

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

KELLY COOK, as Mother and
Next Friend of CHRISTIAN COOK,

Plaintiff,

v.

No.

BOARD OF COUNTY COMMISSIONERS FOR
THE COUNTY OF CURRY, TORI SANDOVAL,
JOAN MARTIN, SUE MARTIN, and
CORRECT CARE SOLUTIONS,

Defendants.

**COMPLAINT FOR THE RECOVERY OF DAMAGES CAUSED BY THE
DEPRIVATION OF CIVIL RIGHTS**

Plaintiff brings this complaint for damages caused by the violation of Plaintiff Christian Cook's civil and constitutional rights. Plaintiff files this complaint under the Federal Civil Rights Act, the Americans with Disabilities Act, the Rehabilitation Act, and the Constitution of the United States. In support of this Complaint, Plaintiffs' allege the following:

JURISDICTION AND VENUE

1. Jurisdiction over the subject matter of this action is conferred by 28 U.S.C. § 1331 and 42 U.S.C. §§ 1983 and 1988. Venue is proper as the acts complained of occurred exclusively within Curry County, New Mexico.

PARTIES

2. Plaintiff Christian Cook ("Christian") is an individual and resident of Curry County, New Mexico.

3. Plaintiff Kelly Cook is an individual and resident of Curry County, New Mexico. Kelly is the Mother of and Next Friend to Christian Cook.
4. Defendant Board of County Commissioners for the County of Curry (“Board”) is a governmental entity within the State of New Mexico and a “person” under 43 U.S.C. § 1983. At all times material to this Complaint the Board was the employer of the individual defendants.
5. Defendant Tori Sandoval was the administrator of the Curry County Juvenile Detention Center (hereinafter “CCJDC”) at all material times.
6. Defendant Tori Sandoval is sued in her individual and official capacities.
7. Defendant Sue Martin was a high-ranking guard with supervisory authority at CCJDC at all material times.
8. Defendant Sue Martin is sued in her individual and official capacities.
9. Defendant Joan Martin was the on-site head of medical services at CCJDC at all material times.
10. Defendant Joan Martin is sued in her individual capacity only.
11. Defendant Correct Care Solutions, (CCS), is a Tennessee corporation doing business in New Mexico. It is the purchaser and successor in interest to Correctional Healthcare Companies, L.L.C., (CHC), who was at all material times the employer of Defendant Joan Martin.
12. CCS is contractually responsible for the provision of health care at CCJDC during the events material to this complaint.

FACTUAL BACKGROUND

13. Christian Cook had a life-long history of mental illness, developmental disorders, and behavioral issues prior to his arrest and detention at CCJDC.

14. Christian was booked into CCJDC on June 21, 2013.
15. At the time of his arrest, Christian was only 15 years old.
16. Christian's known diagnoses when he was booked into the jail were ADHD, autism spectrum disorder, anxiety, and borderline intellectual functioning, schizoid features, nocturnal enuresis, OCD features, and febrile seizures.
17. Nurse Guy Messena conducted a medical screening of Christian when he was booked which noted his diagnosis of ADHD, that he appeared anxious, and that he presented with a rash.
18. Upon information and belief, despite his rash and apparent anxiety, Christian was not treated for either condition following his assessment.
19. After assessing Christian, Nurse Messena recommended Christian be housed in general population.
20. Despite this recommendation, Christian was immediately housed in solitary confinement.
21. Christian remained housed in solitary confinement for the duration of his detention at CCDC.
22. The following week Christian was seen by Sheila Stevenson, LISW with TeamBuilders Counseling Services.
23. Ms. Stephenson noted Christian had problems with anxiety and enuresis, and had been diagnosed as having borderline intellectual functioning.
24. During her assessment, Christian exhibited symptoms of anxiety and depression, and was fearful of the jail.

25. Ms. Stephenson also spoke with Christian's mother who explained that Christian had difficulty performing activities of daily living, such as maintaining his hygiene without additional help.
26. After her assessment, Ms. Stephenson created a therapy plan which included "modifying treatment to the level appropriate to ensure Christian's understanding of the treatment materials given his borderline intellectual functioning."
27. Christian's mental health quickly began to deteriorate in solitary confinement.
28. On July 7, 2013 guards noticed Christian was visibly upset and afraid in his cell and was moved into a holding cell (a solitary cell with bars rather than a steel door) for close observation.
29. Although it was obvious that Christian was in need of mental health intervention, records indicate Christian received no mental health care in response to this incident.
30. Throughout his detention, Christian was frequently seen visibly upset and crying in his cell.
31. Upon these observations, CCJDC staff failed to provide mental health intervention after seeing Christian visibly upset, crying, and depressed.
32. On July 12, 2013 Christian was seen for a rash with hard, red nodules covering most of his body.
33. Although he entered the jail with a rash, it took the jail several weeks to administer any medical attention.

