

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

Ashley DIAMOND,

Plaintiff,

v.

Arneika SMITH,

Defendant.

Civil Action No.
5:21-cv-378-MTT

**DEFENDANT ARNEIKA SMITH'S
MOTION FOR SUMMARY JUDGMENT**

COMES NOW Defendant Arneika Smith by her undersigned counsel, and moves this Court for summary judgment pursuant to Fed. R. Civ. P. Rule 56. In support of her motion, Defendant shows this Court summary judgment is proper based on the following grounds:

The instant 42 U.S.C. § 1983 action was filed by Plaintiff, an inmate in the custody of the Georgia Department of Corrections alleging Defendant violated Plaintiff's Eighth Amendment right to be free from cruel and unusual punishment by sexually abusing her and allegedly violated Plaintiff's Fourteenth Amendment right to privacy by intruding on Plaintiff's "right to bodily integrity and avoidance of disclosure of certain personal matters".

I. Plaintiff's Eighth Amendment claims are barred by qualified immunity because, even assuming Plaintiff's testimony regarding sexual harassment are true,

Plaintiff did not state facts sufficient to establish cruel and unusual punishment and, moreover, Defendant's alleged misconduct did not violate any clearly established Eighth Amendment constitutional right.

II. Plaintiff's Fourteenth Amendment claims are barred by qualified immunity because, even assuming Plaintiff's allegations of sexual harassment are true, Defendant's alleged misconduct did not violate any clearly established constitutional right to privacy.

III. Because Plaintiff did not allege and cannot demonstrate she suffered from either a physical injury or the commission of a sexual act, Plaintiff's claims for compensatory damages should be dismissed pursuant to 42 U.S.C. § 1997e(e) of the Prison Litigation Reform Act.

A. The sexual harassment allegedly committed by Defendant, even if true, does not amount to a "sexual act" as this term is defined under 18 U.S.C. § 2246(2) and thus, cannot be a basis for compensatory relief under § 1997e(e).

B. Plaintiff has not alleged or presented evidence of more than a *de minimis* physical injury. Plaintiff's only alleged physical injury was self-inflicted and, therefore, does not satisfy the physical injury requirement under 42 U.S.C. § 1997e(e) for compensatory relief.

In further support of her motion, Defendant files contemporaneously herewith her brief in support of her motion to for summary judgment, exhibits attached thereto, and Defendant's statement of undisputed material facts.

WHEREFORE, for the reasons herein stated, Defendant Arneika Smith respectfully requests the Court grant her motion for summary judgment and enter an order dismissing the claims against this Defendant or, alternatively, dismissing Plaintiff's claims for compensatory damages.

Respectfully submitted this 25th day of April, 2022.

SATCHER MCGOVERN LLC

/s/ Annarita L. McGovern
ANNARITA L. MCGOVERN
Georgia Bar No. 098141

/s/ Terry L. Long
TERRY L. LONG
Georgia Bar No. 457460

Counsel for Defendant Arneika Smith

288 South Main Street
Suite 100
Alpharetta, Georgia 30009
Office: (770) 765-0225
Direct: (770) 847-7280
amcgovern@satchermcgovernlaw.com
tlong@satchermcgovernlaw.com

CERTIFICATE OF SERVICE

I certify I have this day served a true and correct copy of the foregoing **DEFENDANT ARNEIKA SMITH'S STATEMENT OF MATERIAL FACTS TO WHICH THERE EXISTS NO ISSUE TO BE TRIED** with the clerk of court using the CM/ECF system which automatically sends notification of such filing as follows:

Elizabeth Littrell
Tyler Rose Clemons
Maya G. Rajaratnam
Southern Poverty Law Center
Chinyere Ezie
Center for Constitutional Rights
Counsel for Plaintiff

This 25th day of April, 2022.

SATCHER MCGOVERN LLC

/s/ Annarita L. McGovern
ANNARITA L. MCGOVERN
Georgia Bar No. 098141
Counsel for Defendant Arneika Smith

288 South Main Street
Suite 100
Alpharetta, Georgia 30009
Office: (770) 765-0225
Direct: (770) 847-7280
amcgovern@satchermcgoovernlaw.com

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Civil Action No.
5:21-cv-378-MTT

**DEFENDANT ARNEIKA SMITH'S BRIEF IN SUPPORT
OF HER MOTION FOR SUMMARY JUDGMENT**

COMES NOW Defendant Arneika Smith (hereinafter Defendant) through her undersigned counsel and presents her brief in support of her motion for summary judgment as follows:

STATEMENT OF FACTS AND PROCEEDINGS

The instant 42 U.S.C. § 1983 action was filed on November 23, 2020, by Plaintiff, an inmate in the custody of the Georgia Department of Corrections. [Doc. 1.] Plaintiff was incarcerated at the time of the events alleged in the Complaint and has remained incarcerated through the present. [Ex. 1 Pltf. Dep. 15:16-16:11 & 34:5-13.] ¹ The controlling first amended Complaint was filed on February 16, 2021.

¹ According to Plaintiff: Plaintiff's original sentence was 12 years to serve for burglary arising from attempting to pawn stolen property which sentence was entered in or about 2012; Plaintiff was paroled in or about 2015 and then reentered

[Doc. 36.] On November 1, the Court ordered that the claims against Defendant be severed and the case's civil action number was changed from 5:20-cv-453 to 5:21-cv-378-MTT. [Doc. 114.]

Defendant, at the time of the relevant events, served as a correctional officer at Georgia Diagnostic and Classification Prison (GDCP), in Jackson, Georgia. [Ex. 2 Dft. Dep. 16:19-17:17, 21:15-20, & 73:2-19.] Defendant is named in her individual capacity only. [Doc. 36.] Plaintiff's claims against Defendant are found in Counts II and III of the amended Complaint, namely that Defendant allegedly violated Plaintiff's Eighth Amendment right to be free from cruel and unusual punishment by sexually abusing her and further, Defendant allegedly violated Plaintiff's Fourteenth Amendment right to privacy by intruding on Plaintiff's "right to bodily integrity and avoidance of disclosure of certain personal matters". [Doc. 36 pp. 63-65, ¶¶ 295-313.]

The alleged events occurred at GDCP at C-house (also referred to as C-unit and C-dorm). [Ex. 1 Pltf. Dep. 96:21-97:7, 98:2-15, 110:18-111:3, & 139:4-11; Ex. 2 Dft. Dep. 48:15-16 & 75:9-13.] During this time, Plaintiff was an inmate-orderly in C-house and Defendant was an officer assigned to C-house. Id. Although Defendant adamantly disputes the facts testified to by Plaintiff, for purposes of this

the prison system on a parole revocation in or about 2020. [Ex. 1 Pltf. Dep. 20:25-21:23, 26:16-24, 92:1-15, & 96:21-97:10.]

motion only, Plaintiff's testimony must be accepted as true.

Plaintiff's relevant factual claims for purposes of this motion are outlined as follows: Plaintiff alleges that on the morning of May 9, 2020, at the request of Defendant, Plaintiff followed Defendant into a room on the bottom range of C-house known as the officer's office (also referred to as the officer's restroom and officer's closet). [Ex. 1 Pltf. Dep. 125:1-127:25 & 135:21-22.] The officer's office was the same size as an inmate's cell and inside the room was a toilet, sink, shelves with work forms, chair, table, mini-refrigerator, and other miscellaneous items. [Ex. 1 Pltf. Dep. 125:1-127:25; Ex. 2 Dft. Dep. 52:8-24.] Plaintiff claims that Defendant locked the door to the officer's office and just the two of them remained in the room for about two hours. [Ex. 1 Pltf. Dep. 126:1-3, 133:13-15, 136:22-25, & 157:22-25.] While in the room for two (2) hours on May 9, 2020, Plaintiff alleges Defendant asked Plaintiff inappropriate questions about Plaintiff's genitalia such as whether Plaintiff had a penis, whether Plaintiff liked dicks, as well as questions about Plaintiff's breasts. [Ex. 1 Pltf. Dep. 125:1-127:25 & 153:16-155:20.] Plaintiff states she did not answer Defendant's questions and has no recollection of answering the questions. [Ex. 1 Pltf. Dep. 153:16-155:20.] Also, while in the room, Plaintiff alleges Defendant touched Plaintiff's legs and thighs through Plaintiff's clothes. [Ex. 1 Pltf.

Dep. 155:21-156:16-19, 172:5-7, & 191:17-192:11.]²

The following morning, on May 10, 2020, Plaintiff alleges about the same thing happened again. Allegedly, Plaintiff once again followed Defendant into the officer's office, Defendant locked the door, and the two of them again remained alone in the office for at least two hours and possibly up to four hours – except that for a brief few minutes when an officer came by and checked the closet and the two allegedly temporarily left the closet and then re-entered for another 45 minutes to two hours. [Ex. 1 Pltf. Dep. 162:17-163:22, 177:13-25, & 243:14-23.] However, on this second date and time, Plaintiff testified that she also briefly exposed her breasts and her genitalia so that Defendant could quickly examine these private parts, allegedly at the request of Defendant; also, without removing her bra or clothes, Defendant allegedly showed Plaintiff her breasts. [Ex. 1 Pltf. Dep. 184:11-185:19 & 191:17-192:17.] Purportedly, similar touching of Plaintiff's thighs, legs, and buttocks through Plaintiff's clothes by Defendant also occurred on this second day. [Ex. 1 Pltf. Dep. 172:5-7 & 191:17-192:11.]³

² Although not material to the motion for summary judgment, Defendant denies that anything happened on May 9, 2020, and specifically denies that she was in the closet with Plaintiff for two hours or for any length of time, and denies that she ever asked Plaintiff any questions of a sexual nature, or that she touched Plaintiff in any manner. [Ex. 2 Dft. Dep. 131:6-13 & 132:21-133:17.]

³ Regarding the May 10th alleged events: Defendant admits that she went into the officer's closet with Plaintiff that morning for about five or six minutes when she first came on shift (after conducting count); Defendant was looking for her jacket; she was short and could not see if her jacket was on the top shelf in the officer's

Notably, Plaintiff admits that on neither May 9th nor May 10th did she ask to leave the officer's office or make any effort whatsoever to leave. [Ex. 1 Pltf. Dep. 156:3-10 & 182:24-183:13.] Also, there is no evidence that force was used to get Plaintiff to enter the officer's closet.

Based on these allegations, Plaintiff seeks compensatory damages from Defendant. [Doc. 36 ¶¶ 304 & 313.] Plaintiff's damages are based on her self-serving contentions that the May 9th and 10th incidents (along with her many other alleged sexual assaults, physical assaults, and instances of sexual harassment and improper touching) caused her severe mental anguish – including emotional distress that allegedly led Plaintiff to attempt suicide on multiple occasions throughout her two incarcerations. [Ex. 1 Pltf. Dep. 48:24-50:12 & 228:3-229:3.] Plaintiff testified that she had “bouts of self-harm” and “several” “suicide attempts” as a result of the incidents with Defendant and also she felt “self-doubt”, “low self-worth,” and had “nightmares.” Id.

Plaintiff's claims are barred in the first instance by qualified immunity. Moreover, because Plaintiff fails, as a matter of law, to plead or present evidence

closet; Defendant asked Plaintiff (the orderly that regularly assisted in C-house) to come into the closet with Defendant to help her find her jacket and then Plaintiff found Defendant's jacket on the top shelf; and the two spoke in the closet a couple of minutes as Plaintiff was providing gossip about another officer that Defendant was dating – that was all that happened on May 10, 2020, relating to Plaintiff's allegations. [Ex. 2 Dft. Dep. 137:2- 158:8 & 161:20-166:16.]

sufficient to substantiate either a physical injury or a sexual act, Plaintiff's claims for compensatory damages are barred by 42 U.S.C. § 1997e(e) of the Prison Litigation Reform Act.

STANDARD OF REVIEW

Summary judgment should be granted when “there is no genuine issue of any material fact...and the moving party is entitled to judgment as a matter of law.” Fed. R. Civ. P. 56(c). See also Celotex Corp. v. Catrett, 477 U.S. 317, 324 (1986), cert. denied, 484 U.S. 1066 (1988). The movant has the initial burden of showing that no genuine issue of material fact exist. Rule 56(c). If this burden is met, the nonmoving party must go “beyond the pleadings” and present evidence designating “specific facts showing that there is a genuine issue for trial.” Celotex, 477 U.S. at 324. “[T]he mere existence of *some* alleged factual dispute between the parties will not defeat an otherwise properly supported motion for summary judgment; the requirement is that there be no *genuine* issue of *material* fact.” Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986). An issue is not genuine if it is unsupported by admissible evidence, speculative evidence, or evidence that is not significantly probative. To survive, the nonmoving party must come forward with specific evidence of every element essential to the party's case. Celotex, 477 U.S. at 323. The non-movant must do more than “simply show that there is some metaphysical doubt as to the material facts.” Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 586 (1986).

“The mere existence of a scintilla of evidence in support of the [non-movant’s] position will be insufficient....” Anderson, 477 U.S. at 252.

