

**UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION**

CLINTON NORTHCUTT; BAYAN ALEKSEY; MARION BOWMAN; JAMES BRYANT; LUZENSKI COTTRELL; TAYLOR CROSS (f/k/a JONATHAN BINNEY); WILLIAM DICKERSON; RON FINKLEA; JERRY INMAN; RICHARD MOORE; JAMES ROBERTSON; BRAD SIGMON; STEPHEN STANKO; NORMAN STARNES; SAMMIE STOKES; BOBBY STONE; GARY TERRY; JOHN WEIK; and LOUIS WINKLER,

Plaintiffs,

v.

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS; BRYAN P. STIRLING, Director of the South Carolina Department of Corrections; JOSEPH MCFADDEN, Former Warden of Lieber Correctional Institution; JOEL ANDERSON, Former Interim Warden of Lieber Correctional Institution; RANDALL WILLIAMS, Warden of Lieber Correctional Institution; WILLIE D. DAVIS, Warden of Kirkland Reception and Evaluation Center; and JANA HOLLIS, Unit Manager of Death Row and Maximum Security Unit at Kirkland Reception and Evaluation Center,

Defendants.

**AMENDED COMPLAINT AND
DEMAND FOR JURY TRIAL**

Case No. 4:17-cv-03301-BHH-TER

Honorable Bruce Howe Hendricks

This action challenges the policies and practices responsible for the cruel and baseless solitary confinement of prisoners who have been convicted of capital crimes by the State of South Carolina.

NATURE OF THE ACTION

1. Based solely on their death sentence, Plaintiffs have been isolated in solitary confinement for between nine and twenty years.¹ Plaintiffs have never had a meaningful opportunity to challenge this placement.

2. Plaintiffs are subjected to indefinite extreme isolation, devoid of mental stimulation, and have only sporadic human interaction. They are confined for up to twenty-four hours a day to small, windowless cells that measure approximately 10 feet by 10 feet. Plaintiffs are only permitted to leave their cell for rare instances of individual recreation in small outdoor cages, only partially open to the sky, and for periodic legal or family visits and medical treatment. Physical human contact of any kind is completely prohibited outside of very limited circumstances involving prison staff, such as when Plaintiffs are transported from their cells, and with Plaintiffs' attorneys during legal visits. Even on the occasions Plaintiffs receive family visits, they are separated from their family members by glass and can have no contact.

3. The harsh repercussions of prolonged isolation are well-known among mental health experts, physicians and human rights experts in the United States and around the world. It is agreed that solitary confinement puts prisoners at risk of substantial physical, mental, and emotional harm. Research has shown that prolonged solitary confinement results in heightened levels of anxiety, chronic depression, and sensitivity to stimuli.

4. In recent years, leaders in the United States have condemned the use of solitary confinement as inhumane. As Justice Anthony Kennedy noted: “[R]esearch still confirms what this Court suggested over a century ago: Years on end of near-total isolation exact a terrible price.”

¹ Upon information and belief, some plaintiffs have left Death Row for short periods of time to attend judicial proceedings. During these periods they were typically kept in isolation at county jail facilities.

Davis v. Ayala, 135 S. Ct. 2187, 2210 (2015) (Kennedy, J., concurring). In describing the *Davis* case, in which a prisoner had been held in isolation for more than twenty-five years, to the House Appropriations Subcommittee on Financial Services and General Government, Justice Kennedy stated: “This idea of total incarceration just isn’t working, and it’s not humane Solitary confinement literally drives men mad.”² Similarly, Justice Stephen Breyer recently wrote that “[i]f extended solitary confinement alone raises serious constitutional questions, then 20 years of solitary confinement, all while under threat of execution, must raise similar questions, and to a rare degree, and with particular intensity.” *Ruiz v. Texas*, 137 S. Ct. 1246, 1247 (2017) (Breyer, J., dissenting).

5. These dehumanizing conditions are detrimental to Plaintiffs and have caused them severe and irreversible physical and psychological harm. Over time, Plaintiffs have slowly lost their cognitive capacities and ability to communicate effectively. Additionally, Plaintiffs’ pre-existing mental illnesses have been exacerbated by the isolated confinement.

6. Social interaction and meaningful activity are crucial to human well-being. By definition, solitary confinement isolates individuals and stunts any mental and emotional stimulation. Even healthy adults, if subjected to short periods of isolation, display impaired neurological functioning. Here, the prolonged nature of the confinement has had a devastating impact on Plaintiffs.

7. There is no legitimate or valid penological reason to place Plaintiffs in solitary confinement based exclusively on their sentence. Numerous corrections officials across the United States promote prison classification systems based on several objective factors, such as age and

² *Supreme Court Fiscal Year 2016 Budget* at 30:42–31:22 (C-SPAN television broadcast Mar. 23, 2015), goo.gl/8Hkuvj.

prison disciplinary history, because these factors, as opposed to a prisoner's sentence, are more predictive of potential security concerns. Similarly, a 2016 report conducted by the Department of Justice ("DOJ") recommends the use of solitary confinement only when it serves a specific penological purpose and when accompanied by regular review by a multi-disciplinary committee.

8. Contrary to these recommendations, Plaintiffs—irrespective of their good behavior—have been held in solitary confinement for years, and in some cases decades, without any rational justification and without being afforded any meaningful process or mechanism to address their confinement or to rectify the harm it has inflicted on them. The extreme, unusual and cruel conditions of their confinement violate the Eighth and Fourteenth Amendments of the United States Constitution.

9. Defendants, who are employed by the State of South Carolina, acted under color of law to deprive Plaintiffs of their constitutionally protected right to be free of cruel and unusual punishment, guaranteed by the Eighth Amendment of the United States Constitution, and their right to due process, guaranteed by the Fourteenth Amendment. Plaintiffs seek relief from Defendants to address these grave violations of their constitutional rights.

JURISDICTION AND VENUE

10. Plaintiffs bring this action pursuant to 42 U.S.C. § 1983 and the Eighth and Fourteenth Amendments of the United States Constitution.

11. This Court has jurisdiction over Plaintiffs' claims of violation of their federal constitutional rights pursuant to 28 U.S.C. §§ 1331 and 1343.

12. Venue is proper pursuant to 28 U.S.C. § 1391 because a substantial part of the events giving rise to the claims herein occurred in this district.

