

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
NORTHEASTERN DIVISION**

CANDACE MCGHEE and CHASITY)
BAILEY, individually, and on behalf of all)
others similarly situated,)

Plaintiffs,)

v.)

No. _____

GRAINGER COUNTY, Tennessee)
a governmental entity,)
JAMES HARVILLE, Sheriff of Grainger)
County, Tennessee, Individually,)
CHRIS HARVILLE, Jail Administrator of)
Grainger County, Tennessee, Individually,)
TRAVIS HANK DAVIS, Individually, and)
LEONARD DALTON, Individually,)

Jury of Twelve Demanded

Defendants.)

CIVIL RIGHTS CLASS ACTION COMPLAINT

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COME Candace McGhee (“McGhee”) and Chasity Bailey (“Bailey”) (together, “Plaintiffs”), individually, and on behalf of all others similarly situated, and file this Class Action Complaint against Defendants, seeking compensatory and punitive damages, attorneys’s fees, and costs.

I. NATURE OF ACTION

*A society that allows female prisoners to live each day in constant fear of being sexually abused is guilty of the most heinous form of barbarism. Nevertheless, sexual abuse of female prisoners by prison guards is a rampant phenomenon that the law has thus far proved impotent to stop. Cross-gender supervision policies exacerbate the problem by placing women in situations in which they have no escape from their attackers.*¹

1. This is a civil rights class action for compensatory and punitive damages brought by Plaintiffs against Grainger County, Tennessee (“Grainger County”); Grainger County Sheriff James Harville, individually (“Sheriff Harville”); Grainger County Jail Administrator, Chris Harville, individually (“Jail Administrator Harville”); and Grainger County Corrections Officers Travis Hank Davis, individually (“Officer Davis”) and Leonard Dalton, individually (“Officer Dalton”) (collectively, “Defendants”), for violations of their rights under the Fourth, Eighth, and Fourteenth Amendments of the United States Constitution, as well as Tennessee common and statutory law.

¹Flyn L. Flesher, *Cross-Gender Supervision in Prison and the Constitutional Right of Prisoners to Remain Free from Rape*, 13 Wm. & Mary J. Women & L. 841, 844, 866 (“In addition to being degrading, cross-gender supervision in women's prisons greatly increases the frequency of sexual abuse against female prisoners.”)

2. Plaintiffs' complaint centers upon Officer Davis's months-long practice of sexually abusing, coercing, and intimidating multiple female inmates of the Grainger County Jail, including the Plaintiffs, by unlawfully exploiting them for his personal sexual pleasure and gratification, forcing Plaintiffs and other female inmates to strip naked and either engage in forced-sex acts or witness them.

3. At least for the period beginning February 2021, and likely earlier, and ending on approximately April 18, 2021, Officer Davis repeatedly forced female inmates, including the Plaintiffs, to strip naked for him or perform various sex acts on each other while he watched and masturbated within the confines of the control room of the Grainger County Jail, *i.e.*, "the Bubble." These "sex shows" occurred inside the cells of the female inmate pod, with Officer Davis routinely orchestrating, announcing, and then directing the "sex shows" via the Jail's intercom or loud-speaker system.

4. In the process, Officer Davis used and abused his position as a corrections officer to flagrantly violate the constitutional rights of innumerable female inmates, including the Plaintiffs. Having complained to other corrections officers, including Officer Dalton, about Officer Davis's sexual abuse, and having requested transfer to another cell away from the Bubble, Plaintiffs' complaints were ignored and their requests were denied, leading them to perceive that Officer Davis was "untouchable."

5. Officer Davis's abuse of the Plaintiffs was overt and frequent – occurring on approximately thirty (30) or more occasions from February 11, 2021 to April 18, 2021. Due to the overtness and frequency of the "forced sex shows," the general female inmate population's knowledge of them, and Plaintiffs' complaints and requests, the

“sex shows” were hardly a secret in the Jail. Facts, logic, and common sense all suggest that Officer Davis’s operation was known to Jail officials, and if it was not, it should have been. Yet, Sheriff Harville and Jail Administrator Harville failed to investigate, discipline, question or stop Officer Davis’s horrific sexual abuse and degradation of female inmates until approximately April 24, 2021, when he was eventually fired.

6. Officer Davis’s months-long pattern of sexual misconduct, coercion, and intimidation unveiled system-wide failures at the Grainger County Jail in protecting the safety, security, and privacy rights of female inmates, including the Plaintiffs, who were incarcerated at the Jail from February-April 2021.²

7. By law, Sheriff Harville and Jail Administrator Harville were responsible for the conduct and supervision of corrections officers, and, in this case, failed to properly supervise Officer Davis. Plaintiffs and other female inmates should have been safe in the custody of Grainger County, Sheriff Harville, Jail Administrator Harville, and Officers Dalton and Davis. Having accepted Plaintiffs into the Jail as inmates, however, each of those Defendants decidedly abandoned them, and other female inmates, allowing them to be repeatedly oppressed, sexually abused, coerced, and intimidated for months by Officer Davis.

8. Officer Davis’s months-long reign of terror at the Grainger County Jail was largely made possible and enabled by Grainger County’s own policy, custom, or

²The Jail was completed in and began operating in November 2005. The Jail houses both male and female inmates, and includes pre-trial detainees and convicted offenders. The Jail has a maximum occupancy of 78 male inmates and 22 female inmates, with an annual operating budget in excess of \$1,100,000.00.

practice allowing cross-gender supervision of inmates in the Jail's female pod. Specifically, Grainger County routinely placed a single male corrections officer – including Officer Davis – alone in the female pod to supervise inmates, notwithstanding the known, substantial, and serious danger of potential sexual abuse.

9. Grainger County's wanton indifference to the safety of female inmates violated the Plaintiffs' Fourth Amendment right to be free from unreasonable searches, their Eighth Amendment right to be free from cruel and unusual punishment, and their Fourteenth Amendment right to bodily privacy and freedom from bodily intrusion, among other violations of law. Together, these rights guarantee female inmates the right to remain free from repeated sexual abuse, coercion, and intimidation or degradation by their captors. Furthermore, these rights were clearly established prior to the time of Officer Davis's challenged actions, and no reasonable corrections officer could have believed otherwise.

10. This oppression, sexual abuse, coercion, and intimidation were the foreseeable result of policies, customs, or practices of wanton indifference to inmate safety, *i.e.*, cross-gender supervision whereby a single male officer kept watch over the Jail's female inmates; failing to promulgate sufficient safety or security protocols or procedures to adequately monitor and protect the dozens of inmates housed in the Jail's female pod; persistent under-staffing of officers designated to supervise inmates in the female pod; and the grossly inadequate supervision of corrections officers by Jail officials.

11. As a result of Defendants' violations of law – *i.e.*, Officer Davis's oppression, sexual abuse, misconduct, intrusions of privacy, and intentional infliction of emotional distress; Sheriff Harville's and Jail Administrator Harville's failure to supervise Officer Davis; Defendants' failures to protect female inmates and negligence; and Grainger County's wantonly indifferent policy, custom, or practice of allowing a single male corrections officer to alone supervise female inmates – Plaintiffs and other female inmates suffered and continue to suffer from debilitating psychological trauma, permanent and catastrophic psychological injuries, severe emotional distress, permanent physical ailments associated with psychological injuries, pain, humiliation, loss of enjoyment of life, and loss of quality of life.

12. By this action, Plaintiffs bring the following claims:

Count One – Violation of Civil Rights under Color of Law, 42 U.S.C. §§ 1983 and 1988, under the Fourth, Eighth, and Fourteenth Amendments – Based Upon Sexual Abuse, Coercion, and Intimidation (Against Officer Davis, Individually);

Count Two – Violation of Civil Rights under Color of Law, 42 U.S.C. §§ 1983 and 1988, under the Fourth Amendment – Based Upon the Right to Privacy (Against Officer Davis, Individually);

Count Three – Violation of Civil Rights under Color of Law, 42 U.S.C. §§ 1983 and 1988, under the Fourth and Fourteenth Amendments – Based Upon Failure to Supervise (Against Grainger County, Sheriff Harville, Individually, and Jail Administrator Harville, Individually);

Count Four – Violation of Civil Rights Laws under Color of Law, 42 U.S.C. §§ 1983 and 1988, under the Eighth Amendment – Based Upon Based Upon Failure to Protect Female Inmates from Male Officer Sexual Abuse, Coercion,

and Intimidation (Against Sheriff Harville, Individually, Jail Administrator Harville, Individually, and Officers Dalton and Davis, Individually);

Count Five – Violation of Civil Rights Laws under Color of Law, 42 U.S.C. §§ 1983 and 1988, under the Eighth Amendment – Policy, Custom, or Practice of Cross-Gender Supervision and Failure to Protect Female Inmates from Male Officer Sexual Abuse (Against Grainger County);

Count Six – Common Law Invasion of Privacy (Against Grainger County, Sheriff Harville, Individually, and Officer Davis, Individually);

Count Seven – Negligence (Against Grainger County and All Defendants, Individually); and

Count Eight – Intentional Infliction of Emotional Distress (Against Officer Davis, Individually).

