 going through, like the sexual assault, the beatings, the
25 bogus tickets, me not getting Mental Health, and them denying

1 me SMI Group and yard. So, I was putting it in every
2 grievance, explaining, and I kept getting denied. And it was
3 causing me to commit suicide, to harm myself. It caused me to
4 try to hang myself on numerous occasions, and I was pleading
5 for help and I didn't get none at all.

6 THE COURT: Okay. I am being more specific than
7 that. There's two grievances here dated 2/23/18. They do not
8 seem to be an exact copy.

9 MS. HAMPTON: I can't --

10 MR. MILLS: They're not.

11 THE COURT: Okay. They're not an exact copy. So,
12 what I need to know, Ms. Hampton, is on February 23, 2018, did
13 you just handwrite two different grievances and send them --
14 Go ahead.

15 MS. HAMPTON: I need to see, because I only got one.
16 I can't find the other one. So, if you could show it to me,
17 please.

18 THE COURT: I'm not sure you are going to be able to
19 see it if I show it to you. The first one says on the top in
20 what I guess is your writing, "First copy to Warden Kink."

21 MS. HAMPTON: Okay. Let me find that one.

22 THE COURT: Second one says it's to Director John
23 Baldwin.

24 MS. HAMPTON: I got that copy, the one to Director
25 John Baldwin. I have just got to find it. Because all the

1 copies, they was handwritten by a inmate named Jones helped me
2 write them, and I signed them all.

3 Yes, here we go. It says Warden Kink. Yes, these
4 are all about the same issues, I believe, yes. It's talking
5 about the same issue; it was just handwritten on all
6 grievances.

7 THE COURT: So, on February 23rd, you wrote one
8 grievance and you sent it to the warden, and you wrote another
9 grievance on that same day and you sent it to the director,
10 that is right?

11 MS. HAMPTON: Ms. Daly, I'm counting up, because I
12 know I sent them all in to the warden first, so it means I
13 sent them to the director after one of these guys signed. So,
14 I might be making a mistake, but I sent them all to the warden
15 first, and then I know for a fact I sent them to the director,
16 too. And I think you can check my mail log, because all of my
17 mail is called privileged mail, so you can check it and it
18 should show when I sent it out, because it's privileged mail
19 log when you send mail to Springfield. But, I did send it to
20 Director John Baldwin, but I am kind of confusing myself now,
21 because I do see three -- I mean, two different copies, and
22 got Warden Kink's name on both of them, so I believe I sent
23 something to the director, at least one of them, a copy of one
24 of them, if not both.

25 THE COURT: Okay. Anything else on that one?

1 MR. MILLS: No, it looks to me that they cover
2 basically the same thing. There are a few variations in
3 wording as it might be if you were writing it twice.

4 MS. HAMPTON: No, no, it's the same grievance. It's
5 the same grievance. It says everything word for word.

6 MR. MILLS: Not quite. Almost the same. Just for
7 example, the last paragraph on the second page talks about the
8 camera on B wing and seg, and the second time it says the seg
9 wing, A wing and B wing camera. So, it's the same idea, but
10 different wording. So, these cover the exact same thing, but
11 they weren't written exactly word-for-word the same.

12 MS. HAMPTON: Right; you did say that.

13 MS. McCLIMANS: I would like to point out that both
14 were sent to the warden and he determined that both of them
15 were not an emergency.

16 THE COURT: Yes, good point. They have a warden
17 response on the end. Somehow he got both of them.

18 Okay. That takes us to February 25, 2018.

19 Did we talk about that?

20 MR. MILLS: We did talk about that one.

21 THE COURT: Sorry.

22 MR. MILLS: That's okay. We are all getting
23 confused.

24 THE COURT: So, then, that is the end of the Lawrence
25 grievances and that takes us to Dixon, according to what I

1 have in front of us.

2 MS. HAMPTON: Okay. Give me one second, Ms. Daly. I
3 think I got these up closer. And, actually, to make you
4 aware, I have exhausted all these grievances from the warden
5 to the director. I got responses back to the very last one of
6 them.

7 THE COURT: Okay. We are done.

8 MS. HAMPTON: Actually, the counselor is talking
9 about these Dixon grievances I have exhausted. These should
10 be the ones she's talking about, because I exhausted every
11 last one of them. And, to bring to your attention, Your
12 Honor, when I made them *emergency* they were shipped to the
13 grievance office without the warden's signature. So, to bring
14 you up to date on that, when I made a grievance an emergency,
15 the warden would sign it, he would send it to the grievance
16 office, and once I got a response, then I sent it to
17 Springfield. And, so, I think that that is what Ms. McClimans
18 is claiming, is going to talk about today is the ones that was
19 exhausted. Basically all of them was.

20 THE COURT: The first one I have is June 6, 2018, an
21 emergency grievance at Dixon.

22 MR. MILLS: Where is that? Do you know which exhibit
23 it is?

24 THE COURT: This is Document 86-1, Exhibit A,
25 probably, to the Defendants.

1 MS. MAZUR: Okay.

2 MR. MILLS: Their motion.

3 THE COURT: I'm sorry. I'm going chronologically.

4 MR. MILLS: No, that's fine. We just don't have them
5 organized that way. We are all playing catch-up.

6 MS. HAMPTON: What date did you say, Ms. Daly?

7 THE COURT: June 6, 2018.

8 MS. MAZUR: Ms. Hampton, I sent you only the exhibits
9 that we were planning to use, so you may not have this one.

10 MS. HAMPTON: Yeah, I don't have that one. I'm
11 looking. I got from June 17 --

12 THE COURT: We will get to that one next.

13 MS. HAMPTON: -- and June 23rd.

14 MR. MILLS: We will get there.

15 MS. HAMPTON: Okay. You said June 6?

16 MR. MILLS: Yeah.

17 MS. HAMPTON: Actually, if I could show you this, to
18 show you that it's exhausted, this is from the director and
19 it's saying that it was -- this paper right here, I actually
20 have it, and it says, "Denied as this office finds no
21 violation of the offender due process. In accordance with
22 DR-504.80 and DR-504.30, this office is reasonably satisfied
23 that offender committed an offense cited in the report,"
24 signed by Director John Baldwin and David White. And my issue
25 grieved June 6, 2018 -- Oh, actually, I'm sorry. I'm sorry,

1 Ms. Daly. This is the February 18th, the Burley. So, this is
2 the one where you asked me did I send it. So, this is the one
3 about the February 18 with Burley.

4 THE COURT: Okay, thank you.

5 MS. HAMPTON: Do you all have that one?

6 THE COURT: I have every one that's been filed.

7 Okay. Thank you.

8 MS. MAZUR: So, this one June 6, it's marked as an
9 emergency grievance. You know, we will continue to go through
10 all of these, that's fine. Just so you know, this one wasn't
11 one of the ones we were kind of relying on in support of our
12 argument. I guess to make an argument, to make a record as to
13 this specific one --

14 THE COURT: You don't have to make an argument if you
15 concede this one was exhausted. That's fine.

16 MS. MAZUR: Okay. Are you okay doing that?

17 MR. MILLS: Yeah.

18 MS. MAZUR: We will pass over this one.

19 THE COURT: Okay. That takes us to June 17, 2018.

20 MS. MAZUR: Can you read the document number?

21 THE COURT: 101-1. I have it labeled as Exhibit A.

22 MR. MILLS: Got it.

23 MS. MAZUR: This is another one that we were not
24 relying on in support in -- in response to their motion.

25 MS. HAMPTON: No, that was exhausted, Ms. Daly.

1 MS. MAZUR: I think that this one may have been
2 exhausted after we filed, so that's just why we didn't -- we
3 weren't relying on it in support of this response, but it may
4 have been subsequently exhausted. I think Strawberry -- Ms.
5 Hampton may have gotten something from the ARB subsequent to
6 it being filed.

7 THE COURT: So, do you understand what your lawyer is
8 talking about here? So, just because it's exhausted -- It had
9 to be exhausted before your complaint was filed.

10 MS. HAMPTON: Okay. So, can I --

11 THE COURT: If it's exhausted after, then it's not
12 truly exhausted, if that makes sense.

13 MS. HAMPTON: Okay. Because I was going to say that
14 when you filed -- This was normal grievance.

15 MS. MAZUR: Yeah.

16 MS. HAMPTON: And they had up to 60 days, but they
17 give me my grievances like three months later, and I wrote the
18 director explaining to him, because here in Dixon they're not
19 processing my grievances. Like they will put a date on there,
20 but it's not the date I received them. So, after 60 days I
21 actually wrote a request slip and I think, however, my
22 attorney got it, when I asked them, I said, "Been over 60
23 days. When am I going to get my grievances response?" And
24 their response to me was on a request slip if it goes in
25 accordance with DR-504 grievance process, they told me they

1 could take more than 60 days, and that's what made me feel
2 that I processed the grievances that they failed to answer to
3 within 60 days of their right to respond.

