

THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
Case No. 3:14-CV-625

STACEY WYNN, ORLANDO HARSHAW, )  
SEAN SMITH, BENJAMIN WHITE, )  
TAVIEOLIS HUNT, )  
Plaintiffs, )

v. )

SECRETARY FRANK PERRY, )  
ADMINISTRATOR DAVID MITCHELL, )  
LAWRENCE H. PARSONS, JR., )  
RODNEY MAULDIN, JOHN HARRINGTON, )  
JEFFREY WALL, ALLAN KENNEDY )  
RHONDA JACKSON, JONATHAN PEGUESE )  
FNU MCCOY, FNU LAWRENCE, )  
FNU ANDREWS, JOHN DOE OFFICERS 1-7 )  
Defendants. )

COMPLAINT  
42 U.S.C. § 1983

---

**I. PRELIMINARY STATEMENT**

Plaintiffs are five prison inmates who were violently assaulted with contraband weapons by their fellow prison inmates while housed in the custody of the North Carolina Department of Public Safety at Lanesboro Correctional Institution in Polkton, North Carolina. All of the assaults involved the use of contraband metal weapons resembling razors, shanks, knives, ice picks, and other dangerous weapons. Many of the inmates who assaulted Plaintiffs were validated Security Threat Group (STG) members, meaning that they were labeled by prison staff as being associated with gangs. Lanesboro Correctional Institution administration and staff failed to take the necessary steps to secure the prison to provide for the safety of the inmates housed in their custody, thus allowing gang violence within the prison walls and cultivating an environment conducive to inmate-on-inmate violence. In particular, Defendant Unit Manager

Wall encouraged the violent attacks and concealed contraband weapons in his office. Plaintiffs, as a result, were deprived of their Constitutional rights to serve their prison sentences without constantly fearing for their lives and safety. As such, this is an action under 42 U.S.C. §1983 for injunctive and declaratory relief, and for money damages to redress Defendants' violations of Plaintiffs' rights guaranteed by the United States Constitution.

Defendants are agents and/or employees of the North Carolina Department of Public Safety, Division of Adult Correction which is the state agency responsible for the care, custody, and control of all inmates within the State of North Carolina. The North Carolina Department of Public Safety was formerly known as the North Carolina Department of Corrections.

Each and every paragraph in this Complaint shall be fully incorporated and realleged as if fully set forth herein.

## **II. JURISDICTION AND VENUE**

1. The Court has jurisdiction over Plaintiff's claims pursuant to 42 U.S.C. §1983, 28 U.S.C. §1343(a)(3) and 28 U.S.C. §1331. Plaintiffs seek declaratory relief pursuant to 28 U.S.C. § 2201 and 2202. The Court has the authority to grant injunctive relief under 18 U.S.C. § 3626.
2. Venue is appropriate in this Court, pursuant to 28 U.S.C. §1391(b)(2), because a substantial part of the events and omissions giving rise to Plaintiffs' claims occurred, and continue to occur, within the Western District of North Carolina.

## **III. PARTIES**

### **A. PLAINTIFFS**

3. The allegations contained in previous paragraphs of this Complaint shall be fully incorporated and realleged as if fully set forth herein.
4. Plaintiff **Stacey Wynn** (hereinafter referred to as Plaintiff Wynn) is a 43 year-old male inmate in the custody of the North Carolina Department of Public Safety, Division of Adult Correction (hereinafter referred to as “DAC”). Plaintiff Wynn is currently housed at Tabor Correctional Institution in Tabor City, North Carolina. At all times relevant to the actions giving rise to the Complaint, Plaintiff Wynn was an inmate housed at Lanesboro Correctional Institution (hereinafter referred to as Lanesboro).
5. Plaintiff **Orlando Harshaw** (hereinafter referred to as Plaintiff Harshaw) is a 41 year-old male inmate in the custody of the DAC. Plaintiff Harshaw is currently housed at Pasquotank Correctional Institution. At all times relevant to the actions giving rise to the Complaint, Plaintiff Harshaw was an inmate housed at Lanesboro.
6. Plaintiff **Tavieolis Hunt** (hereinafter referred to as Plaintiff Hunt) is a 35 year-old inmate in the custody of the DAC. Plaintiff Hunt is currently housed at Maury Correctional Institution in Hookerton, North Carolina. At all times relevant to the actions giving rise to the Complaint, Plaintiff Hunt was an inmate housed at Lanesboro.
7. Plaintiff **Sean Smith** (hereinafter referred to as Plaintiff Smith) is a 29 year-old inmate in the custody of the DAC. Plaintiff Smith is currently housed at Alexander Correctional Institution. At all times relevant to the actions giving rise to the Complaint, Plaintiff Smith was an inmate housed at Lanesboro.
8. Plaintiff **Benjamin White** (hereinafter referred to as Plaintiff White) is a 31 year-old inmate in the custody of the DAC. Plaintiff White is currently housed at Scotland

Correctional Institution. At all times relevant to the actions giving rise to the Complaint, Plaintiff White was an inmate housed at Lanesboro.

9. DAC retains the right to transfer Plaintiffs back to Lanesboro Correctional Institution at any time.

#### **B. CORRECTIONAL STAFF DEFENDANTS**

10. The allegations contained in the previous paragraphs of this Complaint shall be fully incorporated and realleged as if fully set forth herein.
11. The following Defendants were at all times relevant to this Complaint correctional officers, sergeants, or otherwise employed by DAC, assigned to Lanesboro Correctional Institution, and acting under color of state law. The following Defendants are sued in their individual capacities for compensatory and punitive damages:
  - a. **Rodney Mauldin.** Defendant Mauldin worked in the kitchen at Lanesboro at the time Plaintiff Wynn was assaulted. Plaintiff Wynn advised Defendant Maudlin multiple times that inmate Sadat Sanchez was stealing from the kitchen coolers, and that tensions were rising between Plaintiff Wynn and inmate Sanchez. Defendant Mauldin is being sued in his individual capacity for failing to protect Plaintiff Wynn from assault by Inmate Sanchez, or otherwise acting to ensure Plaintiff Wynn's safety. He had a duty to supervised Sanchez, to make sure Sanchez did not take contraband weapons, and to notify supervisors when Sanchez was violating rules.
  - b. **John Harrington.** Defendant Harrington was the kitchen supervisor at Lanesboro at the time Plaintiff Wynn was assaulted. Plaintiff Wynn advised Defendant Harrington on multiple occasions that inmate Sadat Sanchez was stealing from the kitchen

coolers, and that tensions were rising between Plaintiff Wynn and Inmate Sanchez. Defendant Harrington is being sued in his individual capacity for failing to protect Plaintiff Wynn from assault by Inmate Sanchez, or otherwise acting to ensure Plaintiff Wynn's safety. He had a duty to supervised Sanchez, to make sure Sanchez did not take contraband weapons, and to notify supervisors when Sanchez was violating rules.

- c. **Unit Manager Jeffrey E. Wall.** Unit Manager Jeffrey Wall was the Unit Manager on the Union Unit at Lanesboro Correctional Institution when Plaintiff Harshaw was assaulted. Plaintiff Harshaw had filed a grievance concerning gang activity within the prison and possible staff involvement in gang activity. Unit Manager Wall showed Plaintiff Harshaw's grievances to another inmate known to be actively involved with the Bloods, a validated Security Threat Group, thereby endangering Plaintiff Harshaw. Defendant Wall was also on duty on or about April 17, 2012 when Plaintiff Hunt informed Defendant Wall that Hunt was not safe being housed on the same unit where he had been attacked by another inmate on March 25, 2012. Plaintiff Hunt also voiced his concerns to Defendant Wall that Hunt was not safe in his current housing location due to the heavy presence of gang members in that area of the prison. Defendant Wall did not take action to ensure Plaintiff Hunt's safety. Defendant Wall was discovered to have hidden bags of shanks, or improvised knives, in the ceiling of his office.
- d. **FNU McCoy.** Defendant McCoy was a Correctional Officer on duty at Lanesboro on or about October 26, 2012 when Plaintiff Smith was assaulted. Defendant McCoy