13. Plaintiffs request compensatory and punitive damages, as well as attorneys' fees, costs, expenses, and all other available and appropriate relief.

II. JURISDICTION AND VENUE

14. This action is brought to redress alleged deprivations of constitutional rights as protected by 42 U.S.C. §§ 1983, 1988 and the Fourth, Eighth, and Fourteenth Amendments of the United States Constitution, and for violations of Tennessee statutory and common law. Original jurisdiction is founded on 28 U.S.C. §§ 1331 and 1343.

15. This Court also has supplemental jurisdiction over any claims brought under Tennessee law, pursuant to 28 U.S.C. §1367, as such claims are so related to claims in the action that fall within the original jurisdiction of this Court as to form part of the same case or controversy under Article III of the Constitution.

16. Venue is proper in this Court under 28 U.S.C. § 1391(b), as all incidents, events, and occurrences giving rise to the action occurred in Grainger County, within the Northeastern Division of the Eastern District of Tennessee.

III. PARTIES

A. Plaintiffs

17. At all times material, Candace McGhee and Chasity Bailey (“Plaintiffs”) were citizens and residents of Grainger County and convicted prisoners incarcerated at the Grainger County Jail.

B. Defendants

18. Grainger County, Tennessee (“Grainger County” or “the County”) is a governmental entity and political subdivision of the State of Tennessee, duly organized. The County, as a local government, is a public entity, in accordance with 42 U.S.C. § 12131(1) and 42 U.S.C. § 12111(5). The population of Grainger County is just under 25,000 people. The County, upon information and belief, is a recipient of federal financial assistance as required under 29 U.S.C. § 794.

19. Grainger County owns, operates, and maintains the Grainger County Detention Facility (“Grainger County Jail” or “the Jail”) and employs all persons working there. The Jail is located at 270 Justice Center Drive, Rutledge, Tennessee 37861. The County is responsible for, among other things, providing adequate funding for the operation of the Jail, including staffing the Jail adequately and funding training for the Sheriff, deputies, corrections officers, and other employees.

20. By law, the Jail is operated by the County Sheriff, currently James Harville, who has the statutory duty to take charge and custody of all inmates housed therein, and who may appoint jailers, for whose actions he is civilly liable, under Tenn. Code Ann. § 41-4-101. The County may be served through its chief executive officer, County Mayor Mike Byrd, at the Grainger County Courthouse, 8095 Rutledge Pike, Suite 100, Rutledge TN 37861.

21. The County possessed the power and authority to adopt policies and prescribe rules, regulations, and practices affecting all facets of the training, supervision, control, employment, assignment and removal of individual members of the Grainger County Sheriff's Office ("GCSO"), and to assure that said actions, policies, rules, regulations, practices and procedures of the GCSO and its employees comply with the laws and constitutions of the United States and the State of Tennessee.

22. The County and GCSO are answerable for the safekeeping of persons in their custody and responsible for all matters relating to the selection, supervision, promotion, training, and discipline of employees, including uniformed and non-uniformed employees.

23. At all times relevant to this Complaint, Sheriff James Harville ("Sheriff Harville") was the duly-elected Sheriff of Grainger County, statutorily responsible for the screening, hiring, firing, training and the supervision of GCSO personnel; and responsible for the safety and welfare of those inmates in his custody. Specifically, Sheriff Harville was responsible for operating the Jail and overseeing operations. That responsibility included, but was not limited to, supervising corrections officers, who

served at his will in their respective duties at the Jail, and providing adequate staffing at the Jail.

24. Sheriff Harville's employment duties and responsibilities placed him in charge and control of the Jail. He was also in charge of all GCSO employees and the development and implementation of all procedures and policies related to their employment. Sheriff Harville was responsible for employee training, supervision, and conduct; enforcement of the regulations of the GCSO and the Jail; verifying that employees were adhering to the official policies and procedures and the regulations of the GCSO and the Jail; ensuring the review of and response to formal and informal complaints and grievances; knowing what was actually occurring in the GCSO and the Jail; ensuring that the personnel of the Jail were obeying the laws of the State of Tennessee and of the United States while they were on Jail property and to take appropriate corrective action when needed; and to ensure the safety, health and welfare of employees, inmates, and visitors to the Jail, including protecting their civil rights.

25. Sheriff Harville is sued in his individual capacity and as principal on his official bond. In addition to acting under color of law, Sheriff Harville is also a "policymaker" within the meaning of that term, as applied by the Supreme Court in *Pembauer v. City of Cincinnati*, 479 U.S. 469 (1986), and as the official head of a "public entity" providing services, programs, or activities. Sheriff Harville is, upon information and belief, a citizen and resident of Grainger County and may be served with process at the GCSO, 270 Justice Center Dr., # 105, Rutledge, TN 37861.

26. At all times relevant to this Complaint, Defendant, Chris Harville (“Jail Administrator Harville”), was employed by the GCSO as Jail Administrator, a position to which he was appointed by Sheriff Harville. He acted with the authority invested in him by virtue of employment with the County, and is a state actor under § 1983. As a supervisor at the Jail, Jail Administrator Harville’s responsibilities included, but were not limited to, providing sufficient training to Jail employees, including corrections officers, and creating and implementing adequate policies and procedures to ensure that inmates were safe. At all relevant times, he was jointly responsible with Sheriff Harville for the management of the Jail and supervision of Jail employees.

27. Jail Administrator Harville is sued in his individual capacity and as principal on his official bond. He was operating under color of law. Jail Administrator Harville is, upon information and belief, a citizen and resident of Grainger County and may be served with process at the GCSO, 270 Justice Center Dr., # 105, Rutledge, TN 37861.

28. At all times relevant to this Complaint, Defendant, Corrections Officer Travis Hank Davis, individually (“Officer Davis”), was employed by the GCSO as a corrections officer. He is sued in his individual capacity and as principal on his official bond. He was operating under color of law. Officer Davis is, upon information and belief, a citizen and resident of Grainger County and may be served with process at: GCSO, 270 Justice Center Dr., # 105, Rutledge, TN 37861.

29. At all times relevant to this Complaint, Defendant, Corrections Officer Leonard Dalton, individually (“Officer Dalton”), was employed by the GCSO as a

corrections officer. He is sued in his individual capacity and as principal on his official bond. He was operating under color of law. Officer Dalton is, upon information and belief, a citizen and resident of Grainger County and may be served with process at: GCSO, 270 Justice Center Dr., # 105, Rutledge, TN 37861.

30. Various other persons or entities not made Defendants in this lawsuit, including but not limited to other Grainger County officials or GCSO employees, have participated with Defendants in the violations asserted in this Complaint and have performed acts and made statements in furtherance thereof.

IV. FACTUAL ALLEGATIONS

A. Plaintiffs' Backgrounds

31. Plaintiff, Candace McGhee, was arrested on a probation violation on January 29, 2021, and booked in the Grainger County Jail. McGhee pled guilty in the Circuit Court for Grainger County and was sentenced to serve 270 days, on February 9, 2021. *See State of Tennessee v. Candace Danielle McGhee*, Nos. 5380, 5938 (Cir. Ct. Grainger Cty. Feb. 9, 2021).

32. Plaintiff, Chasity Bailey, was arrested on a *capias*, issued by Judge O. Duane Slone, of the Circuit Court for Grainger County on February 11, 2021, for violating her probation by allegedly failing a drug screen, and incarcerated in the Grainger County Jail.

33. By February 11, 2021, both Plaintiffs were inmates in the only female pod of the Grainger County Jail.

B. Officer Davis's Background and Hiring

34. Prior to becoming a corrections officer at the Grainger County Jail on May 4, 2020, Travis Hank Davis ("Officer Davis") was a dump-truck driver, hauling dirt and rocks for a living. He quit that job to spend more time at home. For months, after being hired by Sheriff Harville, Officer Davis oppressed, sexually abused, coerced, intimidated, and/or terrorized female inmates at the Grainger County Jail through flagrant criminal acts, including official oppression, and violations of their constitutional rights, all of which were and should have been obvious to Grainger County, the Sheriff, and the Jail Administrator, as well as other corrections officers who worked in the Jail's female pod.

35. Plaintiffs Candace McGhee and Chasity Bailey attended the same high school as Officer Davis, at the same time. However, although Officer Davis had occasionally sent Bailey "Facebook messages," asking her if she wanted to "hang out." Neither McGhee nor Bailey knew Officer Davis well or considered him a "friend."

36. As a corrections officer, Officer Davis mostly worked the day-shift at the Jail, starting at 7:00 a.m. and working until 7:00 p.m. Significantly, from at least February 11, 2021 until April 18, 2021, he worked in the female pod, where the Plaintiffs were housed.

37. The vast majority of the actions of Officer Davis of which the Plaintiffs complain occurred while Officer Davis was working day-shifts. Specifically, from February 11, 2021 to March 6, 2021, Officer Davis worked thirteen (13) day-shifts (7:00 a.m. – 7:00 p.m.) and one night-shift (7:00 p.m. – 7:00 a.m.); from March 7, 2021 to

April 3, 2021, Officer Davis worked fourteen (14) day-shifts; and from April 4, 2021 to April 24, 2021, Officer Davis worked five day-shifts and three night-shifts.