4 THE COURT: Okay, all right. That takes us to June
5 23, 2018, Exhibit B.

6 MS. HAMPTON: All are the same.

7 MS. MAZUR: I think that this one, I would say, falls
8 in the same category. We weren't relying on it in these
9 briefs, although I think Ms. McClimans and I conferred before
10 the hearing and I think -- Is this one of the ones that's
11 since been exhausted, but wasn't exhausted prior to filing?

12 MS. McCLIMANS: Correct, It was just exhausted. And
13 we will have Dave White testify to that, but it looks like it
14 was just exhausted on October 24, 2018.

15 THE COURT: So, you are conceding --

16 MS. MAZUR: It was not exhausted prior to the filing.

17 MR. MILLS: Not prior to the filing.

18 THE COURT: Okay. Then we don't need to have
19 testimony.

20 MS. MAZUR: And, Ms. Hampton, it doesn't mean you did
21 anything wrong, it's just what we need to focus on for this
22 hearing.

23 MS. HAMPTON: No, it's just the fact that I gave them
24 60 days and they didn't respond to it until three months
25 later, I mean, at least two months and a half later, so I felt

1 like I exhausted on them, because by the grievance process
2 they have 60 days on the institutional level to respond, and
3 if I make them aware before the 60 days that I have been
4 waiting on a response and they still don't give me a response,
5 I have exhausted on the institutional level. So, that's what
6 I felt like I exhausted on, but I still processed them to the
7 director when I got them, but they didn't give me the
8 grievance back until like two months and like three weeks
9 later.

10 MR. MILLS: Right.

11 MS. HAMPTON: So, I also brung it to the other
12 Judge's attention that they was playing games with my
13 grievances. They would put a different date on there than
14 what I really processed, and I got request slips showing that
15 I asked them before the deadline, I would say, "Hey, I am
16 writing to your office for the response on my grievances.
17 It's been 60 days. I would like to know what's going on. Why
18 haven't I got a response?" And their response to me was they
19 could take as long as they want. I handed them request slips,
20 I sent them to my attorney. So, I don't know why they wasn't
21 processed to you, because I definitely processed them in a
22 proper way. If they would have answered them in 60 days they
23 would have already been exhausted before the hearing.

24 THE COURT: And I will let you follow up with your
25 lawyer after this to talk about that in more detail.

1 MS. MAZUR: Yeah, we will have a chance to confer,
2 Ms. Hampton, before we are done today.

3 THE COURT: So, the next one is another June 23rd. I
4 should refer to them by number, I guess. What I have now is
5 18-7-55 and 56.

6 MS. MAZUR: Can you read the docket number on the top
7 of that? Sorry.

8 THE COURT: Maybe; maybe not. It's printed over.
9 It's 86-2.

10 MR. MILL: What date are we looking at? 6/25?

11 THE COURT: 6/23.

12 MR. MILLS: Got it. It says 914 at the bottom, the
13 Bates-stamp number.

14 THE COURT: Okay.

15 MR. MILLS: 914 and 915.

16 THE COURT: This is the denial of access to school
17 and job assignments?

18 MR. MILLS: Correct.

19 THE COURT: This may also be one that was exhausted
20 after --

21 MS. MAZUR: Yeah, and it was filed not as an
22 emergency, so it would be in the same category as the last
23 one.

24 MS. McCLIMANS: If it is the one that says 7-53 on
25 it --

1 MR. MILLS: Yes.

2 MS. McCLIMANS: -- I don't know that that is
3 exhausted yet, so we will have to ask Dave White about that.

4 MS. MAZUR: Okay.

5 THE COURT: But, in any event, it was not exhausted
6 prior.

7 MR. MILLS: We are not claiming it was exhausted
8 before the trial, right.

9 THE COURT: That takes us to 86-5 and 101-4.

10 MS. HAMPTON: I don't know where he is.

11 THE COURT: You know what? I don't, either. Hold
12 on.

13 MR. MILLS: 86-4 is 6/23 again?

14 THE COURT: Did I miss one? Another 6/23.

15 MR. MILLS: Right.

16 THE COURT: And 101-3.

17 MS. McCLIMANS: Okay.

18 MS. MAZUR: I think that's --

19 THE COURT: Hold on. I want to look at the number of
20 the grievance. 18-754.

21 MS. HAMPTON: I have 6/24. I don't have a 6/23, but
22 I do have one on there that the date is blank.

23 MS. MAZUR: The one without the date at the top, the
24 date received is 6/29, and it has the number 7-54 in the top
25 right-hand corner.

1 MS. HAMPTON: Yes. Yes, I've got that one.

2 THE COURT: I don't. Hold on. I mean, I have that
3 one, but it's not in my chronology here.

4 MR. MILLS: Right, because it doesn't have a date on
5 it.

6 MS. McCLIMANS: It has 754 at the top.

7 (Following a brief interruption, proceedings continue
8 in open court).

9 THE COURT: Now we are on the record.

10 Did you have a question?

11 MS. HAMPTON: Okay. So, they -- Yes. Basically what
12 I was saying is that when I was reading the statute, when I
13 had talked with my attorneys about it, and they was like as
14 long as I bring them aware of the danger and if it immediate,
15 like imminent danger, then I have exhausted. So, my whole
16 thing was I brought everyone aware of my issues, so that
17 should have been exhaustion by itself, because they was aware
18 and they done nothing to fix it or stop it. So, that's what I
19 was going to try to bring up to you, also, because as long as
20 they know that it's an issue and they didn't fix it, then a
21 grievance is not for to serve somebody ever in a lawsuit, it's
22 to bring them aware of the imminent danger and the situation
23 at hand, which they failed to do nothing about.

24 THE COURT: Okay. Thank you. And your attorneys are
25 making that argument on your behalf, too. Rest assured, I

1 understand that argument.

2 MS. HAMPTON: All right, thank you.

3 THE COURT: So, we are on June 23, 2018, which is
4 Exhibit C. It's a grievance I have marked as June 23. It
5 doesn't actually have a date at the top. It's signed by the
6 Plaintiff as 6/23 there about halfway down. That's where we
7 got the date and it is Grievance 7-54.

8 MS. HAMPTON: I got it.

9 MS. MAZUR: Yep.

10 THE COURT: Okay.

11 MS. MAZUR: And this appears, at least -- Yeah, this
12 was not an emergency grievance, and the final decision from
13 the warden came on August 22, which was after we filed the
14 Amended Complaint. So, for the purposes of us here today, we
15 are not asserting that this was exhausted prior to filing.

16 THE COURT: Perfect.

17 Okay. The next, the same thing. Okay. June 23rd,
18 7-55/56. I don't have an exhibit on the front of this one.

19 MS. HAMPTON: Yeah, and on the top it says 6/24?

20 THE COURT: It's Document 86-4.

21 MR. MILLS: Oh, okay. 55 and 56.

22 THE COURT: Yes.

23 MR. MILLS: Two different documents, not the same.

24 Okay, got it.

25 MS. MAZUR: Just one moment.

1 THE COURT: Sure. This is another after the fact?

2 MS. MAZUR: Yeah; yeah.

3 MR. MILLS: I think so.

4 55, 56, yes. So, this was also 55, 56. This was
5 nonemergency and the warden denied it on, looks like, 8/24,
6 which is after we filed.

7 THE COURT: Okay. That takes us to Exhibit D, which
8 is a June 24th, --

9 MS. MAZUR: Yep.

10 THE COURT: -- 2018.

11 MS. MAZUR: This one is the same. It was filed not
12 as an emergency. The final warden's decision came August 24,
13 2018, which is after we filed.

14 THE COURT: June 29, 2018, emergency grievance
15 Exhibit E.

16 MR. MILLS: Right.

17 MS. MAZUR: So, this is another emergency grievance
18 that was prepared by Counsel. Counsel submitted it to the
19 warden, John Varga, at Dixon Correction Center, to John
20 Baldwin and to the ARB. We have the Fed Ex shipping receipts.
21 We also have -- And I can put it into evidence now or later --
22 a Declaration from Anissa Torres, who, if you look at the Fed
23 Ex shipments receipt, she's the person who sent them, and her
24 testimony would essentially be that she shipped the emergency
25 grievance to Warden John Varga at the address in Dixon and

1 that, you know, there's a Fed Ex receipt indicating that it
2 was received at the facility and they are kind of the
3 follow-up -- there is some follow-up e-mails in this record
4 that indicate sort of the path this grievance took, and our
5 position is really there was never a decision made or we
6 didn't get a response, and so the matters raised in this
7 grievance are exhausted.