34. About 6 weeks into his detention, on August 7, 2013, Christian was visibly upset and told CCDC staff that he felt like he was passing out and was afraid to fall asleep.
35. In response, Christian was moved to the holding cell and again was not provided any mental health intervention.
36. The following morning Christian began experiencing severe anxiety with hyperventilation.
37. Christian began crying and told guards that he need help and needed to go to the hospital.
38. Rather than provide treatment, CCJDC staff told Christian that it was simply an issue of nerves and anxiety and was instructed to relax and slow his breathing.
39. Defendant Joan Martin reviewed notes made regarding Christian's condition and made no changes to his treatment plan.
40. Following this incident, Christian was placed on "Health and Wellness" Watch, at 30-minute increments.
41. Christian remained on this watch for the remainder of his time at the jail; approximately nine and a half months.
42. A report indicates he refused to take his medication that day.
43. Jail staff discontinued Christian's medication and placed him on lockdown as punishment for his refusal of medication.
44. On August 10, 2013 Christian complained that the medical department was stopping his meds and was not giving him his proper medical appointments.
45. Christian also wrote an entry in his journal that stated:

“I am disabled and ben [sic] locked up abused and neglected. I have asbergers [sic] ADHD depration [sic] anxitie [sic]... I feel soo lonely my anxiety makes me scared. S. Martin doesn't care no one they tell me to stop acting stupid. I feel all alone scared no one to talk to or hug. I feel lost and bullied. I want to go home with my mommy.”

46. CCJDC Officer Daniel Gallegos opened Christian's journal and wrote a statement alerting his supervisors to the situation.
47. Officer Gallegos reported that he saw this entry along with another that stated “he is tired of being abused and neglected and that he is tired of living.”
48. Later that day, CCJDC Officer Saiz went to Christian's cell and saw that he was “very upset and shaky.”
49. Christian told Officer Saiz he wanted to report what was going on.
50. In response to his behavior, Officer Saiz told Christian that he “was just freaking out and that he will be fine.”
51. The following day, Nurse Messina noted Christian appeared to be anxious, uncooperative and angry.
52. Nurse Messina also noted Christian's diagnoses of ADHD and anxiety, and that he was developmentally disabled.
53. Nurse Messina again recommended Christian should be housed in general population, but noted he was “already in a solitary cell.”
54. Despite a recommendation Christian be housed in general population Christian remained in a solitary cell on “health and wellness” watch.
55. Christian quickly began to deteriorate in solitary confinement.

56. During the first seven days on “health and wellness” watch, records reflect Christian remained in his cell for at least 20 hours per day, received only two short showers and was let out for recreation only twice.
57. Christian began talking to himself underneath his bed, banging on the door and walls of his cell, and yelling.
58. Frequently guards noted they had seen Christian crying in his cell during cell checks.
59. Guards also noted Christian “looked depressed” on many occasions.
60. Despite these observations of his declining mental health, Christian remained in solitary confinement without adequate mental health care.
61. On August 19, 2013 the school year began for Clovis Municipal Schools.
62. Because of Christian’s diagnoses of ADHD and Autism, Christian was in need of special education services.
63. On April 16, 2013, Christian’s Individualized Education Plan (“IEP”) was updated and indicated he required 235 minutes of Inclusion Math and 235 minutes of inclusion English with a special education teacher every week.
64. This IEP also indicated he needed 30 minutes of occupational therapy with Melodye Thomas every week, and 15 minutes of counseling with Nicole Addison, LISW every week.
65. Although classes began for the other children on August 19, 2013, Christian did not receive any schooling until August 28, 2013.
66. In spite of his IEP, Christian only received school services twice during this week of school, for 33 minutes on one day and 44 minutes the second.