ARGUMENT AND CITATION OF AUTHORITY

I. Defendant’s alleged actions did not violate any clearly established law and thus, both the Eighth and Fourteenth Amendment claims are barred by qualified immunity.

Qualified immunity protects government officers sued in their individual capacities from suit so long as their conduct “does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.” Vinyard v. Wilson, 311 F.3d 1340, 1346 (11th Cir. 2002) (quoting Harlow v. Fitzgerald, 457 U.S. 800 (1982)). The inquiry turns on the “objective legal reasonableness of the action, assessed in light of the legal rules that were clearly established at the time it was taken.” Wilson v. Layne, 526 U.S. 603 (1999) (internal quotation marks omitted); Hope v. Pelzer, 536 U.S. 730, 739 (2002) (Qualified immunity operates to ensure that before officers are subject to suit they are on clear notice that their conduct is unlawful.). In reviewing qualified immunity, a “public official must first prove that [she] was acting within the scope of [her] discretionary authority when the allegedly wrongful acts occurred.” Lee v. Ferraro, 284 F.3d 1188, 1194 (11th Cir. 2002) (internal quotation marks omitted). Here, there is no genuine dispute that Defendant was acting within her discretionary capacity in this case; thus, the burden shifts to Plaintiff to show that qualified immunity is inappropriate. Id. To

do so, Plaintiff must meet the two-part standard established by the Supreme Court in Pearson v. Callahan, 555 U.S. 223 (2009). First, Plaintiff must prove facts that establish the officer violated her constitutional rights; and second, Plaintiff must also show that the right involved was “clearly established” at the time of the putative misconduct. Id. at 232. This inquiry is “undertaken in light of the specific context of the case, not as a broad general proposition.” Lee, 284 F.3d at 1194.

Regarding Plaintiff’s Eighth Amendment claim, the alleged misconduct here does not amount to severe repetitive abuse needed to state an Eighth Amendment violation. Moreover, Plaintiff’s Eighth Amendment claim amounts to neither a violation of the Eighth Amendment, nor a violation of any clearly established law. The Eleventh Circuit makes clear that non-severe, isolated sexual touching or the mere tort of sexual harassment does not amount to a constitutional violation. DeJesus v. Lewis, 14 F.4th 1182 (11th Cir. 2021). The Eleventh Circuit held “that the ‘sexual assault’ of a prisoner by a prison official in violation of the Eighth Amendment occurs when the prison official, acting under color of law and without legitimate penological justification, engages in a sexual act with the prisoner, and that act was for the official’s own sexual gratification, or for the purpose of humiliating, degrading, or demeaning the prisoner.” Id. at 1197 citing 18 U.S.C. § 2246(2). “At a minimum, those sexual acts include intentional sexualized touching underneath clothing, such as fondling or penetration; coerced sexual activity; combinations of

ongoing harassment and abuse; and exchanges of sexual activity for special treatment or to avoid discipline.” DeJesus, 14 F.4th 1197. The conduct at issue in the present case is not severe or repetitive sexual abuse and did not involve sexual acts; thus, these incidents do not violate the Eighth Amendment or any clearly established legal precedent in this circuit. Id. citing Sconiers v. Lockhart, 946 F.3d 1256 (11th Cir. 2020). See also Boxer X v. Harris, 437 F.3d 1107 (11th Cir. 2006) (A female prison guard’s alleged solicitation of male prisoner’s manual masturbation, even under the threat of reprisal, did not present more than *de minimis* injury and, therefore, did not give rise to a claim under the Eighth Amendment.); Washington v. Harris, 186 F.Appx. 865, 866 (11th Cir. 2006) (An officer grabbing an inmate’s genitals while he was working, kissing him on the mouth, threatening to perform oral sex, or continuing verbal sexual advances did not state an Eighth Amendment claim or more than a *de minimis* injury; dismissal based on qualified immunity upheld.); Moton v. Walker, 545 F. Appx. 856, 860 (11th Cir. 2013) (Even if a prison guard lacked a legitimate purpose for conducting a strip search of an inmate while having a guilty looking smile, because the inmate suffered no more than a *de minimis* injury, no Eighth Amendment violation occurred and the guard was entitled to qualified immunity.); Bonner v. Hall, Case No. 3:11cv4/MCR/CJK, 2012 U.S. Dist. LEXIS 155929 at *3 (N.D. Fla. Oct. 1, 2012) (A correctional officer asking to see an inmate’s penis then licking his lips does not indicate anything more than a de

minimis injury and, thus, fails to state a constitutional claim.), adopted, 2012 U.S. Dist. LEXIS 155928 (N.D. Fla. Oct. 30, 2012); Allen v. McDonough, Case No. 4:07cv469/RH/GRJ, 2011 U.S. Dist. LEXIS 107984 (N.D. Fla. Aug. 17, 2011) (An officer's making sexual comments and gesture to an inmate during the inmate's shower did not rise to level of Eighth Amendment violation.) adopted, 2011 U.S. Dist. LEXIS 103803 (N.D. Fla. Sept. 14, 2011); Newton v. Wheeler, Case. No. 5:15cv211/MP/CJ, 2015 U.S. Dist. LEXIS 149769 (N.D. Fl. Oct. 2, 2015) (A female officer allegedly repeatedly propositioning and attempting to kiss an inmate was not a violation of the Eighth Amendment.); Jackson v. Madery, 158 F. Appx. 656, 661-62 (6th Cir. 2005) (An allegation of rubbing and grabbing of a prisoner's buttocks in a degrading manner did not amount to an Eighth Amendment violation.); Joseph v. U.S. Fed. Bureau of Prisons, 232 F.3d 901 (10th Cir. 2000) (No Eighth Amendment claim is shown where plaintiff alleged a prison official touched him several times in a suggestive manner and exposed her breasts to him.); and Jones v. Culinary Manager II, 30 F. Supp. 2d 491, 493, 497-98 (E.D. Pa. 1998) (An allegation that a prison guard pinned plaintiff to a box, ground his pelvis against plaintiff's buttocks, and threatened to have sex with the inmate was not sufficiently serious to violate the Eighth Amendment.).

Based on this long line of legal precedent, Defendant here, even if she had committed the acts alleged, did not violate Plaintiff's Eighth Amendment

constitutional right or any clearly established law. Accordingly, Defendant is entitled to qualified immunity.

Turning next to the Fourteenth Amendment claim, Defendant likewise is entitled to qualified immunity. As to Plaintiff's claimed right to bodily integrity, the Eleventh Circuit has recognized that inmates "retain certain fundamental rights of privacy," including a "constitutional right to bodily privacy." Fortner v. Thomas, 983 F.2d 1024, 1029-30 (11th Cir. 1993). Plaintiff's claims, however, do not involve an intrusion of any such recognized magnitude. Compare Hunter v. Palmer, Case No. 1:17-cv-109, 2017 U.S. Dist. LEXIS 53181 (W.D. Mich. April 6, 2017). Here, Plaintiff was not physically forced to display her genitalia or breasts, she was not asked to perform a sexual activity such as masturbation, and the encounter was both private and brief, as opposed to a prolonged public display. Any cases relied upon by Plaintiff would involve "factual scenarios much more egregious than those presented by the evidence in this case." Davis v. City of Leesburg, Case No. 5:12-cv-609-Oc-10PRL, 2014 U.S. Dist. LEXIS 138534 (M.D. Fl. Sept. 30, 2014). Particularly, those allegations of the events allegedly occurring on May 9, 2020, when absolutely no nudity or touching is alleged to have occurred.

Plaintiff can cite to no case law showing Defendant's actions were clearly a violation of Plaintiff's right to privacy. For a right to be clearly established, "the contours of the right must be sufficiently clear that a reasonable official would

understand that what [she] is doing violates [a constitutional] right.” Anderson v. Creighton, 483 U.S. 635, 640 (1987). There is an absence of case law deeming Defendant’s conduct in the instant case was anything more than a tort of sexual harassment; no established unconstitutional intrusion standard has been violated. The contours of Plaintiff’s right to bodily privacy are not so sufficiently clear that Defendant would have understood that her alleged actions violated a constitutional right. Id. Plaintiff did not answer the sexual questions asked of her and she could have just as easily refused a request to quickly show Defendant her private parts – no caselaw suggests these harmless, childish actions are unconstitutional. Webb v. White, Case No. 8:07-CV-1396-T-27MSS, 2008 U.S. Dist. LEXIS 91587 (M.D. Fl. Nov. 12, 2008). Therefore, Defendant also is entitled to qualified immunity on Plaintiff’s Fourteenth Amendment claim.

II. Because Plaintiff did not allege and cannot demonstrate she suffered from either a physical injury or the commission of a sexual act, Plaintiff’s claims for compensatory damages should be dismissed.

The Prison Litigation Reform Act (PLRA) provides “[n]o Federal civil action may be brought by a prisoner...for mental or emotional injury suffered while in custody without a prior showing of physical injury or the commission of a sexual act (as defined in section 2246 of title 18, United States Code).” 42 U.S.C. § 1997e(e). Absent allegations that a defendant’s actions are related to a physical injury or a sexual act, a plaintiff cannot obtain compensatory relief. Rager v. Augustine, 760

Fed. Appx. 947 (11th Cir. 2019). Under 42 U.S.C. § 1997e(e) and Eleventh Circuit “caselaw, an incarcerated plaintiff cannot recover either compensatory damages for constitutional violations unless he can demonstrate a (more than *de minimis* physical injury.” Brooks v. Powell, 800 F.3d 1295, 1307 (11th Cir. 2015) citing Harris v. Garner, 190F.3d 1279, 1286 (11th Cir. 1999) (dismissing claims for compensatory damages), rehearing en banc granted and opinion vacated, 197 F.3d 1059 (11th Cir. 1999), opinion reinstated in relevant part, 216 F.3d 970. See also Johnson v. White, 989 F.3d 913 (11th Cir. 2021) (in interpreting the federal companion provision to 42 U.S.C. § 1997e(e) found in 28 U.S.C. § 1346(b)(2), the Eleventh Circuit held that a claim that prison officers removed the inmate’s clothing and fondled his genitals and buttocks without his consent was not sufficient to establish either physical injury or a sexual act – summary judgment was affirmed). In the present case, Plaintiff fails to make a “showing of physical injury or the commission of a sexual act” requiring her claims for compensatory damages to be dismissed.

A. Plaintiff has not alleged or demonstrated evidence that Defendant committed a “sexual act” as this term is defined in § 2246(2).

First, Plaintiff’s allegations, even if true are insufficient to establish Defendant Smith committed a sexual act. The term “sexual act” for purposes of the PLRA is defined in 18 U.S.C. § 2246(2) as:

- (A) Contact between the penis and the vulva or the penis and the anus, and for purposes of this subparagraph contact involving the penis occurs upon penetration, however slight;

- (B) Contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus;
- (C) The penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or
- (D) The intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or ratify the sexual desire of any person;

None of the allegations against Defendant fall into the plain language of the codified definition of sexual act. Defendant's alleged misconduct including the questions regarding Plaintiff's sexual preferences, the viewing of Plaintiff's genitals and breasts, and the touching of Plaintiff's legs, thighs, and buttocks through her clothes – do not fall within the definition of sexual act. Thus, Plaintiff has not pled and cannot prove she suffered from a sexual act.

B. Plaintiff has not alleged or presented evidence of more than a *de minimis* physical injury.

Neither the controlling Complaint nor Plaintiff's testimony suggest that Plaintiff incurred anything more than a *de minimis* injury – other than the presumed injuries resulting from Plaintiff's alleged multiple attempts of self-harm and attempted suicide. However, even assuming *arguendo* that Plaintiff injured herself in her multiple suicide attempts, courts in this district hold that self-inflicted injuries are not sufficient to allege a physical injury caused by a defendant's misconduct.

See, e.g., Morrill v. Holmes County Jail, Case No. 5:15-cv-324-WTH-GRJ, 2018 U.S. Dist. LEXIS 219853 (N.D. Fl. Jan. 30, 2018) adopted by 2019 U.S. Dist. LEXIS 9944 (N.D. Fla. Jan. 22, 2019) (“while Plaintiff sustained lacerations, hypothermia, leukocytosis, hypovolemia, and anemia from his suicide attempts, Plaintiff’s self-inflicted injuries are insufficient as a matter of law to meet the physical injury requirement under the PLRA.”).