8 THE COURT: Well, you got a response from Varga,
9 right? You got a letter from Varga?

10 MR. MILLS: Right, except -- Sorry. Yes, we did get
11 a letter from Varga, but Varga -- We got two responses -- from
12 Baldwin, where he admits it's an emergency grievance, and from
13 Varga, which says it is not an emergency grievance. Neither
14 of them address the substance of it, however. So, again, it
15 was filed an emergency, it was not treated as an emergency.
16 And, again, we think this is exactly the exact issue that
17 Judge Rosenstengel said, there was irreparable harm happening
18 and, therefore, it should have been treated as an emergency
19 and, therefore, we were done.

20 THE COURT: So, Counsel sent the letter -- sent a
21 letter, I guess --

22 MR. MILLS: Well, it's titled --

23 THE COURT: *Emergency grievance.*

24 MR. MILLS: Right. Entitled an emergency grievance.

25 THE COURT: Okay. At the same time to the director

1 and the warden --

2 MR. MILLS: And the ARB.

3 THE COURT: -- and the ARB, all simultaneously?

4 MR. MILLS: Correct.

5 THE COURT: And, so, the director responds that --
6 what?

7 MS. MAZUR: There's an e-mail from the director.
8 It's at Hampton 60, and it just says, "Good morning, I did
9 receive the emergency grievance. I have asked staff to
10 investigate the issues raised."

11 THE COURT: Okay. And then after receiving that
12 e-mail you received a letter from the warden, --

13 MS. MAZUR: Correct.

14 THE COURT: -- which doesn't address the substance.
15 Is this the one where he says, "We take this seriously"?

16 MS. MAZUR: "We have zero tolerance policy," that
17 kind of thing.

18 MR. MILLS: But, it specifically says, "Offender
19 Hampton has not filed this emergency grievance," so he denies
20 that Ms. Hampton has filed an emergency grievance. He's
21 denying this counts as a grievance at all.

22 THE COURT: I do say it would have been easier if
23 everything would have been filed through the normal process.
24 I'm not saying it's required, I'm just saying it would be
25 easier and less confusing.

1 MR. MILLS: Well, maybe, except it means it wouldn't
2 have gotten responded to. We wanted to make sure that things
3 got there and were responded to.

4 THE COURT: Okay. So, your position is that Varga's
5 letter was -- or because it was filed as an emergency and you
6 did not get a response that that was exhaustion?

7 MR. MILLS: Yes, and Baldwin. Both of those, we
8 think, counts as exhaustion.

9 THE COURT: Both from the director and --

10 MR. MILLS: Yeah, the statute says we are allowed to
11 file directly with Baldwin, so we did. He has not designated
12 anyone else to receive this sort of grievance, so we filed it
13 directly with him. And I think the only reading of the
14 warden's is that he's not going to consider this an emergency
15 grievance. He says, "Offender Hampton has not filed this
16 emergency grievance," so he's clearly not counting it as an
17 emergency grievance and that's the end of it. We have got the
18 same response from Baldwin. And, neither of them are going to
19 deal with it and, therefore, we are done.

20 THE COURT: Any response?

21 MS. McCLIMANS: I just have a question. So, is the
22 only thing that indicates John Baldwin considered it an
23 emergency grievance because it says, "I did receive the
24 emergency grievance"?

25 MR. MILLS: Yes.

1 MS. McCLIMANS: Okay. Vanessa indicates, "I sent an
2 emergency grievance to you," and he says, "Yes, I received an
3 emergency grievance," but that doesn't necessarily indicate
4 that he deemed it an emergency just because he says, "Yes, I
5 received the emergency grievance."

6 THE COURT: I understand.

7 MR. MILLS: Right. We are not contending he ruled
8 that it was, in fact, an emergency.

9 MS. McCLIMANS: Okay. That's kind of what it sounded
10 like, though.

11 MR. MILLS: No, just admitted that he was admitting
12 it was an emergency grievance, but he denied it as emergency
13 grievance.

14 THE COURT: Filed as an emergency grievance?

15 MR. MILLS: Right.

16 THE COURT: Your position on all of these, regardless
17 of whether they deemed it an emergency or not, once you say it
18 was an emergency grievance and there's irreparable harm, that
19 that's enough?

20 MR. MILLS: Right.

21 MS. McCLIMANS: And our position would be also that
22 even they were told that the grievance should not be sent this
23 way, there were no other grievances filed by Ms. Hampton on
24 this issue at this same time.

25 MS. HAMPTON: Yes, it was.

1 MS. MAZUR: We will get to it, Ms. Hampton.

2 I guess just to respond to that, you know, we did --
3 as we previously went over, Counsel submitted an emergency
4 grievance back on February 22, which we've already talked
5 about, and the Department did handle that as an emergency
6 grievance. So, it's kind of strange for them to come in on
7 this one and say, "Oh, well, this doesn't count, we are not
8 going to treat it as filed, it didn't come directly from her."

9 MR. MILLS: And one more to point out -- Sorry.

10 THE COURT: That's fine.

11 MR. MILLS: Okay. They seem to consistently take the
12 position that it has to be done by Ms. Hampton personally
13 rather than through counsel. I would just note nothing in the
14 regulation says that. It just says that the offender has to
15 do it. And, I mean, this Court issues orders all the time
16 that says Defendant shall respond in 28 days. That does not
17 mean the Defendant has to do it personally and not through
18 counsel.

19 The same interpretation should go to these
20 regulations. If they meant that a lawyer cannot do this for
21 you, then they should have said so. It does not. It just
22 says she had to do it. And, she did through counsel.

23 MS. McCLIMANS: I would also like to point out that
24 one of the reasons at that time was because she was on a
25 crisis watch, and I believe that that could come out with

1 Leslie McCarty, but there is an exchange of e-mails. I'm not
2 sure if you guys have this in your exhibits or not. Leslie
3 did speak with the warden's office regarding the allegations
4 that she was unable to file grievances, and she indicated that
5 even if an offender is on crisis watch that they can do so
6 with the assistance of staff, not necessarily that the
7 attorneys can send one in.

8 THE COURT: Are you taking the position that counsel
9 cannot file a grievance on behalf of their client? Is that
10 what you are saying?

11 MS. McCLIMANS: Well, I think that that's what they
12 were told by Leslie McCarty on July 10, soon after it was
13 filed. Actually, this would have been --

14 MS. HAMPTON: Can I say something, Ms. Daly?

15 THE COURT: Not yet. It will just confuse me. I
16 said *no*.

17 MS. HAMPTON: Okay.

18 MS. McCLIMANS: That was when they were going to send
19 one and she was not going to accept one, and then it was sent
20 to John Baldwin who did receive the emergency grievance.

21 THE COURT: The e-mails that you are referring to, do
22 I have those?

23 MS. McCLIMANS: I don't know if you have them or not.

24 MS. MAZUR: Do we have them?

25 MS. McCLIMANS: You guys should have them. Yeah,

1 they were through your office.

2 MS. MAZUR: Well, these are some e-mails apparently
3 dated after the fact, July 9, July 10.

4 THE COURT: I have a July 9 letter from Leslie
5 McCarty.

6 MS. MAZUR: Yeah, these are e-mails. You probably
7 don't have them. They are not filed in the record, so I'm not
8 sure.

9 THE COURT: Okay. So, what you are saying is counsel
10 was told that they couldn't file, and they did anyway? Does
11 that kind of sum it up?

12 MS. McCLIMANS: I think that she looked into the
13 allegations that Hampton couldn't file an emergency grievance
14 and found out that, yes, she could file one with the help of
15 counselors. So, that she could file one, she wasn't being
16 prevented to file anything.

17 THE COURT: I think we need to put those into the
18 record if we are going to refer to them, because I don't have
19 them right here in front of me.

20 MR. MILLS: No objection. And I don't think they are
21 in the record. We don't have an objection to entering. We
22 just need a copy at some point. I assume you can do that.

23 THE COURT: At some point, yeah.

24 MR. MILLS: But those are not like directions we got
25 before we did this; they were a response to the filing.

1 THE COURT: Okay. So, to the extent they are
2 relevant, I will consider them. And we will mark them --
3 Let's them mark as Defendant's Exhibit 1, fair enough?
4 Because we have not used a number.

5 MR. MILLS: Fine.

6 MS. McCLIMANS: Okay.

7 MR. MILLS: I guess this would be a good time to ask.
8 I am just assuming that all the grievances we talked about are
9 in the record, we don't have to introduce them.

10 THE COURT: Right, that's how I do it in when it -- I
11 have everything that has been filed and we don't need to redo
12 those. You did mention earlier a declaration that you have.

