

FILED

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
OCALA DIVISION

2016 JAN 27 AM 11:53  
CLERK, US DISTRICT COURT  
MIDDLE DISTRICT OF FL

R.W.,

Plaintiff,

v.

Case No. *5:16-CV-45-DC-10 PRL*

BRUCE A. KISER JR.,  
in his individual capacity,

Defendant.

**COMPLAINT AND JURY DEMAND**

Introduction

R.W. was just 17 years old when, while in the custody of the Florida Department of Corrections, he was beaten and raped by a group of approximately six prisoners at Sumter Correctional Institution. The attack happened on the watch and in plain view of Officer Bruce A. Kiser Jr., who failed to prevent the beating, intervene after it began, or even report it. Over-

This attack was part of the ritual of initiation beatings for youthful offenders widely known to both guards and incarcerated youth as “Tests of

Heart” or “T.O.H.” R.W. was attacked just weeks after entering prison for the first and only time. He is scheduled to be released from prison in 2017.

5. Defendant Officer Bruce A. Kiser Jr., is a correctional officer

Defendant Officer Kiser, at all times material to this action, was assigned to work in "F Dormitory" at Sumter Correctional Institution ("Sumter"), supervising youthful offenders. Defendant Officer Kiser was responsible for the operation and supervision of F Dormitory; the enforcement of the relevant rules, regulations, policies and practices; and the safety of those under his watch.

Factual Allegations

6. When B. W. entered the F.D.C. he was classified as a "youthful

court system to adult criminal court. If convicted in adult court, a direct-filed youth may be sentenced to adult prison time, regardless of his age, and transferred to a prison within the F.D.C.

9. Violence and neglect pervade the F.D.C., making its prisons a

incarcerated by the F.D.C. In 2014, that number increased to 346, including one young person who was reportedly attacked in a youthful offender prison, like R.W., and subsequently died, just six days after his twentieth birthday.



[REDACTED]

believed that reporting the threat served no purpose and could even put him

[REDACTED]

[REDACTED]

in added danger of retaliation for “snitching.” R.W. had heard of other youth who reported similar threats; guards responded by saying, “Welcome to prison.” and did nothing to prevent the violence. Until R.W. fought or paid

24. Unbeknownst to R.W. about six other youth were hiding in the

bathroom area at the time. They joined in and began beating R.W.

25. Unbeknownst to R.W., this type of attack – multiple youth ganged up against one, often unsuspecting, youth – is typical of a Test of Heart.

26. R.W. was immediately overwhelmed and could not defend himself.

27. When the attack began, Defendant Officer Kiser was in the officer's station, which is adjacent to the bathroom area where the attack occurred. In order to enter the bathroom area, a person must walk directly

who gathered outside the bathroom, near the officer's station, during the attack.

30. After the attack began, Defendant Officer Kiser looked at R.W. from the officer's station.

31. While the attack continued, Defendant Officer Kiser stepped outside the officer's station towards the south end near the bathroom to

watch the attack. Defendant Officer Kiser looked towards the bathroom area and then returned to the officer's station. He took no action.

32. Over the course of almost 30 minutes, R.W. was hit, choked, slammed on the floor, punctured dozens of times with two pieces of barbed



rape under the Prison Rape Elimination Act. 42 U.S.C.A. § 15609(9)(A) (“The term ‘rape’ means ... sexual assault with an object ... forcibly or against that person’s will.”).

36. While the attack continued, one youth exited the bathroom area and picked up a broom that was resting near the bathroom entrance, by the officer’s station. He took the broom into the bathroom. Defendant Officer Kiser remained in the officer’s station and took no action.

37. One or more youth took the broom that had been brought into

and laughed as his beating continued. Still others came in to use the bathroom and walked out when they were done.

42. Defendant Officer Kiser was in the officer's station throughout most of the attack.

bathroom area soaking wet from sweat and water in the bathroom. They walked directly by the officer's station, where Defendant Officer Kiser was located and could see them. Defendant Officer Kiser took no action.

44. Other youth left the bathroom, grabbed cleaning supplies, and went back into the bathroom.

45. Defendant Officer Kiser again exited the officer's station and looked towards the bathroom area. R.W. was still in the bathroom.

chest from the barbed wire that prisoners attacked him with. He received multiple contusions, and his neck was left red long after the attack, from injuries sustained when he was rendered unconscious. He was bleeding from his injuries and from his rectum.

48. R.W. borrowed clean clothes from another youth before leaving the bathroom area.

49. R.W. exited the bathroom more than 30 minutes after the attack began on Defendant Officer Kiser's watch.

50. R.W. did not report what had happened because he believed that reporting the Test of Heart would be futile, and he feared that it would lead to another beating in retaliation.

51. R.W. tried to appear as if nothing had happened, despite being in pain and having dozens of open puncture wounds on his body.

52. R.W. had cuts and redness around his neck. Youth encouraged

him to use toothpaste to clean the wounds and stop the bleeding on his neck.



60. For the first few days in confinement, R.W. did not receive a sheet to cover his mattress, a blanket or any other bedding. While in confinement, R.W. was allowed outside of the cell only to shower three

times a week, and for three interviews with the investigator from the Inspector General's office. He was prohibited from interacting with other prisoners, going to recreation, attending GED classes or participating in any

victims of sexual abuse are at risk for greater trauma when placed in isolation.

64. At Sumter and throughout the F.D.C., victims of attacks are typically held in confinement following their assaults despite the Prison

Rape Elimination Act.

65. After a few days in confinement, D.W. sent his only clothes to

70. Defendant Officer Kiser was not disciplined for his role in this attack and continues to be employed as a prison guard by the F D C

**CAUSE OF ACTION**

**Eighth Amendment; 42 U.S.C. § 1983**

**Defendant Bruce A. Kiser Jr.**

71. Plaintiff repeats and realleges each preceding paragraph as if fully set forth herein.

72. Plaintiff's claim for relief is predicated upon 42 U.S.C. § 1983,

which authorizes a cause of action to redress the deprivation, under color of state law,

to brooms and mops, despite knowing that these weapons are used in prison assaults.

75. Defendant Officer Kiser was aware that R.W. faced a substantial risk of serious harm, yet failed to do anything to stop it. Defendant Officer Kiser acted with deliberate indifference to the substantial risk of serious harm to R.W.

76. As a result of Defendant Officer Kiser's failure to intervene,

R.W., R.W. suffered physical injury, severe emotional and mental distress, humiliation and degradation.



**JURY TRIAL DEMAND**

Plaintiff respectfully demands trial by jury.

Respectfully submitted,

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