- escorted Plaintiff Smith to the shower. Defendant McCoy allowed inmate Matthew Long to attack Plaintiff Smith, in the presence of Defendant McCoy, while Plaintiff Smith was restrained in handcuffs behind his back. Defendant McCoy watched and failed to intervene as Plaintiff Smith was attacked with a sharp metal object.
- e. **FNU Lawrence.** Defendant Lawrence was a Correctional Officer on duty on or about March 25, 2012 when Plaintiff Hunt was assaulted by another inmate. She was asked by Plaintiff Hunt's assailant to open the cell door where Plaintiff Hunt was hiding. Defendant Lawrence opened the cell door and Plaintiff Hunt was stabbed by his attacker.
  - f. **Jonathan Peguese.** Defendant Pegues was a Correctional Sergeant on duty in charge of investigating the March 25, 2012 attack on Plaintiff Hunt. After the March 25, 2012, Plaintiff Hunt informed Defendant Pegues that he was not safe at Lanesboro. Defendant Pegues failed to take action to ensure Plaintiff Hunt's safety. As a result Plaintiff Hunt was attacked when he was returned to regular population in April 2012.
  - g. **Allan Kennedy.** Defendant Kennedy was a Case Manager at Lanesboro on or about April 11, 2012. On that date, Plaintiff Hunt informed Defendant Kennedy that he was not safe at Lanesboro, and Plaintiff Hunt requested a transfer. Defendant Kennedy failed to take action to ensure Plaintiff Hunt's safety.
  - h. **Rhonda Jackson.** On the date Plaintiff White was assaulted, Defendant Jackson informed Plaintiff White that she thought "something was about to go down." However, she took no action to ensure Plaintiff White's safety. After Plaintiff White

was assaulted, Defendant Jackson further failed to ensure Plaintiff White's safety when she did not alert other officers that an inmate attack was occurring.

- i. **FNU Andrews.** On the date Plaintiff White was stabbed, Defendant Andrews was working the control booth on Union Unit at Lanesboro. Defendant Andrews was in control of the slider door, and he opened it allowing five inmates from another housing area to come into Plaintiff White's Union Unit, C-Pod to stab Plaintiff White.
- j. **Correctional John Doe Officers 1-6.** These officers have yet to be identified, and will be identified in the course of discovery.

- i. **Correctional John Doe Officers 1.** Sergeant John Doe Officer-1 was a correctional officer at Lanesboro Prison when Plaintiff Harshaw was assaulted. worked with Unit Manager Wall. He smuggled in contraband cell phones and weapons. Plaintiff Harshaw's radio was placed in Sergeant John Doe-1's office, and then given to another inmate. Plaintiff Harshaw's grievance about preferential treatment to gang members prompted the retaliatory attack. Upon information and belief, Sergeant John Doe Officer-1 was aware of the plans to retaliate against Plaintiff Harshaw and took no action to prevent the attack on Plaintiff Harshaw.

- ii. **Correctional John Doe Officers 2 and 3.** John Doe Officers 2 and 3 were correctional officers at Lanesboro Prison when Plaintiff Hunt was assaulted. They were working in that area where Plaintiff Hunt was attacked and were responsible for making sure unauthorized

inmates do not enter the area. They allowed Inmate Woods and Broadhurst into the unauthorized area, facilitating the attack on Plaintiff Hunt.

- iii. **Correctional John Doe Officers 4 and 5.** These correctional officers were working at Lanesboro Prison when Plaintiff White was assaulted. John Doe Officers 4 and 5 were present when Plaintiff White was attacked and opened the door, allowing the attackers into the unauthorized area and facilitating the attack.
- iv. **Correctional John Doe Officer 6.** This correctional officer was working at Lanesboro Prison when Plaintiff Hunt was initially attacked. This officer detained the first person who attacked Plaintiff Hunt, and recovered the weapon from him. Defendant John Doe-6, knew Mr. Hunt had been attacked and failed to take the necessary action to get him to a place of safety and take care of his injuries.
- v. **Correctional John Doe Officer 7.** This correctional officer was working at Lanesboro Prison when Plaintiff.

### **C. SUPERVISORY DEFENDANTS**

- 12. The allegations contained in the previous paragraphs of this Complaint shall be fully incorporated and realleged as if fully set forth herein.
- 13. Defendant **Frank L. Perry** was appointed Secretary of the Department of Public Safety on August 21, 2013. As Secretary he is responsible for the care, custody and control of all inmates housed in DAC facilities. He is responsible, consistent with the legal mandates governing DAC, for the management and control of all state prisons, and for all matters



relating to the selection, training, assignment, placement, promotion, and discipline of the uniformed staff of the prisons where prisoners are confined. He is responsible for the system of complaint and investigation of staff misconduct and for setting the standards by which such complaints are reviewed to determine the actions, if any, to be taken against staff. He is responsible for the policies and practices that have resulted in the deprivation of Plaintiffs' rights under federal law and has failed to take necessary and appropriate actions to prevent such deprivations. He is sued in his official capacity for prospective injunctive and declaratory relief for their failure to protect Plaintiffs from a pervasive risk of harm from assault by other inmates with contraband weapons.

14. Administrator **David Mitchell** was appointed in February 2014 as the Administrator at Lanesboro. He is responsible for the management and control of Lanesboro, and for the selection, training, assignment, placement, promotion, and discipline of the uniformed staff of Lanesboro. He is responsible for issuing and enforcing the policies and procedures of searching both inmates and staff for contraband and weapons. He is sued in his official capacity for prospective injunctive and declaratory relief for his failure to protect prisoners from a pervasive risk of harm from assault by other inmates with contraband weapons.
15. Former Administrator **Lawrence H. Parsons, Jr.**, was appointed in August 2012, as the Administrator at Lanesboro. He was responsible for the management and control of Lanesboro, and for the selection, training, assignment, placement, promotion, and discipline of the uniformed staff of Lanesboro. He was responsible for issuing and enforcing the policies and procedures of searching both inmates and staff for contraband and weapons. He was sued in his official capacity for prospective injunctive and

declaratory relief for his failure to protect prisoners from a pervasive risk of harm from assault by other inmates with contraband weapons. Administrator Parsons had personal knowledge of the attack on Plaintiff Wynn, the lack of investigation and the failure to provide medical treatment and was deliberately indifferent to Plaintiff Wynn's safety and serious medical problems. Former Administrator Parsons is being sued in his individual capacity for damages for his failure to protect prisoners from a pervasive risk of harm from assault by other inmates with contraband weapons.

#### **IV. FACTUAL ALLEGATIONS**

16. The allegations contained in previous paragraphs of this Complaint shall be fully incorporated and realleged as if fully set forth herein.
17. Lanesboro Correctional Institution is a high security prison run by the North Carolina Department of Public Safety, Division of Adult Correction. It has 1,000 cells and is located in Polkton, Anson County, North Carolina. It has a staff of approximately 514 and an inmate capacity of 1,400.
18. Lanesboro was opened in January 2004 and has been plagued with inmate and staff violence and staff corruption since its inception.
19. Lanesboro uses prison inmates as kitchen staff. Once inmates completed their shift, they exited the kitchen to locker rooms. There was a metal detector at the kitchen exit that inmates walked through to get to the locker rooms. The metal detectors were customarily used improperly, and often times, officers waived inmates through even though the detectors emitted a noise. Additionally, there was a space adjacent to the metal detectors that were large enough to allow inmates to walk around the metal detectors. Inmates

routinely walked around the metal detectors without being searched. Lanesboro also had frequent problems with guards abandoning their posts.

20. Department heads were responsible for developing and implementing policy that ensured proper storage of tools. Knives were considered tools under Department of Corrections policy. Knives were to be kept secure and inaccessible to an inmate without staff supervision. Knives were accessible to inmates at Lanesboro without staff supervision. According to policy, missing knives were to be reported immediately. However, when knives went missing at Lanesboro, there were merely replaced from stockroom and went unreported.
21. The June 2011 Inmate orientation handbook for Lanesboro Correctional Institution states “no inmate will have in his possession or under his control any weapon, instrument, or tool that could be used to effect an escape or aid him in an assault or insurrection.”
22. The June 2011 Inmate orientation handbook for Lanesboro Correctional Institution states “inmates will not agitate or provoke disturbances. Any inmate involved in agitating inmate or group of inmates will be subject to disciplinary action.”
23. The June 2011 inmate orientation handbook for Lanesboro Correctional Institution states “Cells will be inspected daily by Officers and Unit Staff.”
24. The June 2011 inmate orientation handbook for Lanesboro Correctional Institution states “protective custody protective control (PCON) is available to inmates with legitimate needs. Inmates requesting protective custody should see their case manager, the shift O.I.C. or their Unit Manager. The facility classification committee will interview inmates and appropriate action will be taken.”