PARTIES

13. **Plaintiff BAYAN ALEKSEY** is a forty-nine-year-old prisoner who has spent the past nineteen years in solitary confinement on South Carolina's Death Row. He was sentenced to death in 1998.

14. **Plaintiff MARION BOWMAN** is a thirty-eight-year-old prisoner who has spent the past sixteen years in solitary confinement on South Carolina's Death Row. He was first sentenced to death in 2002.

15. **Plaintiff JAMES BRYANT** is a forty-six-year-old prisoner who has spent the past sixteen years in solitary confinement on South Carolina's Death Row. He was first sentenced to death in 2001.

16. **Plaintiff LUZENSKI COTTRELL** is a forty-year-old prisoner who has spent the past twelve years in solitary confinement on South Carolina's Death Row. He was first sentenced to death in 2005.

17. **Plaintiff TAYLOR CROSS (f/k/a JONATHAN BINNEY)** is a forty-three-year-old prisoner who has spent the past fifteen years in solitary confinement on South Carolina's Death Row. She was sentenced to death in 2002.

18. **Plaintiff WILLIAM DICKERSON** is a forty-one-year-old prisoner who has spent the past eight years in solitary confinement on South Carolina's Death Row. He was sentenced to death in 2009.

19. **Plaintiff RON FINKLEA** is a forty-four-year-old prisoner who has spent the past ten years in solitary confinement on South Carolina's Death Row. He was sentenced to death in 2007.

20. **Plaintiff JERRY INMAN** is a forty-six-year-old prisoner who has spent the past eleven years in solitary confinement on South Carolina's Death Row. He was sentenced to death in 2006.

21. **Plaintiff RICHARD MOORE** is a fifty-two-year-old prisoner who has spent the past sixteen years in solitary confinement on South Carolina's Death Row. He was sentenced to death in 2001.

22. **Plaintiff CLINTON NORTHCUTT** is a thirty-seven-year-old prisoner who has spent the past fourteen years in solitary confinement on South Carolina's Death Row. He was first sentenced to death in 2003.

23. **Plaintiff JAMES ROBERTSON** is a forty-four-year-old prisoner who has spent the past eighteen years in solitary confinement on South Carolina's Death Row. He was sentenced to death in 1999.

24. **Plaintiff BRAD SIGMON** is a sixty-year-old prisoner who has spent the past fifteen years in solitary confinement on South Carolina's Death Row. He was sentenced to death in 2002.

25. **Plaintiff STEPHEN STANKO** is a forty-nine-year-old prisoner who has spent the past eleven years in solitary confinement on South Carolina's Death Row. He was sentenced to death in 2006.

26. **Plaintiff NORMAN STARNES** is a fifty-two-year-old prisoner who has spent the past twenty years in solitary confinement on South Carolina's Death Row. He was sentenced to death in 1997.

27. **Plaintiff SAMMIE STOKES** is a fifty-year-old prisoner who has spent the past eighteen years in solitary confinement, on South Carolina's Death Row. He was sentenced to death in 1999.

28. **Plaintiff BOBBY STONE** is a fifty-two-year-old prisoner who has spent the past twenty years in solitary confinement on South Carolina's Death Row. He was sentenced to death in 1997.

29. **Plaintiff GARY TERRY** is a forty-nine-year-old prisoner who has spent the past twenty years in solitary confinement on South Carolina's Death Row. He was sentenced to death in 1997.

30. **Plaintiff JOHN WEIK** is a fifty-year-old prisoner who has spent the past eighteen years in solitary confinement on South Carolina's Death Row. He was sentenced to death in 1999.

31. **Plaintiff LOUIS WINKLER** is a fifty-seven-year-old prisoner who has spent the past nine years in solitary confinement, on South Carolina's Death Row. He was sentenced to death in 2008.

32. **Defendant SOUTH CAROLINA DEPARTMENT OF CORRECTIONS** ("SCDC" or the "Department") is a government agency/entity existing under the laws of the State of South Carolina. It is headquartered in Richland County, South Carolina, and has facilities located through the State. More particularly, SCDC operates Lieber Correctional Institution, located at 136 Wilborn Avenue, Ridgeville, South Carolina, and Kirkland Reception and Evaluation Center, located at 4344 Broad River Road, Columbia, South Carolina. At all times hereinafter mentioned, Defendant SCDC carried out its business by and through its agents, servants, and/or employees, including, but not limited to, those mentioned below. Additionally,

these agents, servants, and/or employees were operating individually and/or within the scope of their official capacities.

33. **Defendant BRYAN P. STIRLING** is the Director of the South Carolina Department of Corrections. He became Director in 2013. In this capacity, he manages and controls the entire South Carolina prison system. Defendant Stirling is responsible for the management of the affairs of the prison system and for the proper care, treatment, feeding, clothing, and management of the prisoners confined therein. To this end, he makes and promulgates rules and regulations for the performance of the Department's functions, including rules and regulations governing the treatment, training, and discipline of prisoners and for the "separation and classification of prisoners according to sex, color, age, health, corrigibility, and character of offense upon which the conviction of the prisoner was secured." S.C. Code. § 24-1-140. As such, Defendant Stirling authorizes or condones the unconstitutional policy of housing Plaintiffs in solitary confinement indefinitely, as described herein. Therefore, he directly and proximately caused the constitutional violations set forth below. At all relevant times, Defendant Stirling was acting under color of law, and as an official representative of the South Carolina Department of Corrections. Defendant Stirling is sued in his official capacity for injunctive relief and in his personal capacity for damages.

34. **Defendant JOSEPH MCFADDEN** is the former Warden of Lieber Correctional Institution; he is still an employee of SCDC. He was Warden from October 2012 until August 2017. In this capacity, he was responsible for the planning, direction, and coordination of all activities, programs, and operations at Lieber Correctional Institution. Defendant McFadden interpreted laws, policies, and operational procedures relevant to all employees and inmates at Lieber Correctional Institution. As such, Defendant McFadden authorized or condoned the

unconstitutional policy of housing Plaintiffs in solitary confinement indefinitely, as described herein. Therefore, he directly and proximately caused the constitutional violations set forth below. At all relevant times, Defendant McFadden was acting under color of law and as an official representative of the South Carolina Department of Corrections. Defendant McFadden is sued in his personal capacity for damages.