Although the Eleventh Circuit has not yet addressed whether injuries of a self-inflicted nature, such as those alleged by Plaintiff, are sufficient to establish more than *de minimis* injuries for PLRA purposes, several other federal courts, including two (2) courts in this district have addressed the issue. See Morrill, 2018 U.S. Dist. LEXIS 219853 *27-28 (N.D. Fl. Jan. 30, 2018) (plaintiff’s injuries from attempted suicide are insufficient as a matter of law to meet the physical injury requirement); Corbin v. Adams, Case No. 6:19-cv-26, 2020 U.S. Dist. LEXIS 103380 (S.D. Ga. May 21, 2020) (plaintiff failed to make a minimum showing of a physical injury resulting from the defendant’s actions based on cutting himself); Argetsinger v. Ritter, Case No. 08-cv-01990-PAB-KMT, 2009 U.S. Dist. LEXIS 90192 *4 (D. Colo. Sept. 29, 2009) (inmate’s self-inflicted arm laceration did not amount to a “physical injury” under the PLRA, noting that “allowing a self-inflicted injury to satisfy the physical injury requirement of § 1997e(e) would create a perverse incentive of self harm in prison populations”); Steyer v. Rogers, Case No. 07-

3350(DRD), 2008 U.S. Dist. LEXIS 12784 *4 (D.N.J. Feb. 21, 2008) (“[Plaintiff] does not allege any physical injury suffered at the hands of Defendants. His only injuries were self-inflicted and resulted from his suicide attempt. Therefore, even if [plaintiff’s] Complaint had stated a cause of action under § 1983, it would be barred by § 1997e(e) because [plaintiff] has failed to allege a prior physical injury.”); Matagrano v. N.Y. State Dept. of Corrections Services, Case No. 98 CIV. 428(AKH), 1999 U.S. Dist. LEXIS 13309 *2 (S.D.N.Y. Aug. 31, 1999) (finding that an inmate failed to demonstrate he suffered any physical injury – other than self-inflicted injuries – caused by defendants); see also Beau v. Watson, Case No. 7:09-cv-00232, 2009 U.S. Dist. LEXIS 52725 (W.D. Va. June 22, 2009) (“[A]n inmate cannot create the imminent danger so as to escape the three strikes provision of the PLRA. To allow inmates to allege future infliction of self-harm to bypass §1915(g) would eviscerate Congress’ intent to limit the frequency of inmates’ frivolous suits.”); and Wallace v. Cockrell, Case No. 3:02-CV-1807-M, 2003 U.S. Dist. LEXIS (N.D. Tex. Mar. 10, 2003) (a prisoner’s threat of self-inflicted injury was insufficient to show he was in imminent danger of serious physical injury for purposes of the PLRA’s “three-strikes” provision because allowing a prisoner to create the imminent danger by self-inflicting serious physical injury would eviscerate the “three-strikes” rule).

Clearly, there is no evidence that Defendant ever physically harmed Plaintiff.

Moreover, other than Plaintiff's self-serving allegations, there is no evidence that Plaintiff ever injured herself. Even assuming, however, that Plaintiff inflicted physical injuries on herself as she alleged, such would not substantiate a claim for damages. Consistent with the reasoning with the many cases outlined above, the Court should conclude that self-inflicted injuries do not rise to the level of a physical injury under the PLRA. A contrary ruling would encourage inmates to self-inflict harm or, alternatively, place an impossible burden on a defendant to show no suicide attempt was ever made, thereby eviscerating Congress' intent to limit the frequency of frivolous inmate litigation with the "physical-injury" requirement. It follows that, Plaintiff has not pled and cannot prove she suffered from a physical injury.

CONCLUSION

Based on the legal precedent in this circuit, Defendant's alleged conduct, even if true, did not violate any clearly establish law. Accordingly, Defendant is entitled to summary judgment on the basis of qualified immunity. Alternatively, at a minimum, Plaintiff's claims for compensatory damages should be dismissed. The record before this Court provides no indication that any of the wrongs complained of in this action caused Plaintiff physical injury, or that the alleged misconduct involved the commission of a sexual act. Therefore, Plaintiff's compensatory damages should be dismissed.

Based on the foregoing, Defendant respectfully requests the Court grant her

motion for summary judgment or, alternatively, dismiss Plaintiff's claims for compensatory damages.

Respectfully submitted this 25th day of April, 2022.

SATCHER MCGOVERN LLC

/s/ Annarita L. McGovern
ANNARITA L. MCGOVERN
Georgia Bar No. 098141

/s/ Terry L. Long
TERRY L. LONG
Georgia Bar No. 457460

Counsel for Defendant Arneika Smith

288 South Main Street
Suite 100
Alpharetta, Georgia 30009
Office: (770) 765-0225
Direct: (770) 847-7280
amcgovern@satchermcgovernlaw.com
tlong@satchermcgovernlaw.com

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true and correct copy of the within and foregoing **DEFENDANT ARNEIKA SMITH'S BRIEF IN SUPPORT OF HER MOTION FOR SUMMARY JUDGMENT** with the clerk of court using the CM/ECF system which will automatically send email notification of such filing to registered parties as follows:

Elizabeth Littrell
Tyler Rose Clemons
Maya G. Rajaratnam
Southern Poverty Law Center
Chinyere Ezie
Center for Constitutional Rights
Counsel for Plaintiff

This 25th day of April, 2022.

SATCHER MCGOVERN LLC

/s/ Annarita L. McGovern
ANNARITA L. MCGOVERN
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Counsel for Defendant Arneika Smith

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**DEFENDANT ARNEIKA SMITH'S STATEMENT OF MATERIAL FACTS
TO WHICH THERE EXISTS NO ISSUE TO BE TRIED**

COMES NOW Defendant Arneika Smith and pursuant to L.R. 56 hereby shows the Court there is no genuine issue to be tried as to the following material facts which are undisputed [all references to exhibits are those attached to and submitted with Defendant's brief in support of his motion for summary judgment filed contemporaneously herewith]. Although Plaintiff's allegations and her version of the facts are adamantly disputed by Defendant, for purposes of Defendant's motion for summary judgment only, the following material facts are treated as undisputed.

STATEMENT OF UNDISPUTED MATERIAL FACTS

1. The instant 42 U.S.C. § 1983 action was filed by Plaintiff while she was an inmate incarcerated in prison. [Doc. 1; Ex. 1 Pltf. Dep. 15:16-16:11 & 34:5-13.]
2. Defendant, at the time of the relevant events, served as a correctional officer at a State prison facility (Georgia Diagnostic and Classification Prison (GDGP))

where Plaintiff was incarcerated. [Ex. 2 Dft. Dep. 16:19-17:17, 21:15-20, & 73:2-19.]

3. Defendant is named in her individual capacity only. [Doc. 36.]
4. The alleged events occurred at GDCP at C-house (also referred to as C-unit and C-dorm). [Ex. 1 Pltf. Dep. 96:21-97:7, 98:2-15, 110:18-111:3, & 139:4-11; Ex. 2 Dft. Dep. 48:15-16 & 75:9-13.]
5. During relevant events, Plaintiff was an inmate-orderly in C-house and Defendant was an officer assigned to C-house. [Ex. 1 Pltf. Dep. 96:21-97:7, 98:2-15, 110:18-111:3, & 139:4-11; Ex. 2 Dft. Dep. 48:15-16 & 75:9-13.]
6. On the morning of May 9, 2020, at the request of Defendant, Plaintiff followed Defendant into a room on the bottom range of C-house known as the officer's office (also referred to as the officer's restroom and officer's closet) without any use-of-force. [Ex. 1 Pltf. Dep. 125:1-127:25 & 135:21-22.]
7. The officer's office was the same size as an inmate's cell and inside the room was a toilet, sink, shelves with work forms, chair, table, mini-refrigerator, and other miscellaneous items. [Ex. 1 Pltf. Dep. 125:1-127:25; Ex. 2 Dft. Dep. 52:8-24.]
8. After they entered, Defendant locked the door to the officer's office and just the two of them remained in the room for about two hours. [Ex. 1 Pltf. Dep. 126:1-3, 133:13-15, 136:22-25, & 157:22-25.]

9. While in the Officer's office for two (2) hours on May 9, 2020, Defendant asked Plaintiff questions about Plaintiff's genitalia and Plaintiff's breasts. [Ex. 1 Pltf. Dep. 125:1-127:25 & 153:16-155:20.]
10. Plaintiff did not answer Defendant's personal questions and has no recollection of answering the questions. [Ex. 1 Pltf. Dep. 153:16-155:20.]
11. While in the officer's office for two (2) hours on May 9, 2020, Defendant touched Plaintiff's legs and thighs through Plaintiff's clothes, and no other inappropriate touching occurred. [Ex. 1 Pltf. Dep. 155:21-156:16-19, 172:5-7, & 191:17-192:11.]
12. At approximately the same time the next morning, on May 10, 2020, Plaintiff once again followed Defendant into the officer's office without any use-of-force, Defendant locked the door, and the two of them again remained alone in the office for at least two hours and possibly up to four hours – except that for a brief few minutes when an officer came by and checked the office and the two (Plaintiff and Defendant) allegedly temporarily left the closet and then re-entered for another 45 minutes to two hours. [Ex. 1 Pltf. Dep. 162:17-163:22, 177:13-25, & 243:14-23.]
13. During the May 10, 2020, office incident, at the request of Defendant, Plaintiff briefly exposed her breasts and her genitalia to Defendant. [Ex. 1 Pltf. Dep. 184:11-185:19 & 191:17-192:17.]

14. During the May 10, 2020, office incident, without removing her bra or clothes, Defendant showed Plaintiff her breasts. [Ex. 1 Pltf. Dep. 184:11-185:19 & 191:17-192:17.]
15. During the May 10, 2020, office incident, similar touching of Plaintiff's thighs, legs, and buttocks through Plaintiff's clothes by Defendant also occurred, and no other inappropriate touching occurred. [Ex. 1 Pltf. Dep. 172:5-7 & 191:17-192:11.]
16. Plaintiff never, during the time she was in the officer's office with Defendant on either May 9th or May 10th, asked to leave the officer's office or made any effort whatsoever to leave. [Ex. 1 Pltf. Dep. 156:3-10 & 182:24-183:13.]
17. Plaintiff attempted suicide and practiced self-harm throughout her multiple incarcerations in the prison system from 2012 through the present – this was done so often that Plaintiff cannot recall the details of all the occasions she attempted self-harm or suicide. [Ex. 1 Pltf. Dep. 193:12-199:22.]
18. Plaintiff seeks damages for emotional distress; she does not seek damages for any alleged physical injuries other than those resulting from Plaintiff's alleged suicide attempts and other self-harm that occurred on multiple occasions. [Ex. 1 Pltf. Dep. 48:24-50:12 & 228:3-229:3.]

Respectfully submitted this 25th day of April, 2022.

SATCHER MCGOVERN LLC

/s/ Annarita L. McGovern
ANNARITA L. MCGOVERN
Georgia Bar No. 098141

/s/ Terry L. Long
TERRY L. LONG
Georgia Bar No. 457460

Counsel for Defendant Arneika Smith

288 South Main Street
Suite 100
Alpharetta, Georgia 30009
Office: (770) 765-0225
Direct: (770) 847-7280
amcgovern@satchermcgovernlaw.com
tlong@satchermcgovernlaw.com

CERTIFICATE OF SERVICE

I certify I have this day served a true and correct copy of the foregoing **DEFENDANT ARNEIKA SMITH'S STATEMENT OF MATERIAL FACTS TO WHICH THERE EXISTS NO ISSUE TO BE TRIED** with the clerk of court using the CM/ECF system which automatically sends notification of such filing as follows:

Elizabeth Littrell
Tyler Rose Clemons
Maya G. Rajaratnam
Southern Poverty Law Center
Chinyere Ezie
Center for Constitutional Rights
Counsel for Plaintiff

This 25th day of April, 2022.

SATCHER MCGOVERN LLC

/s/ Annarita L. McGovern
ANNARITA L. MCGOVERN
Georgia Bar No. 098141
Counsel for Defendant Arneika Smith

288 South Main Street
Suite 100
Alpharetta, Georgia 30009
Office: (770) 765-0225
Direct: (770) 847-7280
amcgovern@satchermcgoovernlaw.com

EXHIBIT 1

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UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

Ashley DIAMOND,)
Plaintiff,)
)
V.) CIVIL ACTION FILE NO.
) 5:21-cv-378-MTT
Arneika SMITH,)
Defendant.)
-----)

The Deposition of
ASHLEY DIAMOND

February 22, 2022
9:29 a.m.

VIA ZOOM DEPOSITION

Tammy L. Gardner, CCR
Certified Court Reporter #2804

Diamond, Ashley Vs. Smith, Arneika

1 Diamond, who resides in Floyd County.

2 Q. Great. Thank you.

3 A. Yes.

4 Q. I'm guessing, then, that you have a lot
5 of cousins that live in Georgia?

6 A. I do.

7 Q. How many cousins do you have over 18?

8 A. I have -- I can't tell you off the top of
9 my head. I don't know that information.

10 Q. Okay. Do you have any spouses that
11 reside in Georgia? Or former spouses?

12 A. I do not.

13 Q. What about children? Do you have any
14 children?

15 A. I do not.

16 Q. Where are you currently incarcerated?

17 A. I'm incarcerated in Garden City, Georgia,
18 in Savannah at Coastal State Prison.

19 Q. And is that where you are right now?

20 A. That is where I'm at right now.

21 Q. Is there anybody else in the room with
22 you?

23 A. There is no one in the room with me at
24 this time.

25 Q. How long have you been at Coastal?

Diamond, Ashley Vs. Smith, Arneika

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1 A. I've been at Coastal for the duration of
2 my incarceration, which has been about -- I arrived
3 here June 2020, so, let's see. I got here in June
4 2020. It is now -- I've been about a year -- over
5 about a year and a half.