C. Officer Davis's Begins Making Sexually Aggressive Comments.

38. For the first few days of their incarceration, the Plaintiffs had no complaints about Officer Davis's conduct. Initially, Officer Davis brought the Plaintiffs lighters for their cigarettes. As time passed, however, he became increasingly verbally sexually-aggressive toward the Plaintiffs, routinely directing vulgarities at them. For example, he remarked that he pictured their faces instead of his wife's when he and his wife were having sexual relations the night before, or asked them to describe their breasts and genitalia. Ultimately, Officer Davis began using his position of authority to make various sexual demands of the Plaintiffs.

39. In or about the first week of March 2021, just a few weeks after the Plaintiffs were first incarcerated in the Jail, they were moved to Female Isolation Cell #2 ("FI-2") and became cell-mates. Notably, FI-2 was directly in front of the Jail's control room, known as "the bubble," where corrections officers kept watch over the inmates housed in the female pod.

40. From "the bubble," corrections officers control the movement of inmates and guards from different parts of the Jail. This is done by operating the switchboard in the control room, which opens and shuts cell-doors and entry and exit doors in various parts of the Jail. Corrections officers in the control room also use a loudspeaker or intercom system to accommodate inmates' constitutionally-guaranteed rights, including showers, recreation, and access to legal counsel. Access to the control

room also allows corrections officers to monitor the goings-on in various parts of the facility through video monitors, radios, and audio monitors.

41. Beginning in February and early March 2021, Officer Davis began speaking to the Plaintiffs via the control room's intercom or loud-speaker system, making remarks about "how big their tits" were, asking them to describe the "color of their nipples," and to describe their "pussy" to him. Significantly, when Officer Davis spoke on the intercom, every other female inmate housed in the pod – and presumably other corrections officers who passed through there – could also hear what he was saying, although his comments were directed toward the Plaintiffs.

42. Officer Davis repeatedly made nasty and vulgar comments to one or both of the Plaintiffs. For example, in March 2021, the Plaintiffs asked him to let them out of their cell so they could go over to the male's side of the Jail and get tobacco. Officer Davis said, "no, if I can't fuck you, nobody can."

D. Officer Davis Demands That Plaintiffs and/or Other Inmates Strip Naked or Engage in Various Sex-Acts While He Watches and Masturbates.

43. Soon, Officer Davis began to demand that Plaintiffs and other female inmates housed with them in FI-2 and elsewhere engage in sex acts while he watched from the control room and masturbated. For example, in or about March 2021, Officer Davis directed another female inmate, Tasha Singleton, also housed in FI-2 with the Plaintiffs, to perform oral sex on Plaintiff Chasity Bailey while he watched and masturbated in the control room. To coerce the women to strip or engage in sex acts alone or with each other, Officer Davis used his position of authority and the inmates

plight to intimidate the inmates, and occasionally “bribed” them with tobacco or lighters.

44. In March 2021, the Plaintiffs found themselves moved to another cell, Cell # 5. Melissa Kennedy, another inmate, was housed in Cell #8. Kennedy happened to be the girlfriend of Plaintiff, Candace McGhee. Around this time, Officer Davis began regularly “popping” Cell #8’s door-lock open and directing Kennedy to go into Cell #5 to have sexual relations with McGhee. Because Officer Davis’s line- of-sight to Cell #5 was impeded, he stacked milk-crates up on the control room floor and stood on top of them to optimize his view, as he watched and masturbated. The stacked milk crates prompted other officers to be suspicious, according to the Plaintiffs.

45. Over and over again, for months, Officer Davis directed the Plaintiffs and other female inmates to perform various sex acts, while he watched and masturbated from the Bubble, frequently directing the Plaintiffs and other female inmates to move around in the cell(s), in order to give him a better view.

46. On at least one occasion, Officer Davis told Plaintiff Chasity Bailey to move to Cell #8 to smoke a cigarette, and he directed Kennedy to move from Cell #8 to Cell #5 to have sex with Plaintiff Candace McGhee. After Kennedy and McGhee had finished, Officer Davis sent Bailey to Cell #5 to have sex with McGhee, all while Officer Davis watched and pleased himself while standing on his stack of milk-crates in the Bubble.

47. Other female inmates in the pod were forced to participate in these “sex shows” or at least witness them. For example, inmates Wendy Brown and Tasha Holt,

housed next to the Plaintiffs in Cell #6, heard Officer Davis's voice on the intercom/loud-speaker as he made vulgar comments and instructed the Plaintiffs and other female inmates to engage in various sex acts while he watched from the Jail's control room.

48. On other occasions, Officer Davis ordered inmates, including Wendy Brown, to strip naked for him as he watched and masturbated.

E. The "Forced Sex Shows" Were Overt and Frequent.

49. The "sex shows" orchestrated and directed by Officer Davis were hardly a secret, as inmates in the female pod regularly heard Officer Davis making the demands on the intercom to watch female inmates have sex and witnessed, or at least heard, the "sex shows" going on from their own cells. Other corrections officers came into the female pod periodically and, upon information and belief, heard or witnessed the "sex shows." If they did not, they would certainly have heard about them from one or more of the dozens of female inmates who were privy to and/or participated in them. According to Plaintiffs, Officer Davis demanded that they perform various "sex acts" together or with other female inmates on approximately thirty (30) occasions from February 11, 2021 to April 18, 2021.

F. Plaintiffs Futile Complaints and Requests for a New Cell

50. And it wasn't as if the Plaintiffs didn't complain about Officer Davis's actions. In fact, in or around March 2021, they complained directly to Officer Leonard Dalton about Officer Davis's actions, even asking him to let them talk to a civil rights lawyer to get help. In response, Officer Dalton shrugged off their complaints about

Officer Davis's actions and told them to contact an attorney on their own time.

51. On another occasion, after Plaintiffs sought to be transferred from Cell #5 to Cell #3 to move away from the control room, Jail Administrator Harville initially failed to take their request seriously, then denied it, implying that the Plaintiffs were trouble-makers.

52. Specifically, on April 6, 2021, Plaintiff Bailey completed a "residence request report," asking if the Plaintiffs could be moved out of Cell #5 ("can we please be moved out of cell 5?"). Jail Administrator Harville responded, "we," apparently asking to whom else Bailey was referring. On April 7, 2021, Bailey responded: "Me and Candace – We have been good." On April 10, 2021, Bailey asked again, "Can me and Candace please move out of Cell 5 to Cell 3?" Finally, on April 15, 2021, Jail Administrator Harville responded, "How good have you been?" and stated, "not at this time, how many times have you asked this question?"

53. After having their complaint to Officer Dalton disregarded and their multiple requests to move denied, the Plaintiffs rightly believed it was futile to complain again against Officer Davis.

G. Officer Davis is Terminated on April 24, 2021.

54. Eventually, toward the end of April 2021, two Grainger County Sheriff's Office detectives, Leon Spoon and Colby Nicely, came to the Jail to speak to the Plaintiffs separately, about a pending investigation concerning Officer Davis.

55. Within twenty-four (24) hours of speaking to the detectives, Plaintiff Bailey was transferred from the Grainger County Jail to the Claiborne County Jail,

without explanation.

56. On April 24, 2021, Sheriff Harville terminated Officer Davis for violating the Code of Ethics, for officer misconduct, and for abusing his position, among other reasons. As of April 12, 2021, there is an “open criminal investigation” regarding Officer Davis’s conduct.

H. Plaintiffs Viewed Officer Davis as “Untouchable”

57. During all times relevant, Officer Davis engaged in this unwanted conduct with the Plaintiffs and other female inmates and subjected them to the degradation of being forced to hear and watch as he demanded “sex shows” for his personal pleasure. Officer Davis used his position as a corrections officer as a form of intimidation against the Plaintiffs and other female inmates to keep them from reporting his unwanted and unlawful sexual misconduct. Upon information and belief, when female inmates informed him that it was particularly distressing to comply with or witness this debauchery and unwanted sexual behavior, Officer Davis intimidated them with negative repercussions and implied that he would create problems during their incarceration.

58. Simply put, Officer Davis's ability to get away with such a horrific abuse of his power, while flagrantly violating the constitutional rights of female inmates, led the female inmates to believe that Officer Davis was “untouchable,” and that they would suffer retaliation or other harm if they were to report Officer Davis's actions. From their perspective, Plaintiffs had complained about Officer Davis's misconduct

and even requested cell-transfers; yet, nothing was done to reign in, much less to stop Officer Davis. If Officer Davis's colleagues and supervisors at the Jail knew about his sexual misconduct and did nothing, further complaining would be futile.

I. Officer Davis's Open and Notorious "Forced Sex Shows" Continued for Months Without Investigation or Abatement.

59. Meanwhile, Officer Davis continued to subject Plaintiffs and other female inmates to his unwanted demands for "sex shows," sexual taunts, teasing, and other acts without reprieve for months, including February, March, and April 2021, until the end of April 2021, when he fortunately disappeared.