35. **Defendant JOEL ANDERSON** was the Interim Warden of Lieber Correctional Institution; he is still an employee of SCDC. He was Interim Warden from August 2017 until October 2017. In this capacity, he was responsible for the planning, direction, and coordination of all activities, programs, and operations at Lieber Correctional Institution. Defendant Anderson interpreted laws, policies, and operational procedures relevant to all employees and inmates at Lieber Correctional Institution. As such, Defendant Anderson authorized or condoned the unconstitutional policy of housing Plaintiffs in solitary confinement indefinitely, as described herein. Therefore, he directly and proximately caused the constitutional violations set forth below. At all relevant times, Defendant Anderson was acting under color of law and as an official representative of the South Carolina Department of Corrections. Defendant Anderson is sued in his personal capacity for damages.

36. **Defendant RANDALL WILLIAMS** is the Warden of Lieber Correctional Institution. He became Warden in September 2017. In this capacity, he is responsible for the planning, direction, and coordination of all activities, programs, and operations at Lieber Correctional Institution. Defendant Williams interprets laws, policies, and operational procedures relevant to all employees and inmates at Lieber Correctional Institution. As such, Defendant Williams authorized or condoned the unconstitutional policy of housing Plaintiffs in solitary confinement indefinitely, as described herein. Therefore, he directly and proximately caused the

constitutional violations set forth below. At all relevant times, Defendant Williams was acting under color of law and as an official representative of the South Carolina Department of Corrections. Defendant Williams is sued in his official capacity for injunctive relief and in his personal capacity for damages.

37. **Defendant WILLIE D. DAVIS** is the Warden of Kirkland Reception and Evaluation Center. He became Warden in 2017. In this capacity, he is responsible for the planning, direction, and coordination of all activities, programs, and operations at Lieber Correctional Institution. Defendant Williams interprets laws, policies, and operational procedures relevant to all employees and inmates at Kirkland Reception and Evaluation Center. As such, Defendant Davis authorizes or condones the unconstitutional policy of housing Plaintiffs in solitary confinement indefinitely, as described herein. Therefore, he directly and proximately caused the constitutional violations set forth below. At all relevant times, Defendant Davis was acting under color of law and as an official representative of the South Carolina Department of Corrections. Defendant Davis is sued in his official capacity for injunctive relief and in his personal capacity for damages.

38. **Defendant JANA HOLLIS** is the Unit Manager of the Maximum Security Unit (“MSU”) at Kirkland Reception and Evaluation Center. She became Unit Manager in 2017. In this capacity, she plans, coordinates, and directs the actions of the security staff at the MSU. Defendant Hollis oversees security, custody, and control of inmates in her unit, and she is responsible for the proper implementation and adherence to relevant SCDC policies and procedures. She also is responsible for investigating complaints and violations in the MSU. As such, Defendant Hollis authorizes or condones the unconstitutional policy of housing Plaintiffs in solitary confinement indefinitely, as described herein. Therefore, she directly and proximately

caused the constitutional violations set forth below. At all relevant times, Defendant Hollis was acting under color of law and as an official representative of the South Carolina Department of Corrections. Defendant Hollis is sued in her official capacity for injunctive relief and in her personal capacity for damages.

STATEMENT OF FACTS

39. Starting in 1997, Death Row inmates in South Carolina were housed at Lieber Correctional Institution (“Lieber”), a maximum-security prison facility in Ridgeville, South Carolina.

40. On or around September 26, 2017, the South Carolina Department of Corrections (“SCDC”) moved Death Row to the Maximum Security Unit (“MSU”) at Kirkland Reception and Evaluation Center (“Kirkland”), a maximum-security prison facility in Columbia, South Carolina.

41. South Carolina’s Death Row houses all male state prisoners sentenced to death. There are currently thirty-eight prisoners serving death sentences on Death Row.

The Death Row Facility at Lieber Correctional Institution

42. Lieber Correctional Institution is a Level 3 institution housing male inmates serving sentences in South Carolina. The facility houses approximately 1,200 inmates in multiple buildings and dorms. One of the buildings at Lieber is a Special Housing Unit (“SHU”). Half of the SHU was a maximum security unit that housed inmates who were moved to the SHU because of disciplinary problems while incarcerated on non-death penalty sentences. The other half of the building comprised Death Row. The maximum security unit and Death Row were separate units within the SHU and Death Row had its own unit manager, officers, and policy.³

³ See SCDC Policy OP-22.16, attached as Exhibit A.

43. Death Row at Lieber consisted of two “sides,” each of which had the same layout. Each side consisted of cells on two levels, with each level shaped like a “U” around an open area in the middle. Each level had a walkway in front of the cells to allow movement of officers and inmates—when they were allowed out of their cells—and for passing a telephone and microwave that could be used by the inmates.

44. Plaintiffs, along with all other Death Row inmates, were confined to individual cells that measured approximately six feet by nine feet. Each cell contained a bunk bed (with the bottom bunk used for sleeping and the top bunk used for storage), a desk with a chair, a toilet and sink, and a storage cubby. Each cell also had an electrical outlet that could be used by the Death Row inmates to operate the communal microwave when it came to them, or a hot pot, lamp, or other small electrical devices the inmates were authorized to purchase from the Commissary.

45. Each cell had two outside-facing windows, approximately four inches wide by four feet tall and separated by approximately six inches. From these windows, natural light entered the cells and the Death Row inmates were able to view the outside. Each cell had a single door that could be opened to allow the inmates to move in or out of their cells. The cell door also contained a window that looked out on the open area in the center of the unit. From this window, the Death Row inmates were able to see and talk to other inmates who were at their doors. The doors also contained a horizontal slot, approximately five inches tall and seventeen inches wide, through which officers could pass meals, letters and other paperwork, and the telephone. Through this slot, Death Row inmates were able to reach and use the microwave. The slots could be closed by locking a flap over the slot, but they were rarely locked. By reaching out of this slot, Death Row inmates were able to reach the light switch outside their cells and control the lighting within their cells without having to ask an officer for assistance.

Solitary Confinement on Death Row at Lieber Correctional Institution

46. All individuals sentenced to death were automatically placed in solitary confinement on Death Row upon their arrival at Lieber. Their placement in solitary confinement was not based on SCDC classification criteria, violation of prison rules, behavioral considerations, or anything other than their death sentence.