67. During the entire month of September, Christian received only 36 minutes of education.
68. Christian continued to receive inconsistent, sparse schooling throughout his detention.
69. For example, on the week of September 30, 2013 Christian did not receive any schooling.
70. The following week Christian only received two days of school, one of the days for only five (5) minutes.
71. Not only was Christian not receiving adequate education, Christian did not regularly receive his occupational therapy or mental health counseling.
72. In fact, records received from CCJDC reflect there was not a single month during his detention where he received occupational therapy or mental health counseling every week as required by his IEP.
73. Christian continued to remain in his cell for extended periods of time, isolated, without adequate care.
74. When Christian was able to receive counseling with Ms. Addison, it was immediately apparent to her how emotionally distressed Christian was.
75. On several occasions, Ms. Addison was unable to conduct her planned IEP activities with Christian because he was experiencing acute mental health symptoms.
76. Throughout his detention, Christian experienced frequent anxiety attacks.
77. On September 15, 2013, Christian was seen by medical for his anxiety.
78. It was noted that he had not been eating and had been fidgety.

79. Despite obvious defects in Christian's intellectual functioning, Christian was simply provided written educational material on anxiety and returned to his cell without being seen by a mental health professional.
80. Again, Defendant Joan Martin signed off on this assessment and made no changes to Christian's treatment plan.
81. The next day an officer wrote a statement that Christian had put his mattress over his window and was under his bunk crying.
82. In response, Christian was moved into a holding cell and placed on lockdown.
83. Records indicate Christian was not allowed out of his cell this entire day with the exception of a 20-minute meeting with Ms. Addison.
84. Ms. Addison reported that Christian was visibly upset when she arrived and he had reported increased depression and frustration with the jail.
85. Christian also did not understand why he had to remain in the jail.
86. Christian's treatment did not change in response to his obvious mental health symptoms.
87. On September 28, 2013 Christian was found in his cell with his mattress propped up against his door covering his window.
88. A CCJDC Officer entered Christian's cell to ask him if he was OK.
89. Christian did not respond to the officer and was found wrapped in a blanket, covering his head, crying in his cell.
90. Again, officers carried Christian from his cell and moved him into a holding cell.
91. Christian continued experiencing anxiety and began exhibiting odd behavior.

92. Jail staff noted that Christian had flushed his food down the toilet in his cell, and had frequently been caught standing on his sink.
93. According to records received from CCJDC, Christian did not see a mental health provider following the September 18 and 28 incidents.
94. Christian was seen by his school counselor, Ms. Addison, on October 7, 2013.
95. During this meeting, Christian explained the many symptoms of his stress, including picking at his skin; feeling sad, worried, and anxious; and crying.
96. Christian frequently was seen by guards picking at his skin as a result of his high anxiety, which led to infections while housed at the jail.
97. Christian also told Ms. Addison that he had not been receiving his medications.
98. Ms. Addison spoke with jail staff and stated Christian did not want to talk to her much, but did say the guards were not giving him his meds.
99. The guard responded by stating Christian is offered his meds, but he refuses to take them.
100. Guards continued to allow Christian's intermittent refusal of medications as an excuse to discontinue his prescriptions without the consent or advise of his mother or a physician.
101. Over the next several weeks, records reflect Christian frequently went without a shower, or without leaving his cell at all.
102. If Christian was let out of his cell, it was at inconsistent times, for inconsistent lengths, and in inconsistent locations.
103. Many days if Christian was allowed out of his cell he was moved to the multi-purpose room, where he remained isolated.

104. Being autistic, the lack of consistency in Christian's schedule combined with his isolation caused his mental condition to deteriorate very quickly.
105. Over the next month guards continued to record strange behavior by Christian in his cell.
106. Guards also frequently recorded that Christian was visibly depressed.
107. Although his condition was obvious to CCJDC staff, Christian remained in isolation without the mental health treatment he desperately needed.
108. Christian continued exhibiting the same strange behaviors noted by CCJDC guards, such as flushing his food down the toilet, standing on his sink, and refusing medications throughout his detention.
109. On November 8, 2013 Christian was found banging on the wall in his cell and not responding to officers.
110. CCJDC guards escorted Christian out of his cell and placed him in a holding cell.
111. Records reflect that Christian was not allowed out of his cell at all on this day, with the exception of being moved to and from holding.
112. The following day Christian was again seen banging on his wall and not responding to officers.
113. Records show that Christian was only allowed out of his cell for a short shower and into the multi-purpose room, isolated, for only an hour on this day.
114. Christian also began frequently refusing meals.