25. The June 2011 inmate orientation handbook for Lanesboro Correctional Institution also states “all inmates will be logged out of the housing unit and issued a pass to proceed to their designated location and will be signed in when they return by the correctional officer.
26. The June 2011 inmate orientation handbook for Lanesboro Correctional Institution also states “Visiting within the unit will not be permitted. Movement will be limited to the shower, beds, and the dayroom. No inmates will be allowed to enter another wing or another inmate’s cell. “
27. The June 2011 inmate orientation handbook for Lanesboro Correctional Institution also states “After last call for chow has been announced no inmate will be allowed to leave the unit.
28. Defendant Wall was a Unit Manager at Lanesboro Prison at all times relevant to this Complaint.
29. Unit Manager Defendant Wall specifically gave members of the United Blood Nation (hereinafter “UBN”) gang preferential treatment. Unit Manager Wall routinely smuggled cellular telephones into Lanesboro Prison, and would sell the telephones to inmates for approximately \$250 each. Defendant Wall was also found to have concealed metallic weapons, or shanks, in the ceiling of his office.
30. Lanesboro Correctional Officer Rickey Hutchings resigned in 2009 after a routine search yielded one-half a pound of marijuana that he was carrying into the prison.
31. In 2011, Lanesboro Administrator Richard Neely was removed from his post and charged with common law obstructing justice when he allegedly withheld and/or destroyed a video directly related to an ongoing investigation of Lanesboro inmates.

32. The inmate-on-inmate violence at Lanesboro culminated in the death of an inmate on September 28, 2012.

**A. Plaintiff Wynn**

33. The allegations contained in previous paragraphs of this Complaint shall be fully incorporated and realleged as if fully set forth herein.
34. On November 12, 2011, Plaintiff Wynn was housed at Lanesboro Correctional Institution. On said date, Plaintiff Wynn was assaulted by fellow inmate Sadat Sanchez (OPUS 0896895) in the day room of Union Unit B-Pod.
35. Plaintiff Wynn and Inmate Sanchez worked in the kitchen together at Lanesboro.
36. Plaintiff Wynn had previously advised Mr. Rodney Mauldin, Ms. Darlene Spatcher, and the kitchen supervisor, Mr. John Harrington, about Inmate Sanchez stealing from the kitchen cooler and Plaintiff Wynn's prior problems with Inmate Sanchez.
37. Defendants Mauldin, Spatcher and Harrington were aware of the violations of Inmate Sanchez, and the conflict between Plaintiff Wynn who had informed authorities of Inmate Sanchez's misconduct; however, they took no action to remove Inmate Sanchez from working in proximity to Plaintiff Wynn in the kitchen where Inmate Sanchez had access to metal knife like objects. These Defendants failed to notify other officers responsible for Inmate Sanchez of the risk to Plaintiff Wynn.
38. At approximately 7:00 pm on the date of the assault, Plaintiff Wynn was coming back to his cell from work; Inmate Sanchez was waiting for him at his cell when Inmate Sanchez attacked Plaintiff Wynn. Other inmates came in to break up the fight.

39. Due to the fact that there were multiple inmates in Plaintiff Wynn's cell, a Correctional Officer was dispatched to come in and search the cell, but the Correctional Officer did not notice Plaintiff Wynn's injuries.
40. Later that evening, Plaintiff Wynn was walking from his cell down the stairs in his cellblock. Upon information and belief, the two guards, were on duty in that area but were not at their post.
41. At approximately 9:00pm on November 11, 2011, Plaintiff Wynn was again assaulted by Inmate Sanchez – this time with a weapon resembling a filet knife. Inmate Sanchez stabbed Plaintiff Wynn with the knife just below the right breast. Inmate Sanchez struck Plaintiff Wynn with a chair. Plaintiff Wynn attempted to block the chair from striking his person, injuring his right hand, and tearing his rotator cuff. Plaintiff Wynn fell to the concrete floor and he and Inmate Sanchez struggled.
42. Plaintiff Wynn was taken to the medical area at Lanesboro, where he presented with a laceration to his right breast and two lacerations to his right forearm. The treating medical staff noted a large amount of bleeding and a bruised right shoulder.
43. Due to the severity of his injuries, Plaintiff Wynn was then sent to Anson Community Hospital for treatment. He arrived at approximately 10:07pm.
44. Plaintiff Wynn suffered a twelve (12) centimeter linear, subcutaneous laceration to the right chest, which required fourteen (14) nylon sutures and six (6) subcutaneous sutures to repair.

45. Plaintiff Wynn also suffered a twelve-and-a-half (12 ½) centimeter linear subcutaneous laceration to his right forearm. The laceration required nineteen (19) nylon sutures and eight (8) subcutaneous sutures to repair.
46. Plaintiff Wynn was treated with morphine in the emergency room. He was also taken for scans of his chest and right shoulder.
47. Plaintiff Wynn's injured right hand was not evaluated or treated.
48. Upon discharge, his arm was immobilized in a sling and he was prescribed pain medication and an antibiotic.
49. Plaintiff suffered severe pain in his right shoulder and was unable to use his right arm.
50. Unit Manager Wall told Plaintiff Wynn that Inmate Sanchez had attacked him as part of an initiation for the MS-13 gang.
51. On November 28, 2011, Plaintiff Wynn filed a grievance for failure to provide treatment to his shoulder, stating his need to see a specialist and his concern that he could do more damage, and stating that the failure to treat was cruel and inhumane.
52. On December 8, 2011, his grievance was denied because they "do not see anything about a torn rotator cuff in the hospital notes." Plaintiff Wynn appealed the denial, exhausted his remedies, and received no relief.
53. On December 30, 2011, Plaintiff Wynn was transferred to Bertie Correctional Facility.
54. At Bertie Correctional Facility, Plaintiff Wynn was re-evaluated by medical staff. Plaintiff presented with his right shoulder showing "visible deformity." He also presented with "severe limitation" in his range of motion.

55. On January 5, 2012, Peter Woglom PA-C/J applied to conduct an MRI of Plaintiff's right shoulder.
56. Defendant Dr. Phillip Stover denied the MRI of the right shoulder, and ordered a four week trial of physical therapy instead.
57. As a result, Plaintiff attended physical therapy sessions from January 2012 to February 2012.
58. Upon information and belief, the physical therapy did not improve Mr. Wynn's shoulder and probably made it worse.
59. Mr. Wynn received an MRI of his right shoulder on June 4, 2012 at Vidant –Roanoke Chowan Hospital in Ahoskie, North Carolina – which showed a severe tear of the rotator cup.
60. Eventually, Plaintiff Wynn was referred to see DAC's Orthopedic specialist at Central Prison, Dr. Summers, where it was determined that the assault tore Plaintiff Wynn's rotator cuff.
61. Plaintiff Wynn underwent surgery on September 7, 2012 to repair his shoulder injuries and has since attended regular physical therapy sessions.
62. Upon information and belief, as a result of the willful delay in treatment, Plaintiff Wynn suffered permanent disability to his rotator cuff.
63. Upon information and belief, Plaintiff Wynn's injuries were treatable at the time of infliction and he would not have permanent impairment in his shoulder if he had received timely medical treatment.