60. Officer Davis's rampant abuse of female inmates was so open, overt, and frequent to the point that other Jail personnel, including the Sheriff, Jail Administrator, and other corrections officers, either knew, suspected, or should have known or suspected that Officer Davis was sexually abusing or mistreating female inmates.

61. Officer Davis made these "sex show" demands on the Plaintiffs alone on approximately thirty (30) occasions from February 11, 2021 to April 18, 2021, making his demands from the confines of the Bubble via the Jail's intercom or loudspeaker system. It is hardly reasonable to believe Officer Davis had not engaged in these abuses prior to February 2021.

62. Even if Jail officials had their heads in-the-sand about investigating Officer Davis's sexual misconduct, because Plaintiffs had complained about Officer Davis's actions to other corrections officers, and requested other cells, it is highly

unlikely that Jail Administrator Harville, or even Sheriff Harville, was not privy to Officer Davis's actions as early as February or March 2021.

63. Despite all of the open, overt, and frequent indicators that Officer Davis was preying on vulnerable female inmates from at least February 2021 to April 18, 2021, Officer Davis was left unchecked until April 24, 2021 to inflict innumerable sexual abuses on the Plaintiffs and countless other female inmates. Grainger County, the Sheriff, and the Jail Administrator all failed to investigate, discipline, question or stop Officer Davis's sexual abuses of female inmates until approximately April 24, 2021, when he was fired.

J. Plaintiffs' Injuries

64. As a result of Officer Davis's abuse, Plaintiffs suffered and continue to suffer from debilitating psychological trauma, permanent and catastrophic psychological injuries, severe emotional distress, permanent physical ailments associated with psychological injuries, pain, humiliation, loss of enjoyment of life, and loss of quality of life.

K. Circumstances Require Discovery to Permit the Plaintiffs to More Precisely Allege Their Claims.

65. Plaintiffs were compelled to file this Complaint without the benefit of information available only to the Defendants. More precise allegations might have been made if the County had more fully responded to Plaintiffs' multiple public records requests. Plaintiffs' attorney has made multiple public records requests, seeking information regarding Officer Davis's conduct. However, Grainger County has

only partially complied with those requests, pointing to a “pending investigation” concerning Officer Davis, stating “while the Grainger County has preserved video, statement and reports relating to this matter, those materials cannot be produced at this time.”

66. Accordingly, certain of the allegations in this Complaint have been made upon information and belief, albeit after a full investigation. Consequently, more detailed and precise allegations cannot be made at this time, including details concerning any investigation by the Sheriff’s Office or the Tennessee Bureau of Investigation (“TBI”).

V. WAIVER OF IMMUNITY

67. Grainger County has waived immunity for negligence of the county and county employees, misconduct of deputies acting under color of law, and for the negligence of deputies or employees of the GCSO or the County, as set out in Tenn. Code Ann. §29-20-305, and for intentional acts or misconduct done by deputies under color of law, as set out in Tenn. Code Ann. §8-8-302.

68. There is no immunity for individuals for criminal conduct, or conduct which is willful or malicious.

VI. CLASS ALLEGATIONS

69. Plaintiffs bring their claims both individually and on behalf of a proposed class of female inmates incarcerated at the Jail from May 4, 2020 to April 24, 2021, under Rules 23(a), (b)(1), (b)(2), and (b)(3) of the Federal Rules of Civil Procedure.

70. **Class Definition.** Plaintiff proposes the following Class, subject to modification by the Court, as required:

All inmates who – from any date beginning on May 4, 2020, to any date up to April 24, 2021 – were incarcerated in the female pod of the Grainger County Jail and were subjected to sexual abuse, coercion, or intimidation by Officer Travis Hank Davis.³

71. **Numerosity: Fed. R. Civ. P. 23(a)(1).** As defined, the proposed class is sufficiently numerous that joinder of all members of the class is impracticable and unfeasible. Upon information and belief, dozens of female inmates were incarcerated at the Jail. It is estimated that well over one hundred (100) female inmates were incarcerated in the Jail during the class period, as defined. Class members are easily identifiable using records maintained in the ordinary course of business by Defendants.

72. **Commonality: Fed. R. Civ. P. 23(a)(2).** There are questions of law and fact common to the Class, including, but not limited to:

- a. whether Class members were oppressed, sexually abused, sexually coerced, sexually intimidated, or otherwise harmed by Officer Davis;
- b. whether Class members constitutional or common law privacy rights were violated by Officer Davis's actions;
- c. whether the County, Sheriff, and/or Jail Administrator failed to sufficiently supervise or control Officer Davis in

³All such inmates incarcerated in the Jail were at a substantial risk of serious harm due to Grainger County's employment of Officer Davis as a corrections officer supervising female inmates at the Jail from May 20, 2020 until his termination on April 24, 2021.

his employment as a corrections officer; and

d. whether the County, Sheriff, Jail Administrator, and/or Officers Dalton and Davis failed to protect female inmates from Officer Davis's oppression, sexual abuse, coercion, intimidation, or other harm;

e. whether the County's policy, custom, or practice of cross-gender supervision of female inmates whereby a single male corrections officer alone supervised inmates in the Jail's female pod violates the Eighth Amendment to the United States Constitution right against cruel and unusual punishment;

f. whether the Defendants breached their duties owed to Class members; and

d. whether the Defendants intentionally inflicted emotional distress on Class members.

73. **Typicality: Fed. R. Civ. P. 23(a)(3).** The claims of the named Plaintiffs are typical of the claims of the members of the proposed class. Plaintiffs were inmates in the Grainger County Jail during the class period and were subjected to oppression, sexual abuse, coercion, or intimidation by Officer Davis. Thus, the claims of the Plaintiffs and all other members of the class arise out of a common course of conduct and/or policies in violation of the constitution or law, as alleged herein.

74. **Adequacy: Fed. R. Civ. P. 23(a)(4).** Plaintiffs are members of the Class and will fairly and adequately represent and protect the interests of all proposed Class members because they have no disabling conflict(s) of interest antagonistic to those of the other Class members. Plaintiffs have retained counsel competent and experienced in complex, class action, and/or civil rights litigation.

75. **Fed. R. Civ. P. 23(b)(3).** Common questions of law and fact predominate

over any questions affecting only the individual members of the Class. The wrongs alleged against the Defendants are common to each and every member of the Class. A class action is a superior method for the fair and efficient adjudication of this controversy. Furthermore, class-wide damages are essential to induce the County to comply with federal law in the future. The interest of Class members in individually controlling the prosecution of separate claims against the Defendants is small and management of these claims is likely to present significantly fewer difficulties than those presented in many class claims.

VII. CLAIMS FOR RELIEF

COUNT ONE

Violation of Civil Rights under Color of Law, 42 U.S.C. §§ 1983 and 1988, Under Fourth, Eighth, and Fourteenth Amendments

– Based Upon Sexual Abuse, Coercion, and Intimidation –

(Against Officer Davis)

76. The allegations of the preceding paragraphs of this Complaint are hereby incorporated by reference, as if set forth verbatim.

77. Jail sexual abuse can violate the Constitution. Officer Davis's pattern of oppression, sexual abuse, coercion, and intimidation of the Plaintiffs and other female inmates at the Grainger County Jail violated their rights under the Fourth, Eighth, and Fourteenth Amendments to the United States Constitution.

78. Sexual abuse of prisoners, once overlooked as a distasteful blight on the prison system, offends our most basic principles of just punishment. It invades the

most basic of dignity interests: to be treated as a human being. Such abuse is simply not part of the penalty that criminal offenders pay for their offenses against society. *Farmer v. Brennan*, 511 U.S. 825, 834 (1994).

Fourth Amendment

79. As part of his “forced sex shows,” Officer Davis demanded that Plaintiffs and other female inmates under his supervision and control remove their clothing and expose their naked bodies to him, including their bare breasts and vaginal area, all in contravention to their Fourth Amendment rights to be free of unreasonable search and seizure. He then demanded and directed them to engage in a variety of sex acts, as he watched from the Bubble and masturbated.

80. Officer Davis’s intrusion of the Plaintiffs’ privacy rights was severe. Using his authority as a corrections officer, Officer Davis coerced Plaintiffs and other inmates to fully disrobe and expose their naked bodies not only to him, but to any other inmate who a vantage point to view Officer Davis’s “forced sex shows.”

81. Obviously, there was no legitimate penological interest for Officer Davis to make his demands on the Plaintiffs to strip naked and engage in sex acts with each other and others female inmates.

Eighth Amendment

82. Even a single act of sexual abuse may violate the Eighth Amendment if it is entirely gratuitous and devoid of penological purpose.