115. During the week of November 8, 2013 Christian was not seen by any mental health staff, even in light of these obvious symptoms of Christian's mental deterioration.
116. Christian's condition deteriorated to the point that a forensic evaluation was ordered to determine his competency.
117. Despite the obvious state of Christian's mental health, he remained isolated, without mental health care.
118. On November 21, 2013, Christian asked to be seen again by mental health for his anxiety.
119. Christian was sent to medical and reported he was "restless," "on edge," easily fatigued, was having trouble sleeping, and trouble concentrating.
120. Medical staff noted he was short of breath, tense, had dry mouth, and was making poor eye contact.
121. Christian was told no mental health services were available and was again simply given educational material on anxiety and sent back to his cell.
122. Defendant Joan Martin again approved this plan and allowed Christian to remain isolated without appropriate treatment.
123. Although Christian was experiencing severe mental health symptoms, his IEP required 15-minute sessions with Ms. Addison were cancelled the following two weeks.
124. Additionally, records indicate CCJDC did not contact TeamBuilders for mental health treatment during this time.

125. Christian continued to be isolated in his cell for extraordinary lengths of time.
126. On December 3, 2013 Christian was seen by Ms. Addison for his IEP required educational counseling.
127. During this session, Ms. Addison noted she was unable to implement her initial focus plan because, again, a crisis management session was needed.
128. Christian's severe mental condition was immediately obvious to Ms. Addison.
129. Ms. Addison also noted Christian told her he had not been receiving medication.
130. On December 7, 2013 Christian requested to be placed back on his medications Daytrana and Oxcarbenzapine.
131. Christian was told by CCJDC staff that if he chose to discontinue these medications again he would not be given another prescription.
132. On December 16, 2013 Christian was heard yelling in his cell.
133. In response, Christian was placed on lockdown status.
134. Because Christian was in lockdown, he was not allowed to receive his required educational counseling with Ms. Addison.
135. The following day Ms. Addison returned for his mental health session and again was unable to implement her initial plan because Christian was experiencing a mental health crisis and a "crisis management session" was needed.

136. With the exception of his 15-minute session with Ms. Addison, records indicate Christian was not allowed out of his cell for the entire day.
137. On December 20, 2013 Christian was seen crying in his cell because he missed his mom.
138. According to records, Christian was again not allowed out of his cell for the entire day.
139. In fact, records reflect Christian was not allowed out for recreation until January 5, 2014.
140. Christian did not receive any mental health counseling in response to his condition.
141. In fact, records reflect Christian did not receive any mental health treatment at all until January 22, 2014
142. The following day, Christian's occupational therapist, Melodye Thomas expressed concern to Defendant Sue Martin after Christian made comments to her that he felt like hurting himself.
143. Christian's mental situation got so bad that on January 23, 2014 he was placed on 15-minute suicide watch for 24 hours.
144. After being taken off suicide watch, Christian remained on 30-minute "health and wellness" watch in solitary confinement.
145. Over the next several weeks Christian continued to be housed in isolation.
146. If he was moved from his cell, he often only moved to the multi-purpose room in isolation, devoid of social interaction.
147. Christian often went days, sometimes weeks without any recreation.

148. If Christian did receive recreation time, he rarely received a full hour.
149. For example, between September 3 and 14, 2013 Christian was only allowed out once for 58 minutes of recreation.
150. During the week of November 22 through 29, 2013 Christian was not allowed out for recreation.
151. In December, Christian was not allowed out of his cell for recreation between the 2nd and 11th at all.
152. During the week of April 14 through 21, 2014 Christian was only allowed out to recreation once for only 14 minutes.
153. During the week of May 4, Christian was only allowed out to recreation once for only 18 minutes.
154. Christian's lack of recreation and prolonged isolation caused his mental health to decline very quickly.
155. On February 3, 2014 Turquoise Behavioral Health conducted an "Initial Comprehensive Psychological Assessment."
156. This assessment noted Christian's anxiety caused him to pick at his skin, and he currently had areas of skin infection.
157. It also noted Christian was in need of immediate residential treatment center placement.
158. Following this assessment, Christian was not allowed out for recreation for an entire week.
159. On February 28, 2014 guards noted Christian was crying in his cell asking for his mom, and was lying underneath his bunk.