64. Plaintiff Wynn attended regular physical therapy sessions from January 2013 to March 2013.
65. Plaintiff Wynn visited the Bertie Memorial Hospital on January 11, 2013 following a fall for injury to fourth finger right hand. January 30, 2013 Plaintiff Wynn was seen for a follow-up appointment regarding the shoulder surgery where the orthopedic specialist noted a significant deformity in Plaintiff Wynn's right hand, specifically the fifth metacarpal. Upon further examination, it was concluded that there was substantial calcium buildup from a previous break of the fifth metacarpal that had healed improperly.
66. Plaintiff Wynn underwent surgery for his right hand on May 17, 2013.
67. Plaintiff Wynn continued physical therapy for his right shoulder from April 2013 to May 2013.
68. Plaintiff Wynn was seen on December 2, 2013 and it was noted there was no improvement in his right shoulder.
69. Plaintiff Wynn underwent a shoulder arthroscopy on June 13, 2014.
70. Upon information and belief, as a result of the willful and deliberate indifference of the medical personnel, Plaintiff Wynn is permanently disabled. With the proper medical care he would have use of his shoulder.
71. Plaintiff Wynn was initially charged with a disciplinary infraction concerning this incident for fighting, but after an investigation was completed Plaintiff Wynn's disciplinary infraction was dismissed. Upon information and belief, Disciplinary Hearing Officer Hattie Pempong viewed a video documenting the attack by Inmate Sanchez.

72. As a result, Plaintiff Wynn has zero disciplinary infractions relating to this incident, and only one disciplinary infraction total, relating to a library book.
73. Inmate Sanchez was charged with attempted first degree murder and assault with a deadly weapon with intent to kill inflicting serious injury. He was convicted on October 29, 2012 of assault with a deadly weapon with intent to kill inflicting serious injury.
74. Plaintiff Wynn is not STG validated and has never been affiliated with a gang.

**B. Plaintiff Harshaw**

75. Plaintiff Harshaw has been in the North Carolina Prison System since 1998.
76. Plaintiff Harshaw was first transferred to Lanesboro Prison in 2012
77. Plaintiff Harshaw is not and has not been involved in gang activity. Plaintiff Harshaw is not STG validated and has never been affiliated with a gang.
78. Jeffrey Wall was a Unit Manager at Lanesboro Prison at all times relevant to this Complaint.
79. Unit Manager Defendant Wall specifically gave members of the United Blood Nation (hereinafter “UBN”) gang preferential treatment. Unit Manager Wall routinely smuggled cellular telephones into Lanesboro Prison, and would sell the telephones to inmates for approximately \$250 cash. Unit Manager Defendant Wall was also found to have concealed metal weapons in the ceiling of his office.
80. John Doe Officer-1, to be determined over the course of discovery (hereinafter “Sergeant John Doe-1”) was a Sergeant at Lanesboro Prison at all times relevant to this Complaint.
81. Sergeant John Doe-1 is or was involved in gang activity at all times relevant to this Complaint. Upon information and belief, Sergeant John Doe-1 would routinely smuggle marijuana, cigarettes, and other contraband into Lanesboro Prison.

82. When Plaintiff Harshaw first arrived at Lanesboro prison, he immediately noticed that members of the UBN gang received preferential treatment from the correction officers. When UBN gang members commit offenses such as possession of a cellular telephone or other contraband, the gang members experience less severe consequences, if they are punished at all. UBN gang members receive extra privileges, such as extended access to canteen services.
83. Plaintiff Harshaw arrived at Lanesboro Prison with a prison-issued radio that he had purchased from the prison canteen at Central Prison in Raleigh, North Carolina in November of 1998.
84. A radio is an essential convenience in prison. Without a radio, inmates are not able to hear the television, because the only way to hear the television at Lanesboro Prison is through the prison-issued radios.
85. On a Friday in 2012, while Plaintiff Harshaw was out of his cell and noticed when he returned to his cell his radio was missing. His radio was in the office of the Sergeant John Doe-1.
86. Sergeant John Doe-1 never gave Plaintiff Harshaw a reason for keeping the radio. Sergeant John Doe-1 put the radio in his office. Over the weekend, Plaintiff Harshaw realized that an inmate Joseph Sanderlin also known as “Jahffy Joe” had his radio. When Plaintiff Harshaw went to retrieve his radio after the weekend, Sergeant John Doe-1 told Plaintiff Harshaw that he no longer had the radio.
87. In response to repeated mistreatment and the Sergeant John Doe-1 unjustified confiscation of Plaintiff Harshaw’s property, Plaintiff Harshaw filed a grievance against the Lanesboro

correctional officers. In the grievance, Plaintiff Harshaw complained that the Lanesboro correctional officers gave preferential treatment and special privileges to members of the UBN gang.

88. On 12 March 2012, after Plaintiff Harshaw filed his grievance, Unit Manager Wall called Plaintiff Harshaw into his office.
89. Unit Manager Wall threatened Plaintiff Harshaw for filing the grievance by telling Plaintiff Harshaw that Harshaw was exposing himself to physical harm and retaliation by complaining about the actions of the correctional officers. Unit Manager Wall then sent Plaintiff Harshaw back to his cell.
90. Upon information and belief, Unit Manager Wall then called inmate Joseph Sanderlin, aka “Jahffy Joe” to his office. Unit Manager Wall gave inmate Sanderlin a copy of the grievance that Plaintiff Harshaw filed.
91. Upon information and belief, Unit Manager Wall and Sergeant John Doe-1 knew and intended that a member of the UBN gang would assault Harshaw if Wall shared the grievance with inmate Joseph Sanderlin, aka Jahffy Joe. Unit Manger Wall thereby facilitated the attack, and may have provided the contraband weapons used to commit the assault.
92. Despite knowing that his actions would lead to Plaintiff Harshaw’s attack, Unit Manager Wall and Sergeant John Doe-1 made no effort to protect Plaintiff Harshaw or prevent the attack from occurring.

93. On 12 March 2012 Plaintiff Harshaw was assaulted by inmate Bradley Dorsey OPUS 1182018 (hereinafter "Dorsey"). Inmate Sanderlin, aka/ Jahffy Joe was an associate of Dorsey and ordered him to attack Plaintiff Harshaw.
94. Dorsey was never criminally charged for assaulting Plaintiff Harshaw.
95. On the night of 12 March 2012, Plaintiff Harshaw was watching the basketball game in the common room. Plaintiff Harshaw went back to his cell to use the bathroom, and heard someone follow him in. When Plaintiff Harshaw turned to see who was behind him, he was stabbed in the ear with a shank by Dorsey. While wearing steel-toed boots, Dorsey kicked Plaintiff Harshaw repeatedly before leaving.
96. Plaintiff Harshaw was rendered unconscious as a result of Dorsey's attack. When Plaintiff Harshaw regained consciousness, inmate Jason Brown (hereinafter "Brown") and inmate Willie T. Kelly (hereinafter "Kelly") came into his cell to check on him.
97. Less than thirty (30) minutes after the initial attack, Dorsey returned to Plaintiff Harshaw's cell. Dorsey again repeatedly assaulted Plaintiff Harshaw until Kelly removed Dorsey from Plaintiff Harshaw's cell.
98. The correctional officers did not provide Plaintiff Harshaw with any help or medical attention until Officer Jones found him wounded during the evening count.
99. Plaintiff Harshaw suffered severe injuries, and was referred to outside medical treatment as a result of this attack ordered by Inmate Sanderlin, aka/hereinafter "Jahffy Joe" and executed by Dorsey on 12 March 2012.

100. Plaintiff Harshaw arrived at the Lanesboro medical area with a “traumatic injury to right ear.” Because of the severity of his injuries, Plaintiff Harshaw was referred to Carolinas Medical Center-Union in Monroe, North Carolina for treatment and evaluation.
101. Plaintiff Harshaw presented with a rib contusion, a right ear hemotoma, a right ear laceration, an injury to his right ear canal, and bleeding in his right ear. A perforated eardrum (tympanic membrane) was suspected by the treating physician. Plaintiff Harshaw was treated with a suture and was prescribed an antibiotic.
102. Plaintiff Harshaw was later referred to an outside Ear, Nose, and Throat Specialist for further evaluation and treatment. He was diagnosed with moderate Auricle Edema in his right ear.
103. Dorsey was released from prison on 30 June 2012, and his parole was terminated on 27 March 2013.
104. At the time of this incident, Plaintiff Harshaw was housed on Union Unit 1 on the Lower Level in E-Pod.
105. Plaintiff Harshaw’s cell was located directly in front of the control booth.
106. The control booth contains security camera footage.
107. Plaintiff Harshaw’s cell was monitored by the security cameras.
108. Officer Miller was working in the control booth during this incident
109. It is the policy in Lanesboro prison that inmates are not allowed in the cells of other inmates.

