IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

JAC'QUANN (ADMIRE) HARVARD, ET AL.,

Plaintiffs,

Corrections ("FDC") **and Defendant Mark Inch's (collectively, "Defendants")**

motion to dismiss. ECF No. 28. Defendants request this Court to 1) dismiss *with*

prejudice for failure to exhaust administrative remedies a) all claims Section 504 of the Rehabilitati

42 U.S.C. § 1983, excepting only any such c

phone privileges, d) all of Plaintiff Juan Espi

and communication, and e) all of Plaintiff Johnny Hill's claims under 42 U.S.C. § 1983; and 2) dismiss Plaintiffs' remaining claims *without prejudice* and require any second amended complaint to a) eliminate unnecessary and inflammatory allegations, b) include claims of only one Plaintiff, c) include only those claims that the named Plaintiff has standing to pursue, d) clearly identify which factual allegations support each of the named Plaintiff's claims, and e) clearly allege facts to support the claims, including the specific policies and practices at issue (and identifying which are policies and which are practices), how those policies and practices have affected the Plaintiff, and what the Plaintiff's claimed disability is, and what accommodation the Plaintiff is requesting. a pl(t)8.5 (2 (ti)8. [(a)3.e)3.6 (ve)3.6 (l1.3 (

that Defendants promulgated a statewide policy and practice of isolating over 10,000 people for at least 22 hours a day in tiny, cramped cells. *See* ECF No. 13, ¶¶ 2, 59, 75. Plaintiffs further allege that this statewide policy and practice exposes all persons in isolation to a substantial risk of serious harm to their mental and physical health in violation of the Eighth Amendment and that policymakers in Tallahassee have exhibited deliberate indifference towards these risks. *See* ECF No. 13, ¶¶ 5, 7, 54, 59, 75, 83. Finally, Plaintiffs allege that Defendants discriminate against people with disabilities through this same policy and practice. ECF No. 13, ¶¶ 8, 151–60.

II

This Court accepts the allegations in the amended complaint as true and construes them in the light most favorable to Plaintiff. *See Hunt v. Amico Props., L.P.*, 814 F.3d 1213, 1221 (11th Cir. 2016). "To withstand a motion to dismiss under Rule 12(b)(6), a complaint must include 'enough facts to state a claim to relief that is plausible on its face.' " *Id.* (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). "A 'claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.' " *Id.* (quoting *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)). "Plaintiff's allegations must amount to 'more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do.' " *Id.* (quoting *Twombly*, 550 U.S. at 555).

III

First, Defendants argue that the amended complaint violates Federal Rule of Civil Procedure 8(a)(2) because it 1) is a shotgun pleading, 2) contains unnecessary and inflammatory allegations, 3) pleads non-specific allegations, and 4) contains unsupported conclusory statements. *See* ECF No. 28-1, at 5–8. This Court tackles each of these issues in turn.

A. Shotgun Pleading

Plaintiffs, in their amended complaint, incorporate all the general allegations into each of the three causes of action. *See* ECF No. 13, ¶¶ 176, 182, 192. Defendants take issue with this format and, therefore, ask this Court to dismiss the amended complaint or force Plaintiffs to replead. *See* ECF No. 28-1, at 5.

A pleading must comply with Federal Rules of Civil Procedure 8(a)(2) and 10(b) "so that, [the pleader's] adversary can discern what he is claiming and frame a responsive pleading, the court can determine which facts support which claims and whether the plaintiff has stated any claims upon which relief can be granted, and, at trial, the court can determine that evidence which is relevant and that which is not." *Weiland v. Palm Beach Cty. Sheriff's Office*, 792 F.3d 1313, 1320 (11th Cir. 2015)

"Shotgun pleadings are characterized by: (1) multiple counts that each adopt the allegations of all preceding counts; (2) conclusory, vague, and immaterial facts that do not clearly connect to a particular cause of action; (3) failing to separate each cause of action or claim for relief into distinct counts; or (4) combining multiple claims against multiple defendants without specifying which defendant is responsible for which act." *McDonough v. City of Homestead*, 771 F. App'x. 952, 955 (11th Cir. 2019) (citing *Weiland*, 792 F.3d at 1321–23). The key feature of shotgun pleadings is that they fail to give defendants "adequate notice" of the claims being bought against them and the supporting factual allegations for each claim. *Weiland*, 792 F.3d at 1323.