13 MR. MILLS: Yes.

14 THE COURT: Let's just deal with that now before
15 trial.

16 MR. MILLS: That's what we just discussed. It really
17 is to prove what was in the Fed Ex box.

18 THE COURT: We will mark that as Plaintiff's Exhibit
19 1.

20 MS. MAZUR: Sure.

21 THE COURT: I think that concludes our discussion
22 with regard to Exhibit E, which is the submission from counsel
23 and how that was addressed.

24 MS. MAZUR: Correct.

25 MR. MILLS: Correct.

1 THE COURT: And then I go to July 4, 2018, an
2 emergency grievance, Document 86-6, and it has Exhibit F.
3 Plaintiffs have Exhibit F?

4 MS. MAZUR: Yeah.

5 MS. HAMPTON: Ms. Daly, I have to use the bath. Can
6 I take just a five-minute break, so I don't do it on myself?

7 THE COURT: Sure. No, please don't do that.

8 MS. HAMPTON: All right. Thank you.

9 THE COURT: We will take a brief break.

10 (Following a recess, proceedings continue in open
11 court).

12 THE COURT: Back on the record.

13 So, you are considering whether you should call a
14 witness, Dave White. And the extent of his testimony would be
15 with regard to grievances that were exhausted after the
16 complaint was filed?

17 MS. McCLIMANS: That, but there are also the February
18 ones, too, a couple of those.

19 THE COURT: It's not something that we have agreed
20 on? Because they have conceded several. I don't think we
21 conceded any of the February ones, though.

22 MS. McCLIMANS: I don't think so, either. And I was
23 having him check into the February 28th one. It was actually
24 February 19th, 2018, so I don't think he will be on very long.

25 THE COURT: We will do whatever we need to do.

1 MS. McCLIMANS: Okay. I will tell them Leslie is not
2 needed, though. She's not needed.

3 MS. MAZUR: I don't think we need McCarty, do we?

4 MR. MILLS: No.

5 MS. MAZUR: Yeah, we don't.

6 THE COURT: The stipulation you gave me at the
7 beginning, did you already file that?

8 MR. MILLS: No, we did not. We prepared it this
9 morning.

10 THE COURT: Okay. In the car.

11 MR. MILLS: We were in a hotel room; but, yes. We
12 typed it last night in the car.

13 MS. McCLIMANS: Sunday night and you are driving to
14 Benton.

15 MS. MAZUR: Uh-huh.

16 THE COURT: Better than Monday morning.

17 MR. MILLS: Exactly. I just find that coming down
18 here I worry too much about traffic and nervous the whole way
19 down, and this way I get to think about what we are doing.

20 THE COURT: Exactly.

21 MS. HAMPTON: I'm back.

22 THE COURT: Okay. Right before we took a break we
23 were coming to July 4, 2018, emergency grievance 86-6
24 document. Go ahead.

25 MS. MAZUR: Yeah, this is an emergency grievance

1 dated July 4, 2018, filed while Ms. Hampton was at Dixon, and
2 it concerns some things that happened, I believe, at Lawrence,
3 so it was -- went directly to the ARB, and there was a final
4 decision from the ARB, looks like, on July 16th. So, it's
5 exhausted.

6 THE COURT: Ms. McClimans?

7 MS. HAMPTON: Is that about the one --

8 THE COURT: Hold on. Not your turn yet.

9 Ms. McClimans?

10 MS. McCLIMANS: I want to be sure we are talking
11 about the same thing. Are they arguing about the letter from
12 August 16 from Warden Varga is the exhaustion?

13 MR. MILLS: No, this is your Exhibit F, so the letter
14 of John Baldwin. Or, it's not a letter, but, you know, it's
15 the responses from the ARB.

16 MS. McCLIMANS: Okay.

17 THE COURT: So, again, your position is because it
18 was from a different facility it could go directly to the ARB?

19 MR. MILLS: Yeah, but they ruled on it, so our
20 position is it doesn't matter if there was some technical
21 problem. They rule on it and they're a party. I don't think
22 there was a defect, but if there was it's waived, because they
23 ruled on the merits.

24 THE COURT: Ms. McClimans, any response to that?

25 MS. MAZUR: No.

1 THE COURT: All right. Ms. Hampton, did you have a
2 question about that one?

3 MS. HAMPTON: Yeah, I was trying to see which
4 grievance was this one.

5 MS. MAZUR: This is one that was filed on July 4.
6 It's about Lieutenant Ray.

7 MS. HAMPTON: Is that about the I/A and the
8 lieutenant? Is it about that issue?

9 MS. MAZUR: Yes, it is.

10 MS. HAMPTON: Okay, yes.

11 MS. MAZUR: But we don't need to talk about it.

12 THE COURT: I'm going to caution you once again, try
13 not to talk over people, please. It's making it really
14 difficult for the Court Reporter. I know it's hard to see and
15 hard to hear by video, but if you could try to make sure
16 nobody is talking.

17 All right. Exhibit F, Plaintiff's Exhibit F. This
18 was August 1st, 2018, an emergency grievance.

19 MS. MAZUR: Okay. So, this is filed August 1st, it
20 was deemed an emergency. I'm sorry. It was filed as an
21 emergency grievance, and a couple of days later the warden
22 responded saying that it was not treated -- it should not be
23 treated as an emergency. I think our position would be at
24 that point that this was fully -- this was exhausted and it
25 was okay to proceed to file on it. This was another one that

1 Counsel and I conferred about prior to the hearing, and it
2 sounds like it's something that the Defendants concede was
3 exhausted, although probably subsequent to the time that we
4 filed.

5 THE COURT: But your position is you didn't have to
6 wait for that, so you are not conceding this one?

7 MS. MAZUR: We are not conceding this one.

8 MR. MILLS: Right.

9 MS. HAMPTON: Okay. I'm kind of lost on this one.

10 MS. MAZUR: This is one that you filed, Ms. Hampton,
11 in August of 2018, and it's -- we are just -- we have a
12 dispute. We say that it was fully exhausted prior to the time
13 we filed, and Ms. McClimans will state their position.

14 MS. HAMPTON: Can you let me know when did we file?
15 Because I forget when we filed.

16 MS. MAZUR: We filed the Amended Complaint -- I think
17 it was August 14.

18 MS. HAMPTON: Well, I got a piece of paper here after
19 John Varga -- You might have it, Your Honor. He saw my
20 grievance from the -- from him, he sent it to the grievance
21 office, and it was dated August 10th, and it's saying, "Based
22 on total review of all available information, this grievance
23 office is reasonably satisfied Inmate Hampton's grievance
24 claims was addressed by Internal Affairs, a recommendation for
25 no further grievance actions at this time," and it was signed

1 by John Varga. So, they tried to turn my grievance into a
2 PREA, but I did not have it as a PREA. I made it as a
3 complaint. And they are trying to say due to me talking about
4 one issue, they took all the other issues and ignored it and
5 tried to make it about one issue, but I did exhaust.

6 MS. MAZUR: And thank you for pointing that out that
7 there was -- I'm sorry I missed that -- a final decision from
8 the warden August 10, and then we filed on the 14th, and
9 whatever happened afterwards happened afterwards.

10 THE COURT: Anything else, Ms. McClimans?

11 MS. McCLIMANS: I would like to have Dave White touch
12 on this one, because what I have indicates that it is one that
13 was exhausted on August 16, 2018.

14 THE COURT: And they are agreeing with you, that it
15 was exhausted after the administrative complaint was filed.

16 MS. McCLIMANS: Okay. But it was like two days.

17 MS. HAMPTON: May I say August 10, Ms. Daly?

18 MR. MILLS: Strawberry, that's the warden. We are
19 talking now about the Administrative Review Board.

20 MS. HAMPTON: Okay.

21 THE COURT: Okay. So, that is all the grievances
22 gone through chronologically, and I think I understand your
23 argument with regard to each of those and exhaustion.

24 Is there anything else that you would like to present
25 through your client? We can do legal argument at the end.

1 MR. MILLS: No, Your Honor. I guess, no, we do not.
2 We would ask that -- And I don't know if I have to make this
3 in the form of a motion or not, it may already be there, but
4 the transcript from Ms. Hampton's testimony be considered as
5 part of the record in this case, in this hearing.

6 THE COURT: The transcript from this hearing?

7 MR. MILLS: The transcript from Judge Rosenstengel's
8 hearing. Not the whole thing, but Ms. Hampton's testimony be
9 part of this record, as well. I think Judge Rosenstengel's
10 findings are binding, but in case somebody in the Seventh
11 Circuit disagrees, I would like to make sure that what she
12 testified to was the underlying basis for the Judge's ruling
13 is also part of this record.

14 THE COURT: I think that's reasonable.

15 MS. McCLIMANS: I have no objection.

16 THE COURT: Okay.

17 MR. MILLS: And we have a copy of that. Already been
18 filed, yes.

19 THE COURT: That's already been transcribed. That's
20 what I like to hear.

21 Okay. That concludes your testimony today. At this
22 point in time I'm going to ask Ms. McClimans if she has a
23 witness to present.