160. Later that day, CCJDC guards heard water dripping in his cell.
161. A guard looked through Christian's food port and saw that Christian had flooded his cell and was rubbing a window with a wet blanket.
162. Christian began yelling in his cell that he was going to kill himself.
163. Christian was then moved into a holding cell and placed on suicide watch.
164. In response, records reflect Christian was not provided any mental health intervention following his suicide threats.
165. The following day, on March 1, a guard noted Christian would appear "happy one minute and sad the next."
166. Records reflect Christian had not been allowed out for recreation since February 23, 2014.
167. Christian was not allowed out for recreation again until March 11, 2014.
168. A competency hearing was held on March 18, 2014 and Dr. Kenney testified at this hearing regarding his report from November of the previous year.
169. Based on Dr. Kenney's findings, Christian was found incompetent to stand trial and ordered to be committed to attain competency.
170. During the last two months of his detention, Christian often went days isolated to his cell for over 20 hours per day.
171. In addition, Christian began receiving even less schooling than he had in the previous months of his detention.
172. During the week of April 14, 2014 he only received one session of schooling for only 39 minutes.

173. During the following four weeks Christian only received a single one hour session of schooling.
174. Christian's deteriorated condition continued to make him behave bizarrely.
175. Often Christian would be found climbing on his sink, hiding under his bunk, and would not respond to officers.
176. In response, Christian was often punished with loss of privileges, which included not being let out of his cell.
177. On May 7, 2014 Christian urinated on himself and refused to shower.
178. In response, Christian was told he would not be let out of his cell if he refused to shower.
179. Christian eventually agreed to shower, but records reflect he was only let out for an additional two (2) minutes for the entire day following his shower.
180. On May 12, 2014 Christian was found hiding under his blanket with "blood everywhere."
181. Christian told guards he bites on his lower lip when he becomes anxious, which he had been that day and caused himself to bleed.
182. The following day, Christian's mother expressed concern that Christian had plans to kill himself, so Christian was again moved to a holding cell for observation.
183. Following this mental health crisis, Christian was not provided any mental health counseling, or given access to a doctor or psychiatrist.

184. Christian was not allowed out for recreation for the remainder of his detention following this incident.

185. On May 27, 2014, Christian was released to Copper Hills in Utah for treatment to attain competency.

186. Upon arrival at Copper Hills, Christian was assessed and his many developmental and behavioral conditions were noted.

187. While at Copper Hills, Christian made many statements of his desire to commit suicide.

188. Christian remained at Copper Hills for several months and a report was sent to the Ninth Judicial Court on August 21, 2014 regarding his treatment status.

189. This report indicated Christian had a full-scale IQ of only 78.

190. It also indicated Christian struggled with Autism, which involved obsessive attachments; he carried a stuffed animal with him everywhere he went.

191. Christian's treatment providers at Copper Hills determined Christian would not be able to attain competency to stand trial within a year, if ever.

192. Christian's criminal charges were subsequently dropped.

193. Because of the severity of his condition, Christian remained at Copper Hills for treatment of his mental illnesses.

194. Christian was discharged to his home on October 19, 2014.

195. As a result of the inhumane conditions and inadequate medical care he received at CCJDC, Christian now suffers from Post-Traumatic Stress Disorder.

**COUNT I: VIOLATION OF SUBSTANTIVE DUE PROCESS: INHUMANE
CONDITIONS OF CONFINEMENT / INADEQUATE MEDICAL CARE
(Defendants Sandoval, Sue Martin, and Joan Martin)**

196. Plaintiff restates each of the preceding allegations as it fully stated herein.
197. Christian has a substantive due process right under the Fourteenth Amendment to humane conditions of confinement and adequate medical care.
198. During the 11 months Christian was held as a pretrial detainee in solitary confinement at CCJDC he was not provided the adequate mental health or medical care he needed.
199. Defendants Sandoval, Sue Martin, and Joan Martin had day-to-day contact with Christian and were fully aware of the conditions in which he was housed.
200. Defendants Sandoval and Sue Martin were in charge of a very small facility with a design capacity of 16 juveniles.
201. The average population in this facility while Christian was detained was only 11 children.
202. CCJDC often housed only 8 children during Christian's detention.
203. CCJDC staffs 16 juvenile detention officers in its facility; one per child when housed at capacity.
204. CCJDC staff often outnumbered juveniles 2:1.
205. Despite these staffing levels, Christian was housed in solitary confinement and rarely allowed out of his cell.
206. Defendants Sandoval, Sue Martin, and Joan Martin knew how badly Christian's mental health deteriorated during his time at CCJDC.