83. The Eighth Amendment imposes a constitutional limitation on the power of the states to punish those convicted of crimes. Punishment may not be “barbarous,”

nor may it contravene society's "evolving standards of decency." *Rhodes v. Chapman*, 452 U.S. 337, 345-46 (1981). In this Circuit, the Eighth Amendment "must draw its meaning from the evolving standards of decency that mark the progress of a maturing society." *Kent v. Johnson*, 821 F.2d 1220, 1227 (6th Cir. 1987). Thus, courts should interpret the Eighth Amendment "in a flexible and dynamic manner." *Id.*

84. The United States Court of Appeals for the Sixth Circuit has acknowledged that "Federal courts have long held that sexual abuse is sufficiently serious to violate the Eighth Amendment. . . . This is true whether the sexual abuse is perpetrated by other inmates or by guards." *Rafferty v. Trumbull Cnty.*, 915 F.3d 1087, 1095 (6th Cir. 2019). For example, violations have been found when a male inmate alleged that corrections officers "forced him to perform sexually provocative acts" during a strip search conducted in the presence of female guards; when a corrections officer forced an inmate to perform a drunken striptease; and when a male inmate alleged that female guards regularly watched him shower for extended periods of time.

85. The court in *Rafferty* found an Eighth Amendment violation when a prison official sexually harassed a prisoner by repeatedly demanding that the prisoner expose herself and masturbate while the official watched. The court noted that, in light of the coercive dynamic of the relationship between prison staff and prisoners, such demands amount to sexual abuse. *Id.* at 1096.

86. Here, Officer Davis acted maliciously and sadistically for the very purpose of causing harm, and to arouse or gratify himself or humiliate Plaintiffs and

his other female inmate victims. As previously alleged, there is no penalogical justification for a male guard to coerce a female inmate to strip naked for the purpose of allowing the guard to masturbate. Nor is there such a justification for a male officer to coerce female inmates to engage in various sex acts with each other for his personal pleasure. These demands are tantamount to sexual abuse.

87. In light of this well-established precedent, Officer Davis's repeated demands that the Plaintiffs and other female inmates strip and engage in variety of sex acts in their cells while he watched and masturbated are sufficiently serious to implicate the Eighth Amendment under settled case law from the Supreme Court, this Circuit, and numerous other courts of appeals.

88. Officer Davis's sexual abuse of the Plaintiffs was not isolated or brief, as Plaintiffs allege that he demanded that one or the other or both of them engage in various sex acts on approximately thirty (30) occasions between February 11, 2021 and April 18, 2021, when he disappeared from the Jail.

89. That Officer Davis never physically touched the Plaintiffs or other female inmates makes no difference to his culpability. Thirty-five (35) years ago, the Sixth Circuit held that sexual abuse of inmates can violate the Eighth Amendment even in the absence of physical touching by a corrections officer.⁴ Furthermore, the abuse alleged to have occurred in this case did not merely consist of vulgarities,⁵ but entailed

⁴Other courts of appeals have reached the same conclusion with respect to homophobic epithets, ribald comments, and a forced striptease.

⁵The Sixth Circuit has held that ongoing, coercive verbal harassment may rise to sexual abuse that violates the Eighth Amendment, noting that, in light of the

coerced sexual acts by multiple female inmates. The fact that Officer Davis effectuated this sexual abuse by demanding the Plaintiffs and other female inmates to strip naked or engage in sex acts with each other, rather than by touching the female inmates himself, does not alter the fact that Plaintiffs and other female inmates were repeatedly required to engage in various sex acts against their will.

90. Besides, as inmates, the Plaintiffs were unable to consent to the unwanted acts Officer Davis perpetrated upon them or to avoid witnessing the unwanted acts he perpetrated upon others, as the power dynamics between inmates and guards make it difficult to discern consent from coercion. The Sixth Circuit has acknowledged the coercive nature of sexual relations in the prison environment, and that when a prisoner alleges sexual abuse by a prison guard, the prisoner is entitled to a rebuttable presumption that the conduct was not consensual.

91. Beyond this, the Plaintiffs did not consent to Officer Davis's demands, as they were intimidated into complying, first, by their plight as incarcerated prisoners, and then, by Officer Davis's position of authority. And it isn't as if they didn't complain about Officer Davis's actions. They did so. However, their complaints fell on deaf ears.

92. When Officer Davis made his sexual demands toward the Plaintiffs in early 2021, it was clearly established that sexual abuse of inmates could be sufficiently severe to implicate the Eighth Amendment even in the absence of physical

coercive dynamic of the relationship between prison staff and prisoners, such demands amount to sexual abuse.

touching by a guard. Based on the settled precedent that existed in 2021, a reasonable officer should have known that making repeated sexual demands of an inmate could violate the Eighth Amendment. *See Rafferty*, 915 F.3d at 1097.

Fourteenth Amendment

93. The Supreme Court has held that the Fourteenth Amendment protects the right of female inmates to remain free from “unjustified intrusions on personal security,” including “freedom from bodily restraint and punishment.” For the reasons previously described, Officer Davis’s repeated sexual abuse, coercion, and intimidation of the Plaintiffs violated their Fourteenth Amendment rights to be free from such bodily intrusions, restraints, and punishments.

94. The violations of Plaintiffs’ Fourth, Eighth, and Fourteenth Amendment rights by Officer Davis directly and proximately caused Plaintiffs to suffer severe emotional suffering and mental anguish, despair, and hopelessness. Plaintiffs’ seek compensatory damages for their injuries.

95. Furthermore, Officer Davis’s conduct was also willful, wanton, malicious, and done with reckless disregard for Plaintiffs’ federally-protected rights, justifying an award of punitive damages so as to prevent a recurrence of such misconduct and to deter others from engaging in similar misconduct.

96. Plaintiffs sue Officer Davis for violating their constitutional rights, and seek any and all damages allowable, attorney’s fees pursuant to 42 U.S.C. § 1988, costs, and discretionary costs.

COUNT TWO

Violation of Civil Rights under Color of Law, 42 U.S.C. §§ 1983 and 1988, Under Fourth and Fourteenth Amendments

– Based Upon the Right to Privacy –

(Against Officer Davis)

97. The allegations of the preceding paragraphs of this Complaint are hereby incorporated by reference, as if set forth verbatim.

98. Officer Davis's actions, as described herein, violated Plaintiffs' and other female inmates' Fourteenth Amendment Due Process rights to bodily privacy. The Supreme Court has long interpreted the Fourteenth Amendment to include an implicit right to privacy.

99. Plaintiffs, and other female inmates, were forced or otherwise coerced by Officer Davis to involuntarily strip naked,⁶ not for any penalogical purpose, but for his own sexual gratification.

⁶Most people “have a special sense of privacy in their genitals, and involuntary exposure of them in the presence of people of the other sex may be especially demeaning and humiliating. When not reasonably necessary, that sort of degradation is not to be visited upon those confined in our prisons.” *Lee v. Downs*, 641 F.2d 1117, 1119 (4th Cir. 1981); *see also York v. Story*, 324 F.2d 450, 455 (9th Cir. 1963) (“We cannot conceive of a more basic subject of privacy than the naked body. The desire to shield one's unclothed figure from view of strangers, and particularly strangers of the opposite sex, is impelled by elementary self-respect and personal dignity.”).

100. Plaintiffs and other female inmates had a right to privacy and bodily integrity under the Supreme Court's substantive due process jurisprudence, rights that specifically protected them against unreasonable and unwanted exposure of their naked or partially bodies to Officer Davis or any other member of the opposite sex.

101. In unreasonably and unjustifiably forcing Plaintiffs and other female inmates to expose their naked bodies and genitalia to him, Officer Davis violated Plaintiffs' clearly established privacy rights.

102. As the Sixth Circuit has noted, "a convicted prisoner maintains some reasonable expectations of privacy while in prison . . . even though those privacy rights may be less than those enjoyed by non-prisoners." *Cornwell v. Dahlberg*, 963 F.2d 912, 916 (6th Cir.1992). Any intrusion on an inmate's right to privacy is valid if it "reasonably relates to legitimate penological interests." Here, coercing Plaintiffs and other female inmates to unnecessarily expose their naked bodies, to engage in sex and sex-related acts with other inmates, was not reasonably related to any legitimate penological interest.⁷

103. The Fourth Amendment protects prisoners from searches or seizures that

⁷Being coerced to strip naked is a particularly severe intrusion on the right to privacy. See, e.g., *Johnson v. City of Kalamazoo*, 124 F. Supp. 2d 1099, 1104 (W.D. Mich. 2000). Even a strip search, by its very nature, is an extreme intrusion upon personal privacy, as well as an offense to the dignity of the individual. It is a practice that the Supreme Court says has given it "pause," *Bell v. Wolfish*, 441 U.S. 520, 558 (1979), since "[u]ndergoing such an inspection is undoubtedly humiliating and deeply offensive to many . . ." *Florence v. Bd. of Chosen Freeholders of Cnty. of Burlington*, 132 S. Ct. 1510, 1524 (2012).

go beyond legitimate penological interests. Plaintiffs and other female inmates, had a well-established right not to be forced or otherwise coerced into stripping naked, much less compelled to engage in sex-acts by themselves or with other inmates within full view of Officer Davis, for his personal gratification.

104. The location of the coerced sex-acts further amplified the privacy intrusions in this case, because Plaintiffs were coerced into stripping and engaging in sex acts inside a cell viewable by others.⁸

105. Obviously, no exigent circumstances existed that might possibly have justified Officer Davis to coerce Plaintiffs to strip naked and engage in sex acts for his personal pleasure.