47. In contrast to most of the prisoners at Lieber and other SCDC facilities, prisoners on Death Row were denied any meaningful opportunity to challenge their placement in solitary confinement through any administrative means, nor were they given periodic reviews to determine whether there was any legitimate penological reason for them to remain in solitary confinement.

48. SCDC conducted pro forma reviews of each Plaintiff's classification. In most instances, these reviews occurred annually. Prison officials conducting the review would bring two forms to each inmate: one was a waiver of appearance at the classification hearing, and the other was a form stating the inmate's status. As one Plaintiff said, "we all [signed the waivers] because there was no use in going" and because "no matter what, you would be in solitary."

49. There was no meaningful opportunity for prisoners on Death Row to challenge their solitary confinement, even after years of exemplary behavior, unless their conviction or sentence was reversed and they were resentenced to a sentence of less than death, in which case they were removed from Death Row and placed into general population.

50. Those on Death Row at Lieber were forced to spend between twenty-three and twenty-four hours a day isolated in cramped cells where they were deprived of almost all intellectual and social stimulation. Physical contact was forbidden, and the absence of meaningful human interaction severely impacted their mental and physical health.

51. Death Row prisoners were allowed out of their cells in limited circumstances. Inmates were allowed non-contact visitation with family or friends who were approved as visitors by SCDC on weekends. The only contact visits allowed to Death Row inmates were with their attorneys for legal visits. During legal visits the inmates were shackled in belly- and leg-chains with one hand cuffed to the belly chain for the duration of the visit. At the beginning and end of the legal visit, the inmates were allowed a brief handshake or hug with their legal visitors; this was the only physical human contact the inmates were allowed with someone other than a correctional officer. They were also allowed out for showers on weekdays (in individual locked shower stalls outside their cells) and for sporadic visits to the law library.

52. Additionally, five times per week—if staffing and weather allowed—prisoners were allowed to go outside to recreation pens. Only one prisoner was allowed in each pen at any given time.

53. Upon information and belief, there were six outdoor pens for the Death Row inmates at Lieber. The outdoor pens resembled dog runs. They were fully enclosed by wire fence on all sides, including on the top. A dark fabric surrounded the entire recreation area on all sides and the top, barring the recreating inmates from viewing their surroundings or the sunlight. There was no equipment for the prisoners to use.

54. Unlike most other prisoners, those on Death Row at Lieber were restricted in what they could purchase at the commissary. If inmates wanted to purchase new clothing or any materials to provide distraction or stimulation while in their cells, they had to do so at the commissary or through a limited number of approved external sources. This was difficult for most Death Row inmates since none of them are allowed to earn any money while on Death Row.

55. Other prisoners at Lieber were allowed access to employment and the ability to earn money that is, in part, deposited into their commissary accounts. However, inmates on Death Row were denied this opportunity.

56. Similarly, Death Row prisoners' activities were severely restricted at Lieber. They were not permitted to participate in any of the various classes, clubs, and trainings available to other inmates, and they were denied access to any kind of vocational, recreational, or educational programs.

57. Because they were not permitted to work or to participate in any programs, prisoners on Death Row spent almost all of their time at Lieber in their cells, idle and without any external mental or sensory stimulation.

58. Other prisoners at Lieber had access to group religious services offered on a revolving basis by various volunteers from local churches and religious organizations. Death Row inmates, on the other hand, were not allowed to participate in group religious services. The only religious services provided on Death Row were visits from "fellowship" volunteers who were allowed to walk around the unit and talk to the inmates individually through the windows of the locked cell doors. Death Row inmates were not allowed to participate in religious classes or studies or to have actual services, such as Mass or communion services.

59. Prisoners on Death Row were only allowed to be visited at Lieber by persons who had been approved to visit, which was restricted to individuals they knew before the time they were incarcerated.

60. Visitation with Death Row prisoners at Lieber took place in non-contact visiting rooms and prisoners remained shackled at the waist during visitations. Glass and mesh separated the prisoners from their visitors, and communication was by speaking loudly through the mesh

portion of the barrier between the prisoners and visitors. The Death Row inmates did not have any contact with one another during these visits (even though multiple inmates had visits at the same time); they were separated from each other by steel walls and locked doors.

61. Unlike other prisoners at Lieber, who lived in a dormitory setting or in cell-blocks and were constantly interacting with one another, prisoners on Death Row were locked in their cells for upwards of twenty-three hours a day and, aside from visits, had little contact with non-prison officials. Even during visits, prisoners were denied any kind of physical contact with their family members or friends.

62. Death Row inmates were able to speak to those in nearby cells while at Lieber by shouting through their cell doors, and for many this was the only form of regular communication with anyone other than the correctional officers. Multiple Plaintiffs have described the ability to communicate with the other inmates, even with these limitations, as one of the few coping mechanisms available to alleviate some of the isolating effects of solitary confinement.

Transfer to Kirkland Reception and Evaluation Center

63. On or around September 26, 2017, the South Carolina Department of Corrections relocated the Death Row facility from Lieber to the Kirkland Maximum Security Unit.

64. Plaintiffs learned of the move through unofficial channels less than a week before the move and were officially informed they would be moving hours before the actual move. They were instructed to not to pack their belongings, but to put anything they wanted to keep on their bed and someone at Lieber would pack their belongings to be delivered to them at Kirkland.

65. Death Row inmates were forced to strip and dress in only a used t-shirt and pair of boxers given to them before transport. This was the only clothing they were allowed for the length of the move between facilities. Even prisoners' prescription eyeglasses were taken.

66. On information and belief, the inmates were forced to remain in these clothes for two days after they arrived at Kirkland. They were not given new clean clothes, even though all of their other clothes had been taken and/or packaged at Lieber, and they were denied the opportunity to wash the t-shirts and boxers that they were given before transport.

67. Prison officials told Death Row inmates that their belongings would need to be searched for contraband before it could be returned. However, as detailed below, many of these items have not yet been returned. In some cases, inmates have been told that the items will not be returned or that they went missing during the move. One inmate was told by SCDC staff that other inmates at Lieber were tasked with packing and cleaning the cells, and that these inmates had been told that they could take whatever they wanted from among the Death Row inmates' possessions.