24 MS. McCLIMANS: I do.

25 THE COURT: Okay. You may bring him in.

1 MS. McCLIMANS: Oh, he's on the video.

2 THE COURT: In the same place?

3 MS. McCLIMANS: No.

4 (Following a brief interruption, proceedings continue
5 in open court).

6 THE COURT: Now you can ask me again.

7 MS. HAMPTON: Is it all right that I bring it to your
8 attention that there's grievances I'm trying to exhaust right
9 now and I am being told that I can't process my grievance
10 because of the warden not going to sign none of my grievances
11 no more and I'm not able to give my grievances to the
12 counselor? The counselor says he is no longer going to take
13 grievances from me. I brought it to my attorneys' attention,
14 and I asked them to tell the Court like two weeks ago, because
15 I have been trying to process my grievances and the warden
16 told me that he's not going to sign, nor is he going to answer
17 to any of my grievances. And the counselor named Gray, he
18 told me he would not receive or take any more grievances from
19 me. I made it over --

20 THE COURT: You have done exactly what you need to
21 do, which is bring it to the attention of your attorneys. If
22 they feel there's something they need to file that's relevant
23 to this case, they will do that. I appreciate the
24 information, but at this point you're represented, and if they
25 want to file something they need to do that so that the Court

1 can consider it, okay?

2 MS. HAMPTON: Okay, thank you.

3 THE COURT: Ms. Hampton, if we lose you we will call
4 you right back, okay?

5 MS. HAMPTON: Okay.

6 (Following a brief interruption, proceedings continue
7 in open court).

8 THE CLERK: Court is reconvened. You may be seated.

9 MS. McCLIMANS: Your Honor, I would like to add,
10 first of all, I think we have agreed that Defendant's Exhibit
11 1 is the extent of Leslie's involvement here. So, Plaintiff's
12 counsel has agreed that we will stipulate to this as her
13 involvement on Defendant's Exhibit 1, so that we can let her
14 go back to doing what she does best.

15 MS. MAZUR: And, just subject to there are some
16 statements about Ms. McCarty in the stipulation, as well, but,
17 you know, we also agree that if she were called to testify it
18 would just be about the contents of this e-mail, also.

19 THE COURT: That's fine with me. Thank you for your
20 time, ma'am.

21 MS. MAZUR: May I also in the meantime tender the
22 transcript of Ms. Hampton's testimony from the preliminary
23 injunction hearing?

24 THE COURT: Sure. Should we mark that as an exhibit,
25 technically?

1 MR. MILLS: Sure.

2 THE COURT: Plaintiff's 2. Seems like there's been
3 so many more exhibits.

4 MR. MILLS: Well, there's the other 200.

5 MS. McCLIMANS: I think you are going to get sworn
6 in.

7 THE COURT: Raise your right hand, sir, and be sworn
8 in, please.

9 (Defense witness, David White, sworn.)

10 THE CLERK: Would you please state and spell your
11 name for the record?

12 MR. WHITE: David White; D-A-V-I-D, W-H-I-T-E.

13 THE COURT: Thank you. You may proceed.

14

15 DIRECT EXAMINATION

16 BY MS. McCLIMANS:

17 Q. Mr. White, what is your current occupation?

18 A. I'm an ARB chairperson.

19 Q. As an ARB chairperson what do you do?

20 A. We review offender grievances from offenders from the
21 institutions.

22 Q. And do you determine whether or not or do you make a
23 ruling as to whether or not they exhaust their administrative
24 remedies?

25 A. Yes, we do.

1 Q. Okay. I'm going to go over some grievances, and I would
2 like you to tell me what information you have regarding those
3 grievances.

4 A. Okay.

5 Q. Do you have any grievances from February of 2018?

6 THE COURT: Related to this particular Plaintiff?

7 Q. Related to Offender Deon Hampton.

8 A. Are you talking the grievance date or hearing date?

9 Q. I am talking about the grievance date, sorry.

10 A. Okay. That's all right. Let me get my sheets out here.

11 Yes, I see one.

12 Q. All right. What is the grievance dated that you have?

13 MR. MILLS: Your Honor, he appears to be looking at a
14 document, and we are not sure what he's looking at. So, to
15 the extent he's using something, I would like to know what we
16 are talking about. Is this a document we marked today or is
17 it something else we don't have?

18 THE COURT: Fair enough.

19 Q. Can you tell us what you are looking at?

20 A. I'm looking at the I-Grieve sheet. It's the system that
21 we enter in the grievances that are e-mailed to us, and I
22 printed off the I-Grieve sheet just so when you ask me
23 questions, because on the overall sheet it just has the
24 hearing date received, and you are asking about the grievance
25 date. I just want to make sure I am responding to the correct

1 grievance that you are referring to.

2 MS. McCLIMANS: Okay. And I do have an I-Grieve
3 sheet, but unfortunately I have written on it.

4 MR. MILLS: Is this something that was produced to us
5 previously?

6 MS. MAZUR: Kay showed this to us today.

7 MR. MILLS: Right. Before today you didn't produce
8 this to us at all, right?

9 MS. McCLIMANS: I don't know if I did or not.

10 MS. MAZUR: I don't think I have seen this before.

11 MS. McCLIMANS: Okay. I will get you a copy of it.
12 We do have -- We have talked about the ones up here with
13 regard to Dixon, and the only one was for February 2018, and
14 that we are discussing here today.

15 MR. MILLS: Okay. I guess I am going to object on
16 the grounds that we weren't given any advance notice before we
17 walked into this courtroom that this document existed, let
18 alone that it was going to be used as an exhibit today.

19 MS. McCLIMANS: Okay. I wasn't going to tender it as
20 an exhibit. It's a summary of what he is looking at. You
21 have each of the referenced grievances.

22 MR. MILLS: That may or may not be true, because I
23 haven't seen this, nor have I seen what he's looking at. He's
24 apparently testifying from a document that I have not seen.

25 THE COURT: We can make a copy and take a few minutes

1 to let the Plaintiff's attorneys review it to see whether
2 there's anything surprising there.

3 MS. McCLIMANS: Thank you. And then I will go ahead
4 and explain which part I have written on.

5 (Following a brief interruption, proceedings continue
6 in open court).

7 MR. MILLS: Rather than going through the whole
8 document, because it obviously lists a lot of different
9 things, if there are particular ones that she asks about that
10 I don't understand, then I'll object to that, rather than try
11 to figure the entire document out.

12 THE COURT: Kay, you submitted grievances in your
13 motion.

14 MS. McCLIMANS: Correct.

15 THE COURT: Are all the grievances on that form
16 grievances that we have already discussed since we went
17 through all of the grievances chronologically? I'm not saying
18 all the ones that we have discussed are all there. I'm saying
19 are all the ones that are on there grievances that we have
20 discussed?

21 MS. McCLIMANS: I believe so. We are only going from
22 -- Okay. If you look at the letters next to them, those are
23 our exhibits. So, we can talk about just the ones that we
24 have as exhibits, and then we can talk about just the staff
25 conduct one.

1 Do you want this?

2 THE COURT: Do you need it?

3 MS. McCLIMANS: I'll be fine.

4 Q. (By Ms. McClimans) Okay. So, I wanted to go over, do you
5 have any grievances from Offender Hampton from February of
6 2018?

7 A. Yes, it appears a staff conduct one with a hearing date of
8 2/28/18. Is that what you are referring to?

9 Q. Yes, I'm just trying to find out what you have and whether
10 or not that grievance has actually been exhausted.

11 A. The one dated 2/19 of '18, with a hearing date of 2/28,
12 that was returned to Offender Hampton on an RGF form, because
13 he didn't follow the procedures in DR-504.

14 Q. All right.

15 MR. MILLS: Again, now I am confused. Is this one of
16 those we talked about already today?

17 MS. McCLIMANS: It should be one we talked about
18 already today.

19 MR. MILLS: Because it does not have -- You said all
20 the ones we talked about today have exhibit numbers by it, and
21 this one does not.

22 MS. HAMPTON: It's the Burley.

23 THE COURT: Hold on. Please wait.

24 MS. McCLIMANS: Sorry.

25 Q. (By Ms. McClimans) Can you read the grievance for us, just

1 the first couple of sentences?

2 THE COURT: Or is there a grievance number on it?

3 Q. Is there a grievance number on it?

4 A. Okay. Hang on a moment, please.

5 This one here it grieves C/O Burley, Lieutenant
6 Givens' conduct while going to yard on 2/18 of '18.

7 Q. Yes.

8 A. And we sent it back -- I'm sorry, go ahead.

9 Q. Go ahead.

10 A. It was sent back to the offender due to he needed the
11 counselor's response and grievance officer's report on it.