106. Being made to expose oneself to a member of the opposite sex and strangers would be highly intrusive to any ordinary person.

107. A reasonable officer in Officer Davis's position should have known that his conduct, as described, violated Plaintiffs' privacy rights. Officer Davis's unreasonable, coerced exposure of Plaintiffs' naked body violated their clearly established right to privacy under the Fourth Amendment. *See, e.g., Stoudemire v. Mich. Dep't of Corr.*, 705 F.3d 560, 575 (6th Cir. 2013).

108. At the time of Officer Davis's violation of Plaintiffs' privacy rights, it was also clearly established that conducting strip searches that would expose the subject's

⁸Officer Davis announced his instructions to the Plaintiffs and other female inmates via an intercom system that could be heard by other inmates – only exacerbating the number of people paying attention to what was going on in the cell.

naked body to members of the opposite sex and other strangers violates the Fourth Amendment's guarantee to privacy, absent special circumstances not present here. Officer Davis did much more than conduct strip searches. By coercing Plaintiffs to expose their naked bodies and genitals to himself and others, Officer Davis intentionally intruded upon Plaintiffs' constitutionally-protected bodily solitude and seclusion.

109. The violations of Plaintiffs' Fourth and Fourteenth Amendments privacy rights by Officer Davis directly and proximately caused Plaintiffs to suffer injuries. As a result, Plaintiffs have suffered damages, including, but not limited to, severe emotional pain and suffering, humiliation, and emotional distress.

110. Furthermore, Officer Davis's conduct was also willful, wanton, malicious, and done with reckless disregard for Plaintiffs' federally-protected rights, justifying an award of punitive damages so as to prevent a recurrence of such misconduct and to deter others from engaging in similar misconduct.

111. Plaintiffs sue Officer Davis for violating their constitutional right to privacy, and seek any and all damages allowable, including punitive damages, as well as attorney's fees pursuant to 42 U.S.C. § 1988, costs, and discretionary costs.

COUNT THREE

**Violation of Civil Rights under Color of Law,
42 U.S.C. §§ 1983 and 1988, Under Fourth,
Eighth, and Fourteenth Amendments**

– Based Upon Failure to Supervise –

**(Against Grainger County, Sheriff Harville, Individually,
and Jail Administrator Harville, Individually)**

112. The allegations of the preceding paragraphs of this Complaint are hereby incorporated by reference, as if set forth verbatim.

113. Sheriff Harville has final authority and makes policy for the GCSO in establishing and implementing policies and/or procedures with respect to the care and custody of female inmates in the Grainger County Jail. Jail Administrator Harville is directly responsible for the supervision of corrections officers in the Jail and, upon information and belief, designating and scheduling which officers work in the female pod.

114. Here, the unconstitutional consequences of failing to supervise Officer Davis is so patently obvious that the County, Sheriff Harville, and Jail Administrator Harville are all liable under § 1983. The oppression, sexual abuse, coercion, and intimidation by Officer Davis occurred mostly during his day-shifts and continued from at least February 2021 through April 2021. As described above, the “forced sex shows” orchestrated and directed by Officer Davis were not secret, as most if not all of the female inmates were forced to participate in them, witness them, or at least hear them or hear about them.

115. Plaintiffs also complained about Officer Davis's abuse to at least one other corrections officer (Officer Dalton) to no avail. Presumably, if he was properly trained, Officer Dalton informed his supervisors, including Sheriff Harville and Jail Administrator Harville, about the complaint. Yet, the oppression, abuse, coercion, intimidation and "forced sex shows" continued for approximately another month, meaning that neither the Sheriff nor his Jail Administrator interceded to stop Officer Davis.

116. Beyond even this, in early April 2021, the Plaintiffs requested to be moved to another cell to get away from Officer Davis's sight-line. Jail Administrator Harville made light of their request before denying it outright.

117. Myriad facts – *e.g.*, Officer Davis's sexual abuses; the fact that they continued for months; that most, if not all, of the female inmates knew about or were even coerced into participating in the "forced sex shows"; the fact that other corrections officers were likely aware of Officer Davis's abuses; and that Jail officials had mocked and rejected requests for the Plaintiffs to move to another cell – demonstrate such obvious and egregious supervisory deficiencies to make the County's supervisory policies, customs, or practices constitutionally defective.

118. Here, Officer Davis rightly believed that his sexual misconduct would not be properly monitored or corrected by supervisory officers. Grainger County's failure to supervise correctional officers was the moving force behind Officer Davis's months-long perpetration of sexual abuses and invasion of Plaintiffs' privacy rights. As supervisory officials, Sheriff Harville and Jail Administrator Harville were well aware

that failing to sufficiently supervise male corrections officers working alone in the female-inmate pod was a serious and substantial risk, endangering female inmates.

119. As a direct and proximate result of these supervisory failures, Plaintiffs suffered damages, including severe humiliation and emotional distress.

120. Plaintiffs sue Grainger County, Sheriff Harville, Individually, and Jail Administrator Harville, Individually, for violating their constitutional rights, and seek any and all damages allowable, as well as attorney's fees pursuant to 42 U.S.C. § 1988, costs, and discretionary costs.

COUNT FOUR

Violation of Civil Rights Laws under Color of Law, 42 U.S.C. §§ 1983 and 1988, Under Eighth Amendment

– Based Upon Failure to Protect Female Inmates from Male Officer Sexual Abuse, Coercion, and Intimidation –

(Against Sheriff Harville, Jail Administrator Harville, and Officers Dalton and Davis)

121. Plaintiff incorporates by reference all the above allegations as if fully set forth herein.

122. Under 42 U.S.C. § 1983, a person has a federal cause of action for money damages against an individual acting under color of state law who deprives another of rights, privileges, or immunities secured by the United States Constitution and federal laws. Here, the Defendants were acting under color of state law.

123. From the moment of Plaintiffs' incarceration, the County, Sheriff Harville, Jail Administrator Harville, and Officers Davis and Dalton owed them a

duty of care to protect them from harm. A special relationship existed between Plaintiffs and those Defendants, which gave rise to that duty. Defendants breached that duty by failing to protect the Plaintiffs and other female inmates.

124. At the time of Officer Davis's abuses and violations, the law was clearly established that Defendants' deliberate indifference to the safety of inmates from a serious risk of harm was a constitutional violation.

125. Plaintiffs were incarcerated under conditions that posed a substantial risk of harm to their safety and well-being. Defendants knew or should have known of this risk, yet they failed to abate this risk, or to even mitigate it.

126. Each of the Defendants – knowing that the Plaintiffs had complained about Officer Davis's oppression, sexual abuse, coercion, intimidation, and "forced sex shows," knowing that Plaintiffs had sought to be moved to another cell to get away from Officer Davis's sight-line, or knowing that Officer Davis engaged in these abuses because it was not a secret among inmates in the female pod (and likely not a secret to other corrections officers as well) – had an opportunity to help the Plaintiffs and stop Officer Davis's atrocities. These facts, and others described herein, indicate that Defendants were deliberately indifferent to Plaintiffs' substantial risk of serious harm.

127. Specifically, Defendants Sheriff Harville, Jail Administrator Harville, Officer Dalton, and other Jail employees failed to respond to the Plaintiffs' complaints about Officer Davis's unwanted sexual misconduct in a proper and timely fashion, thereby displaying a deliberate indifference to the safety and well-being of the Plaintiffs and other female inmates.

128. Sheriff Harville and Jail Administrator Harville allowed Officer Davis's behavior to continue despite having options to station a female corrections officer in the female pod or to adopt other alternatives options, such as having two corrections officers instead of one monitor the female pod or monitoring via video surveillance. Although Plaintiffs and other female inmates complained about Officer Davis's unwanted behavior, Sheriff Harville, Jail Administrator Harville, and other Jail employees chose to ignore the behavior and/or failed to report or stop Officer Davis.

129. It is the duty of corrections officers to inform the Jail Administrator or the Sheriff of inmate-safety or security complaints, particularly where they involve sexual abuse, coercion, or intimidation by a corrections officer on female inmates. If Officer Dalton had been sufficiently trained, he would have relayed the Plaintiffs' complaints about Officer Davis's misconduct to the Jail Administrator and/or the Sheriff, meaning the latter would have been privy to the abuses. Nevertheless, Officer Davis continued to victimize the Plaintiffs and other female inmates for months.

130. As supervisory officials, Sheriff Harville and Jail Administrator Harville were well aware that the failure to adequately supervise a male corrections officer stationed alone in an all-female pod would result in increased instances of sexual abuse or assault, coercion, or intimidation. Nevertheless, they created a substantial risk of harm to Plaintiff and other inmates by adopting or implementing policies, customs, or practices that deprived Plaintiffs of their right to be free from sexual abuse, *i.e.*, cross-gender supervision of female inmates by stationing a male corrections officer alone in the female pod.

131. Sheriff Harville and Jail Administrator Harville knew of and inexplicably disregarded the substantial risk to Plaintiffs' health or safety. As described above, the substantial risk of male guard attacks or abuse on female inmates is longstanding, pervasive, and well-documented in U.S. Jails. Nevertheless, the risks were so obvious that they had to have been known. Neither official took action to respond reasonably to the risk and station a female corrections officer in the female pod or video surveillance.