207. Defendants Sandoval, Sue Martin, and Joan Martin knew CCJDC was not equipped to house and treat inmates in need of expert mental healthcare like Christian.
208. Defendants Sandoval, Sue Martin, and Joan Martin knew that their facility was incapable of providing appropriate treatment and housing for mentally ill and disabled inmates like Christian.
209. Despite this knowledge, Sandoval and Sue Martin decided to accept Christian as an inmate and place him in solitary confinement.
210. Defendant Joan Martin knew solitary was harmful, but failed to intervene and stop this indifferent and inhumane treatment of Plaintiff.
211. Defendants Sandoval, Sue Martin, and Joan Martin allowed Christian to remain untreated in solitary confinement for eleven months.
212. Defendants Sandoval, Sue Martin, and Joan Martin knew about the conditions Christian was in during his confinement.
213. Christian was on 30-minute “Health and Wellness Watch” for the majority of his detention, requiring guards to observe his behavior every 30 minutes of every day and keep a log.
214. These logs indicate Christian was rarely receiving any mental health care during his entire detention.
215. As Christian’s condition worsened, his behavior made it obvious he was in need of medical attention.
216. Defendant Sue Martin was aware of Christian’s need of medical attention.

217. Melodye Thomas directly informed Defendant Sue Martin that Christian was expressing suicidal concerns.

218. Melodye Thomas also told Defendant Sue Martin she had never heard Christian express these concerns before.

219. Despite this information, Christian continued to be housed in isolation without adequate mental health care, and Defendant Sue Martin failed to intervene and stop it.

220. Defendant Joan Martin was also aware of Christian's severe condition, yet approved inadequate treatment throughout his detention and failed to intervene to protect him from these inhumane conditions.

221. While in solitary, Defendants failed to provide Christian with constitutionally mandated recreation time each day, such that he did not go outside, or leave his cell for long periods of time.

222. Defendants were aware that subjecting a child to these conditions was inhumane.

223. During the November 5, 2013 Board of County Commissioners meeting, Defendant Sandoval advised Defendant Board of what she learned at the Detention Affiliates meeting held in October 2013.

224. Defendant Sandoval advised Defendant Board that Grace Phillips with the New Mexico Association of Counties discussed "new rules and regulations on mental health of inmates and how to classify and house them."

225. Defendant Sandoval advised Defendant Board that Ms. Phillips stated mentally ill inmates should not be housed in segregation, but should be in another

- pod where they can communicate with other inmates, have more movement, be able to go outside, and go into the dayroom.
226. Defendant Sandoval advised Defendant Board that Ms. Phillips stated mentally ill inmates should be evaluated every other day by mental health.
227. Defendant Sandoval told Defendant Board that she had already started moving inmates and evaluating them.
228. Despite these statements, Defendants Sandoval and Sue Martin continued to house Christian in segregation, without regular recreation, devoid of communication and interaction with other inmates.
229. Defendants Sandoval, Sue Martin, and Joan Martin not only did not have Christian evaluated by mental health every other day, but allowed Christian to go extended periods of time without any mental health treatment, even in the face of a mental health crisis.
230. Defendants were on notice that these practices were unconstitutional.
231. Defendants knew Christian faced a substantial risk of serious mental or physical harm if his conditions of confinement did not meet contemporary standards of decency.
232. Defendants acted with deliberate indifference to this risk.
233. Christian's conditions of confinement amounted to punishment of a pre-trial detainee in violation of the Fourteenth Amendment to the United States Constitution.
234. Defendants knew Christian suffered from an obviously serious medical condition, which required immediate medical care.

235. Defendants' failure to provide adequate medical care amounted to deliberate indifference in violation of the Fourteenth Amendment to the United States Constitution.

COUNT II: VIOLATION OF PROCEDURAL DUE PROCESS
(Official Capacity Defendants)

236. Plaintiff restates each of the preceding allegations as if fully stated herein.

237. Upon entering the jail, Christian was not provided any classification hearing or assessment of any kind and was arbitrarily placed into solitary confinement.

238. In fact, medical staff had the opinion that Christian should have been housed in general population.

239. However, Christian remained in solitary confinement for the duration of his detention.

240. Christian had a due process right to a periodic review of his classification.

241. From June 21, 2013 through May 27, 2014 Christian spent eleven months in solitary confinement without a hearing or reassessment.