12 Q. And did you receive anything else after that, after you
13 sent it back to the offender?

14 MR. MILLS: Objection as to --

15 A. No, we did not.

16 MR. MILLS: Objection as to foundation. She's asking
17 him personally whether he received something else, is that
18 right?

19 Q. Did your office --

20 THE COURT: Can you lay the proper foundation?

21 Q. Okay. Once things are returned, do you actually return
22 things to the inmates, or how does that work?

23 A. It's mailed to the facility, and the facility then
24 distributes the return grievance forms or the grievance
25 answers to the offenders.

1 Q. All right.

2 A. And usually it's returned to the grievance officer.

3 Q. Okay. All right. And did you instruct the offender on
4 that document that the offender should follow up with your
5 office?

6 MR. MILLS: Objection as to best evidence. Where is
7 this document that he is talking about that's sent? Some
8 computer entry of what's in a document isn't the best
9 evidence. It should be the document itself that was sent,
10 which I don't know what we are talking about.

11 Q. Okay.

12 THE COURT: Sustained.

13 Q. Can you tell me -- Can you tell me exactly what was sent
14 by you to Offender Hampton?

15 A. What was sent to me by Offender Hampton was a return of
16 grievance form and a copy of his grievance, or the original
17 grievance back to him, and we checked on there that he needed
18 the grievance officer's response and the counselor's response
19 to this grievance before ARB could answer the grievance.

20 Q. Did the Administrative Review Board ever answer the
21 grievance?

22 A. No, because it wasn't answered at the facility first.

23 Q. Right.

24 MR. MILLS: Again, foundation as to how does he know
25 this?

1 THE COURT: Okay. Because he didn't --

2 MR. MILLS: He's talking about the Administrative
3 Review Board data. Does that mean he reviews everything that
4 the Administrative Review Board does? I don't know what his
5 personal knowledge is of this.

6 THE COURT: I think this is overboard.

7 Q. Let me know into a little bit of your background. How is
8 it that you are assigned to review Offender Hampton's
9 grievances or information that comes to the Administrative
10 Review Board?

11 A. The chair people are assigned offenders based on the last
12 two digits of their inmate number. So, my numbers are 29
13 through 46 currently. And, so, any offender, when he sends in
14 a grievance, I review the grievances of offenders between 29
15 and 46.

16 Q. Do you have Offender Hampton's ID in front of you, ID
17 number?

18 A. Yes, I do.

19 Q. And what is the ID number?

20 A. M15934.

21 Q. So, would that number, then, fall within the offender's
22 grievances that you reviewed?

23 A. Yes, it would.

24 Q. Would that mean, then, that every grievance comes in or
25 any Administrative Review Board document comes into the

1 Administrative Review Board that you are then in charge of
2 reviewing that document if it has a number between 29 and 46?

3 A. Yes, it does; yes.

4 Q. Okay. All right. So, I'm going to move on from the
5 February 2018. I'm aware that you have several grievances
6 that you have received from Offender Hampton in June of 2018,
7 is that right?

8 A. Yes.

9 Q. Okay. Can you tell me the first date of any of the
10 grievances from June of 2018?

11 A. Okay. Let's see.

12 MS. HAMPTON: Ms. Daly?

13 THE COURT: Not your turn, ma'am.

14 A. I assume you are referring to one grievance, Grievance
15 #18-7-53, is that correct?

16 Q. Well, can you tell me what date the inmate grievance is
17 identified as written?

18 A. June 23, 2018.

19 Q. Okay. And the number that was given to that grievance,
20 would that have been the number given by you that was 18-7-53?

21 A. No, that was given -- that was given by the facility.

22 Q. Okay. So, did you receive a grievance dated 6/23/18?

23 A. Yes, I did.

24 Q. Okay. And --

25 A. The ARB received it, excuse me; yes.

1 Q. Did you then have a role with reviewing that grievance?

2 A. Yes.

3 Q. Okay. And just so we are clear, the one that's dated
4 6/23/18, is the number that's given to it by the ARB, is that
5 18-7-53?

6 A. No, that number is given by the facility.

7 Q. No, I'm just trying to find out the ARB number that's put
8 on that grievance.

9 THE COURT: It's not the ARB number, he's saying.
10 It's the grievance number.

11 Q. Okay. The grievance number, is it 18-7-53?

12 A. Yes.

13 Q. So, can you just tell us whether or not that grievance has
14 been exhausted?

15 MR. MILLS: Your Honor, I think we are talking about
16 -- Just to make sure we are talking about the same thing,
17 Exhibit B to our supplemental response, which has the same
18 number on it, which is one of those we stipulated, was not
19 exhausted prior to filing.

20 THE COURT: I think that's what we are talking about,
21 too.

22 MR. MILLS: Okay.

23 MS. MCCLIMANS: Yeah, we are just putting it on the
24 record.

25 MR. MILLS: I think that was the purpose of the

1 stipulation.

2 Q. (By Ms. McClimans) So, again, 18-7-53, has that one been
3 exhausted?

4 A. No, it has not.

5 Q. Okay. What about 18-7-54?

6 A. That one has been exhausted.

7 Q. And can you tell us the date of the exhaustion?

8 A. September 5th, 2018.

9 THE COURT: Just to be hyper-technical and clear, can
10 we not use the date it was exhausted, the date the ARB made a
11 decision on it?

12 Q. Sure. Okay. Going back to 7-54, which was written on
13 6/23/18, what date did the ARB make the decision on it?

14 A. September 5, 2018.

15 Q. Okay. That's fine. And then I'd like to discuss 7-52,
16 which is dated by the inmate June 24th of 2018.

17 A. Okay. 7-52 has not been addressed by ARB at this time.
18 It's still pending.

19 Q. All right. And then what about -- Do you have one that
20 was written by the inmate on 6/17/18?

21 A. 6/17. No, I don't have that one that you are referring
22 to, --

23 Q. Okay.

24 A. -- the 6/17/18.

25 Q. Do you have one that's identified as 18-7-55?

1 A. That one is still pending, as well.

2 Q. Okay. And can you tell me the date on the offender
3 grievance if the offender wrote it or submitted it?

4 A. I do not have that one with me here. It's in the office,
5 because it's in the pending file.

6 Q. Okay.

7 A. Let's see if I printed that off. I do not have that
8 information with me at the time.

9 Q. All right. And then do you have any grievances from
10 August of 2018?

11 A. August of 2018. The date received or the date the
12 offender wrote it?

13 Q. The date the offender wrote it.

14 A. Okay. Yeah, I have, it looks like, three here.

15 Q. All right. Have any of those been deemed exhausted, or
16 are they still pending?

17 A. Two of them have been exhausted.

18 Q. Okay. Can you give us the date that the offender wrote
19 each of the ones that have been exhausted?

20 A. Okay. The first one was written August 1st of 2018, and
21 that one was exhausted on August 16th of 2018.

22 Q. And was that the date that the ARB had the hearing?

23 A. Yes, that's when the ARB processed it, yes.

24 Q. Okay. And the second one?

25 A. The next one was written August 13 of -- I'm sorry. This

1 was written August 13 of '17, not '18, my apologies.

2 The other one I have the offender wrote on -- That
3 was August 30 of '17, as well. It looks like I only have one
4 grievance written for August of '18.

5 Q. All right. Did you have any for July of 2018 that were
6 written by the offender? Sorry for jumping around.

7 A. That's all right. I do not have any written in July of
8 2018.

9 Q. Have you received any typed grievances from Offender
10 Hampton?

11 A. No typed grievances, no.

12 Q. Have you received any grievances written by her attorneys?

13 A. We received two letters.

14 Q. Okay.

15 A. Two typed letters.

16 Q. All right. What are the dates of the letters that you
17 have?

18 A. I believe Leslie has those letters that she was going to
19 testify to.

20 Q. Okay. That's fine. Can you explain what the I-Grieve is
21 that we have made a copy of here?

22 A. The I-Grieve is our system that when we receive a
23 grievance from an offender, it's cataloged into the I-Grieve
24 system. There are clerical staff that will key in a brief
25 summary of what the grievance is about; if there's a grievance

1 office report, the grievance number. You know, there's a
2 grievance BOT 0046 attached. It's basically our logging
3 system that we log information in.

4 Q. Okay.

5 THE COURT: Do you want to admit it as an exhibit?

6 MS. McCLIMANS: Yes, I would like to admit it as an
7 exhibit. But, you know, I would like to do a clean copy,
8 because I have my dates on it.

9 THE COURT: Any objection to her going back to her
10 office and getting a clean copy?

11 MS. MAZUR: I just don't know that we have
12 established that what we have is what he is looking at. I
13 don't know, is it complete or -- I mean, if you could get some
14 testimony about how it was generated, what this purports to
15 be, even.