The Death Row Facility at Kirkland Reception and Evaluation Center

68. Kirkland Reception and Evaluation Center serves as SCDC's administrative hub for all male offenders age 17 and above entering SCDC upon receiving a sentence of 91 days or more. It receives, assesses, classifies, and assigns approximately 15,000 offenders each year. Kirkland also houses SCDC's statewide protective custody unit and the State's Maximum Security Unit.

69. SCDC describes the Maximum Security Unit at Kirkland as "specialized housing" for "the most dangerous and violent offenders."⁴

70. There is no distinct Death Row facility at Kirkland. Instead, all Death Row inmates have been confined to the MSU. They share that space with inmates from other facilities who have been sent to the MSU because SCDC has made a determination that these inmates need to be

⁴ South Carolina Department of Corrections, *Kirkland Correctional Institution*, <http://www.doc.sc.gov/institutions/kirkland.html> (last visited Nov. 27, 2017).

isolated from the general population due to the threat they pose, or as punishment for specific institutional behavior. Upon information and belief, these inmates are referred to as Substantiated Security Risk (“SSR”) inmates or, colloquially, as “SSRs.”

71. The MSU is a stand-alone building connected to the rest of the facility by a long fenced-in walkway. It houses prisoners in four wings radiating out from a central command area. Each wing consists of two halls. For example, “A” wing is divided into “High A” hall and “Low A” hall. Each hall has approximately six cells and is separated from the central area by a solid steel door with only a small glass window.

72. On information and belief, all but one of the halls have at least one SSR inmate mixed in with the Death Row inmates.

73. MSU cells are approximately 10 feet by 10 feet. They contain a built-in shower, toilet, concrete bed slab, and desk, as well as a small television screen behind a plate glass panel. The ceiling is approximately 25 feet high. Each cell has a window that has been completely covered by metal panels and thus there is no natural light.

74. There are no chairs in the cells. Prisoners can only use the desk or watch television by perching on the edge of the concrete bed slab or standing.

75. There are no electrical outlets in the cells. Prisoners cannot control the lighting in their rooms because the lights are controlled by prison officials from the central location, so prisoners must request assistance from one of the officers if they wish to turn off the lights to sleep, or turn on the lights so they can engage in any activity. The only lighting in the room is a large florescent light on the ceiling; inmates cannot use smaller lamps because there are no outlets in the cells.

76. The cells are separated from the hall by two doors. The outer door is a solid steel door with a window that looks directly across the hallway at a concrete wall. The inner door is a wire mesh door that has two openings. One opening is near the floor and can be used to shackle the inmates' legs. The other opening is about waist height and can be used to shackle the inmate's arms or to pass through food or materials. There are flaps that can be closed and locked over the waist-level opening. All of the doors and flaps are closed and locked at all times other than when an officer is giving something to an inmate or the inmate is being moved in or out of his cell.

77. The cell walls and solid doors dampen sound, making it difficult—if not impossible—for inmates to speak with those in neighboring cells. Furthermore, the two solid doors between each inmate and the prison staff in the central control area makes it very difficult for inmates to get the attention of staff.

78. Both the outer and inner doors to each cell can be opened by a single officer, but require two sets of keys kept in the possession of different officers; therefore in practice they require multiple officers to open. The current policy at the Kirkland MSU is that officers will only open the doors when there are two officers present. This two-key system causes Death Row inmates to fear that if a fire or other emergency occurred, officers would not be able to open the doors to aid the inmates before they were seriously harmed. The door between each hall and the central area can only be opened by the control officer sitting in the central control area pushing a button. This means that a single officer cannot respond to a request for assistance.

79. The cells also lack storage space. Clothes and other personal belonging can either be placed in bags on the floor or on the small desk. However, in order to watch TV, most items on the desk must be moved to the floor, otherwise they block the screen.

80. The lack of storage is compounded by the design of the in-cell showers. Prisoners cannot control the flow of water. Instead, the officers activate the showers from a central location and leave them on for 30-45 minutes on most week days. Because the showers are open to the cells on two sides, and because prisoners cannot control the flow or direction of water, the cells tend to flood. Personal belongings that are stored on the floor are thus exposed to water damage on each shower day.

81. On information and belief, prison officials at Kirkland failed to clean the cells before Death Row inmates moved in. Instead, it appears that officials painted over all the exposed surfaces. This paint began to chip within the first week, exacerbated by the damp air and standing moisture caused by the showers, and the chips clog the drain and cause further flooding.

82. Multiple inmates described significant growths of mold in their cells and showers, in some case growing beneath the paint and only revealed when the paint sloughed off the walls. One inmate described “black mold up to [his] knee” in the showers.

83. The toilets feature a timer that restricts how often they can be flushed, regardless of need or sanitation concerns.

84. On information and belief, the MSU has two recreation areas. Each area consists of three cells and only one inmate is allowed in each cell at a time. The cells are fan-shaped and approximately 18 feet by 9 feet by 19 feet by 5 feet, surrounded by approximately 13-foot high cement walls on three sides, a door from the building is on the fourth side. The first third of the cell is covered by a solid roof, while the remainder is covered by diamond-pattern steel grating and razor wire. The inmates can hear each other but they cannot see each other and cannot interact. The only view they have is to look directly up at the sky through the grate and razor wire.

Solitary Confinement on Death Row at Kirkland Reception and Evaluation Center

85. The conditions on Death Row deteriorated significantly from the already intolerable situation at Lieber when the Row was moved to Kirkland.

86. On information and belief, there is no longer an official policy governing Death Row because the policy that was in place at Lieber does not apply to Kirkland. Instead, Death Row inmates are largely subject to the rules and regulations that govern the SSR inmates who have been sent to the MSU because of their individual behavior.

87. Death Row inmates are still denied any opportunity to participate in any educational, vocational, or religious programming.

88. Death Row inmates are denied all employment opportunities, severely limiting their ability to purchase necessary products from the commissary such as medicine, cleaning supplies, and clothing.

89. For example, inmates have five dollar co-pays for prescription medication. Without any income, the cost of one or two monthly—or weekly—medications can be prohibitive.