132. If Sheriff Harville and Jail Administrator Harville had scheduled a female corrections officer or video surveillance or even two male corrections officers in the female pod, it is very likely that the Plaintiffs and other female inmates would not have been sexually abused.

133. As a direct and proximate result of Sheriff Harville's, Jail Administrator Harville's, and Officers Dalton's and Davis's failures to protect the Plaintiffs and other female inmates, the Plaintiffs suffered damages, including severe humiliation and emotional distress.

134. Plaintiffs sue Sheriff Harville, Individually, Jail Administrator Harville, Individually, and Officers Dalton and Davis, Individually, for violating their constitutional rights, and seek any and all damages allowable, as well as attorney's fees pursuant to 42 U.S.C. § 1988, costs, and discretionary costs.

COUNT FIVE

Violation of Civil Rights Laws under Color of Law, 42 U.S.C. §§ 1983 and 1988, Under Eighth Amendment

– Monell Claim: Policy, Custom, or Practice of Cross-Gender Supervision and Failure to Protect Female Inmates from Male Officer Sexual Abuse –

(Against Grainger County)

135. Plaintiff incorporates by reference all the above allegations as if fully set forth herein.

Cross-Gender Supervision

136. Grainger County, Sheriff Harville, and Jail Administrator Harville promulgated a policy, custom and/or practice of using cross-gender supervision of female inmates at the Grainger County Jail whereby they scheduled male corrections officers to work alone in the female pod of the Jail. This policy, custom, or practice was the moving force behind Officer Davis's sexual abuse, coercion, and intimidation of the Plaintiffs and their injuries.

137. Cross-gender supervision of female inmates is often degrading and dangerous. However, the practice passes constitutional muster if it is reasonably related to legitimate penological concerns.

138. Data reveals that sexual assault is virtually a part of everyday life in women's prisons.⁹ Although women comprise only 7% of the state prison population,

⁹See *Amnesty International, "Not Part of My Sentence": Violations of the Human Rights of Women in Custody* 51-52 (1999), available at <http://web.amnesty.org/library/Indexeng> AMR510011999; Radhika Coomaraswamy, *Report of the Special Rapporteur on Violence Against Women, Its Causes and Consequences*, 1 59,

46% of sexual abuse victims in state prisons are women.¹⁰ Cross-gender supervision policies lead to an increase in the frequency of sexual abuse against female inmates.¹¹

139. Sexual abuse of female prisoners by male corrections officers has long been a problem in the United States. Multiple international laws and treaties prohibit cross-gender supervision, as cross-gender supervision can have particularly traumatizing effects on female prisoners. Various studies have estimated that 40% to 88% of female prisoners have histories of sexual or physical abuse.¹² Notably, female prisoners with a history of sexual abuse are often more fearful of male corrections officers¹³ and become more vulnerable to sexual abuse while incarcerated.¹⁴

140. While the proposition that all men would inevitably sexually assault female inmates if given the chance is clearly false, leaving male corrections officers

U.N. Doc. E/CN.4/1999/68/Add.2 (Jan. 4, 1999).

¹⁰U.S. Dep't of Just., Bureau of Just. Stat., NCJ 210333, Sexual Violence Reported By Correctional Authorities, 2004, at 8 (2005), available at <http://www.ojp.usdoj.gov/bjs/pub/pdf/svrca04.pdf> (collecting data on prison rape pursuant to Prison Rape Elimination Act of 2003, 42 U.S.C. § 15603 (Supp. IV 2005)).

¹¹Human Rights Watch, *All Too Familiar: Sexual Abuse of Women in U.S. State Prisons* 1 (1996), available at <http://hrw.org/reports/1996/Usl.htm>.

¹²Kim Shayo Buchanan, *Beyond Modesty: Privacy in Prison and the Risk of Sexual Abuse*, 88 Marq. L. Rev. 751, 753 (2005).

¹³*See id.* at 754.

¹⁴Amy Laderberg, Note, "The 'Dirty Little Secret' Why Class Actions Have Emerged as the Only Viable Option for Women Inmates Attempting to Satisfy the Subjective Prong of the Eighth Amendment in Suits for Custodial Sexual Abuse," 40 Wm. & Marl. Rev. 323, 338-39 (1998).

alone with female inmates is sufficiently dangerous to have put Grainger County, Sheriff Harville, and Jail Administrator Harville on-notice that such a practice posed a substantial risk to female inmates. Reliable studies have addressed this causal link and have reached the conclusion that the risk is severe. Indeed, cross-gender supervision policies that allow male corrections officers to supervise female inmates lead inevitably (or at least are a substantial factor that leads to) the rape or sexual abuse of female inmates. Even where cross-gender supervision policies are not violative of prisoners' rights to remain free from sexual assault by corrections officers, such policies create an atmosphere tolerant of such violations.

141. Official policy usually exists in the form of written statements, ordinances, or regulations, but may also arise in the form of a widespread practice that is so common and well-settled as to constitute a custom that fairly represents municipal policy. Prior to the sexual abuses perpetrated by Officer Davis, the County had developed and maintained a defacto policy, custom, or practice exhibiting deliberate indifference to the deprivation of safety to female inmates, which ultimately caused violations of Plaintiffs' civil rights.

142. Yet, the most serious deficiency of Grainger County's policy, custom, or practice is not that the Sheriff uses cross-gender supervision, but that he stations a single male corrections officer *alone in the female pod* to supervise female inmates for part or all of an entire twelve-hour shift.

143. Here, cross-gender supervision of female inmates by a single male corrections officer greatly impinged on female inmates' constitutional rights, as it is

not reasonably-related to any legitimate penological interest. In view of the substantial and serious risks of staffing the female pod of the Jail with a lone male corrections officer, as well as the available alternatives, *e.g.*, putting one or more female officers in the female pod to work alone, adding a female officer to the female pod to work alongside male corrections officers, or using a female officer along with heightened video surveillance), there is no valid, rational connection between the policy, custom, or practice and a legitimate governmental interest.

144. Along with adopting and implementing such a constitutionally-deficient policy, custom, or practice, by also failing to adopt a policy or practice geared toward the prevention of sexual abuse on female inmates by male corrections officers, Grainger County has – by omission – established a practice of perpetuating sexual misconduct and violations of the bodily integrity of the female inmates at the Jail. As a result of Grainger County's, Sheriff Harville's, and Jail Administrator Harville's "blind-eye" policy in which Officer Davis's sexual misconduct was permitted to occur over a period of several months, female inmates experienced repeated acts of sexual abuse, coercion, invasions of their privacy, and a loss of dignity, safety and physical and emotional well-being at the hands of Officer Davis, who had power and influence authority over them.

145. By failing to adopt, maintain, or enforce policies to prevent sexual abuse on female inmates by male corrections officers when they are in the female pod alone supervising female inmates, Grainger County has deprived the Plaintiffs of their right to be free from cruel and unusual punishment pursuant to the Eighth Amendment.

146. A governmental entity may be held liable based upon its officers' deliberate indifference to and violation of any citizen's constitutional rights where a custom, policy, or procedure of the municipality is found to be the proximate cause of the constitutional violation.

147. Grainger County's policies, customs, and practices, as described above, allowed Officer Davis's sexually deviant behavior to continue unabated such that it rises to the level of deliberate indifference. By this, Grainger County's failure to stop Officer Davis from perpetrating sexual abuse, coercion, and intimidation evolved into its own custom, practice, or policy. By doing so, Grainger County made it perfectly permissible for Officer Davis (or other Jail employees) to coerce or abuse female inmates for their own sexual pleasure.

148. For all of these reasons, the County has abdicated its governmental responsibilities to provide a safe and secure incarceration environment to inmates.

149. The customs, practices and policies set forth above directly and proximately caused Plaintiffs' substantial psychological and physical pain, emotional distress, humiliation, and embarrassment, which affect and will continue to have an effect on them well into the future.

150. Plaintiffs sue Grainger County for violating their constitutional rights, as described above, and seek any and all damages allowable, as well as attorney's fees pursuant to 42 U.S.C. § 1988, costs, and discretionary costs.

COUNT SIX

COMMON LAW INVASION OF PRIVACY

(Against Officer Davis, Individually)

151. The allegations of the preceding paragraphs of this Complaint are hereby incorporated by reference, as if set forth verbatim.

152. Even as convicted inmates in the Jail, Plaintiffs had a reasonable expectation of privacy.

153. Officer Davis coerced and intimidated the Plaintiffs and other female inmates into stripping naked or demanding that they engage in sex acts with other female inmates, as he watched and masturbated in the control room.

154. Plaintiffs did not authorize or give their consent to the unwarranted invasion of their individual privacy.

155. Officer Davis's intrusion into Plaintiffs' privacy was intentional.

156. Officer Davis's intentional intrusion into the Plaintiffs' privacy was severe and highly insulting, as the average person would find the exposure of their naked bodies to be extraordinarily offensive. The scope of the exposure was substantially heightened when the Plaintiffs and other inmates were forced to have sex with other female inmates, as Officer Davis watched and masturbated, and as other inmates observed as well.