242. On August 21, 2013 medical staff again noted that their opinion was Christian should be housed in general population, but was "already in solitary cell."

243. Despite reports that Christian should have been placed in general population, he remained in solitary confinement without review.

244. The conditions Christian was subjected to were, on their face, punishing.

245. For a child to be incarcerated in the fashion described above amounts to de facto punishment of a pretrial detainee.

246. Additionally, Defendants Tori Sandoval and Sue Martin punished Christian with the removal of privileges, or lockdown, periodically throughout his stay.

247. These removals included loss of access to counseling required by his IEP.

248. These punishments, in addition to his already punishing conditions, were made without providing a hearing or other due process.

249. In placing Christian in solitary confinement for such long periods of time without affording him a hearing, or periodic classification review, Defendants denied Christian procedural due process of law as guaranteed by the Fourteenth Amendment.

COUNT III: VIOLATION OF THE REHABILITATION ACT
(Official Capacity Defendants)

250. Plaintiff restates each of the preceding allegations as if fully stated herein.

251. Christian is entitled to be free from discrimination under the Rehabilitation Act of 1973, 29 U.S.C. § 794.

252. Christian suffers from ADHD and autism, both of which substantially limit major activities of life, including his ability to care for himself, learn, concentrate, and read.

253. While at CCJDC, Christian was denied access to free appropriate education, as required by the Individuals with Disabilities Act (“IDEA”).

254. The IDEA provides federal funding to New Mexico schools, including the Clovis Municipal Public Schools.

255. As a result of his disability, Defendants placed Christian in solitary confinement and denied access to his required education.

256. Defendants knew that Christian was disabled and had been diagnosed with ADHD and Autism.
257. Christian had an IEP, which required he receive 470 minutes of special education per week, along with 15 minutes of mental health counseling and 30 minutes of occupational therapy.
258. Defendants had a duty to ensure CCJDC inmates received education while in detention.
259. Defendants also had a duty to ensure students with IEPs received appropriate education under their individualized plans.
260. While Christian was at CCJDC he frequently did not receive any schooling, mental health counseling, or occupational therapy.
261. Christian did not receive any schooling during the first week and a half of the school year.
262. When Christian did finally receive schooling, he only received 33 minutes of instruction, followed by 44 minutes of instruction two days later.
263. Christian then did not receive any additional schooling for two and a half weeks.
264. Christian finally received another day of schooling on September 18, 2013, but only for 30 minutes.
265. The following week, Christian only received one session of schooling for only six minutes.

266. Christian also did not receive consistent occupational therapy or mental health counseling required by his IEP during the approximately nine months of the school year.

267. Christian's housing in solitary confinement and frequent lockdown status by Defendants resulted in Christian's inability to participate in school at CCJDC.

268. Defendants deliberately interfered with Christian's ability to receive schooling while at CCJDC.

269. Defendants' actions amounted to discrimination under §504 of the Rehabilitation Act of 1973.

270. As a proximate and foreseeable result of Defendants Sandoval and Sue Martin's discriminatory acts and omissions, Christian suffered injuries including pain and suffering, emotional distress, and exacerbation of his mental illness.

**COUNT IV: VIOLATION OF THE AMERICANS WITH DISABILITIES
ACT (Official Capacity Defendants)**

271. Plaintiff restates each of the preceding allegations as if fully stated herein.

272. Christian is entitled to be free from discrimination under the Americans with Disabilities Act, 42 U.S.C. §§ 12131 et seq.

273. Inmates in CCJDC generally have access to recreation, visitation, use of the phone, mail, programming services such as group therapy and religious activities, and commissary.

274. While in solitary Christian did not have regular access to the ordinary services provided to inmates in the jail.

275. Defendants failed to accommodate Christian's mental disability and denied him the benefits and services of the jail by reason of his mental disability.

276. Christian was denied social interaction by reason of his mental disability.
277. Christian was unnecessarily segregated due to his mental disability.
278. Christian was denied the usual services and programming offered to other inmates due to his mental disability.
279. Christian was denied access to group meetings and group therapy
280. Christian was denied access to communal recreation.
281. Christian was denied access to education, which other children received in the facility.
282. When Defendants put Christian into solitary they failed to accommodate his mental disability and caused him to suffer additional mental injuries.
283. This amounts to both discrimination and a failure to accommodate under the ADA.
284. As a proximate and foreseeable result of Defendants Sandoval and Sue Martin's discriminatory acts and omissions, Christian suffered injuries including pain and suffering, emotional distress, and exacerbation of his mental illness.