6 Q. Were you incarcerated anywhere before
7 that in Georgia?

8 A. Yes. I was incarcerated at GDCP, which
9 is the Diagnostic Prison in Georgia.

10 Q. That's in Jackson?

11 A. It is.

12 Q. What about any other institutions?

13 A. What do you mean? Have I been in -- I
14 was in the Ford County Jail --

15 Q. Have you been in any prisons --

16 COURT REPORTER: I'm sorry. I'm sorry.
17 You guys are talking at the same time.

18 MS. LONG: Sorry. We'll try to stop
19 that.

20 THE WITNESS: Sorry. My bad. I'm sorry.

21 COURT REPORTER: You asked --

22 THE WITNESS: Okay. I'm sorry. Let you
23 ask the question.

24 COURT REPORTER: You said what other --

25 BY MS. LONG:

1 THE WITNESS: You're welcome. M'mm-h'mm.

2 BY MS. LONG:

3 Q. Have you been in B Dorm the whole time
4 that you were incarcerated at Coastal?

5 A. I have. Yes.

6 Q. And is there a certain thing you have to
7 do to get there or is it you just -- you're just
8 assigned? Or do you know how you got there?

9 A. Yeah. I got there just by involuntary
10 placement; but, normally inmates have to sign up
11 for this program. It's a program that you
12 voluntarily have to go into, because it's
13 incentive-based, so you normally have to volunteer
14 to go into it, but I had no choice in the matter.
15 I was forced into the program.

16 Q. What type of incentives do you -- do you
17 get?

18 A. They provide meals. You get incentive
19 meals. You get to -- just a lot of things that
20 regular inmates wouldn't be able to do, you're
21 allowed to do. Maybe stay up a little later. You
22 know, maybe have access to programming that others
23 may not have access to.

24 Q. Very good.

25 What is your current sentence that you're

1 serving?

2 A. Well, I'm serving a -- I signed a
3 sentence for a six-month waiver for a revocation
4 for a violation of parole for seeking medical
5 attention and having to leave the state.

6 They cited me for failure to report. I
7 was sentenced to a six-month waiver, which would
8 mean I would re-enter into the custody of the
9 department for six months. After I re-entered into
10 the custody of the department after the six-month
11 period, the Board would then review me again. If
12 there were no disciplinary issues, then I would be
13 released again back into the conditions of parole.

14 Q. Okay. What is your sentence, though?
15 The initial sentence time to serve?

16 A. The initial sentence that I was
17 serving -- the original sentence was 12 years.
18 It's a 12-year sentence.

19 Q. 12 years to serve?

20 A. Yes, ma'am.

21 Q. And when was that entered?

22 A. 2009. Wait. Let me make sure. It was
23 2000 -- 2012. 2012.

24 Q. Is there any probation to follow the time
25 to serve?

Diamond, Ashley Vs. Smith, Arneika

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1 Q. And what happened to -- in Augusta? Why
2 were you sent to Augusta? Was there a medical
3 reason?

4 MS. EZIE: Object to the form.

5 THE WITNESS: I -- you know, GDC made
6 those choices. The department made all of
7 those choices when it came to moving me. I
8 had no say so in anything.

9 MS. LONG: Did you just --

10 THE WITNESS: So I can't tell you.

11 BY MS. LONG:

12 Q. Did you receive any type of treatment
13 when you were in Augusta?

14 A. No. I was thrown in solitary for 30
15 days, until I went home.

16 Q. Okay. How long were you out before the
17 parole revocation?

18 A. Almost -- I would say a good four years,
19 five years, almost.

20 Q. And you alluded to a little bit, but
21 could you tell me a little more detail? Why was
22 your parole revoked?

23 A. My parole was revoked on a vio --
24 technical violation for leaving the state.

25 Q. And why did you leave the state?

1 filed?

2 A. Yes. I wasn't getting treatment for my
3 gender dysphoria.

4 Q. And when was this?

5 A. I can't recall, off the top of my head,
6 but it would have been at the beginning of my
7 incarceration.

8 Q. The beginning of your incarceration at
9 Coastal or --

10 A. The beginning of my new incarceration in
11 2015 for this charge.

12 COURT REPORTER: For discharge, you said?

13 THE WITNESS: Yes. For this.

14 COURT REPORTER: Okay.

15 THE WITNESS: Yes, ma'am.

16 COURT REPORTER: I got it. Thank you.

17 THE WITNESS: This offense.

18 BY MS. LONG:

19 Q. What about the retaliation grievance?
20 Can you tell me about that one?

21 A. Yeah. I filed a grievance about
22 retaliation, because there's a lot of it going on.
23 Unfortunately, since this litigation has begun,
24 I've been targeted throughout the institution and
25 with administration for various reasons. Things

1 once again, for this entire line of questions.
2 I'm also objecting on grounds that it is
3 harassing, annoying, and calculated to
4 embarrass my client.

5 MS. LONG: The objection's note.

6 BY MS. LONG:

7 Q. Do you recall the inmate's name on the
8 first PREA?

9 A. No, I do not. And because of
10 gang-related reasons and because of safety reasons,
11 I don't feel comfortable discussing those names
12 without authorities being present, because I'm in
13 an environment that is very dangerous, and because
14 my Defendants are so recklessly cavalierly reckless
15 with everything, I have to be very careful, and so,
16 if there's not an order from a judge or if there's
17 not someone to mediate with this information, I
18 have to be careful, because this information can be
19 redistributed and could end up causing me harm from
20 other inmates, and, yes, staff, too.

21 Q. When you filled out the PREA, did you
22 identify who the inmate was?

23 A. No. I didn't know him.

24 Q. Okay. Tell me the next incident where
25 you remember the PREA being filed.

1 MS. EZIE: Object.

2 THE WITNESS: I can't remember. It's
3 been so many. I'm touched so much throughout
4 the day. So many things happen so often. We
5 just filed a PREA, I'm sure your office is
6 aware of, we just filed one last week, where a
7 gentleman just ran into the dorm and attacked
8 me. These things happen so often and so
9 widespread, that it is very unfortunately and
10 it's quite sad that I have to sit here and say
11 this, that's it's unfortunate that I can't
12 keep up.

13 BY MS. LONG:

14 Q. Has any of the incidents or the
15 collection of incidents caused you to have any
16 physical trauma?

17 A. Yes. I have nightmares --

18 MS. EZIE: Object to form.

19 THE WITNESS: -- all the time.

20 BY MS. LONG:

21 Q. I'm sorry. You have nightmares.

22 Any -- any other, m'mm --

23 A. There's been physical manifestations of
24 suicide. There have been -- just a lots of bouts
25 of self-harm. Self-doubt. Low self-worth. Low

1 MS. LONG: The 2012.

2 THE WITNESS: The 2012 sentence, I pawned
3 a saw for someone, and the saw was stolen and
4 it came -- the house that the saw came from
5 was burglarized. So I did a jury trial. I
6 went to trial against it. They had a
7 mistrial. Because of the mistrial, they
8 offered me a chance to just have probation,
9 because I'd never been in trouble before; and,
10 foolishly, I took it, when I should have just
11 went to trial, because I was innocent. I took
12 it, and I was sentenced to 12 years for
13 burglary. So my sentence is a 12-year
14 sentence for burglary for pawning a miter
15 saw.

16 BY MS. LONG:

17 Q. Have you had any other convictions?

18 A. Minor convictions. Petty things. But no
19 major felony convictions.

20 Q. What were your minor convictions?

21 A. Traffic violations. Things like that.
22 Petty theft. Little things.

23 Q. Was the petty theft, I'm assuming, before
24 the 2012 conviction?

25 A. Yeah. I think it was in my teenage

1 self-esteem. When you -- someone who's been
2 victimized, and when you've been as victimized as
3 many times, unfortunately, as I have, those
4 subjects are difficult.

5 So I'm just trying to answer your
6 questions as best as I can, as honestly as I can,
7 and as thoroughly as I can, so you'll just have to
8 bear with me if I can't give you every single
9 detail of every PREA, but I will --

10 Q. That's --

11 A. -- do my best.

12 Q. That's great. That's all we're asking,
13 is that you state what you do recall.

14 Let's take a step backwards, when you
15 first came into the system after your parole
16 revocation.

17 Did you have -- you were at GDCP,
18 correct?

19 A. Yes, ma'am.

20 Q. Did you file any grievances at GDCP?

21 A. I think I -- I did.

22 Q. Tell me what you recall, as far as filing
23 grievances.

24 A. Well, I definitely recalled being
25 concerned with my placement. Then I filed a

1 Q. What is that for?

2 A. I think it may be -- what was it? Ooh.
3 Theft by receiving stolen property.

4 Q. And what county was that in?

5 A. Floyd County.

6 Q. Do you recall if you've ever been
7 convicted, excluding traffic offenses, in any other
8 County in Georgia?

9 A. If have I --

10 MS. EZIE: Object to form.

11 BY MS. LONG:

12 Q. I'm sorry. I didn't catch --

13 A. I don't recall.

14 Q. -- your answer.

15 You don't recall?

16 A. I don't recall.

17 Q. Okay. Other than that felony conviction
18 or theft by receiving, do you recall any other
19 felony conviction that you've gotten?

20 A. No.

21 Q. When did you first meet Officer Arneika
22 Smith?

23 A. As -- when I came in contact with her as
24 my details in an ord -- as an orderly.

25 Q. And where were you? What prison were you

1 assigned to?

2 A. I was at GDC State Prison, Georgia
3 Diagnostic Classification Prison, in Jackson,
4 Georgia.

5 Q. And this was after your parole
6 revocation?

7 A. Yes, ma'am.

8 Q. Do you recall the month, day that you
9 first --

10 A. No.

11 Q. -- met her?

12 A. I -- no, I do not. I try to forget it.

13 Q. And what was her relationship to you?
14 Was she a supervising officer or --

15 A. She was a supervising officer.

16 Q. And you said you were on a detail?

17 A. No.

18 Q. Did she say what --

19 A. I said I was on a detail -- when you
20 asked me about the PREA that happened, I was on a
21 detail, but I wor -- as an inmate, I live in a
22 housing unit, and in each of those housing units,
23 an officer man's that post. She just happens to be
24 the officer in my housing unit, so -- if that gives
25 you any insight on --

1 Q. Yes.

2 Did she supervise your detail?

3 A. She supervised me, but she didn't
4 supervise my detail. I was the head orderly, and I
5 had a boss, which was Lachesha Smith, but part of
6 my work duties would be doing things for my officer
7 for whatever they needed.

8 Q. So Officer Smith was a dorm officer?

9 A. Officer Arneika was a dorm officer; and,
10 then, Lachesha Smith was my boss.

11 Q. How long did you know Arneika Smith
12 before this May 9th incident?

13 A. I only knew of Arneika Smith from Jackson
14 State Prison, when I met her and came in contact
15 with her as the officer and, you know, my job duty.

16 Q. How often would you see her?

17 MS. LONG: Oh-oh.

18 (Ms. Diamond lost Zoom connection.)

19 MS. LONG: I think the prison's gone
20 again.

21 COURT REPORTER: Yes, ma'am.

22 MS. LONG: It's going to be a long day.

23 COURT REPORTER: Should we call Christine
24 again?

25 MS. LONG: Maybe so.

Diamond, Ashley Vs. Smith, Arneika

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1 Q. I understand that's what you call him.

2 Do you know his real name?

3 A. No. That's the name I know him by.

4 Q. Okay. Any other transactions, that
5 you're aware of, involving Ms. Arneika Smith?

6 A. You know, no. Only when she would have
7 me take letters to the guy that she was seeing in
8 the hall. The officer. She was seeing an officer.
9 I don't know his name, but he was fired around the
10 date -- her birthday, so that -- it could be found.
11 It could be easily found. He was fired around her
12 birthday, but they were in a relationship, and she
13 would have me to run notes to him in the hole,
14 because he worked in the hole in the prison, and
15 so, she would have me go back and forth playing
16 mediator.

17 Q. So you were in Dorm B?

18 A. B hou -- C House, which is the cell
19 house. Let me explain to you, so you can kind of
20 get an understanding, so -- cause I know you've not
21 been into a prison, and you're just hav -- just
22 hearing these things, so let me walk you through.

23 In Jackson, there are cell houses. You
24 have Unit A, Unit B, Unit C, Unit D. At any given
25 time, as an orderly, I work all of those units, but

Diamond, Ashley Vs. Smith, Arneika

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1 I was assigned to Unit C, which is the sa -- which
2 is where Arneika Smith was assigned. More often
3 than not, she was there.