16 MR. MILLS: He seems to have multiple pages and we
17 have one, so I am confused.

18 Q. Do you have more than one page in the I-Grieve?

19 A. Yes, I have the catalog sheet where it lists all the
20 grievances sent in. And then just for my testimony today I
21 printed off each summary sheet so if you ask me questions
22 about a specific one I had it. Plus I have the grievance
23 file, as well.

24 Q. So, did you just print the summary sheet today, or how
25 does that work?

1 A. Well, I printed them off today. They are prepared by our
2 clerical staff, and then when we answer the grievance, then I
3 go in and finish the summary and the explanation as to why it
4 was sent back or what resolution was done on the grievance.

5 Q. Okay. Are we able to get a copy of that summary sheet? I
6 don't think that we have one.

7 A. Yeah, I can get a copy of this to you.

8 Q. Okay. With regard to the I-Grieve, can you tell us the
9 date at the top of it, the first date?

10 A. You mean the summary sheet that I sent you?

11 Q. Yes.

12 THE COURT: When we say *summary sheet*, is that the
13 same thing as the I-Grieve Inmate History Sheet?

14 A. Yes, that's -- Well, there's no date at the top of it.
15 That's why I am a bit confused.

16 Q. We want to make sure we have the same thing as you have.
17 Is there --

18 A. Well, there are three grievances that there's nothing in
19 the hearing date. That's because they haven't been -- they're
20 still pending. And the first hearing date -- I'm sorry, go
21 ahead.

22 Q. I didn't have it in front of me. I'm sorry. I thought
23 there was a date.

24 Can you tell us what is at the top of your page of
25 your I-Grieve Inmate History? What does it say there?

1 A. M15934, Hampton Deon, I-Grieve Inmate History.

2 Q. Okay. And then the very first grievance there's an
3 I-Grieve code. What does the first grievance state?

4 A. PREA, P-R-E-A.

5 Q. Okay. And there's no date, right?

6 A. Correct.

7 Q. And are there any dates for the first three?

8 A. No.

9 Q. And going over to the *Comments* field, what does the date
10 at the top say under the *Comments* field?

11 A. Grievance date July 4, 2018.

12 Q. Okay. And just to make sure that we have the same one
13 that you have, what does that bottom line say?

14 A. The I-Grieve code is DR, and the *Comment* line, IDR 10/6 of
15 '10, #2010029-01.

16 Q. Okay. And do you have more than one sheet of the I-Grieve
17 Inmate History?

18 A. No, I only have one sheet of that.

19 Q. Okay. So, I think we have the same thing that you have,
20 except for the fact that there is some extra writing on mine
21 from me.

22 THE COURT: Do you want to use this one or submit a
23 clean one?

24 MS. McCLIMANS: I would rather submit a clean one
25 just to keep it clean, if that's okay with you guys.

1 MR. MILLS: No objection either way. I don't care.

2 THE COURT: So, when you do submit that, that will be
3 Defendant's Exhibit 2.

4 MS. McCLIMANS: Sure. Did you have any questions for
5 him on that?

6 MR. MILLS: Yes. You mean on -- You're done, in
7 other words?

8 MS. McCLIMANS: I'm going to let him ask you some
9 questions.

10 MR. MILLS: Wait. Are you done? You are done with
11 this witness?

12 MS. McCLIMANS: Yeah.

13

14 CROSS EXAMINATION

15 BY MR. MILLS:

16 Q. Good afternoon. My name is Alan Mills. I represent
17 Ms. Hampton in this case. When you just testified I thought
18 you said you had no grievances from July, but then when you
19 read off the first line, I thought you just said that was a
20 grievance dated July 4 of 2018.

21 A. It was. It was my mistake. I was looking at the sheet in
22 here trying to find one, and then I was going through the
23 file. That grievance is still pending, so it wouldn't be in
24 the file.

25 Q. Right.

1 A. So, it was --

2 Q. I'm sitting here looking at a document which your lawyers
3 -- or Director Baldwin's lawyers submitted to the Court dated
4 July 16, which has your name on it saying that you were ruling
5 from the board, describing that you're ruling on the July 4
6 grievance. And it's still pending?

7 A. The July 4 grievance -- That was a PREA investigation that
8 was being done at Lawrence, and I am waiting on Lawrence to
9 get everything finalized. I talked -- I sent an e-mail last
10 week to the head of I/A at Lawrence to find out if they have
11 finalized the investigation, the PREA investigation on that
12 grievance. I haven't finalized it yet.

13 Q. All right. But, you did respond to the grievance on July
14 16th, sending it back to Ms. Hampton, correct?

15 A. Let me look here. I thought we sent a letter saying --
16 Let me see here, make sure we are talking about the same one.

17 What letter are you referring to?

18 Q. I'm referring to the one dated July 16, which includes --
19 it says, "For the board, Dave White, and concurring by John
20 Baldwin," and somebody has written after John Baldwin's
21 signature the date 7/7/18.

22 MS. McCLIMANS: Is there a facility grievance number
23 on it?

24 MR. MILLS: Not that I can find, but it doesn't mean
25 that it's not there. It's your Exhibit F.

1 MS. HAMPTON: Is it okay if I say one thing, Your
2 Honor?

3 THE COURT: Not yet.

4 MS. HAMPTON: Okay.

5 A. I don't see the letter in the file, sir. I'm not quite
6 sure what -- I'm not saying I didn't write it, but I don't see
7 it in the file. I don't see it in I-Grieve, either. There's
8 no grievance number or --

9 Q. Not that I can find. Although I am not an expert in your
10 filing system. It is a PREA complaint, though. It seems to
11 be the same thing you are talking about in your entry here,
12 which also I note there's nothing on the I-Grieve which also
13 indicates that that was given a number, correct?

14 A. I see a PREA dated 8/16, grievance #18-8-25.

15 Q. No, the very first PREA on the list that you are looking
16 at --

17 A. Okay.

18 Q. -- doesn't have a grievance number on it either, right?

19 A. No, it doesn't, because it was filed when he went to
20 Dixon. But, the incident happened at Lawrence, so there
21 wouldn't be a grievance number on that one.

22 Q. Okay. So, that would explain why there's no grievance
23 number on your letter, either?

24 A. Correct.

25 Q. All right. And, so, you have no indication that you sent

1 this letter, let alone whether or not you got a response back
2 from Lawrence, correct?

3 A. Correct, I don't see anything in the file. I would have
4 to go back to figure out what's going on.

5 Q. All right. So, from between July and November -- August,
6 September, October, the last four months -- as far as you
7 know, nothing has happened on this grievance?

8 MS. McCLIMANS: I'm going to object. I think he
9 testified that he contacted the facility.

10 MR. MILLS: Yeah, he said he sent it back on July 16.

11 Q. (By Mr. Mills) In between July 16 and today, you have
12 nothing in your records saying that anything was done on this
13 grievance, correct?

14 A. Well, I contacted the facility on October 5th. I spoke to
15 Lieutenant Och (ph) at Lawrence. He was finalizing the
16 investigation, so I was holding off on finishing it. When
17 this came out, I contacted him last week via e-mail to find
18 out what the status was of this investigation.

19 Q. And did you find out what the status was?

20 A. No, he hasn't responded yet. I don't know if he is out of
21 the office or what.

22 Q. Okay. So, it's your testimony that when a letter goes
23 back to the prisoner who filed the grievance telling you
24 what's going to happen and the director concurs and gives a
25 direction to Lawrence to do certain things, that's not the

1 final step in the grievance process?

2 A. Well, it depends on the letter, sir. I mean, if the
3 letter you are referring to -- What date was the incident that
4 occurred?

5 Q. The incident, it says, was January 11, 2018, according to
6 your letter. That's all I'm going on.

7 A. Okay. That's not in the file here, but --

8 Q. Well, you do have January -- It looks like on your
9 I-Grieve the last words in that first line is on 1/10, so I'm
10 guessing that's the date of the occurrence. Is that what that
11 means?

12 A. It must be, without being able to see the whole narrative
13 on that, yes.

14 Q. Okay.

15 A. So, that grievance -- It's waiting to be finalized by the
16 facility.

17 Q. So, is there anything that Ms. Hampton is supposed to do
18 once she gets a response back from the director saying that,
19 "I am ordering the warden at Lawrence to do so and so"?