90. Additionally, the lack of resources limits Death Row inmates' ability to clean and maintain their own cells. Prison officials have provided Death Row inmates with cleaning supplies only once since they were transferred. Death Row inmates who wish to do additional cleaning must purchase cleaning supplies from the commissary.

91. Kirkland also limits the inmates' access to their property. In preparation for transport from Lieber, prison officials confiscated all of the Death Row inmates' personal property. This included radios and televisions, as well as coffee makers, cook-pots, food coolers, books, art materials, typewriters, letters, and materials related to each inmate's legal file. Each of these items was purchased from the commissary with the inmate's own money or, in the case of letters and legal files, received from friends and family or Plaintiffs' lawyers.

92. While many of these items have since been returned, except as discussed below, SCDC has refused to return Plaintiff's electronics.

93. Even if these electronics were returned, the MSU cells have no electrical outlets and prisoners have been informed that SCDC has no intention of providing them.

94. The lack of electrical outlets also means prisoners cannot control the lights in their own rooms, making it difficult to sleep or read—if they even have access to reading material—without the direct assistance of the officers.

95. On information and belief, the MSU officers are supposed to make rounds every thirty minutes. However, the inmates report that it is sometimes hours between rounds on their halls.

96. Each room has an intercom, but it is unidirectional. There is no call button, and the inmates cannot use the intercom to communicate out in any way. They can only hear messages from prison officials. At least one inmate has an intercom that does not function at all.

97. In order to get the officers' attention, the inmates must beat on their steel doors and yell. This can take half an hour or more, and officers do not always respond—if they even hear.

98. When the officers do respond, the process is time-consuming. In practice, each door requires two or more different officers to work together.

99. This procedure complicates even simple tasks. For example, at first the entire MSU only had one phone for inmate use. There were initially two phones to cover the thirty-eight Death Row residents and approximately a dozen SSR inmates, but on information and belief an officer broke the cord for the second phone.

100. Upon information and belief, there are now four phones for the MSU, but one phone connection has been damaged multiple times, thus limiting the ability of inmates on one wing to access the phone while the connection is being repaired.

101. The MSU phones are connected to a line in the central area and can be wheeled to a given cell on a cart. This requires the control room to open the hall door, and then two officers must open the cell's outer door, and then the flap that opens in the cell's inner mesh door. The phone is left between the two cell doors and the receiver is handed to the inmate. The officers then leave, lock the doors, and return to the central area.

102. When a prisoner is done with the phone, he must get the attention of the officers, who must then go back through the doors, retrieve the phone, return to the central area, and then bring it to the next person. Inmates report the phone is often left with one person for hours at a time, even when that person only made a short call. Even with three phones, this deprives the rest of the Death Row inmates from using the phone for long periods of time, and means that on some days only a handful of inmates, out of nearly fifty, can make calls to family, friends, or their lawyers.

103. This procedure also makes it nearly impossible for Death Row inmates to schedule communications, or to complete calls during times when recipients are likely to be available.

104. Inmates have submitted official requests regarding the lack of access to phones, but prison officials have not responded to their requests.

105. The process of opening and closing doors also causes Death Row inmates to have difficulty sleeping at night. When officers do make rounds at night they turn on the lights for the hall, waking prisoners. The hall doors also make a loud noise when they open and close, frequently waking inmates throughout the night. One inmate reported that he requested and began taking an

antidepressant, which is also used as a sleep medication, to aid him in sleeping through more of the night.

106. Death Row inmates are also denied the few options for social interaction that were previously available.

107. Prison officials have not allowed many “fellowship” visits to Death Row since it moved to the MSU. It took over seven weeks for one of the fellowship volunteers who previously visited Death Row at Lieber to obtain permission to visit Death Row at Kirkland, despite the fact he had been visiting Death Row at Lieber for approximately six years, with the approval of the Lieber warden and chaplain. When fellowship volunteers were allowed to visit the Death Row inmates, it was only two of the many volunteers who were previously allowed to visit at Lieber and they were given such a short period of time to visit that they were only able to talk to each inmate for a couple of minutes at most.

108. A chaplain has visited Death Row only twice since it moved to the MSU despite written requests from multiple Death Row inmates.

109. Recreation is given very infrequently. No inmate was given recreation more than four times in the first month after they were transferred to Kirkland, and some had less opportunity. Plaintiffs report that recreation opportunities have become somewhat more frequent after the first month, but not significantly so.

110. When they are allowed recreation, inmates are not allowed to change into athletic clothing they were allowed to purchase at Lieber. Instead, they are forced to wear the full coveralls that constitutes their uniform, meaning that any significant physical activity will dirty the clothes the inmate has for the day and leave the inmate sweaty until the evening’s (or next day’s) shower.

This is an allowance that was lost in the move from Lieber to Kirkland, for no reason other than the move itself.

111. Furthermore, Death Row inmates are also denied information about the limited administrative options that are available to them for filing grievances.

112. As detailed below, prison officials respond to inmate requests infrequently, leaving most requests unanswered.

113. Inmates have asked for clarity about visitation hours and individual visits, but have not been able to get correct and consistent answers from the officers or other officials. This has caused at least one inmate to give up on trying to schedule visits.

114. Defendant Hollis, the MSU and Death Row Unit Manager, rarely makes rounds. When she does make rounds, she is reluctant to provide information to inmates or provides incorrect information. Hollis initially refused to provide information regarding visitation times and then provided multiple inmates with incorrect visitation times. This is particularly troubling given the amount of advance notice needed to schedule visitations.

115. Defendant Davis, the Warden of Kirkland Correctional Institution, visits the row very infrequently.

116. There have been a number of other changes since the Death Row inmates were moved to the MSU.

117. Death Row inmates no longer have access to a microwave, as they did at Lieber. At Lieber, this microwave was placed on a wheeled cart, allowing inmates to pass it back and forth along the tier. Without access to a microwave, they cannot heat food that they buy from the commissary, or cook food for each other as they once did. This change is significant because the

food that inmates are given at Kirkland from the prison kitchen is almost always cold when it arrives—a problem for a menu that is largely gravy-, egg-, and grits-based.

118. In addition, commissary items that were previously available at Lieber have now been blacked out on the commissary list. These items include all electronics, despite the fact that these items were allowed at Lieber and were on SCDC's list of approved items for Death Row.