COUNT V: CUSTOM AND POLICY OF VIOLATING CONSTITUTIONAL RIGHTS (Official Capacity Defendants)

285. Plaintiffs restate each of the preceding allegations as if fully stated herein.
286. Defendant Board has delegated the responsibilities of running the CCJDC to Defendant Sandoval.
287. Defendant Sandoval delegated responsibilities of running CCJDC to Defendant Sue Martin
288. Pursuant to state law, jail administrators acting in their official capacity are regarded as the final policy makers of their respective institutions.

289. Defendants Sandoval and Sue Martin were therefore the final policy makers responsible for the hiring training and supervision of CCJDC employees during their respective tenures.
290. Defendants Sandoval and Sue Martin's policies therefore become the customs and policies of the County.
291. During their tenures, Defendants Sandoval and Sue Martin practiced a custom and policy of housing the mentally ill in segregation or solitary confinement.
292. Defendants Sandoval and Sue Martin housed many mentally ill prisoners in solitary confinement.
293. Defendants Sandoval and Sue Martin had a policy and practice of housing the seriously mentally ill in isolation.
294. This policy of the county dates back many years.
295. In December 2008 this facility was sued for using the same cells to house a child for approximately eight (8) months.
296. This resulted in the county paying \$450,000 in damages to a former resident.
297. The county was therefore on notice of their unconstitutional behavior.
298. Despite this knowledge, the county continued to house children in isolation at the jail.
299. Housing children in isolation violates contemporary juvenile jail standards.

300. The county knew that housing a child in isolation would result in mental health problems.

301. Defendant Sandoval failed to hire the necessary mental health professionals to staff the CCJDC facility.

302. Instead, Defendants Sandoval and Sue Martin failed to provide the mental healthcare required by inmates like Christian.

303. Rather than provide the necessary mental health care and medications to mentally ill inmates, Defendants Sandoval and Sue Martin elected to use solitary confinement to control their behavior.

304. The policies, customs, decisions, and practices of Defendants Sandoval and Sue Martin have created a climate within CCJDC whereby the mentally ill are deprived of adequate medical care and humane conditions of incarceration.

305. There is a causal connection between Defendants Sandoval and Sue Martin's policies and the violation of Christian's constitutional rights, which amounts to deliberate indifference.

COUNT VI: STATE TORTS FOR NEGLIGENT OPERATION OF A MEDICAL FACILITY AND NEGLIGENT PROVISION OF MEDICAL CARE
(Defendants Correct Care Solutions and Joan Martin)

306. Plaintiff restates each of the preceding allegations as if fully stated herein.

307. Defendant CCS was contracted by Curry County to provide medical care to inmates, including Christian at CCJDC.

308. Defendant CCS is vicariously liable for the acts and omissions of its employees, including Defendant Joan Martin.

309. Defendant Joan Martin was in charge of medical care at CCJDC during the time Christian was housed at CCJDC.

310. Defendant Joan Martin owed Christian a duty to provide adequate medical care during his detention.

311. Defendant Joan Martin knew that Christian was in need of mental health care during his detention at CCJDC.

312. Despite her knowledge, Defendant Joan Martin allowed Christian to go without medical or mental health care for extended periods of time.

313. Defendant Joan Martin knew about the effects that solitary confinement had on Christian at CCJDC.

314. Defendant Joan Martin failed to act reasonably and ensure Christian received adequate medical care while housed in isolation.

315. Defendant Joan Martin breached her duty to provide care in a reasonably prudent manner to Christian while at CCJDC.

316. Such conduct amounts to negligence in running a medical facility and negligent provision of medical care.

317. As a direct and proximate cause of Defendants' acts and omissions, Christian suffered damages and injuries including but not limited to physical injuries, pain and suffering, and severe psychological and emotional distress.

JURY DEMAND

318. Plaintiffs hereby demand a trial by jury on all counts.

WHEREFORE, Plaintiffs requests judgment as follows:

1. Compensatory damages in an as yet undetermined amount, jointly and severally against all Defendants, including damages for attorney's fees and emotional harm.
2. Punitive damages in an as yet undetermined amount severally against the individually named Defendants.
3. Reasonable costs and attorney's fees incurred in bringing this action.
4. Such other and further relief as the Court deems just and proper.

Respectfully submitted,

COYTE LAW P.C.

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