4 Q. Okay. And --

5 A. And so -- I'm sorry. Go ahead.

6 Q. And the fellow that you say she was
7 having a personal relationship, he worked, did you
8 say, in the hole?

9 A. Yeah. They're multiple people she had
10 relationships with in the institution. That was
11 just one of --

12 Q. Okay. Let's stick to the one you were
13 taking notes to.

14 Was he in the hole?

15 A. Yeah. He worked the hole.

16 COURT REPORTER: Is that H-O-L-E?

17 THE WITNESS: Yes, ma'am. Hole. Yes,
18 ma'am.

19 COURT REPORTER: Thank you.

20 THE WITNESS: You're welcome.

21 BY MS. LONG:

22 Q. Where is the hole in relation to C Dorm?

23 A. Wow. It is very far away from C Dorm.
24 The hole is on the other side of the institution,
25 which is why she had me running back and forth.

1 On May 9th, I was working as an orderly,
2 and as I was working as an orderly, is when she
3 approached me, and, at that particular day, we went
4 into -- you going to hear this referenced to three
5 different names. It's called the closet --

6 Q. Is that --

7 A. -- it's called the officer's thing, and
8 it's called the bathroom, so --

9 Q. I wrote that down, actually. I wrote
10 that down, as in what is it called. I have those
11 three things. Officer's room, bathroom, and
12 closet.

13 A. Right.

14 Q. What is it?

15 A. So we entered the officer's whatever, and
16 we sat down, and we began to talk, and this
17 particular day, she brought me Krystal's. I
18 remember that. Gave me a lip gloss. We began just
19 talking. We talked about that officer and how that
20 didn't work, and we talked a little bit about how
21 she's tired of being hurt by men. We talked about
22 my relationships with men. We discussed sexual
23 activity. She asked me, you know, pertinent
24 questions about things like my genitalia or, you
25 know, we talked about my breasts, that they were

1 natural. There was some touching. We stayed in
2 there for about two hours that first day, and,
3 then, we went down to A range, which we were not
4 supposed to be down there, because it was
5 quarantined, and we were not supposed to be there.

6 That's when we saw Murder and all of
7 those things, and that's when I realized that, you
8 know, I'm in something bigger than -- you know,
9 that I -- that I knew. Something more than what I
10 wanted to be involved with.

11 Q. Help me understand this room, because, as
12 you indicated, it does get called a lot of
13 different things.

14 A. Yes.

15 Q. When it's referred to as a officer's
16 room, is it something that officers use?

17 A. It's their office.

18 Q. So it's a office?

19 A. M'mm-h'mm.

20 Q. Is there a desk in it?

21 A. There's a bench. It's a desk. It's a
22 wall. It's like this (indicating), and there's a
23 shelf that goes all the way across. So if you want
24 to call that a desk, that's where -- well, you have
25 your walkie talkies, your officer scissors, your

1 paperwork and documents.

2 Q. So you describe that as a shelf connected
3 to the wall?

4 A. M'mm-h'mm.

5 Q. Was there a table of any sorts?

6 A. That's sort of like the table. That was
7 the table.

8 Q. Okay. Were there -- was there a chair or
9 chairs?

10 A. There's a toilet in there, and we bring
11 her chair from the post and drag it in there. When
12 she'd want to go to sleep, I would always go
13 prepare her spot in there by dragging the chair
14 from post into the closet.

15 Q. Are there filing cabinets in there?

16 A. There's one filing cabinet in the corner.

17 Q. Was it used for storage for their boxes
18 or anything of --

19 A. It's a multi-purpose, multifunctional
20 room.

21 Q. So is the answer yes, there would be
22 boxes or --

23 A. No. I meant just -- I meant I don't --
24 whatever they want to use it for. When I was in
25 there, there were no boxes in there, but I'm sure

1 straight and go to sleep. Depends on the night she
2 have.

3 Q. Was she sleeping -- and I didn't clarify
4 that.

5 Was she sleeping during the daylight
6 hours or was this night shift hours?

7 A. These are daylight. She never worked
8 night shift with me, thank God.

9 Q. Okay. So you would set up the cot in the
10 officer's room for her to sleep during daylight
11 hours?

12 A. Yes, ma'am.

13 Q. Okay. On May 9th, what time of the day
14 was it that y'all went into the closet together?

15 A. Morning.

16 Q. Was it after breakfast?

17 A. I can't hon -- morning is all I can tell
18 you.

19 Q. So when you say morning, could you give
20 me a range of time? What --

21 A. Well, let's --

22 Q. When you refer to morning, what are you
23 referring to?

24 A. Okay. Let's do it like this. Let's see.
25 If a shift starts at 7 a.m., and the shift ends at

1 MS. EZIE: Object to form.

2 THE WITNESS: What's your question?

3 MS. LONG: Yeah.

4 BY MS. LONG:

5 Q. I'm trying to narrow down a time frame
6 here. You --

7 A. I know. I mean, I'm -- I'm trying to
8 help you. That's why I really need to understand,
9 so let me -- what you're asking me is you want to
10 know the spe -- I can't give you the specific time,
11 so let's -- that's out.

12 So what is the next --

13 Q. Okay.

14 A. -- question after that?

15 Q. Okay. And I understand that you said it
16 couldn't have been before breakfast.

17 A. You're losing me, Ms. Terry. Stay with
18 me. I don't know what time it was. It was morning
19 time, is all I can tell you. I can't tell you if
20 it was before breakfast, after breakfast, all of
21 that. We're talking about something that happened
22 two years ago.

23 Q. I thought you said that breakfast
24 happened about 4 a.m.?

25 A. 4 a.m. So you knew it wasn't 4 a.m. I

1 said morning. That's nighttime. 3, 4:00 in the
2 morning is night, where I'm from.

3 Q. So is the sun up or do you recall?

4 A. I don't recall. And I don't see the
5 relevance whether the --

6 Q. Can you --

7 A. -- sun was up or not with her touching
8 me. That has nothing to do with what happened in
9 that closet on May 9th, whether the sun was up,
10 whether the sun was down, whether it was dark or
11 not. I think the more relevant inquiry is why it
12 happened, but that's not what we're here for, so --

13 Q. It's your understanding that it happened
14 before lunch hour or before lunchtime?

15 A. What happened?

16 MS. EZIE: Object to form.

17 BY MS. LONG:

18 Q. The incident on May 9th in the officer's
19 room.

20 That occurred before lunchtime?

21 A. Yes.

22 Q. And about how long were y'all in the
23 officer's room on May 9th?

24 A. I estimate about two hours.

25 Q. As an orderly, do you have morning

Diamond, Ashley Vs. Smith, Arneika

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1 A. I can't.

2 Q. Approximate number?

3 A. I cannot.

4 Q. Do you do everybody that's in that dorm?
5 Every inmate that's in that C Dorm?

6 A. M'mm-h'mm.

7 Q. Is C Dorm separated at all? Is it just
8 one -- one dorm?

9 A. It's one unit. C Unit is one --

10 Q. One --

11 A. -- unit. Yes, ma'am.

12 Q. I think you indicated, as orderly, you
13 also had something to do with trash.

14 Did you pick up -- did you pick up trash
15 from each individual's cell or how does that work?

16 A. We have two large trash cans in there,
17 and --

18 Q. Okay.

19 A. Yeah.

20 Q. All right. Getting back to the room.
21 Were there any windows in this room?

22 A. No.

23 Q. When you were in there on May 9th with
24 Ms. Smith, were the lights on?

25 A. M'mm-h'mm. Yes.

1 Q. Did y'all eat right away?

2 A. I don't recall.

3 Q. Were you sitting or standing?

4 A. I don't recall. I was sitting. I do
5 remember sitting. Yes.

6 Q. Where were you sitting?

7 A. Next to her.

8 Q. In a chair?

9 A. Yes. A stool. M'mm-h'mm.

10 Q. You were sitting on a stool, and was she
11 sitting in a chair? Ms. Arneika Smith?

12 A. M'mm-h'mm.

13 Q. Okay. What is the first thing she said
14 to you, that you recall, that you felt was
15 inappropriate?

16 A. When she started asking me about the kind
17 of dicks I liked.

18 Q. And did you answer her question?

19 A. No.

20 Q. How did that conversation proceed? What
21 else did she say that you found inappropriate?

22 A. A lot of things that I found
23 inappropriate about what she was saying and asking,
24 cause as a transgender woman, it's very offensive
25 to ask you about your genitalia and things like

1 that, so -- those were questions.

2 Q. Well, I apologize I have to ask you, but
3 I need to know the details of what questions she
4 was asking you, please.

5 A. Just things like you --

6 MS. EZIE: Object to form. Are we
7 talking about -- which day are we talking
8 about?

9 THE WITNESS: Yeah. Which day the 9th
10 or the 10th?

11 MS. EZIE: Which day of the
12 allegation?

13 MS. LONG: I did specify. May 9th.

14 THE WITNESS: Okay. So -- so what was
15 your question?

16 MS. LONG: Yes.

17 BY MS. LONG:

18 Q. I'm trying to understand the details of
19 your conversation.

20 What else did you -- did she say --
21 besides what kind of dicks did you like, what else
22 did she say that you thought was inappropriate?

23 A. I would say just the line of questioning,
24 and the conversation in the hole.

25 Q. You can't recall anything, specifically?

1 A. Yeah. I would say asking me things like
2 what kind of dicks I liked, and those types of
3 things, would be very offensive. Asking me if my
4 breasts are real. Things of that nature. Private
5 stuff.

6 Q. I'm trying to find out what,
7 specifically, you recall her saying that you
8 thought was inappropriate.

9 A. I specifically told you. One of the
10 comments was what kind of dicks do you like. That
11 was very inappropriate.

12 Q. I understand that. Trying to find out
13 what else she said that you thought was
14 inappropriate.

15 A. Do I fuck boys or girls.

16 Q. Anything else?

17 A. Those what come to mind immediately.

18 Q. Did you respond to any of her questions?

19 A. Not that I remember. I mean, I'm sure I
20 probably did.

21 Q. During this time that you're in the
22 closet, did she ever touch you?

23 A. The second day. Yeah. She touched my
24 leg and my thighs.

25 Q. The first day she touched your leg and

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1 your thighs?

2 A. She touched my legs. Yeah.

3 Q. What else did she -- on the first day,
4 we're talking about May 9th, did she touch you in
5 any other way on May 9th?

6 A. Uh-uh. Not that I --

7 Q. I'm sorry?

8 A. No. Besides touching me.

9 Q. At any time did you ask to leave the
10 room?

11 A. Not that I recall.

12 Q. Other than these inappropriate comments
13 and touching your legs, was there --

14 A. And thigh.

15 Q. -- any other --

16 A. And thigh.

17 Q. And thigh, was there any other thing that
18 she did that you felt was inappropriate on May 9?

19 A. No, that I can think of.

20 Q. Did you, at some point, eat Krystal's?

21 A. Yeah. I can't remember if that was the
22 9th or the 10th; but, yeah, I do remember her
23 giving me some Krystal's. M'mm-h'mm.

24 Q. Okay. I thought you said on May 9th that
25 you carried a bag of Krystal's into the --

1 A. Then it was the 9th. Then it was the
2 9th.

3 Q. Is it appropriate for an officer to give
4 an inmate food?

5 A. It depends on who you ask and what
6 circumstance.

7 Q. Is it appropriate for an inmate to accept
8 food from an officer?

9 A. It depends on what the circumstance is.

10 Q. I'm talking about the circumstances on
11 May 9th.

12 Was it a violation of policy for you to
13 take food from her and --

14 A. No.

15 MS. EZIE: Object to form.

16 THE WITNESS: Not to my knowledge.

17 BY MS. LONG:

18 Q. Had she ever given you food on prior
19 occasions before May 9th?

20 A. I don't recall. I don't -- I can't
21 remember.

22 Q. Y'all were in the room, you said, for
23 approximately two hours?

24 Is that correct?

25 A. M'mm-h'mm. Yes.

1 the week this occurred?

2 A. I don't think you would need to know
3 that. I don't know. Again, it's just been some
4 time. Now, it's been two years, almost, since that
5 incident.

6 Q. On May 10th, what time of the day did you
7 enter the officer room?

8 A. I can't recall what time of the day it
9 was.

10 Q. Was it morning or afternoon?

11 A. It would have been sometime in the
12 morning time. It wasn't afternoon. So it would
13 have been sometime in the morning.

14 Q. Was this about the same time as you went
15 into the room on May 9th?

16 A. Maybe. Maybe not. I'm not quite sure.

17 Q. How long were y'all in the room May 10th?

18 A. I would say probably -- approximately
19 about two hours, as before, because that's when the
20 shift -- the count comes.

21 COURT REPORTER: The cap comes?

22 THE WITNESS: Excuse me? Oh, the count.

23 MS. LONG: Count.

24 THE WITNESS: I was trying to think
25 of when the count comes, to try to recollect

1 the time, but that's not going to work,
2 either.