20 A. No, Offender Hampton -- We are just waiting on -- Offender
21 Hampton doesn't need to do anything.

22 Q. So, it's not like we should file an appeal or a new
23 grievance or anything else. She's done?

24 A. Yes.

25 Q. Okay. Nothing further.

1 THE COURT: Do you need to follow up, Ms. McClimans?

2 MS. McCLIMANS: Nothing.

3 THE COURT: That concludes your testimony, Mr. White.

4 Thank you very much.

5 MR. WHITE: All right. Thank you.

6 MS. HAMPTON: Ms. Daly?

7 THE COURT: Yes.

8 MS. HAMPTON: I would like to bring to your attention
9 that that man has told a terrible tale, because they sent me
10 the PREA response telling me that my PREA was unsubstantiated,
11 and that was months ago when I got that response back telling
12 me that my PREA was unsubstantiated. So I don't see how there
13 was an investigation going on when I got the papers saying
14 that it was unsubstantiated.

15 THE COURT: Okay. Thank you. Your attorneys are
16 aware of what you've received, and if they want to argue about
17 that they will.

18 All right. Ms. McClimans, any further witnesses or
19 evidence?

20 MS. McCLIMANS: No, Your Honor.

21 THE COURT: Okay. Anything else from the Plaintiffs?

22 MR. MILLS: No.

23 THE COURT: Okay. So, at this point in time I will
24 ask for any legal argument that anybody would like to make. I
25 understand we have kind of addressed each individual thing,

1 each individual grievance as we have gone through, but if
2 there is any overarching argument you would like to make, I
3 would take that now.

4 MS. McCLIMANS: I just have a few arguments. So, it
5 looks like a lot of the -- We do have agreement on at least
6 some of the grievances from Dixon have not been exhausted, and
7 that is a significant part of the case, and there's not always
8 continuing harm in all of them.

9 Also, I wanted to point out that a lot of the
10 grievances -- There's a lot of Defendants here. A lot of the
11 grievances don't talk about any of the Defendants.
12 Specifically, Christopher Doering wasn't mentioned.

13 THE COURT: I'm sorry. Could you say their names
14 more loudly?

15 MS. McCLIMANS: Christopher Doering, D-O-E-R-I-N-G,
16 and Susan Kunde were not mentioned in any grievance that I
17 saw. And that's K-U-N-D-E.

18 As far as Officer Burley, it does appear that he was
19 served later, so we would -- looks like we should have brought
20 something on behalf of him, but we didn't file --

21 THE COURT: But you didn't.

22 MS. McCLIMANS: We did not, no. So, anyway, you
23 know, it looks like the bulk of our argument is also that
24 Plaintiff obviously knows what she's doing as far as filing
25 grievances. Plaintiff has had a lot of opportunities to file

1 grievances, but it seems like what happened here is the
2 attorney stepped in, made sure that all the grievances were
3 exhausted in the writings of their letters by sending them to
4 Director Baldwin, to the Administrative Review Board, and to
5 the different wardens. I don't think that there is a specific
6 provision in the code that allows for that. The PLRA is
7 specific that it is for inmates to exhaust their
8 administrative remedies and tells specifically what the
9 inmates are supposed to do. I haven't seen anything in the
10 code or statute that specifically allows for the attorneys to
11 exhaust the Administrative Review Board for the inmates. If
12 they have seen it, they can let us know.

13 THE COURT: I think their argument was that there's
14 nothing that says they can't.

15 MR. MILLS: It is, although -- I will come up there
16 so I can talk in front of a mic.

17 So, take our first one first. No, those individuals
18 are not named. However, the incident in which they were
19 involved is the macing incident, which is described in the
20 6/29/18 emergency grievance; the typed one that was filed by
21 the lawyers and sent to Director Baldwin, to the ARB, and to
22 the warden. We have talked about why we think that's
23 exhausted.

24 So, the law is clear that the purpose of a grievance
25 is not to give notice to the Defense they might be sued. The

1 purpose of the grievance is to bring to the Department's
2 attention that there is a problem they might want to deal
3 with, and this grievance, I think, clearly and without
4 question did that and it was in great detail. The fact that
5 Ms. Hampton did not know the names of the specific people that
6 maced her does not matter. She gave the date, the time,
7 etcetera, which is all she's required to do in terms of the
8 macing incident. So, they are clearly covered.

9 In addition to what your Your Honor articulated is
10 our argument, which is that there's nothing prohibiting this,
11 I do think that there is an element of -- I don't know if it
12 rises to the level of equitable estoppel, but certainly close
13 to it, where they did deal with the February 22, '18 grievance
14 that was filed by the attorneys as an emergency grievance.
15 They didn't say that wasn't appropriate.

16 The first time they said it was not appropriate was
17 in June of 2018, the second set of grievances that we filed on
18 behalf of Ms. Hampton. So, to the extent that they think
19 there's an unwritten rule somewhere that we are not allowed to
20 do that, the proper time would have been to raise it the first
21 time we did it rather than the second time, wait four months
22 later, and say, "Oh, by the way, this was all improper."

23 As to whether or not there was irreparable harm here,
24 at all times she was being attacked -- and this is what Judge
25 Rosenstengel found -- that from the beginning of her time at

1 Lawrence she was not given mental health care, she was
2 continually either attacked or harassed by guards and/or other
3 prisoners, she continued to be in segregation where she
4 continued to deteriorate her mental health, and she was not
5 given the mental health treatment that she was required to
6 have. All of those rise to irreparable harm. There was
7 testimony at length as to how she continued to deteriorate
8 during the entire thing. She mentioned today, but described
9 in much more detail before the suicide attempts she had during
10 this period, because she was not getting treatment she was
11 both entitled to and, in fact, had been prescribed for her,
12 which was the whole reason she went to Lawrence in the first
13 place, was because they said they would have appropriate
14 treatment for her. She got there and they didn't.

15 So, Judge Rosenstengel, we contend, has already ruled
16 that there was, in fact, irreparable harm going on during this
17 entire time period, and, therefore, each of the grievances she
18 filed should have been treated as an emergency. And just as
19 Judge Rosenstengel said, nothing was done about any of them.
20 There no protection given to her at any time. There is not a
21 case where somebody files one grievance and then they run into
22 court. She filed repeated grievances over and over and over
23 again which were dealt with at the highest level through
24 Director Baldwin, who everybody agrees is the final say on all
25 grievances. He was aware of at least two of those, because he

1 responded, so we know he got them, and, therefore, we have
2 exhausted. We have done everything that she was required to
3 do. We have the one grievance that was, in fact, exhausted
4 despite the fact that the witness didn't have a record of it,
5 but you have a copy signed by him and by Director Baldwin
6 saying it's finalized, and he's admitted there's nothing more
7 that our client was supposed to do. And we are sitting here
8 now five months later -- four months later, and nothing has
9 happened on it. So, that shows exactly why we are arguing
10 that emergencies should be treated as emergencies and whether
11 or not you have the right to come into court to get relief
12 from the Court.

13 THE COURT: Anything else, Kay?

14 MS. McCLIMANS: I just want to point out if there
15 were any grievances filed in reference to Mr. Lanpley and we
16 also have moved on behalf of him, as well.

17 MR. MILLS: That's part of the Burley incident, as
18 well. Again, Burley himself was involved, as were several
19 other officers. Again, they are described by what happened,
20 not all by name, and then that incident itself is very much
21 described in both the 2/19 -- both of those, the 2/22 and the
22 2/19 incidents, grievances describing that incident.

23 THE COURT: Okay.

24 MS. McCLIMANS: I do want to point out that specific
25 people are named. Givens and Clark are named. However,

1 others are not, and there's no information that so and so or
2 John Doe or anybody else violated her rights at that time.

3 THE COURT: Okay.

4 MR. MILLS: Thank you for your time, Judge.

5 MS. McCLIMANS: Thank you.

6 MS. MAZUR: I was going to ask if after we are done
7 can we have a minute?

8 MS. HAMPTON: Ms. Daly, can I say one thing?

9 THE COURT: Only if it's helpful.

10 MS. HAMPTON: Yes, yes. I did describe in my
11 grievance that it was a lieutenant and a sergeant that maced
12 me for the Dixon situation. I didn't know their names at the
13 time, because I couldn't spell it. So, I described it. It
14 was a lieutenant and a sergeant that maced me. And then for
15 the Burley situation, I explained that it was multiple
16 officers that was unknown after watching, and when we got the
17 reports with their name on there, that's when I was able to
18 identify them by their name. But, I did say that it was
19 multiple officers watching and I did give a description when I
20 got maced by Sergeant Kunde and Lieutenant Doering. So, them
21 is also in my grievance as I described them as a lieutenant
22 and sergeant.

23 THE COURT: We will read it. Thank you very much for
24 that.

25 MS. McCLIMANS: Thank you.

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MS. MAZUR: Thank you.

MS. HAMPTON: Thank you.

THE CLERK: All rise. Court is now in recess.

(Court is adjourned.)

* * * * *

I certify that the foregoing is a correct transcript from the record of proceedings in the above-entitled matter.

/S/ Stephanie K. Rennegarbe
Certified Shorthand Reporter

05/20/2019