110. After finding Plaintiff Harshaw injured in his cell, Officer Jones went into the control booth and reviewed the security camera footage with Officer Miller. After the correctional officers reviewed the security camera footage, the officers went to find Dorsey.
111. Unit managers have full discretion to remove inmates from segregation at any time. The warden will defer to the recommendation of the unit manager as it relates to disciplinary matters.
112. When Plaintiff Harshaw returned to Lanesboro Prison from outside medical treatment, he was falsely charged with an A-10 assault and sent to disciplinary segregation.
113. There was a policy or practice within Lanesboro to falsely charge victims of assault with an A-10 mutual assault disciplinary infraction.
114. Plaintiff Harshaw remained in segregation from the occurrence of this event until he was transferred to Pasquotank Correctional Institute in August of 2012.
115. Plaintiff Harshaw never appeared before a Disciplinary Hearing Officer (“DHO”).
116. Plaintiff Harshaw was never given an opportunity to offer a plea of guilty or not guilty to any charges.
117. Upon information and belief, Dorsey was released from segregation after only two months.
118. Plaintiff Harshaw filed a grievance on 17 May 2012 alleging that the prison staff had placed his life in danger.
119. Unit Manager Wall made sure that the attacker, Dorsey, received less punishment than Plaintiff Harshaw, the victim.
120. Jahffy Joe never received any punishments regarding this incident.

121. Unit Manager Wall knew that Jahffy Joe had a violent history and was known to attack and facilitate the attack of other inmates. In fact, the week before Plaintiff Harshaw was attacked, Unit Manager Wall allowed Jahffy Joe to order an inmate to be attacked in the middle of the block. This inmate was cut with a contraband weapon straight across his face. Unit Manager Wall knew that Jahffy Joe was going to take violent action against this inmate, and acted with deliberate indifference in failing to take any preventative action.

**C. Sean Smith**

122. The allegations contained in previous paragraphs of this Complaint shall be fully incorporated and realleged as if fully set forth herein.

123. Before being assaulted, Plaintiff Smith successfully completed the “Security Threat Group Management Unit” program at Foothills Correctional Facility in December 2011. According to DAC, “[t]he intensive program treatment is dedicated to providing a controlled environment for disruptive inmates associated with validated gangs in North Carolina and breaking gang affiliation through renunciation and specialized programming.”

124. The program is nine months long and is only available at Foothills Correctional Institution.

125. The purpose of the program is to provide a structured way for gang members to break their gang affiliation and leave the gang with which they have previously been associated.

126. When gang members choose to dissociate themselves with gangs with which they have previously been actively involved, their lives and safety are often physically threatened by active members of the gang as punishment for leaving the gang.

127. Such was the case for Plaintiff Smith, who was assaulted by fellow inmates twice while housed at Lanesboro after completing the Security Threat Group Management Program.



128. In April 2012, Plaintiff Smith informed Defendant Kennedy that he wished to be transferred due to his concern for his safety at Lanesboro and the large number of Bloods housed there. Plaintiff Smith was not transferred out of Lanesboro at that time. Defendant Kennedy was aware of the risks to Plaintiff Smith and failed to take necessary actions to prevent the attack on Plaintiff Smith.
129. Plaintiff Smith was an inmate at Lanesboro Correctional Facility on August 30, 2012.
130. On said date, Plaintiff Smith was assaulted at approximately 8:00pm in the Union Recreation Yard by an unknown inmate with a contraband weapon resembling a razor.
131. Upon information and belief, the inmate who assaulted Plaintiff Smith was STG-validated and a member of the Bloods.
132. Plaintiff Smith suffered an extensive laceration to the neck.
133. Plaintiff Smith was taken to the prison medical area where he presented with a laceration to the right side of his neck measuring approximately fifteen (15) centimeters in length and five (5) centimeters wide. Prison medical staff applied steri-strips to the wound and ordered Plaintiff Smith to be transported to the local Emergency Room for evaluation.
134. Plaintiff Smith's injuries were further treated at the emergency room at Anson Community Hospital in Wadesboro, NC on the day of the assault. Plaintiff Smith presented to the ER with an "extensive neck laceration" with active bleeding.
135. Plaintiff Smith's neck laceration required thirty (30) nylon sutures to repair. Plaintiff Smith was discharged with prescription pain medication and an antibiotic.
136. After the assault, Plaintiff Smith filed a grievance indicating that he feared for his life in the Recreation Yard and Smith's multiple requests for a transfer.

137. Plaintiff Smith continued to be housed at Lanesboro Correctional Facility on October 26, 2012.
138. On said date, Plaintiff Smith was again assaulted with a contraband weapon resembling a razor by another inmate, Inmate Matthew Long (OPUS 0939247), at approximately 11:20pm on Lower Richmond Unit.
139. This second assault occurred two months after the previous assault on the Recreation Yard and multiple requests for a transfer.
140. Plaintiff Smith was being escorted by Defendant Correctional Officer McCoy on a trip to the shower, Inmate Long came out of his cell and assaulted Plaintiff Smith with a contraband weapon resembling a razor.
141. Plaintiff Smith was restrained with his hands cuffed behind his back by Officer Mr. McCoy.
142. Inmate Long had jammed the door of his cell, which enabled his attack on Plaintiff Smith. The jammed door signaled to the control booth that other inmates should not be out of their cell.
143. Inmate Long emerged from his cell and attacked Plaintiff Smith.
144. Officer Mr. McCoy left Plaintiff Smith by himself with his hands handcuffed behind his back, as Plaintiff Smith was attacked.
145. During the assault, Plaintiff Smith fell to the ground.
146. Defendant Officer Mr. McCoy failed to prevent the assault and allowed the assault to continue in his presence as Plaintiff Smith suffered a four (4) centimeter laceration to the left side of his face, a one (1) centimeter abrasion to the left chest, a one-half (1/2) centimeter abrasion

to his left back, and a one (1) centimeter abrasion to his left head above the ear. The injuries were treated in the prison medical facility.

147. Plaintiff Smith has also suffered emotional trauma from the assaults. He is seeking and receiving mental health treatment to help cope with loss of sleep and his anxiety about getting assaulted again.

148. In December 2012, Plaintiff Smith was transferred from Lanesboro Correctional Facility.

149. Despite being the one who was attacked, Plaintiff Smith was charged by DAC with the disciplinary infractions of disobeying an order and being in an unauthorized location on August 30, 2012.

#### **D. Plaintiff Hunt**

150. The allegations contained in previous paragraphs of this Complaint shall be fully incorporated and realleged as if fully set forth herein

151. Tavieolis Hunt was assaulted with weapons twice while housed at Lanesboro.

152. Plaintiff Hunt was an inmate housed at Lanesboro Correctional Facility on March 25, 2012 and April 17, 2012. On both dates, Plaintiff Hunt was assaulted and stabbed by fellow inmates with contraband weapons.

153. On March 25, 2012, Plaintiff Hunt was housed on Union Unit, B-Pod. At approximately 7:00 p.m. Plaintiff Hunt had returned from his prison job and was watching television in the dayroom. An inmate, Marion Sherrod, from another housing area entered the pod, choked Plaintiff Hunt with his left arm, and repeatedly stabbed Mr. Hunt from behind with a weapon resembling an ice pick.

154. Plaintiff Hunt's attacker exited the pod and was detained by Correctional Officer Defendant John Doe-6, who recovered the weapon from him. Defendant John Doe-6, knew Mr.

Hunt had been attacked and failed to take the necessary action to get him to a place of safety and take care of his injuries. There were insufficient correctional officers in the area at the time to protect Plaintiff Hunt.

155. No Correctional Officers were present in the POD once the initial attacker was detained. Plaintiff Hunt could not report this attack because the only officer in the area, Defendant John Doe-6, was securing the attacker. There were no other officers in the area. Plaintiff Hunt did not leave the POD.

156. After the attack, Plaintiff Hunt went into Cell No. 1 to see how badly he was cut and to clean his wounds.

157. Thereafter, Plaintiff saw that two unauthorized inmates, Inmate Matthew Woods and Inmate Broadhurst enter the pod although they were not assigned to B-Pod.

158. John Doe Officers 2 and 3 were responsible for operating the doors into Plaintiff Hunt's area, and these officers knowingly let another unauthorized inmates into Plaintiff Hunt's area just after Plaintiff Hunt had been attacked by inmate Sherrod.