119. Some inmates had coolers for keeping food and beverages cold. Many of these coolers were not returned after the transfer to Kirkland, but even if they were, the coolers are now useless: prison officials have refused to allow the inmates to obtain ice.

120. Many additional items that made life more bearable have also been kept back. Multiple inmates report that extension cords for their headphones have not been returned, meaning they need to hunch next to their television to hear. Inmates also found that all of their previously-approved and purchased electronics were not returned after the move. SCDC confiscated extension cords, fans, lamps, electric razors, typewriters, coffee pots, and cook pots. Prison officials also confiscated toe-nail clippers.

121. This was not due to any disciplinary infraction or other behavioral incident. There have not been any security issues with approved electronics or other property purchased through SCDC on Death Row in many years.

122. Similarly, Plaintiffs and other Death Row inmates were able to purchase certain hobby craft items for use in their cells at Lieber. These items included pipe cleaners, popsicle sticks, wood glue, drawing pens, paints, and other similar items. Many Death Row inmates used these materials to create crafts to send to their families and to help keep their minds occupied. Upon the move to Kirkland, all hobby craft items were confiscated and each inmate had to reapply for hobby craft approval. When the inmates were reapproved for hobby crafts at Kirkland,

however, they were not approved for all of the items they previously had, even if they had previously purchased these items and had them in their cells at Lieber. Previously approved items that are no longer approved at Kirkland include toothpicks, popsicle sticks, wood stain, and drawing ink. There were no disciplinary problems as a result of the inmates having access to these hobby craft items at Lieber. The items have been disapproved solely as a result of the move from Lieber to Kirkland.

123. In addition, upon information and belief, the prison officials went through inmates' mail during the move—including marked legal mail. Inmates report that some legal materials were confiscated, and that SCDC has failed to return some personal letters.

124. The inmates also cannot get their clothes properly cleaned. They are required to give their dirty clothes to the officers in a tied-up laundry bag. The bag is then thrown into the washer, still tied up, which prevents the clothes from actually being cleaned.

125. Furthermore, Kirkland does not allow the inmates to clean their own sheets in the sinks within their cells. The officers collect the sheets, against the inmates' wishes, and do not always return the correct sheets to each inmate. One inmate received another inmate's still bloody sheets instead of his own. This is a particular problem because there are inmates in the MSU with significant mental illnesses who cannot take care of their own hygiene, and so those inmates with more meticulous hygiene practices fear that they will be forced to use others' filthy sheets.

126. Upon information and belief, the only reason for these changes is that the Death Row inmates are now housed in the MSU and are being treated as if they were residents of the MSU placed there for disciplinary purposes.

127. The MSU cells were constructed specifically to hold inmates who were confined to the unit based on their behavior and threat level. The policies that govern the treatment of SSR

prisoners confined at the MSU are much stricter than those that governed Death Row inmates at Lieber. And because each hall has at least one SSR inmate, the officers generally treat all the inmates—Death Row and SSR—as if they were SSR prisoners.

128. Upon information and belief, one officer expressed that he did not know why the Death Row inmates were moved to the MSU especially because he and other officers understood that SCDC was attempting to close the MSU at Kirkland. He said that it did not make any sense and that he would “take them [the Death Row inmates] over the other guys [the SSR prisoners] any day.” He also opined that the Death Row inmates were “not a problem” and that they were well-behaved. Indeed, there have been no documented behavior issues for Death Row inmates since the move to Kirkland. This is in sharp contrast to the observed behavior of the SSR inmates.

129. On information and belief, one of the SSR inmates is often on one-on-one security watch. This means that an officer has to stand outside his cell with the outer door open at all times. The SSR inmate yells through the door all night long, keeping the nearby Death Row inmates awake.

130. After one SSR inmate threw feces through his open door and into the hall, officers waited for eleven hours to clean it up. When the officers did finally clean the mess they did not clean it thoroughly and left some of it on the floor. The mess and the smell remained for days.

131. Another SSR inmate bangs a cup against the door for up to sixteen hours a day, trying to draw the officers’ attention.

132. In every case, the SSR inmates were sent to that unit after SCDC officials determined that their past behavior, and the threat they presented, were such that solitary confinement was warranted.

133. SCDC has never made an individual determination that Plaintiffs' past behavior or the threat they pose was such that solitary confinement—let alone solitary confinement in the MSU—is warranted or appropriate.

Plaintiffs' Confinement on Death Row

134. Upon information and belief, many Death Row prisoners suffer from mental illness, which is exacerbated by being held in long-term isolated confinement. Despite the fact that Defendants are aware of the prevalence of mental illness among this population, and of the well-documented effects of solitary confinement on prisoners with mental illness, they provide inadequate mental health care to Death Row prisoners. Although a social worker visited the MSU once in the first four weeks, she moved quickly from cell to cell asking the prisoners if they needed any help. She did not pause for more than two minutes when a prisoner told her that he was “not good.” Such a visit does not provide the relief these prisoners need. To receive mental health care, prisoners must first be able to articulate a need for mental health services, which many prisoners who suffer from mental health illnesses are unable to do. An inmate must either write a coherent request for mental health services, or must ask for it by yelling through the door to an officer or social worker, which others nearby would be able to hear. Some prisoners are unwilling to ask for assistance knowing that their request will be heard by others on the hall. Even if the individual does speak up publicly, their request for help often goes unanswered.

135. The prisoners on Death Row slowly lose their ability to function normally and eventually mentally decompensate due to their solitary confinement. Plaintiff Stephen Stanko, who has been on Death Row for eleven years, has observed how prisoners change after years on the row. He has seen his and other inmates' mental functioning slow down and an exacerbation of mental illness among those inmates who already had mental health issues. Mr. Stanko feels

everyone on death row suffers from a pressure as a result of being isolated and that this pressure is starting to cave in on them.

136. And every time an inmate leaves their cell, whether for recreation or a legal visit, they are handcuffed, chained, and kept on a leash. Being led by a leash through the institution has been described by the Death Row inmates as shameful and dehumanizing.

137. As a result of SCDC's blanket policy of placing all Death Row prisoners in solitary confinement, Plaintiffs spend upwards of twenty-three hours a day in complete isolation and are denied the normal human interaction that is necessary to sustain proper mental health and physical well-being. This blanket policy of placing all Death Row prisoners in permanent and prolonged solitary confinement without the means to challenge their placement at any time violates Plaintiffs' constitutional rights.