Here, Plaintiffs' amended complaint is not a shotgun pleading within the meaning of *McDonough*. The amended complaint does not adopt each allegation of all the preceding counts. Plaintiffs' amended complaint is the type of complaint the Eleventh Circuit in *Weiland* did not find to be a shotgun pleading. *Id.* at 1324 (noting that re-alleging paragraphs 1 through 49 at the beginning of each count is not the most common type shotgun pleading). And while the Eleventh Circuit has held that incorporating all the factual allegations into each claim constitutes shotgun pleading, it has done so when it is nearly impossible for Defendants and the Court to determine with any certainty which factual allegations give rise to which claims for relief. *See Jackson v. Bank of America, N.A.*, 898 F.3d 1348, 1356 (11th Cir. 2018); *see also*

Weiland, 792 F.3d at 1325 (holding that dismissal is appropriate only "where it is *virtually impossible* to know which allegations of facts are intended to support which claim(s) for relief."). This is not the case here.

Plaintiffs' amended complaint is separated into distinct sections corresponding with each element of Plaintiffs' claims. *See* Sections V.B–G (alleging various forms of deprivation that prisoners are subjected to which results in substantial psychological and physical harm); H (alleging Defendants' deliberate indifference to the conditions of confinement); I (alleging that no legitimate penological purpose); J (alleging discrimination based on disability due to failure to accommodate); and IV.A. (alleging the disability suffered by each named Plaintiff). These divisions provide this Court and Defendants with sufficient roadmap to determine which factual allegations give rise to which claims for relief. For example, Sections IV.A. and V.J. provide factual allegations that are relevant to Plaintiffs' claim under the Americans with Disability Act ("ADA") and Section 504 of the Rehabilitation Act ("RA"). *See infra* Section VI.B. Similarly, Sections V.B–I. provide factual allegations that are relevant to Plaintiffs' claim under the Eighth Amendment. *See infra* Section VI.A. Therefore, while the practice of including all factual allegations in each count is frowned upon, it does not require dismissal, especially when it is possible to discern which factual allegations give rise to each claim for relief.

B. Unnecessary and Inflammatory Allegations

Defendants argue that Section V.A. of the amended complaint contains allegations that are "unnecessary and inflammatory" and, therefore, violate Rule 8(a)(2). ECF No. 28-1, at 6. It appears that Defendants are request

Taken together, these authorities help this Court to determine whether Defendants' use of isolation and their policies and practices relating isolation violate contemporary standards of decency. As such, striking Section V.A. would be inappropriate. *See* Charles Alan Wright & Arthur R. Miller, Federal Practice and Procedure: Civil 3d § 1382 ("The Rule 12(f) motion to strike allegedly offensive matter also will be denied if the allegations might serve to achieve a better understanding of the plaintiff's claim for relief . . . .").

C. Non-Specific Allegations

Defendants argue that Sections V.C–G. contain non-specific allegations. Specifically, Defendants contend that the amended complaint fails to distinguish between policies and practices, fails to identify which prisons implemented the practices and policies identified and which restrictive housing they pertain to, and fails to allege which Plaintiffs have been affected by the policies and practices and in what ways. ECF No. 28-1, at 7.

Defendants arguments rest on a fundamental misunderstanding of Plaintiffs' claims. Plaintiffs are alleging a statewide policy and practice of isolation that applies to all prisons and all types of confinement. ECF No 13, ¶¶ 75, 82, 177. Defendants' argument that the amended complaint fails to identify the specific prisons and types of restrictive housing is, therefore, irrelevant.