159. Plaintiff Hunt observed Inmate Woods, who did not live on Plaintiff Hunt's cell-block, receive a weapon resembling a knife from another inmate.

160. Mr. Hunt noticed Inmate Woods approaching cell 1, at this time Mr. Hunt closed the door to Cell 1.

161. Inmate Woods threatened Plaintiff Hunt with the knife, while trying to get the guard on duty to open the cell door. Inmate Woods then left the pod.

162. Mr. Hunt exited the cell and entered the day room where the inmate providing the knife was located.

163. At this time Mr. Hunt observed Inmate Woods and another unauthorized inmate, Inmate James Broadhurst (OPUS 1270256), enter the pod, although they were not assigned to B-Pod.
164. John Doe Officers 2 and 3 were working in that area and responsible for making sure unauthorized inmates do not enter the area. They allowed Inmate Woods and Broadhurst into the unauthorized area, facilitating the attack on Plaintiff Hunt.
165. Inmate Woods and Inmate Broadhurst approached Plaintiff Hunt . At this time Plaintiff Hunt sought refuge in a nearby cell, cell No. 13.
166. Mr. Hunt closed the door to Cell No. 13. Inmate Woods and Inmate Broadhurst stood in front of the door to Cell 13.
167. Inmate Woods signaled to Defendant Lawrence to open the door to cell 13 where Plaintiff Hunt was hiding for protection.
168. The Defendant Lawrence opened the cell door. Defendant Lawrence assisted and facilitated the attack on Plaintiff Hunt by opening the door.
169. Mr. Hunt was able to shut the door before the Inmates could enter the cell.
170. Immediately after the Defendant Lawrence opened the cell door again. Mr. Hunt attempted to keep the door shut, however Inmate Woods and Inmate Broadhurst were able to force the cell door open.
171. As Inmate Woods and Inmate Broadhurst forced open the cell door, Mr. Hunt was able to run out of the cell.
172. Mr. Hunt ran into the dayroom to escape his attackers.
173. Inmate Woods and Inmate Broadhurst chased Mr. Hunt.
174. Defendant Lawrence failed to protect or prevent the attack on Mr. Hunt.

175. Mr. Hunt fell to the ground where he was kicked in his left shoulder and head several times.
176. Inmate Woods and Inmate Broadhurst overpowered Mr. Hunt, stabbed him multiple times with a weapon resembling an ice pick.
177. Mr. Hunt was cut on his face and stabbed in his right arm near his elbow, the left side of his neck and the right side of his abdomen near his kidneys.
178. An inmate disturbance was eventually called and the attackers were restrained by Correctional Officers.
179. Plaintiff Hunt was taken to the prison medical facility and Captain Tucker took photographs of his injuries.
180. Plaintiff Hunt received multiple stab wounds and bruising to his face and body. The wounds were treated in the prison medical facility.
181. Upon information and belief, the assailants of both attacks were active gang members and validated STG by DAC. Inmate Woods later told Plaintiff Hunt that “a hit” had been placed on him, and Inmate Woods was “just following orders.”
182. However, on or about April 6, 2012, Plaintiff Hunt made a statement to Defendant Sergeant Peguese explaining that he felt unsafe at Lanesboro. Defendant Peguese came to speak with Plaintiff Hunt regarding the investigation of the March 25 attack. Plaintiff Hunt explained to Defendant Peguese that he did not feel safe remaining in Lanesboro, and certainly did not feel safe being returned to the same area.

183. On or about April 11, 2012, Plaintiff Hunt spoke to this case manager, Defendant Kennedy, and told him that he feared an additional attack at Lanesboro. Plaintiff Hunt asked to be transferred and not returned to regular population, but his request was not granted.
184. On or about April 15, 2012 Plaintiff Hunt was released back into regular population at Lanesboro where the assault had just occurred.
185. Upon information and belief, Union Unit, E-Pod was nicknamed the “Doghouse” by staff due to its association as being run by the United Blood Nation gang who referred to themselves as “dogs.” Because other blood gang members had already attacked him, he was subject to further attack by gang members, because once one blood gang member has a problem with someone, all blood gang members have a problem with that person.
186. Before returning to his housing assignment, Plaintiff Hunt told Officer Mills and Officer Diamond that he feared another attack on the same unit where the incident occurred. Plaintiff Hunt was told that changes to inmate housing assignments must be made by the Unit Manager Defendant Wall.
187. On or about April 16, 2012, Plaintiff Hunt attempted to speak to Unit Manager Defendant Wall. Plaintiff Hunt, however, was unable to speak with Defendant Wall.
188. On or about April 17, 2012 at approximately 5:30 p.m. Plaintiff Hunt was able to speak with Defendant Wall on his way back from the dining hall. Plaintiff Hunt informed Defendant Wall that was not safe in his current location due to the prior attacks on him and the heavy influence of gang members in that area of the prison. Defendant Wall informed Plaintiff Hunt that he needed to stay on E-Pod for a while.

189. Defendant Wall was aware of the risk to Plaintiff Hunt and failed to prevent or protect Hunt from the subsequent attack.
190. Later on April 17, 2012, while housed on Union Unit, E-Pod, Plaintiff Hunt was again attacked by other inmates. At approximately 8:30 p.m., Plaintiff Hunt was in his cell resting on his bunk. His cell door was opened and two inmates came into the cell, one brandishing a weapon resembling a razor and one brandishing a weapon resembling an icepick.
191. One of the attackers was identified as Inmate Donovan Wiggins (OPUS 0572329). Defendant Administrators and Defendant Peguese were aware that inmate Wiggins had been involved in previous attacks.
192. Inmate Michael Fuell (OPUS 1122921) assisted Inmate Wiggins by blocking the cell door so Plaintiff Hunt could not escape. Defendant Administrators were aware that Inmate Fuell had been involved in previous attacks. They attacked Plaintiff hunt with a metal razor like object, stabbing him in the chest, cutting him in the face, arm. They also beat him in the face, busting his lip and loosening his tooth. The attack on Plaintiff Hunt continued.
193. Plaintiff Hunt eventually was able to exit his cell and retreat to the dayroom area.
194. The attack continued in the dayroom where a third inmate joined in the attack. The inmates continued to beat Plaintiff and hold him back.
195. Plaintiff Hunt was eventually able to break free and run to the front of the pod.
196. Defendants Correctional Officers Ross, Correctional Officer Biles, and Correctional Officer Roscoe failed to respond or prevent the attack on Plaintiff Hunt.
197. Plaintiff Hunt was taken to the medical unit where photographs were taken of his injuries by Captain Tucker.



198. The prison medical staff ordered Plaintiff Hunt to be taken for outside medical treatment at Community Hospital.
199. Plaintiff presented to the Emergency Room with a 2 centimeter linear, subcutaneous laceration to his left cheek, which was repaired with three (3) nylon sutures; and multiple lacerations. He was treated with prescription pain medication and antibiotics.
200. Plaintiff Hunt continues to suffer emotionally from the attacks, including such symptoms as anxiety, depression, difficulty sleeping.
201. Upon information and belief, the assailants of both attacks were active gang members and validated STG by DAC. Upon information and belief, the gang members ordered the attacks on Plaintiff Hunt.
202. Plaintiff Hunt is not affiliated with a gang, nor has he ever been affiliated with a gang.
203. Plaintiff Hunt met personally with Defendant Former Administrator Parsons after the April attack. Plaintiff Hunt informed Defendant Parsons he feared being attacked again and specifically asked for a transfer to Marion Correctional. Defendant Parsons knew Plaintiff Hunt from when Administrator Parsons was assistant superintendent. Defendant Parsons promised to work on a transfer him from the prison. Plaintiff Hunt was placed back into regular population in the same area where he had been previously attacked.
204. Plaintiff Hunt was charged with a disciplinary infraction for fighting in the March 25, 2012 assault, although he was the one who was attacked. There was a policy or practice at Lanesboro to charge innocent victims of assault with the disciplinary infraction of assault.
205. Plaintiff Hunt was charged with a disciplinary infraction concerning the April 17, 2012 assault. However, after an investigation was completed, the disciplinary charges against Plaintiff

Hunt were dismissed, as the investigation showed that Plaintiff Hunt “was being assaulted by other inmates.”