3 BY MS. LONG:

4 Q. To clarify your answer, you were in the
5 room --

6 MS. EZIE: I don't understand the
7 question. Was that the total number of hours
8 total or the number of hours before there was
9 a interruption on May 10th?

10 MS. LONG: The total number of hours you
11 were in the room on May 10th.

12 MS. EZIE: On day two?

13 MS. LONG: Yes. We're talking about the
14 second day, now.

15 THE WITNESS: Okay. Now, what was the
16 question again? Repeat it.

17 BY MS. LONG:

18 Q. Just to clarify, what -- how long were
19 y'all in the room, total, on May 10th?

20 A. I can't give you a total time.
21 Approximately, about two hours, just as the day
22 before, approximately.

23 Q. Okay. In the morning?

24 A. Approximate, yes.

25 Q. On this date, what led up to going into

1 A. Yeah. Somewhere in that area. Yeah.

2 Q. At that point when he came into the room,
3 did you have all your clothes on?

4 A. I did.

5 Q. At any point did you take your clothes
6 off? Any of your clothes off?

7 A. No.

8 Q. I'm not sure I understood your testimony.
9 I want to go through it just again.

10 You said she opened the door when Officer
11 Ridley started banging on the door.

12 Did you say she left the room at that
13 point?

14 A. She went out the door -- outside of the
15 door with him.

16 Q. Did she close the door behind her?

17 A. She did. Locking it.

18 Q. And did he come back in the room, you
19 said?

20 A. M'mm-h'mm. They both came back, and when
21 she --

22 Q. Oh, they both --

23 A. -- unlocked the door, she came back, and,
24 then, he came back, and that's when he saw me, and
25 was like --

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1 Q. Did he get his stuff?

2 A. Oh, yeah. He finally got his stuff.

3 Q. And he left.

4 Did Ms. Smith leave with her?

5 A. No.

6 Q. With him?

7 A. Not that I --

8 Q. Okay.

9 A. -- recall.

10 Q. So you and Ms. Smith remained in the
11 officer's room after Officer Ridley left?

12 A. M'mm-h'mm. We went back in there.

13 Q. How much longer did you stay in there
14 after that?

15 A. I can't give you a -- in totality, again,
16 like I said in the Complaint, approximately about
17 two hours, on both days, so that's just my
18 approximate guessing.

19 Q. I'm trying to understand how long you
20 stayed in the room after Officer Ridley showed up.

21 A. Oh. We were in there for probably about
22 another 45 minutes after Ridley.

23 Q. What happened during that 45 minutes?

24 A. I can't remember.

25 Q. Was there --

1 you say anything to Officer Ridley?

2 A. No.

3 Q. So you said absolutely nothing to him at
4 that point?

5 A. No.

6 Q. Okay.

7 MS. EZIE: I'd like to take a short
8 break --

9 THE WITNESS: Yes, I would, too.

10 MS. EZIE: -- at this time.

11 THE WITNESS: Yeah.

12 MS. EZIE: How does ten minutes sound?

13 THE WITNESS: Perfect.

14 MS. LONG: Okay.

15 THE WITNESS: I'll be back in ten.

16 MS. LONG: Okie dokie.

17 THE WITNESS: Thank you.

18 (A break is taken.)

19 MS. LONG: Okay. Madam Court Reporter,
20 are we back on the record?

21 COURT REPORTER: Yes, ma'am.

22 MS. LONG: Okay.

23 BY MS. LONG:

24 Q. Turning, again, to May 10th, when you
25 were in the officer's room --

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1 A. M'mm-h'mm.

2 Q. -- did you, at any time, yell out for
3 help?

4 A. No.

5 Q. Did you bang on the door at any time or
6 try to get out of the officer's room while you were
7 in there with Ms. Arneika Smith?

8 MS. EZIE: Object to form.

9 THE WITNESS: No, I did not.

10 BY MS. LONG:

11 Q. Did you make any effort at all to try to
12 leave the room?

13 A. No. Not that I recall.

14 Q. And I think -- I apologize if I asked you
15 this before. At any time on May 10th did you
16 remove any of your clothes while you were in the
17 officer's room?

18 A. On May 10th, I did expose -- I just
19 showed my breasts and genitalia.

20 Q. So you took off your shirt?

21 A. I just lifted it.

22 Q. And where were you when you did that?
23 Where were you in the room?

24 A. In the officer -- in the closet. Sitting
25 on the chair --

1 Q. I understand what --

2 A. Sitting on the bed next to her.

3 Q. Okay. What about -- how did you expose
4 your genitalia? Did you take off your pants?

5 A. No, I didn't.

6 Q. How did you do that?

7 A. I just unbuttoned them.

8 Q. And how long was this exposure? How long
9 did it last?

10 A. Just a few seconds.

11 Q. Was there any physical touching of your
12 skin this -- it's a difficult question to ask.

13 I understand she may be touching you at
14 some point or touching with your -- or touching
15 your clothes, but I'm trying to understand did she
16 actually physically touch your skin?

17 Did she touch your breasts?

18 A. No.

19 Q. Did she touch your genitalia?

20 A. No.

21 Q. Okay. Was this before or after Officer
22 Ridley came to the room?

23 A. That was before Ridley came.

24 Q. And why did you expose your breasts?

25 A. Because she asked to see them, and she

1 showed me hers, too.

2 Q. What about your genitalia? Why did --
3 why did you expose your genitalia?

4 A. She wanted to know if I had a dick or a
5 pussy.

6 Q. And so, you showed her what you had?

7 A. At her request.

8 Q. Okay. Did she remove any of her clothes?

9 A. No.

10 Q. You said she showed you her breasts?

11 A. M'mm-h'mm.

12 Q. How did she do that?

13 A. Showed me like this (indicating).

14 Q. When she showed you her breasts, did you
15 actually see her breasts or was it just her bra
16 or how did -- how did that work?

17 A. I don't recall exactly, but I did see her
18 bra and her breasts, so -- I don't remember like
19 exactly.

20 Q. And was this before or after Officer
21 Ridley knocked on the door?

22 A. Before.

23 Q. Is there anything else that you recall
24 specifically doing in the room? Like, for
25 instance, not necessarily related to misconduct,

1 A. Yeah. She coerced me into writing a
2 statement.

3 Q. Tell me about how that happened.

4 A. She came up to my cell one morning and
5 said that it was going to be some shit if I didn't
6 write a statement saying that I didn't tell anybody
7 about what happened.

8 Q. And so, you --

9 A. So she brought me a pen, and she brought
10 me a piece of paper and said I need you to write me
11 a statement, and I said what do you want me to
12 write? She said you need to say that you didn't
13 tell anybody about what happened, and I wrote a
14 statement stating that I did not tell anybody what
15 happened -- that I did not tell anyone at GDCP what
16 happened.

17 Q. In that statement you said I didn't touch
18 Officer Smith, as well. So I'm assuming from that,
19 that you did not touch Officer Smith in anyway
20 while you were in the officer's closet --

21 A. Correct.

22 Q. -- is that correct? Okay.

23 And I believe your testimony earlier was
24 that she didn't touch you while you were in the
25 officer's closet.

1 MS. EZIE: Object to the form.

2 MS. LONG: Your breasts or geni -- your
3 breasts or genitalia?

4 THE WITNESS: She did touch me. She
5 touched my thigh and my leg and buttocks.

6 MS. LONG: Okay.

7 THE WITNESS: I think I did sa --

8 BY MS. LONG:

9 Q. And that touching was through your
10 clothes?

11 A. It was.

12 Q. Okay. Other than that contact when she
13 came to you and asked you to write a note, did you
14 have any other contact with Officer Smith --

15 A. No.

16 Q. -- following the incident?

17 A. No. That I recall, no. That I recall.

18 Q. What kind of injuries are you alleging as
19 a result -- physical injuries are you alleging as a
20 result of this incident?

21 A. Suicide attempts. There were several.

22 Q. When did you first try to commit suicide?

23 A. Shortly after these first few incidents.

24 Q. When you say first few incidents, what
25 are you referring to?

1 be through the clothes, on top of the clothing, or
2 it can even be considered an unwanted gesture.

3 Q. Were Arneika Smith's gestures and
4 touching you unwanted?

5 A. Absolutely unwanted.

6 Q. Did you consider them to be sexual abuse?

7 A. I did.

8 Q. How did Arneika Smith sexually abusing
9 you impact you emotionally?

10 A. The fact that she used me and groomed me
11 for her own superfluous needs has left me -- I'm
12 numb. I'm numb to their shit. I'm numb to
13 enforcement. I'm numb to Corrections. I question
14 the validity of all of it.

15 Q. You described feeling numb now.

16 How did you feel in the immediate
17 aftermath of the incident?

18 A. I wanted to die. I felt horrible.

19 Q. Why? Can you just describe? What was
20 going through your head at that time?

21 A. At the time, all I could think about was
22 how this person I trusted manipulated, coerced, and
23 tricked me. It hurts. My fabric of trust is
24 forever torn with me and officials. I am
25 constantly contemplating suicide. I don't feel

1 like I am a worthwhile human being or that I
2 deserve life, because of this series of events that
3 have happened to me.

4 Q. Now, earlier you were asked a series of
5 questions about the suicide attempts that you've
6 had.

7 Do you recall that?

8 A. I do. I do.

9 Q. And you described an incident that
10 occurred after May 9th, where you attempted to
11 overdose on pills and medications?

12 A. Yes.

13 Q. Do you recall that?

14 A. Yes.

15 Q. What was the motivation for that suicide
16 attempt?

17 A. The motivation was because I was hurt by
18 the officer. It was Arneika Smith's actions that
19 directly affected me.

20 Q. How did -- and I'm sorry if this is
21 asking you to repeat yourself, but how did Arneika
22 Smith's actions motivate you to attempt suicide
23 that day?

24 A. They were disgusting. They were
25 implorable. I need a minute.

1 as you described, being her bitch, what do you
2 think would have happened with respect to the gang?

3 A. Oh, I would have been annihilated. My
4 life would be over. Definitely. There will be no
5 questions, because she had affiliations with
6 high-ranking gang members.

7 Q. Okay. I'm going to change topics, so I
8 think we can go back on the record without
9 attorney's eyes protection.

10 Ms. Diamond, if you're able to see the
11 third-party PREA notice, do you see that there's a
12 section called the May 10th incident?

13 A. M'mm-h'mm.

14 Q. And do you see in that section, under the
15 first sentence of that section, it states that on
16 May 10th, Officer Smith ordered you to go to the
17 office, again, and that you were locked in the
18 office for approximately four hours?

19 A. Yes.

20 Q. Does that refresh your recollection that
21 the total amount of time you were locked in the
22 office on May 10th was likely four hours? Not two?

23 A. Yes.

24 Q. Okay. And do you see that this PREA
25 notice goes on to describe what occurred during

EXHIBIT 2

1 UNITED STATES DISTRICT COURT
2 FOR THE MIDDLE DISTRICT OF GEORGIA
3 MACON DIVISION

4 - - - - - x
5 ASHLEY DIAMOND, :
6 Plaintiff, : Case
7 v. : No. 5:20-cv-378-MTT
8 ARNEIKA SMITH, :
9 Defendant. :

10 - - - - - x
11
12 Virtual Videotaped Deposition of
13 ARNEIKA SMITH
14 Friday, March 18, 2022
15 1:07 p.m. CST
16
17
18
19
20

21 Job No.: 437053
22 Pages: 1 - 252
23 Reported by: THERESA A. VORKAPIC,
24 CSR, RMR, CRR, RPR
25

1 Q What did you do for Heights Finance? 08:47:30

2 A A loan officer. 08:47:32

3 Q Is that in Forsyth? 08:47:58

4 A No, ma'am. It's from Stockbridge. 08:47:58

5 Q Did you graduate from high school? 08:48:00

6 A Yes, ma'am. 08:48:02

7 Q What year? 08:48:02

8 A 2003. 08:48:03

9 Q Do you have any post-high school education
10 of any sort? 08:48:12
08:48:16

11 A I went to college. 08:48:17

12 Q Where did you go to college? 08:48:19

13 A Atlanta Metropolitan State University. It
14 was a junior college. 08:48:19
08:48:23

15 Q How long were you there? 08:48:25

16 A Almost two years. 08:48:26

17 Q Did you get any degrees? 08:48:27

18 A No, ma'am. I didn't finish. 08:48:29

19 Q When did you start working with the
20 Georgia Department of Corrections? Do you recall? 08:48:41
08:48:43

21 A Yes, October of 2019. 08:48:46

22 Q What facilities did you work at? 08:48:48

23 A Just Jackson, in Jackson, Georgia,
24 diagnostic. 08:48:51
08:48:56

25 Q So for the record, that's the Georgia -- 08:48:59

1 it's GDCP, Georgia Diagnostic and Classification 08:49:02
2 Prison. It's in Jackson, Georgia and it's often 08:49:08
3 referred to as Jackson prison, correct? 08:49:12
4 A Yes, ma'am. 08:49:14
5 Q If we say "GDCP," we are talking about 08:49:15
6 Jackson prison. If we say "Jackson state prison," 08:49:18
7 we're talking about the Georgia Diagnostic and 08:49:21
8 Classification Prison, right? 08:49:26
9 A Yes, ma'am. 08:49:26
10 Q Got it. Thank you. 08:49:26
11 You were there in October and the only 08:49:30
12 facility you worked at was -- how would you prefer 08:49:32
13 I reference it, GDCP or Jackson? 08:49:36
14 A We can say GDCP. I just got a brain fart 08:49:40
15 and couldn't think to say that. 08:49:45
16 Q Understood. 08:49:48
17 A Yes, ma'am. 08:49:49
18 Q Who was your supervisor at GDCP? 08:49:50
19 A I had quite a few. Catherine Lawson. 08:49:54
20 Lieutenant McCall was an acting supervisor. 08:49:59
21 Lieutenant Walker, he ended up being a unit 08:50:09
22 manager. And Lieutenant Johnson, she is a captain 08:50:12
23 now, so Captain Johnson. 08:50:19
24 Q Just so I understand, are those your 08:50:21
25 supervisors at the time because they are the 08:50:27