Further, Rule 8 merely requires "a short and plaint statement of the claim" that is "plausible on its face"—one that "calls for enough facts to raise a reasonable expectation that discovery will reveal evidence" of alleged violations. *Twombly*, 550 U.S. at 555–56. Plaintiffs satisfy this requirement. Plaintiffs make general allegations about conditions, restrictions, and security measures in all types of isolation due to the statewide policies and practices. Additionally, Plaintiffs provide specific examples of policies and practices. For example, in the context of deprivation of exercise, Plaintiffs allege policies and practices that 1) fail to provide out-of-cell exercise to some inmates for 30 days or longer, 2) provide out-of-cell

short, Defendants argue that Plaintiffs do not have standing to challenge the types of isolation that they are not subjected to currently. Additionally, Defendants argue that Plaintiffs amended complaint is about conditions of confinement at individual institutions and, therefore, Plaintiffs lack standing to challenge policies and practices of institutions where they are not currently housed. *See* ECF No. 28-1, at 13–15. This Court disagrees.

The standing doctrine is based on a jurisdictional interpretation of the Federal Constitution's "case and controversies" limitation on federal-court jurisdiction and the implicit separation of government powers. *Spokeo, Inc v. Robins*, 136 S. Ct. 1540, 1546–48 (2016). The proper procedural route for challenging Article III standing is Federal Rule of Civil Procedure 12(b)(1). *See Sibley v. Florida Bar*, Case No. 4:09cv219-RH/WCS, 2008 WL 4525395, at *4 n.3 (N.D. Fla. Oct. 3, 2008). According to the Supreme Court, a potential plaintiff must show 1) she has "suffered an 'injury in fact' " that is "concrete and particularized" and "actual and imminent;" 2) there is a "causal connection between the injury and the conduct complained of;" and 3) the injury will be "redressed by a favorable decision." *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560–61 (1992). In seeking injunctive relief—which is the case here—a plaintiff must also demonstrate "a real and immediate—as opposed to a merely conjectural or hypothetical—threat of *future* injury." *Wooden v. Bd.*

Regents of Univ. Sys. of Ga., 247 F.3d 1262, 1284 (11th Cir. 2001) (quoting *City of Los Angeles v. Lyons*, 461 U.S. 95, 102 (1983)).

Further, "Article III standing must be determined as of the time at which the plaintiff's complaint is filed." *Focus on the Family v. Pinellas Suncoast Transit Auth.*, 344 F.3d 1263, 1275 (11th Cir. 2003) (citations omitted). Defendants argue that *Focus* stands for the proposition that a plaintiff must demonstrate standing as of the date of the amended complaint. *See* ECF No. 28-1, at 12 n.2. Not so. In *Focus*, the Eleventh Circuit concluded that "when an amended complaint raises new allegations which do not relate back to a transaction or occurrence in the original complaint, standing must be assessed as of the date of the amendment." *Dunn v. Dunn*, 148 F. Supp. 3d 1329, 1334 (M.D. Ala. 2015) (citing *Focus*, 344 F.3d at 1275). Tc 0. (l)8.5 ( )]TJ0.096 Tw 6 (.)-113 (t).2 (v)ioncusllegaion

amended complaint reflected they had been released from prison since the original complaint was filed, because the challenged prison conditions had not changed). Therefore, Plaintiffs Harvard's and Meddler's standing remains undisturbed.

Returning to Defendants request that this Court limit Plaintiffs' standing to challenge only those types confinement to which they were sl7n 0.079 Tw 2.564 wec8o Dt2(

For these reasons, this Court will not limit Plaintiffs standing to specific types of isolation and certain prisons in which Plaintiffs were housed.

V

Defendants next challenge the joinder of all Plaintiffs in one lawsuit.