157. Officer Davis's intentional intrusion on Plaintiffs' privacy rights would cause a person of ordinary sensibilities to suffer mentally, to be shamed, and to be humiliated.

158. Plaintiffs were outraged and suffered mental suffering, shame, and humiliation, entitling Plaintiffs to an award of compensatory and punitive damages.

COUNT SEVEN

NEGLIGENCE

**(Against Grainger County, Sheriff Harville, Individually,
Jail Administrator Harville, Individually, and Officers Davis
and Dalton, Individually)**

159. The allegations of the preceding paragraphs of this Complaint are hereby incorporated by reference, as if set forth verbatim.

160. Defendants owed a duty to the Plaintiffs to use due care in fulfilling their duties and to ensure their conduct conformed to applicable laws, policies, procedures, and generally accepted law enforcement standards. Defendants had a duty to Plaintiffs to act with ordinary care and prudence so as not to cause Plaintiffs harm or injury.

161. The County has a statutory and constitutional duty to maintain the Jail to secure the safe custody, health, and comfort of inmates housed therein. Tenn. Code Ann. §§ 5-7-104 and 106. Sheriff Harville and Jail Administrator Harville were also obligated by law – and had the requisite authority – to protect persons confined to the Jail.

162. The County is legally liable for the non-negligent acts or failures to act of County deputies under Tenn. Code Ann. § 8-8-302, including instances of gross negligence. It is also liable for the negligence of persons it employs, including Sheriff Harville, Jail Administrator Harville, Officers Dalton and Davis, and any other

employee at the Jail under Tenn. Code Ann. § 29-20-205.

163. Sheriff Harville is responsible for the acts and omissions of corrections officers, including their performance or failure to perform the tasks and duties that he is statutorily obligated to perform. *See* Tenn. Code Ann. § 41-4-101.

164. As described above, Defendants breached their duties of due care and were negligent, grossly negligent, reckless, willful, and wanton in all of the foregoing particulars.

The County, Sheriff Harville, and Jail Administrator Harville

165. Grainger County had a duty to act with reasonable care in regard to the exercise of its duties as operator of a correctional facility and in the treatment of Plaintiffs as female inmates in its care, custody, and control. Grainger County also had a duty to act with reasonable care in regard to the exercise of Officer Davis's duties as a corrections officer and to observe and monitor the Plaintiffs while they were incarcerated.

166. By neglecting its duties to observe and monitor Plaintiffs and its employee, Officer Davis, Grainger County directly and proximately caused Plaintiffs to suffer serious and humiliating injuries.

167. The County, Sheriff Harville, and Jail Administrator Harville were on notice that cross-gender supervision of inmates at the Jail's female pod by a single male corrections officer put Plaintiffs and other female inmates at a serious and

substantial risk of sexual abuse, coercion, or intimidation. Yet, they made no changes to Jail policies to require that female corrections officers be added or video surveillance be used to supervise female inmates.

168. The County, Sheriff Harville, and Jail Administrator Harville also had actual or constructive knowledge that Officer Davis was using his position of authority as a corrections officer to oppress, sexually abuse, coerce, or intimidate Plaintiffs and other inmates he supervised in the female pod.

169. First, Officer Davis's sexual misconduct was not a secret within the Jail, as most of the inmates in the female pod either participated in Officer Davis's "forced sex shows" or witnessed them by either watching and listening to the shows or by listening to Officer Davis as he directed the shows. It is, therefore, likely that other corrections officers, as well as Jail officials, were aware of the abuse.

170. Second, Plaintiffs complained about Officer Davis's sexual misconduct to other corrections officers, including Officer Dalton. If Officer Dalton was properly trained and supervised by Jail officials, he would likely have informed them about the Plaintiffs' complaint.

171. Third, Plaintiffs also made multiple requests to be moved to another cell to get away from Officer Davis's line-of-sight as he worked in the Jail's control room. Those requests were made on the Jail's administrative system to Jail Administrator Harville, who initially mocked the request before denying it.

172. As a result of all this, the County, Sheriff Harville, and Jail Administrator Harville breached their duties to Plaintiffs and other female inmates

to observe, monitor, and/or protect them and keep them safe, particularly from corrections officers designated to watch over and supervise them. By their actions or omissions, Plaintiffs and other female inmates were put at serious risk of sexual abuse.

Officer Dalton

173. For his part, Officer Dalton was informed by Plaintiffs about Officer Davis's sexual misconduct, but appears to have done nothing about it. If he did, Jail officials ignored the complaint, at least until April 24, 2021, when Officer Davis was terminated.

174. On information and belief, Officer Dalton knew, based upon his exposure to female inmates who were privy to the "sex shows," that Plaintiffs and other female inmates were at risk of being sexually abused by Officer Davis.

175. By the foregoing acts or omissions, Officer Dalton breached his duty to monitor or protect the Plaintiffs and other inmates.

Officer Davis

176. Officer Davis was grossly derelict in his official duties by endangering and injuring the Plaintiffs and other female inmates by his ongoing sexual abuse, coercion, and intimidation.

177. By acting and failing to act, the County, Sheriff Harville, Jail Administrator Harville, and Officers Dalton and Davis breached their duties to protect Plaintiffs and other female inmates, and/or acted in reckless disregard of the foreseeable risk that they would be sexually abused.

178. As a direct and proximate result of the Defendants' conduct, as alleged above, and other undiscovered negligent conduct, Plaintiffs and other female inmates were caused to suffer severe humiliation and emotional distress, including psychological trauma, entitling Plaintiffs to recover compensatory damages.

COUNT EIGHT

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

(Against Officer Davis, Individually)

179. The allegations of the preceding paragraphs of this Complaint are hereby incorporated by reference, as if set forth verbatim.

180. The actions alleged above against Officer Davis were outrageous and utterly intolerable in a civilized society, and were done with a reckless disregard of the probability of causing emotional distress to the Plaintiffs and other female inmates.

181. Officer Davis's conduct was perpetrated with the intent to inflict, or with reckless disregard of the probability of inflicting, mental anguish on Plaintiffs and other female inmates.

182. Officer Davis knew, or should have known, that his conduct would result in serious injuries and severe emotional distress to Plaintiffs and other female inmates, and that his conduct was perpetrated with the intent to inflict, or with reckless disregard of the probability of inflicting, mental anguish, and severe emotional distress upon Plaintiffs and other female inmates. Plaintiffs have suffered nightmares, severe headaches, stress and anxiety, unwanted memories of the trauma, avoidance of situations that bring back memories of the trauma, heightened reactions,

depression, irritability, hyper-vigilance, exaggerated-startle response, loss of sleep, fear of sleep, difficulty concentrating, and live their lives in fear of authority figures and of being sexually abused.

183. The wrongful acts of Officer Davis were willful, oppressive, intentional and malicious; therefore, punitive damages should be assessed against him in an amount deemed sufficient to punish and deter him and others in similar positions of authority from engaging in similar conduct in the future.

184. The aforementioned acts were done knowingly, intentionally, and maliciously, for the purpose of oppression and inflicting injury upon Plaintiffs and other female inmates, and in reckless, wanton and callous disregard of their safety, security, and civil rights.

VIII. JURY DEMAND

185. Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiffs demand a trial by jury of all of the claims asserted in this Complaint so triable.

IX. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray:

A. That Defendants be served with a copy of this Complaint and be required to answer;

B. This action may proceed as a class action, with Plaintiffs as the designated Class representatives and Plaintiffs' counsel as Class Counsel;

C. That the Court find that Defendants have committed violations of the Fourth, Eighth, and Fourteenth Amendments to the United States Constitution and the statutory and common law violations of Tennessee law, as alleged herein;

D. That Plaintiffs and the Class, which encompasses female inmates housed in the Grainger County Jail from May 2020 until April 2022, recover compensatory damages sustained by them in the sum of Five Million Dollars (\$5,000,000.00), as provided by federal and Tennessee law, and that a judgment in their favor be entered against the Defendants in an appropriate amount as shown at trial;

E. That alternatively, Plaintiffs and Class be awarded such damages as will fully compensate them for all injuries proximately caused by Defendants' actions and that a judgment in their favor be entered;

F. That Plaintiffs and Class be awarded punitive damages in the sum of Ten Million Dollars (\$10,000,000.00), or such other amount sufficient to deter Defendants from engaging in similar conduct in the future;

G. Alternatively, that the individual Plaintiffs be awarded Five-Hundred Thousand Dollars (\$500,000.00) each, or such damages, including compensatory and punitive damages, as are warranted for their injuries.

H. That Plaintiffs and the Class have and recover costs for this suit, including reasonable attorneys' fees and discretionary costs, as provided by law; and

I. That Plaintiffs and the Class be awarded post-judgment interest as permitted by common law or applicable statute and such other or further relief as may be just and proper.

Respectfully submitted, this 12th day of April, 2022.

/s/ Lance K. Baker

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This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Class Action Lawsuit Alleges Grainger County Jail Officer Forced Female Inmates into 'Sex Shows'](#)