206. Defendant Peguese conducted previous investigations of the Plaintiff Hunt’s attackers, and knew they were a threat to inmates like Hunt.

207. .

208. Plaintiff Hunt was transferred to Scotland County Correctional Facility in February 2013.

#### **E. Benjamin White**

209. The allegations contained in previous paragraphs of this Complaint shall be fully incorporated and realleged as if fully set forth herein.

210. On April 2, 2012, Plaintiff White was an inmate at Lanesboro Correctional Institution housed on Union Unit, C-Pod.

211. Upon information and belief, Defendant Unit Manager Wall was aware that the fight was going to happen and facilitated the attack by providing access to weapons and/or access for the inmate attackers to the unauthorized area.

212. On or about said date, at approximately 12:30pm, five inmates from another housing area were permitted to enter Plaintiff White’s housing block: Joseph Sanderlin (aka Jahffy Joe) (OPUS 0748092), Gary Pone (OPUS 0937097), James Morton (OPUS 1068979), Michael McCullin (OPUS 0901063), and Deante Harris (OPUS 0640116).

213. Upon information and belief, inmate Joseph Sanderlin (aka Jahffy Joe) received preferential treatment from Defendant Unit Manager Jeffrey Wall who facilitated and enabled the attacks upon multiple inmates.

214. Upon information and belief, Defendant Officer Peguese met with Defendant Wall before the attack, and was present when the attack occurred. Upon information and belief, Defendant Peguese and Defendant Wall were aware of the imminent attack and failed to prevent the attack.
215. Upon information and belief, the attackers were allowed onto Plaintiff White's cellblock at canteen time by Defendants Andrews and Jackson, who were working the slider door/control booth at the time.
216. Inmates attacked Plaintiff White with a weapon resembling a razor by these inmates.
217. Plaintiff White did not personally know the five men who attacked him .
218. Upon information and belief, Defendant Unit Manager Wall was aware that the fight was going to happen and facilitated the attack by providing access to weapons and/or access for the inmate attackers to the unauthorized area.
219. Upon information and belief, the five men who attacked Plaintiff White are gang affiliated.
220. Upon information and belief, Plaintiff White's attackers lived in E- Pod, and did not live on his cellblock. There were multiple doors and security checkpoints the attackers had to pass through to get into the area where Plaintiff White was attacked. Defendants Andrews and Jackson necessarily allowed these inmate attackers to pass through the check points into the unauthorized area where they attacked Plaintiff White.
221. Officer Defendant Jackson was working on the floor at this time but she did not call a "Code Four" after the assault occurred. Defendant Jackson was aware of the attack and warned Plaintiff White that something was about to "go down." Defendant Jackson failed to take reasonable steps to prevent and intervene to stop the attack.

222. Defendant Unit Manager Jeffrey Wall was present and at the scene when the fight broke out. He watched as the attack occurred, and failed to protect Plaintiff White.
223. Upon information and belief, Defendant Unit Manager Wall was aware that the fight was going to happen and facilitated the attack by providing access to weapons and/or access for the inmate attackers to the unauthorized area.
224. Defendant Lawrence Parsons reviewed and investigated the allegations of Plaintiff White, who noted that “the door was opened and a fight/assault did transpire.
225. However, Defendant Parsons never investigated how the Defendant Officers involved facilitated the attack. Upon information and belief, the administrative pattern of failing to investigate by Defendant administrators allowed Defendant officers to create an institutional environment that allowed contraband weapons and cell phones get to incarcerated gang members and enabled multiple violate attacks with metal weapons.
226. Upon information and belief, Defendant Jackson ceased working at Lanesboro after the assault on Plaintiff White.
227. Defendants Andrews and Jackson facilitated and enabled the attack on Plaintiff White by allowing the inmate attackers to enter an unauthorized area.
228. Plaintiff White was taken to the prison medical facility for an initial evaluation.
229. Prison medical staff ordered for Plaintiff White to receive outside medical treatment and Plaintiff White was admitted to Carolinas Medical Center-Union in Monroe, NC, where he reported with a superficial laceration to the left side of his face from his ear to his chin measuring approximately five (5) centimeters in length.

230. Plaintiff White's laceration required sixteen (16) sutures to repair and Plaintiff White was discharged with antibiotics and ibuprofen for pain.
231. Plaintiff White received follow-up medical care from prison medical staff.
232. Despite being the one who was attacked, Plaintiff White was charged by DAC with two disciplinary infractions on the day of his assault: 1) being involved with a gang or STG and 2) Being Involved in a Fight With Weapon or Requiring Outside Medical Treatment.
233. Plaintiff White's attackers were also charged with disciplinary infractions stemming from the assault.
234. Plaintiff White was transferred from Lanesboro to Scotland Correctional Institution on April 11, 2013.

**F. Other Assaults**

235. The allegations contained in previous paragraphs of this Complaint shall be fully incorporated and realleged as if fully set forth herein.
236. Upon information and belief, inmate Wesley Turner (OPUS 0531703) was formerly housed at Lanesboro Correctional Institution. Mr. Turner was murdered at Lanesboro at the hands of other inmates on September 28, 2012. A contraband weapon was the instrument used to carry out the attack of this inmate, which resulted in his death.
237. Three Lanesboro inmates have been charged in Anson County Superior Court with his murder.
238. Upon information and belief, Lanesboro was subsequently placed on "lock down" status, but inmate-on-inmate assaults with weapons continued to occur.

239. Upon information and belief, innumerable other violent inmate-on-inmate assaults involving the use of contraband weapons have occurred at Lanesboro that are relevant to the time period in this Complaint but are not mentioned in this Complaint.

240. Numerous inmates have been injured as a result of these assaults by other inmates involving the use of contraband weapons.

241. Lanesboro administration and staff failed to take reasonable measures to ensure Plaintiffs' safety after they became aware of a pervasive amount of contraband weapons being used in assaults on inmates.

### **CLAIMS FOR RELIEF**

#### **FIRST CAUSE OF ACTION Cruel and Unusual Punishment**

242. The allegations contained in the previous paragraphs of this Complaint shall be fully incorporated and realleged as if fully set forth herein.

243. Supervisory Defendants, through their policies, practices, acts and omissions, exhibited deliberate indifference to a pervasive risk of serious harm to Plaintiffs, in violation of the rights of these men to be free from cruel and unusual punishment under the Eighth Amendment of the United States Constitution.

244. Supervisory Defendants, through their policies, practices, acts and omissions, subjected the Plaintiffs to the unnecessary and wanton infliction of pain, and emotional and physical injury in violation of the Eighth Amendment of the United States Constitution.

245. With deliberate indifference to the substantial risk of serious harm to the Plaintiffs, supervisory Defendants failed to appropriately select, train, assign, and supervise staff, subjecting the Plaintiffs to assaults by other inmates with contraband weapons, to retaliation

from staff for reporting these assaults to staff, and to continual fear for their personal safety in violation of the Eighth Amendment of the United States Constitution.

246. With deliberate indifference to the substantial risk of serious harm to Plaintiffs, supervisory Defendants failed to appropriately investigate and act upon complaints of assaults by inmates with contraband weapons, and search and inventory kitchen tools available to inmates in the kitchen, subjecting the Plaintiffs to assaults by other inmates with contraband weapons, to retaliation from staff for reporting these assaults to staff, and to continual fear for their personal safety in violation of the Eighth Amendment of the United States Constitution.

247. With deliberate indifference to the substantial risk of serious harm to Plaintiffs, supervisory Defendants failed to adequately and constitutionally confiscate contraband and weapons from inmates housed at Lanesboro Correctional Institution in violation of the Eighth Amendment of the United States Constitution.