Defendants challenge only whether Plaintiffs' claims "arise from the same transaction, occurrence, or series of transactions or occurrence." ECF No. 28-1, at 16. The crux of Defendants argument is that each Plaintiff's claims are separate because each Plaintiff has unique circumstances surrounding their isolation. Once again, Defendants argument is premised on a fundamental misunderstanding of Plaintiffs' claims. Plaintiffs' claims arise out of the policies and practices related to isolation promulgated in Tallahassee. While each Plaintiff might suffer harm based on their unique circumstances, the underlying cause of each Plaintiff's harm is the policies and practices related to isolation. That is to say, there is a logical relationship between the claims of each Plaintiff because the underlying facts giving rise to each Plaintiff's claims is the same—policies and practices promulgated by high-level officials in Tallahassee. Therefore, joinder of Plaintiffs' claims serves the interest of judicial economy by eliminating multiple suits challenging the same statewide policies and practices. For these reasons, joinder is proper.

VI

Defendants contend that Plaintiffs have failed to a state claim under 1) 42 U.S.C. § 1983 for a violation of Eighth Amendment, 2) the ADA, and 3) Section 504 of the RA. *See* ECF No. 28-1, at 40–46. That is, Defendants contend that Plaintiffs have failed to state a claim for relief for each cause of action they assert. This Court disagrees.

Before diving into the analysis of Plaintiffs' causes of action, this Court tackles Defendants' argument that Plaintiff should have brought a writ of habeas corpus relief instead of a claim under 42 U.S.C. § 1983. ECF No. 28-1, at 40. Petition for habeas corpus and a complaint under 42 U.S.C. § 1983 are "mutually exclusive: if a claim can be raised in a federal habeas petition, that same claim cannot be raised in a separate § 1983 civil rights action." *Hutcherson v. Riley*, 468 F.3d 750, 754 (11th Cir. 2006). "When an inmate challenges the 'circumstances of his confinement' but not the validity of his conviction and/or sentence, then the claim is properly raised in a civil rights action under § 1983." *Id.* (citation omitted).

Plaintiffs have properly raised a civil rights action under 42 U.S.C. § 1983. 06 Tw -8.58

4

(alleging deprivation of environmental stimulation for people in isolation); 108–112 (alleging people in isolation are deprived of out-of-cell exercise). Plaintiffs have, therefore, chosen the proper avenue for relief.

A. First Cause of Action (42 U.S.C. § 1983; Eighth and Fourteenth

standard of decency'—that is, 'the evolving standards of decency that mark the progress of a maturing society.' " *Id.* (citation omitted). And while solitary confinement does not, in and of itself, constitute cruel and unusual punishment, "[c]onfinement . . . in an isolation cell is a form of punishment subject to scrutiny under Eighth Amendment standards." *Id.* (citation omitted). Defendants do not question whether Plaintiffs have adequately pled deliberate indifference, only whether the conditions in isolation are "cruel and unusual." This Court finds that Plaintiffs have "nudged [their] claim across the line from conceivable to plausible." *Twombly*, 550 U.S. at 570. That is to say, Plaintiffs have sufficiently alleged that the isolation conditions they have been subjected to deprived them of basic human needs that has resulted in substantial risk of serious harm.

Plaintiffs allege that the cumulative effects of various forms of deprivation subject people to a substantial risk of serious psychological and physiological harm. *See* ECF No. 13, ¶¶ 5, 59, 75, 84. Specifically, Plaintiffs allege that deprivation of normal human contact, environmental stimulation, and exercise along with degrading and dehumanizing security measures subject Plaintiffs to a substantial risk of serious psychological and physiological harm. *See* ECF No. 13, ¶¶ 90–123. Courts have recognized exercise, social interaction, and environmental stimulation as basic human needs subject to deprivation. *See, e.g.*, *Wilson v. Seiter*, 501 U.S. 294, 304 (1991) (recognizing exercise as a human need); *Quintanilla*, 730 F. App'x. at 747