1 A It's supposed to be two people, but 08:53:23
2 because of the amount of employees we had, we 08:53:26
3 didn't have enough for two people per post. So 08:53:31
4 everybody had their own individual post. 08:53:34

5 Q And is a post someplace that you're sort 08:53:37
6 of stationed when you are -- 08:53:40

7 A Yes. 08:53:42

8 Q Is it a particular place where you set up, 08:53:43
9 you know, like your station at a post, like a desk 08:53:48
10 or a particular position? 08:53:52

11 A Yes, like say, for instance, like if 08:53:54
12 you're going into work and you're relieving 08:53:56
13 Ms. Long, you'll count your inmates before you 08:54:01
14 leave and get everything situated before the other 08:54:08
15 officer can leave. So it's like you're trading 08:54:10
16 out employees basically, one person for another on 08:54:17
17 a post. 08:54:19

18 But there's many posts because you have 08:54:20
19 different housings. You've got K building. You 08:54:22
20 have dorms. You have Mal-U, which is like the 08:54:25
21 medical part of it where the inmates are sick or 08:54:31
22 can't take care of themselves physically. 08:54:34
23 Everybody has to switch out with another officer. 08:54:37
24 I think that's what we call post. 08:54:40

25 Q How would you find the officer you're 08:55:02

1 C-House? 09:35:23

2 Q That's right. 09:35:26

3 A I don't think it would be in relation to 09:35:28

4 C-House. It's not. 09:35:29

5 Q It's not on the campus of Jackson? 09:35:30

6 A It's not near. 09:35:34

7 Q It's not near C-House? 09:35:36

8 A Yes, that's what I'm saying. 09:35:38

9 Q Do you have any idea how far the walk 09:35:39

10 would be to get there? 09:35:41

11 A No, ma'am. But I'm assuming -- I think 09:35:42

12 they probably do diagnostic around J building or 09:35:45

13 something because it's like a gym area, so I'm 09:35:48

14 assuming that they take them there. 09:35:53

15 Q You worked in C-House only or mostly? 09:35:57

16 A Mostly. 09:36:02

17 Q Where else did you work? 09:36:03

18 A Mal-U. They put me in dorms as well. 09:36:05

19 Q You said there are cameras all over. Tell 09:36:14

20 me about that. In C-House in particular, how many 09:36:16

21 cameras were there? 09:36:19

22 A I think there may be like three, like, in 09:36:23

23 the front -- like, in the front area when you 09:36:29

24 first come in. I think there's, like, two outside 09:36:30

25 of my gate. But one, two, three that I can 09:36:38

1 A It's two. It's two. It's the officer's 09:41:11
2 closet and then the supplies closet. 09:41:14

3 Q Do they connect to each other or you have 09:41:16
4 to enter them separately? 09:41:21

5 A No, you have to enter them separately. 09:41:23

6 Q Are they right next to each other? 09:41:26

7 A Yes, ma'am, side by side. 09:41:28

8 Q So in the officer's room -- what is that? 09:41:31

9 How big is that? What's inside there? What can 09:41:39

10 you tell me about to paint a picture? 09:41:43

11 A It's not big at all. It's really small. 09:41:44

12 It has, like, a little mini refrigerator. It has, 09:41:47

13 like, high shelves where a lot of the paperwork -- 09:41:51

14 the daily paperwork we would have to do. So if we 09:41:58

15 were out of paperwork, we would go to the employee 09:42:00

16 closet and grab what's needed. Tissue, everything 09:42:03

17 that's stored in the shelf would be like personal 09:42:11

18 things you would need, but there is not much you 09:42:13

19 can put in there, like, a little sink and a little 09:42:15

20 toilet. 09:42:17

21 Q There is a sink and a toilet in there? 09:42:18

22 A Very compact, like an inmate's room, you 09:42:20

23 can barely turn around in it. It's only meant 09:42:23

24 for, like, really one person. 09:42:26

25 Q So was that also the employee bathroom? 09:42:29

1 to go back, and so for awhile, I wasn't on any 10:28:40
2 post. So I'm not sure what month I started 10:28:43
3 working in C-House, but I think C-House was my 10:28:49
4 first initial post. That's what I meant. That's 10:28:53
5 where they put me for five weeks. 10:29:01

6 Q Do you know what the initials stand for? 10:29:03

7 A I think it's basic correctional officer 10:29:06
8 training. 10:29:12

9 Q Right. And do you recall how long that 10:29:14
10 took, how many weeks? 10:29:16

11 A Five weeks. 10:29:20

12 Q Was it all day every day? 10:29:25

13 A Yes, ma'am. Yes, ma'am. 10:29:27

14 Q So you if you started in October and you 10:29:31
15 think that C-House was your first assignment or 10:29:34
16 post, that would be October, November. So can we 10:29:37
17 say by December 2019? 10:29:42

18 A It was still cold because I had my jacket. 10:29:49

19 Q So by December 2019? 10:29:52

20 A We could say -- I don't want to tell you 10:29:57
21 no lies, Ms. Littrell. I can't remember. But I 10:30:01
22 do remember it being cold because I had my jacket. 10:30:11

23 Q When you first got there, you met Ashley 10:30:14
24 Diamond right away; is that accurate? 10:30:16

25 A Well, not really right away because 10:30:19

1 A The officer, if they had me on that 10:32:01
2 particular post, because some days I wouldn't go 10:32:09
3 to C-House. I would go to Mal-U. I was bounced 10:32:11
4 back and forth -- 10:32:15
5 Q Sorry. I thought you were finished. 10:32:21
6 A They would have me on the easy post -- 10:32:23
7 sorry. They would have me on the easy posts, and 10:32:26
8 those were easy-going posts. 10:32:30
9 Q When you worked in C-house, you saw 10:32:32
10 Ms. Diamond; is that right? 10:32:35
11 A Yes, ma'am. 10:32:36
12 Q Because she was the orderly, right? 10:32:37
13 A She was one of the orderlies, yes, ma'am. 10:32:39
14 Q Was she the head orderly, if there is such 10:32:42
15 a thing? 10:32:46
16 A One. No, she was one of the orderlies. 10:32:46
17 Ms. Smith may have made her feel like she was the 10:32:51
18 head orderly, but she was just one of them. There 10:32:53
19 was three. 10:32:56
20 Q There were three. One of three, okay? 10:32:56
21 Did you know she was a transgender woman? 10:33:06
22 A She told me her name was Diamond. I 10:33:10
23 didn't know the Ashley part until much later. 10:33:13
24 Q She told you she was Diamond. Did you 10:33:15
25 think that was her first name? 10:33:23

1 I apologize if I jump in, in that way. But I'm 12:37:52
2 going to try to do better and just ask that you 12:37:57
3 also try to be mindful of that as well, if that's 12:37:59
4 okay. 12:38:02

5 A Yes, ma'am. 12:38:03

6 Q Great. Let's talk about -- May 10th is 12:38:03
7 the date on which you say you went into the 12:38:10
8 officer's closet with Ashley, and we'll talk more 12:38:17
9 about that in a minute. 12:38:21

10 But I want to ask you directly, did you go 12:38:22
11 into the officer's closet with Ms. Diamond the day 12:38:24
12 before? 12:38:29

13 A No. 12:38:30

14 MS. LONG: Objection to the form. 12:38:30

15 BY THE WITNESS: 12:38:35

16 A No. 12:38:36

17 BY MS. LITTRELL: 12:38:42

18 Q So on the day before -- did you work the 12:38:43
19 day before and see Ashley, that you recall? 12:38:46

20 MS. LONG: Objection to the form. 12:38:48

21 BY THE WITNESS:

22 A I honestly can't -- 12:38:52

23 BY MS. LITTRELL: 12:38:52

24 Q You can answer. 12:38:52

25 A I can't remember my -- so do I answer? 12:38:54

1 Q Did you normally work five days a week or 12:38:59
2 four days a week? 12:39:02

3 A You -- it's, like, rotating. You work and 12:39:08
4 you're off every other weekend. So does that make 12:39:11
5 sense? 12:39:17

6 Q Was it Monday through Friday? 12:39:18

7 A Yes. Like, you could work that weekend or 12:39:20
8 you could be off that weekend, so rotating 12:39:26
9 weekends, so 12-hour shifts. 12:39:32

10 Q So 12-hour shifts? 12:39:34

11 A Yes. 12:39:35

12 Q Does that mean it was four days a week? 12:39:36

13 A I honestly can't remember. I can't tell 12:39:46
14 you if I was off the previous day or not, but I do 12:39:49
15 know if I worked, we did not go into the closet 12:39:51
16 together that day. That was the only time when I 12:39:56
17 was looking for my jacket. 12:39:58

18 Q If you worked on a weekend, you would have 12:39:59
19 worked both Saturday or Sunday; is that right? 12:40:02

20 A Right, correct. 12:40:05

21 Q So if somebody saw you coming out of the 12:40:06
22 closet with Ms. Diamond the day before on May 9th, 12:40:10
23 how would you explain that? 12:40:15

24 MS. LONG: Objection to the form. 12:40:16

25 BY MS. LITTRELL: 12:40:20

1 Q You can answer. 12:40:20

2 A You said the day before? 12:40:20

3 Q Right. 12:40:22

4 A That would be a lie. That didn't happen. 12:40:23

5 So, yeah, that's not true. 12:40:25

6 Q Is it possible she was -- she walked in 12:40:29

7 behind you or in any way or was helping you look 12:40:32

8 for something so quick that you don't even 12:40:34

9 remember? 12:40:38

10 MS. LONG: Objection to the form. 12:40:39

11 BY THE WITNESS: 12:40:40

12 A No, no, ma'am. That didn't happen. 12:40:41

13 BY MS. LITTRELL: 12:40:44

14 Q So your testimony is she definitely did 12:40:44

15 not go into the closet with you -- officer's 12:40:47

16 closet with you on May 9, 2020? 12:40:50

17 A Correct. 12:40:52

18 Q On May 10th, tell me about your 12:40:59

19 interactions with Ms. Diamond on May 10th. When 12:41:01

20 did you first see her? 12:41:05

21 A When I first came in to relieve the 12:41:08

22 Officer McCumber. 12:41:10

23 Q You were relieving Officer McCumber. Did 12:41:23

24 you see Officer McCumber? 12:41:28

25 A Yes. She has to give me the keys and 12:41:29

1 A Yes, yes, ma'am. 12:45:18

2 Q So on May 10th sometime around, let's say, 12:45:21

3 6:15, which is 30 minutes after you arrive -- 12:45:25

4 A That could be a good time. 12:45:30

5 Q Yeah, give or take. You walk into C-House 12:45:32

6 and take it from there. What do you recall? 12:45:36

7 A We count first to make sure all of the 12:45:41

8 inmates are accounted for. 12:45:43

9 Q Let me stop you there. Who are "we" on 12:45:46

10 that day? 12:45:48

11 A Me and the officer -- right, the officer 12:45:48

12 that's still there, McCumber. 12:45:51

13 Q Do you recall who that officer was? 12:45:52

14 A It could have been McCumber. It should be 12:45:57

15 in the reports of who the officer was that day 12:45:59

16 that I made the statement. It should be somewhere 12:46:02

17 in the records, if I'm not getting the right 12:46:12

18 officer. But for sure McCumber was the officer 12:46:14

19 who relieved me day before, when I came back to 12:46:17

20 work. I want to say that it's her, but for sure I 12:46:20

21 can't remember. 12:46:26

22 But we counted first because you have to 12:46:27

23 count to make sure your inmates are accounted for. 12:46:28

24 All of the paperwork was done, and then she handed 12:46:33

25 me the keys and the walkie-talkie. 12:46:39

1 Q And what did you say? 13:12:26

2 A I asked her if she seen where McCumber put 13:12:32

3 my jacket, and she was like it's not in the 13:12:36

4 drawer, and I said it wasn't in the drawer. 13:12:39

5 Q What did she say? 13:12:41

6 A She got up and she was helping me look for 13:12:42

7 it. She was nice like that. Nowhere in my 13:12:46

8 mind -- you know. 13:12:48

9 Q Did she say anything to you? 13:12:49

10 A Just her normal nice self. Every now and 13:12:51

11 then she would have her Bible out. Every now and 13:12:56

12 then, she would try to quote scriptures, but I 13:12:59

13 never thought this was possible. I get policies 13:13:03

14 and procedures, but this is so just me not being 13:13:12

15 mindful that people will do this to you. That 13:13:18

16 wasn't on the forefront of my mind because I never 13:13:21

17 had any issues with any of the offenders in 13:13:23

18 C-House other than little petty arguments or them 13:13:27

19 not wanting to go in when I say go in. I didn't 13:13:31

20 go through what the other officers went through. 13:13:34

21 This is different. This is different. 13:13:46

22 Q So you asked -- you asked her -- you asked 13:13:47

23 her -- and I'll have the transcript, so I may have 13:13:53

24 to get this read back to me -- it sounds -- if I'm 13:13:57

25 remembering correctly, you asked her if she knew 13:14:04

1 Q You can answer if you recall. If you 13:16:37
2 don't recall, tell me you don't recall. 13:16:40

3 A I've answered the question. You're just 13:16:43
4 determined to, like, trip me up thinking that I'm 13:16:46
5 going to say something different. I asked her if 13:16:52
6 she knew where McCumber put my jacket, and I also 13:16:54
7 asked her to help me find the jacket. There is no 13:16:57
8 harm in that considering she is an orderly and 13:17:00
9 she's out all the time. 13:17:02