248. Defendant Supervisory, Correction officers, and employees were willfully and deliberately indifferent to Plaintiffs' safety in:

- a. failing to notify other appropriate correctional staff when Plaintiffs notified Defendant Officers and employees of their safety concerns;
- b. allowing inmates to move from their assigned area to unauthorized areas where they could attack other inmates;
- c. allowing and/or providing inmates access to metal knife like weapons, or shanks;
- d. willfully and deliberately allowing inmates to leave the kitchen and other areas in the prison with knives and metal knife like weapons, either by

bypassing the metal detector or not searching when the detector alarmed, thus allowing inmates to engage in violence in the facility;

- e. allowing inmates freedom of movement in unauthorized areas knowing the inmate's classifications and history suggested they posed a threat to Plaintiffs;
- f. keeping prisoners in areas where no guard was on duty and thereby failing to prevent attacks or to rescue inmates should such attacks occur;
- g. allowing the transport of inmates at times when the Defendants knew it was not safe to transport the inmate, and then failing to intervene in a timely manner when the Plaintiffs were attacked;
- h. allowing the inmates who conducted the attacks on Plaintiffs to possess forbidden metal weapons;
- i. refusing to move Plaintiffs after Defendants were put on notice by Plaintiffs legitimate safety concerns and/or were put on notice of Plaintiffs' safety concerns by a previous attack on Plaintiffs;
- j. failing to adequately intervene to prevent serious bodily injury once Plaintiffs were attacked;
- k. charging Plaintiffs with disciplinary action when they were attacked, knowing they were innocent of an assaultive infraction;
- l. opening cells for the intentional and deliberate purpose of allowing attackers to assault other inmates.

**SECOND CAUSE OF ACTION:**



**Violations of the Right to Be Free From Physical Injury and of the Right to Bodily Integrity and Privacy Without Due Process of Law**

249. Plaintiffs adopt and re-allege previous paragraphs as if set forth fully herein.
250. By their policies, practices, acts and omissions, supervisory defendants deprived Plaintiffs of their right to be free from physical injury and of their rights to bodily integrity and privacy, without due process of law, in violation of the Fourth and Fourteenth Amendments of the United States Constitution.
251. By the actions described above, Defendant officers and employees deprived Plaintiffs of their right to be free from physical injury and of their rights to bodily integrity and privacy, without due process of law, in violation of the Fourth and Fourteenth Amendments of the United States Constitution.

**EXHAUSTION OF ADMINISTRATIVE REMEDIES**

252. In accordance with 42 U.S.C. §1997e, Plaintiff Wynn has exhausted his administrative remedies by filing a grievance regarding the assault setting forth Defendants' deliberate indifference. He exhausted the administrative remedies and was denied relief. A true and accurate copy of the response of the Grievance Appeal is attached hereto as **Plaintiff Exhibit 1**.
253. In accordance with 42 U.S.C. §1997e, Plaintiff Harshaw has exhausted his administrative remedies by filing a grievance setting forth Defendants' deliberate indifference. A true and accurate copy of the response of the Grievance Appeal is attached hereto as **Plaintiff Exhibit 2**.
254. In accordance with 42 U.S.C. §1997e, Plaintiff Hunt has exhausted his administrative remedies by filing a grievance setting forth Defendants' deliberate indifference. True and

accurate copies of the response of the Grievance Appeals are attached hereto as **Plaintiff Exhibits 3.**

255. In accordance with 42 U.S.C. §1997e, Plaintiff Smith has exhausted his administrative remedies by filing a grievance setting forth Defendants' deliberate indifference. Plaintiff Smith did not receive a response to the grievance he filed concerning the August 30, 2012 assault. Plaintiff Smith filed a grievance September 27, 2012 regarding the August 30, 2012 assault and received no relief. He appealed that decision, and received no response. He exhausted the administrative remedies with respect to the August 30, 2012 assault. With respect to the October 26, 2012 assault, a true and accurate copy of the response of the Grievance Appeal for Plaintiff Smith's assault is attached hereto as **Plaintiff Exhibit 4.**

256. In accordance with 42 U.S.C. §1997e, Plaintiff White has exhausted his administrative remedies by filing a grievance setting forth Defendants' deliberate indifference. A true and accurate copy of the response of the Grievance Appeal is attached hereto as **Plaintiff Exhibit 5.**

#### **PRAYER FOR RELIEF**

Plaintiffs remain in the custody of Defendant Perry, and are subject to being transferred back to Lanesboro Prison at any time. As a result of Defendants' policies, practices and acts, Plaintiffs have suffered and will continue to suffer irreparable injury, including risk of attacks, retaliatory violence for filing grievances, false accusations of disciplinary infractions, and a failure to protect their safety.

WHEREFORE, Plaintiffs respectfully pray the Court as follows:

1. Declare that the continuing policies, practices, actions and omissions of the supervisory Defendants, as described above, violate the rights of the Plaintiff class under the First, Fourth, Eighth and Fourteenth Amendments to the United States Constitution.

2. Enjoin supervisory Defendants and their successors, agents, servants, employees, and those in active concert or participation with them from subjecting prisoners in the custody of DAC to acts of violence and false disciplinary actions and require these Defendants to formulate a remedy to end the pattern of violence and reprisal at Lanesboro Correctional Institution as operated by DAC. Such a remedy should include measures which would address continuing deficiencies in the assignment, selection, training and supervision of uniformed staff; in the DAC's complaint and investigatory practices; and deficiencies in training for officers and supervisors. **Plaintiffs request an order of the Court prohibiting the Department of Adult Correction from transferring them back to Lanesboro, housing them in the same facility with their attackers, or placing them under the supervision of any named Defendants.** Plaintiffs request appointment of a Special Master to review and implement necessary changes to the administration of Lanesboro, including but not limited to:

- a. **Staffing and Training:** Staffing and training shall be sufficient to provide adequate supervision and transport of inmates, to adequately respond to inmate violence, to search for contraband weapons and prevent the smuggling of contraband weapons into the facility, to improve hiring protocols to prevent detention officers with gang associations from working as detention officers. Plaintiffs seek to empower the Special Master to terminate the employment of

any staff who have been found to have facilitated or participated in inmate violence.

- b. **Metal detectors:** Require Lanesboro to update and appropriately use technology to discover metal weapon contraband and cell phones.
- c. **Reporting and Investigation:** Require independent review of all incidents of inmate violence and report the staffing failures that allowed the inmate violence to occur; document in detail all incidents, reports, and reviews of inmate violence for submission and approval by the Special Master;
- d. **Grievance Process:** Require full investigation into the sufficiency of the staff investigator responses to inmate grievances about inmate violence, independently review the investigation, and tailor the remedy for the grievance to fit specific harmed caused to the inmate.

3. Award Plaintiffs compensatory and punitive damages in an amount to be determined against Defendants sued in their individual capacities.

4. Retain jurisdiction in this case until the unlawful conditions, practices, policies, acts and omissions complained of herein no longer exist and this court is satisfied that they will not recur.

5. Award Plaintiffs the costs of this action, including reasonable attorneys' fees.

6. Trial by jury for all issues so triable; and

7. Grant such other and further relief as this court deems just and proper.

This the 7<sup>th</sup> day of November 2014

**/s/ C. Scott Holmes**

C. Scott Holmes, N.C. Bar No. 25569  
Attorney for Plaintiffs Wynn, Harshaw, Smith & White  
North Carolina Central University  
Civil Litigation Clinic  
640 Nelson Street  
Durham, North Carolina 27707  
Telephone (919) 530-7463  
Fax: (919) 530-7982  
Email: [scott.holmes@nccu.edu](mailto:scott.holmes@nccu.edu)

**/s/ Anita S. Earls**

Anita S. Earls N.C. Bar No. 15597  
Attorney for Plaintiffs Wynn, Harshaw, Smith & White  
Daryl Vincent Atkinson, N.C. Bar No. 39030  
Ian Andrew Mance, N.C. Bar No. 46589  
Southern Coalition for Social Justice  
1415 West NC Hwy. 54, Ste. #101  
Durham, North Carolina 27707  
(919) 323-3380  
Fax: (919) 530-7982  
Emails:  
[anitaearls@southerncoalition.org](mailto:anitaearls@southerncoalition.org)  
[darylatchinson@southerncoalition.org](mailto:darylatchinson@southerncoalition.org)  
[ianmance@southerncoalition.org](mailto:ianmance@southerncoalition.org)

**/s/ S. Luke Largess**

S. Luke Largess, N.C. Bar No. 17486  
Attorney for Plaintiff Hunt  
Tin Fulton Walker & Owen, PLLC  
301 East Park Ave.  
Charlotte, NC 28203  
704-338-1220, x231 (office)  
704-338-1312 (fax)  
[llargess@tinfulton.com](mailto:llargess@tinfulton.com)