("We believe that further factual development is warranted before it can be concluded that [denial of food, exercise, and human contact], whether alone or in combination, are enough to show the deprivation of . . . basic human needs."); *Hall v. Palmer*, Case No. 3:15-cv-8240J-39JRK, 2017 WL 4764345 (M.D. Fla. Oct. 20, 2017) (denying defendants motion to dismiss a plaintiff's claim regarding denial of exercise and normal human contact in isolation); *Wilkerson v. Stalder*, 639 F. Supp. 2d 654, 678 (M.D. La. 2007) ("[T]he failure to identify [social interaction and environmental stimulation as basic human needs] would be inconsistent with jurisprudence recognizing mental health as worthy of Eighth Amendment protection, and the requirement that Eighth Amendment protections change to reflect 'evolving standards of decency that mark the progress of a maturing society.' ") (citation omitted); *Maddox v. Berge*, 473 F. Supp. 2d 888, 896 (W.D. Wis. 2007) (noting that in a previous case the court had found social interaction and sensory stimulation were basic human needs).

For each of the broad allegations of deprivation of basic human needs, Plaintiffs list specific conditions of confinement. *See* ECF No. 13, ¶¶ 90–99 (deprivation of human contact); 100–07 (deprivation of environmental stimulation); 108–12 (deprivation of exercise). For example, Plaintiffs allege that Defendants deprive them of exercise by, among other things, 1) failing for provide out-of-cell exercise to some inmates for 30 days or longer, 2) providing out-of-cell exercise in

small cages that do not have adequate exercise equipment, 3) leaving some prisoners in restraints during out-of-cell exercise, 4) searching inmates cells during exercise time, 5) frequently canceling exercise due to staffing shortage, and 6) denying exercise time for trivial and pretextual offenses. ECF No. 13, ¶¶ 108–12. While some of these allegations in isolation may not result in a violation of the Eighth Amendment, Plaintiffs have alleged sufficient facts to show that the conditions of confinement, in combination, have a "mutually enforcing effect that produces the deprivation of a single identifiable human need" such as human contact,

bipolar disorder which substantially limits her brain function. ECF No. 13, ¶¶ 13–15; *see* 28 C.F.R. § 35.108(d)(2)(iii)(K) ("Major depressive disorder, bipolar disorder . . . substantially limits brain function). Additionally, Plaintiff Harvard was placed on suicide watch more than fifty times and she has cut or injured herself at least forty times. ECF No. 13, ¶ 15. This shows that her mental illnesses substantially limit her ability to care of herself. *See Peters v. Baldwin Union Free Sch. Dist.*, 320 F.3d 164, 168 (2d Cir. 2003) ("A mental illness that impels one to suicide can be viewed as a paradigmatic instance of inability to care for oneself."). Plaintiff Meddler has been diagnosed with asthma, anxiety, and mood disorders. ECF No. 13, ¶ 23. She has experienced suicidal ideation and has, on multiple occasions, tied a sheet around her neck. ECF No. 13, ¶ 27. As such, Plaintiff Meddler has shown that her mental illnesses —anxiety and mood disorders—substantially limit her ability to take care of herself. *See Peters*, 320 F.3d at 168. Plaintiff Espinosa suffers from paranoid schizophrenia, major depressive disorder, bipolar disorder, throat tumors, muteness, and cancer which substantially limits his speaking, brain function, and normal cell growth. ECF No. 13, ¶ 30, 32–33; *see* 28 C.F.R. §§ 35.108(d)(2)(iii)(F) & 35.108(d)(2)(iii)(K). Plaintiff Burgess suffers from paralysis which has required him to use a wheelchair and urinary catheters, thus substantially limiting his bladder and musculoskeletal function. *See* 28 C.F.R. §§ 35.108(c)(1) & 35.108(d)(2)(iii)(D). Plaintiff Burgess also suffers from seizure disorder and major depressive disorder

which substantially limits his brain function.

theory that the Defendant failed to reasonably accommodate the Plaintiffs' disability." *See Lonergan v. Fla. Dept. of Corr.*, 623 F. App'x 990, 992 (11th Cir. 2015) (citation omitted).