10 Q So your testimony now is you asked her for 13:17:05
11 both? 13:17:10

12 MS. LONG: Objection to the form. 13:17:12
13 Objection to the form. 13:17:14

14 BY MS. LITTRELL: 13:17:16

15 Q I'm giving you an opportunity to clarify 13:17:17
16 your answer. 13:17:19

17 MS. LONG: Objection to the form. 13:17:20

18 BY MS. LITTRELL: 13:17:21

19 Q Go ahead. 13:17:23

20 A Yeah. I asked Ashley Diamond if she seen 13:17:24
21 where she put my jacket. 13:17:27

22 Q Did you say "she"? Did you say 13:17:30
23 "McCumber"? Did you give a name? 13:17:33

24 A She, I didn't say McCumber. I just said 13:17:35
25 she, "Did you say where she put my jacket?" 13:17:39

1 Q And Ashley said what? 13:17:41

2 A I can't remember what she said. I told 13:17:45

3 her that it wasn't in the drawer. She asked me if 13:17:47

4 it was in the drawer, and I told her no. 13:17:50

5 Q And then what did she say? 13:17:52

6 A I honestly don't remember. I remember 13:17:58

7 going into the employee closet to look myself 13:18:00

8 first. 13:18:02

9 Q For a few minutes? 13:18:04

10 A Yes, ma'am. 13:18:07

11 Q Did you put your things in the 13:18:08

12 refrigerator then? 13:18:10

13 MS. LONG: Objection. Asked and answered. 13:18:13

14 BY THE WITNESS: 13:18:15

15 A No. I still had my book bag on my 13:18:15

16 shoulder. I still had my drink in my hand, and I 13:18:17

17 was just looking around. I didn't see it, so I 13:18:21

18 when I stepped back out, it's not even a short 13:18:24

19 distance. I stuck my head around like, "Can you 13:18:26

20 help me find my jacket?" Because I knew it could 13:18:29

21 only be one of two places. 13:18:33

22 Q Did you close the door behind you when you 13:18:34

23 went in there the first time? 13:18:37

24 A No. 13:18:38

25 Q You left the door open the first time you 13:18:40

1 went in? 13:18:42

2 A Yes. 13:18:46

3 Q Did you say you were carrying some food 13:18:49

4 with you? 13:18:51

5 A No. I said a soda and my book bag. I 13:18:51

6 usually get food from staff dining. 13:18:55

7 Q Could you have come in that day with some 13:18:56

8 food from Crystal's? 13:18:59

9 A No. We don't have a Crystal's, and I 13:19:01

10 thought that you guys said it was chick fillet. 13:19:03

11 Q I haven't said anything. 13:19:07

12 A No, not today, no, not you. But in, like, 13:19:10

13 documents it was said that I brought in chick 13:19:13

14 fillet, so my apologies. 13:19:16

15 Q Your testimony is that Ms. Diamond looked 13:19:23

16 up and found your jacket and then what happened? 13:19:26

17 MS. LONG: Objection to the form. 13:19:31

18 Objection to the form. 13:19:33

19 BY MS. LITTRELL: 13:19:36

20 Q Is that what happened? 13:19:36

21 MS. LONG: Objection. 13:19:38

22 BY THE WITNESS: 13:19:39

23 A It took her no time to get the jacket 13:19:40

24 down. 13:19:42

25 BY MS. LITTRELL: 13:19:43

1 Q What happened after she got it down? 13:19:43

2 A I just put my stuff up, and she just 13:19:46

3 started talking just being Diamond, like, she 13:19:49

4 likes to gossip and she got to telling me about 13:19:53

5 Ramsey Allen and Sergeant Stuart, Sergeant Stuart. 13:20:02

6 Q What about them? 13:20:20

7 A She was trying to tell me that they were 13:20:20

8 in a relationship, romantic relationship. She was 13:20:23

9 telling me about somebody bringing in something. 13:20:26

10 I can't remember what officer or inmate she was 13:20:30

11 trying to tell me about. But the information was, 13:20:42

12 like, juicy and I was, like, locked in. 13:20:47

13 And that's when the orderly came, and he 13:20:50

14 opened up the door. "What are you all doing?" 13:20:52

15 We're not doing anything. I was actually 13:20:55

16 putting the stuff in the refrigerator at the time. 13:20:57

17 Diamond was just talking. 13:21:00

18 Q She was talking as you were putting the 13:21:02

19 things in the refrigerator? 13:21:04

20 A Yes, ma'am. 13:21:06

21 Q And then -- 13:21:08

22 A (Inaudible.) 13:21:10

23 Q What happened to the jacket? Who is 13:21:14

24 holding the jacket at this point? 13:21:18

25 A What do you mean? She gave me the jacket. 13:21:19

1 She pulled the jacket down. I took the book bag 13:21:22
2 to the side. It doesn't take but a second to take 13:21:24
3 off a book bag. 13:21:27
4 Q Did you put the jacket on? 13:21:28
5 A Yes. I put my jacket on. It was cold. 13:21:30
6 Q While you were in the closet? 13:21:35
7 A I can't remember if I put it on in the 13:21:36
8 closet or when I got out. I know I had my jacket 13:21:38
9 in my hand. She handed me my jacket. 13:21:41
10 Q And you don't recall if you put it on at 13:21:45
11 that moment? 13:21:47
12 A I don't, honestly. I don't remember if I 13:21:50
13 put it on before or after. I just remember, like, 13:21:52
14 the way Ridley came in. It was weird. It was -- 13:21:55
15 I don't know what, and the next day, it was just 13:21:59
16 accusation. 13:22:02
17 Q You were putting things in the 13:22:06
18 refrigerator. Is that what you said, right? 13:22:08
19 A Yes. 13:22:10
20 Q And Ms. Diamond was talking to you about 13:22:12
21 some juicy stuff; is that what you said? 13:22:14
22 A Yes, ma'am. 13:22:16
23 Q And part of that juicy stuff was about 13:22:18
24 Ramsey Allen; is that right? 13:22:21
25 A Yes, ma'am. 13:22:31

1 Q Did she know that you were dating him? 13:22:32

2 A Not from me, she didn't. I think she knew 13:22:34

3 from other employees, other officers, and she was 13:22:38

4 just telling me because she knew that I was, like, 13:22:40

5 friends with him a little. 13:22:43

6 Q Did it seem like she was telling you this 13:22:51

7 information because you'd want to know? 13:22:53

8 MS. LONG: Objection. 13:22:55

9 BY THE WITNESS: 13:23:10

10 A She gave me the information, but what a 13:23:10

11 coincidence, huh? 13:23:12

12 BY MS. LITTRELL:

13 Q How long were you in the room with 13:23:19

14 Ms. Diamond? 13:23:21

15 A Not long at all, maybe five, six minutes. 13:23:22

16 It wasn't long at all. Long enough for her to, 13:23:25

17 like, say that and then Ridley, like, busted in 13:23:29

18 like he actually caught us doing something the way 13:23:38

19 he busted in, the way he came around the corner. 13:23:47

20 It was weird. 13:23:54

21 May I ask a question? 13:24:02

22 Q No. 13:24:04

23 MS. LITTRELL: If you could, Mr. Tech, 13:24:31

24 please put in the chat for me, will you pull up 13:24:33

25 what is marked as date 21-12-06. It starts with 13:24:40

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

Ashley DIAMOND,

Plaintiff,

v.

Arneika SMITH,

Defendant.

CIVIL ACTION NO.
5:21-cv-378-MTT

**CERTIFICATE OF NEED TO FILE DISCOVERY
AND NOTICE OF FILING**

Pursuant to Local Rule 5.4(B)(1), counsel for Defendant in the above-styled action, hereby certifies that the following discovery materials must be filed with the Clerk so the Court can properly consider and rule upon *Defendant's Motion for Summary Judgment [Doc. 126]*.

Deposition of Ashley Diamond taken on February 22, 2022.

Respectfully submitted this 25th day of April, 2022.

SATCHER & MCGOVERN LLC

/s/ Annarita L. McGovern
ANNARITA L. MCGOVERN
Georgia Bar No. 098141

/s/ Terry L. Long
TERRY L. LONG
Georgia Bar No. 457460
Counsel for Defendant Arneika Smith

288 South Main Street
Suite 100
Alpharetta, Georgia 30009
Office: (770) 765-0225
Direct: (770) 847-7280
amcgovern@satcher-mcGovernlaw.com
tlong@satcher-mcGovernlaw.com

CERTIFICATE OF SERVICE

I hereby certify that on this day I served a true and correct copy of the within and foregoing **CERTIFICATE OF NEED TO FILE DISCOVERY AND NOTICE OF FILING** with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing as follows:

Elizabeth Littrell
Tyler Rose Clemons
Maya G. Rajaratnam
Southern Poverty Law Center
Chinyere Ezie
Center for Constitutional Rights
Counsel for Plaintiff

This 25th day of April, 2022.

SATCHER MCGOVERN LLC

/s/ Annarita L. McGovern
ANNARITA L. MCGOVERN
Georgia Bar No. 098141
Counsel for Defendant Arneika Smith

288 South Main Street
Suite 100
Alpharetta, Georgia 30009
Office: (770) 765-0225
Direct: (770) 847-7280
amcgovern@satchermcgovernlaw.com

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

Ashley DIAMOND,

Plaintiff,

v.

Arneika SMITH,

Defendant.

CIVIL ACTION NO.
5:21-cv-378-MTT

**DEFENDANT’S REQUEST TO PLAINTIFF TO FILE ORIGINAL
DEPOSITION TRANSCRIPT OF ARNEIKA SMITH**

COMES NOW ARNEIKA SMITH, Defendant in the above-styled action, and request that counsel for Plaintiff ASHLEY DIAMOND, who is in possession of the **original deposition transcript of Arneika Smith taken on March 18, 2022**, file the original transcript with the Clerk so the Court can properly consider and rule upon *Defendant’s Motion for Summary Judgment [Doc. 126]*.

Respectfully submitted this 25th day of April, 2022.

SATCHER & MCGOVERN LLC

/s/ Annarita L. McGovern
ANNARITA L. MCGOVERN
Georgia Bar No. 098141

/s/ Terry L. Long
TERRY L. LONG
Georgia Bar No. 457460
Counsel for Defendant Arneika Smith

288 South Main Street
Suite 100
Alpharetta, Georgia 30009
Office: (770) 765-0225
Direct: (770) 847-7280
amcgovern@satcher-mcGovernlaw.com
tlong@satcher-mcGovernlaw.com

CERTIFICATE OF SERVICE

I hereby certify that on this day I served a true and correct copy of the within and foregoing **DEFENDANT’S REQUEST TO PLAINTIFF TO FILE ORIGINAL DEPOSITION TRANSCRIPT OF ARNEIKA SMITH** with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing as follows:

Elizabeth Littrell
Tyler Rose Clemons
Maya G. Rajaratnam
Southern Poverty Law Center
Chinyere Ezie
Center for Constitutional Rights
Counsel for Plaintiff

This 25th day of April, 2022.

SATCHER MCGOVERN LLC

/s/ Annarita L. McGovern
ANNARITA L. MCGOVERN
Georgia Bar No. 098141
Counsel for Defendant Arneika Smith

288 South Main Street
Suite 100
Alpharetta, Georgia 30009
Office: (770) 765-0225
Direct: (770) 847-7280
amcgovern@satchermcgovernlaw.com