Here, Plaintiffs have sufficiently alleged that they were discriminated against because of their disabilities due to Defedants' failure to provide reasonable accommodation. *See, e.g.*, ECF No. 13, ¶¶ 152 (alleging FDC's failure to 1) modify FDC's policies and practices to accommodate transgender people by failing to provide safe housing, and 2) modify disciplinary rules to accommodate for erratic behaviors of psychiatric and intellectually disabled prisoners); 153 (alleging failure to modify FDC's isolations policies and practices to provide for adequate out-of-cell time, social interaction, environmental stimulation, and mental health treatment to prevent worsening mental health symptoms, which results in self-harm behavior); 154 (alleging failure to modify policies for individuals in isolation for behaviors related to worsening mental health, which results in prolonging of isolation); 156 (alleging FDC's failure to 1) modify its restraint policies and practices for individuals with mobility disabilities, which subjects them to injuries and heightened risk of falls, 2) provide people with mobility and medical disabilities access to exercise, such as physical therapy and exercise equipment, that they need to maintain or increase their ambulation and avoid exacerbation of medical symptoms or chronic pain, 3) change its strip search policies for people with mobility impairments or

catheters to reduce risk of injury or humiliation, 4) modify cell search policies to

"[D]eciding a motion to dismiss for failure to exhaust administrative remedies is a two-step process." *Turner v. Burnside*, 541 F.3d 1077, 1082 (11th Cir. 2008). "First, the court looks to the factual allegations in the defendant's motion to dismiss and those in the plaintiff's response, and if they conflict, takes the plaintiff's version of the facts as true. If, in that light, the defendant is entitled to have the complaint dismissed for failure to exhaust administrative remedies, it must be dismissed." *Id.* (citation omitted) "If the complaint is not subject to dismissal at the first step, where the plaintiff's allegations are assumed to be true, the court then proceeds to make specific findings in order to resolve the disputed factual issues related to exhaustion." *Id.* (citation omitted).

Performing the *Turner* two-step process, this Court finds that, under step-one, Defendants are not entitled to have the amended complaint dismissed for a failure to exhaust administrative remedies. Under step-two, this Court must make specific findings in order to determine whether Plaintiffs exhausted their administrative remedies. *See Turner*, 541 F.3d at 1082. This Court may consider facts outside of the pleadings to resolve factual disputes so long as the factual disputes do not decide the merits and the parties are given sufficient opportunity to develop a record. *See Tillery v. U.S. Dep't of Homeland Sec.*, 402 F. App'x 421, 423-24 (11th Cir. 2010) (per curiam) (citing *Bryant*, 530 F.3d at 1376).

excessive force or some other wrong." *Porter v. Nussle*, 534 U.S. 516, 532 (2002). "Requiring exhaustion allows prison officials an opportunity to resolve disputes concerning the exercise of their responsibilities before being haled into court." *Jones v. Bock*, 549 U.S. 199, 204 (2007).

At the core of parties' disagreement is the level of factual specificity that must be included in an administrative petition. That is, how much detail does a plaintiff need to include in her petition to satisfy the exhaustion requirement under the PLRA?

"[I]t is the prison's requirements, and not the PLRA, that defines the boundaries of proper exhaustion." *Jones*, 549 U.S. at 219. By extension then, the level of factual specificity that must be included in an administrative petition must interpreted "

grievance might be completely unworkable" because "[i]t would be a rare case in

008, 33-103.011(c). Grievance appeals may be returned without action if one of the conditions listed in Rule 33-103.014 are found to exist. *Id.* As to the level of factual specificity, the only requirement established by FDC's rules is that the "inmate shall ensure that the form is legible, that included facts are accurately stated, and that only one issue or complaint is addressed." Fla. Admin. Code R. 33-103.005(2)(b)2. "By its terms, this mandates no level of detail at all, requiring only that whatever facts are stated must be true." *Goldsmith,* 357 F. Supp. 3d at 1339.

But allowing claims to proceed without any level of detail would thwart the purpose of PLRA's exhaustion requirement, which "is to put [administrative authority] on notice of all of the issues in contention and allow the [authority] an opportunity to investigate those issues. *Chandler v. Crosby,* 379 F.3d 1278, 1287 (11th Cir. 2004) (citations omitted). In circumstances when the prison's grievance procedure is silent about the level of factual specificity required, "a grievance suffices if it alerts the prison to the nature of the wrong for which redre3.7 (e)3eri3.7 (e)8.5 AT t

to satisfy a standard more stringent than that of notice pleading.). In sum, absent a stringent requirement in FDC's rules, a standard akin to notice pleading is appropriate when determining whether Plaintiffs' grievances contained sufficient details to exhaust their administrative remedies.

Plaintiffs allege a violation of their Eighth Amendment rights and their rights protected by ADA and RA because of the policies and practices of isolation. At the core of Plaintiffs' claims is that Defendants' policy and practice of isolation cause them substantial harm and discriminate against them based on their disabilities. While Plaintiffs allege, among other things, lack of exercise, visitation, education, or gender dysphoria treatment, Plaintiffs' claims are not about separate and distinct conditions of confinement or about separate and distinct incidences of disability discrimination, but rather about overarching conditions of confinement that cause them substantial harm and discriminate against them based on their disabilities.

In contending that Plaintiffs have not exhausted their administrative remedies, Defendants divide aspects of condition in the solitary confinement and argue that Plaintiffs need to separately grieve each of the alleged conditions present in the unit. This Court disagrees. If this Court were to follow Defendants requirement, which goes substantially beyond their own rules, "[D]efendants could obstruct legal remedies to unconstitutional actions by subdividing the grievances" because "[i]t would be a rare case in which defendants could not find some facts that allegedly

was not included in a grievance." *Lewis v. Washington*, 197 F.R.D. 611, 614 (N.D. Ill. 2000); *Goldsmith*, 357 F. Supp. 2d at 1340. Plaintiffs need only grieve that isolation is causing them substantial harm. This is because isolation necessarily involves the restrictions imposed by the isolation, such as lack of exercise, human contact, and environmental stimulation. For their ADA and RA claims, Plaintiffs need to grieve that they had disability-related problems and were discriminated againstily

education and normal human contact and is causing him psychological harm.

him to be "more stressed and depressed," and has made it difficult for him to manage his "health problems." ECF 29-9, at 130, 133–34. In legal terms, Plaintiff Espinosa notified Defendants that isolation is causing him substantial psychological harm. Plaintiff Espinosa has, therefore,

Defendants' justification for returning Plaintiff Burgess' grievance is misplaced. Plaintiff Burgess grieved one issue: the cumulative effect of isolation on his health. The issues of "close management placement" and Plaintiffs' "medical condition" are not separate and distinct, but are intertwined. In essence, Plaintiff Burgess grieved about the harms caused by one action—his placement in solitary confinement. It would make no sense to separate the effect of an action and the action itself.[3]

Plaintiff Burgess did everything required by the administrative rules. He filed a grievance, which was improperly rejected for failing to comply with the one issue rule. *See* ECF No. 29-11, at 304. He then appealed the rejection to the Office of the Secretary, explaining that he was grieving the cumulative effects of isolation on his health. *See* ECF No. 0 Tle (s)8.444444440

Ss.ing thas.in.2 (he)3.5 d forpe11 (s.) (in.2 l2.2 (ule 3.068 0

to process a prisoner's grievance, the prisoner is deemed to have exhausted available administrative remedies" because "[i]n such circumstances, prison officials have 'thwart[ed] inmates from taking advantage of [the] grievance process,' making that process unavailable."); *Dole v. Chandler*, 438 F.3d 804, 811 (7th Cir. 2006) (holding that if inmate properly follows grievance procedure and prison officials mishandle grievance, then inmate must be considered to have exhausted administrative remedies); *Burnett v. Jones*, 437 F. App'x 736, 741 (10th Cir. 2011) ("[I]mproper rejection of grievance appeal excuses the prisoner's failure to properly exhaust."); *Johnson v. Meier*, 842 F. Supp. 3d 1116, 1119 (E.D. Wis. 2012) (finding that defendants wrongly concluded that the plaintiff violated the single-issue rule and because the plaintiff complied with the grievance rule, he "was left with no further remedies under the inmate grievance system and met the requirements of the PLRA").

G. Plaintiff James Kendrick, Jr.

Plaintiff Kendrick filed nine grievance appeals from June 2018 to present. ECF No. 29-12,13. In addition, he filed an informal grievance, 205-1902-0471, which was approved by Defendants. ECF No. 42-1, at 2. As it pertains to his informal grievance, Plaintiff Kendrick did not need to appeal his grant in order to exhaust his administrative remedies. *See Williams v. Dep't of Corr.*, 678 F. App'x 877, 881 (11th

Cir. 2017) (holding that a plaintiff is not required to appeal from a grant of relief to exhaust his administrative remedies).

In his grievances, Plaintiff Kendrick claimed that "his depression, anxiety, and suicidal thoughts [have] gotten worse and [have] become more regular and intense since his placement" in solitary confinement and that "his mental and physical health has and is deteriorating." ECF No. 42-1, at 2. Through his grievance appeal 18-6-52194, Plaintiff Kendrick claimed that a nurse administered an insulin injection through a "rusted out food flap." ECF No. 33, at 130. He also claimed that "the practice of making close management inmates stick their arms through 'Rusted Out Food Flaps' is putting them at risk of further health problems" and that the practice of administering pre-loaded insulin syringes put him and other inmates at "risks of health problems when [nurses] don't bring enough, extra Insulin." ECF No. 133, at 131. These grievances notified Defendants that isolation placed Plaintiff Kendrick at risk of physical and mental harm and therefore satisfied the exhaustion requirement for his Eighth Amendment claim. Further, by notifying Defendants of the harmful practice of insulin administration, Plaintiff Kendrick apprised Defendants that he was being discriminated against due to his disability—diabetes. He even suggested an accommodation, when he claimed that "Florida State Prison is the only Institution that forces inmates to stick their arms through 'Rusted Out Food Flaps' to receive their [i]nsulin [s]hots, whereas at other Institutions they pull

the inmates out of their cells to receive their [i]nsulin shots." ECF No. 33, at 130. Therefore, Plaintiff Kendrick notified Defendants of his disability and suggested an accommodation. He has, therefore, exhausted administrative remedies for his disability discrimination claim.

H. Plaintiff Johnny Hill

Plaintiff Hill filed 15 grievance appeals from July 2014 to present. ECF No. 29-14, 15. Defendants do not challenge that Plaintiff Hill exhausted his administrative remedies for his ADA and RA claims. *See* ECF No. 28, at 2–3 ("dismiss[] with prejudice . . . for failure to exhaust administrative remedies: all of Johnny Hill's claims under 42 U.S.C. § 1983 (First Cause of Action)").

Plaintiff Hill also exhausted his administrative remedies for his Eighth Amendment claim through grievance appeal 19-6-14024. In this grievance appeal, Plaintiff Hill claimed that he had been in isolation for "approximately [four and a half] years" and that being in isolation has caused him "major depression issues, . . . hallucination, suicidal [ideation], . . . [and] hypertension . . . ." ECF No. 29-15, at 143–44. He also informed Defendants that he needed mental health and medical services that would be available to him if he were in the general population, thereby notifying them that he was not receiving equal access to services, and that he needed accommodation. ECF No. 29-15, at 143–44. He requested to be removed from isolation and placed back into general population because isolation had "effected

[sic]—