138. Multiple Death Row inmates have said that they are so isolated, and their living conditions are so bad, that they are considering dropping their appeals.

Bayan Aleksey

139. Plaintiff Bayan Aleksey has spent the past nineteen years in solitary confinement.

140. While incarcerated at Lieber, Mr. Aleksey was at one time allowed to clean Death Row. He was also allowed to assist in the commissary area because of his lack of disciplinary problems and his good work ethic. Despite the lack of any disciplinary problems, over the past several years SCDC reduced his responsibilities so that Mr. Aleksey was not allowed to leave his cell at Lieber except for recreation time and showers.

141. Now in the MSU, Mr. Aleksey is not even allowed to leave his cell for showers. The lack of sunlight is causing him to experience depression. A social person by nature, Mr. Aleksey can feel the isolation taking a toll on him. He is unable to engage in simple conversation

and basic banter with other inmates and staff because of the physical structure of the MSU. Mr. Aleksey cannot even see the outside world. This experience has left him irritable and despondent.

142. The dehumanizing conditions on Death Row are also contributing to Mr. Aleksey's deteriorating mental health. Apart from his personal experience, Mr. Aleksey also suffers from being forced to witness the suffering of other Death Row inmates—some of whom have been his only regular companions for nearly two decades.

143. While on Death Row, Mr. Aleksey has been exposed to potentially life-threatening medical crises that have been ignored and ridiculed by prison staff, and he has personally filed numerous mental health and medical requests that have been ignored.

144. When the prison returned Mr. Aleksey's property after the transfer from Lieber to Kirkland, they did not give him back multiple items, including: six new t-shirts, new thermal long underwear, extension cords, hobby craft supplies, a television, a fan, a lamp, a coffee pot, and an electric razor. Mr. Aleksey had purchased all of these items from the commissary with his own limited funds.

Marion Bowman

145. Plaintiff Marion Bowman has spent the past sixteen years in solitary confinement.

146. While incarcerated at Lieber, Mr. Bowman developed meaningful relationships with his fellow inmates on Death Row. Since his move to Kirkland, however, he has not been able to see or speak to any of his fellow inmates. This has caused him to feel isolated and depressed.

147. Before he was transferred to Kirkland, and despite the conditions of his confinement, Mr. Bowman tried to stay positive and focused on making the best of his situation. The conditions at Kirkland make that goal increasingly difficult.

148. Mr. Bowman is particularly troubled by his inability to experience the outdoors in any meaningful way. When he is allowed recreation at Kirkland, he is confined in brick enclosure that is covered by an awning. He is unable to see the sky or even the grass on the prison grounds. This deprivation furthers his feelings of hopelessness and depression.

149. Mr. Bowman is a practicing Rastafarian. He has been informed by the staff at Kirkland that he will no longer be allowed to keep his beard at an appropriate length in accordance with his religious beliefs, and he wants SCDC to provide him with a religious exemption.

James Bryant

150. Plaintiff James Bryant has spent the past sixteen years in solitary confinement.

151. Mr. Bryant is a very religious man who benefits from connecting with others through his faith. The conditions on Death Row, both at Lieber and now at Kirkland, have made it difficult for him to connect with others on a spiritual level. However, at Lieber he was able to discuss his faith with fellowship volunteers and other inmates housed on the same side of the unit. This is not the case at Kirkland, and so since the move Mr. Bryant has struggled to stay positive due to the increased isolation of the MSU.

152. Mr. Bryant has tried to stay physically active during his incarceration. At Lieber, he was able to make use of the limited space in his cell and the recreation area to work out. He jogged in the recreation cages at Lieber when he was allowed recreation. But Mr. Bryant has a much harder time working out at Kirkland. Outdoor recreation is given very rarely, even less often than at Lieber, and even when he does receive outdoor recreation the space is inadequate for significant physical activity, especially jogging.

153. Mr. Bryant has also found it more difficult to sleep well at Kirkland. Loud metal doors open and close each time an officer makes rounds at night, as the officers enter and leave

each hall. This wakes him almost every time. Additionally, the increased anxiety he feels in the new location have made it hard for him to sleep.

154. After SCDC transferred Mr. Bryant's property from Lieber to Kirkland, officials did not return items including a typewriter, fan, hot pot, lamp, television, and some pictures. The typewriter is an especially disheartening loss for Mr. Bryant because he used it to write religious correspondence to his friends and family to share his faith and inspire others.

Luzenski Cottrell

155. Plaintiff Luzenski Cottrell has spent the past twelve years in solitary confinement.

156. Mr. Cottrell finds solitary confinement depressing. Over the years, he has tried to counteract the effects of solitary confinement by keeping in contact with family (especially his daughter), participating in recreation, talking to his fellow inmates, and doing hobby crafts.

157. The move to Kirkland has been difficult for Mr. Cottrell. He feels more isolated than before and cannot communicate with the people he used to talk to on a regular basis. He has difficulty getting access to the phone and has only been able to talk to his daughter once in the time he has been at Kirkland, making him feel even more isolated.

158. Mr. Cottrell tries to stay active at Kirkland, but finds it difficult as his only options are to watch television and write. He is sometimes able to simulate playing chess with his neighbor by yelling moves to each other through the doors. Other times, Mr. Cottrell gets up and paces in his cell—three steps one way and then three steps back.

159. When SCDC transferred his property from Lieber to Kirkland, officials did not return his cooler, fan, hot pot, television, or many of his hobby crafts.

Taylor Cross

160. Plaintiff Taylor Cross has spent the past fifteen years in solitary confinement. She has had no disciplinary issues since at least 2009. Her death sentence was reversed in 2012 and she is not currently sentenced to death.

161. Ms. Cross is a transgender woman and recently began the process of transitioning. She has been taking estrogen for approximately a year, presents as female, and wears female undergarments. Ms. Cross is the only woman on Death Row in South Carolina, but SCDC continues to treat her like a male inmate in significant ways.

162. For example, Ms. Cross was forced to wear only a t-shirt and boxer shorts in the company of male inmates during transportation from Lieber to Kirkland. She was not allowed to dress appropriately while being transported in the company of male inmates and staff. After the transfer, it took the prison staff several days to get Ms. Cross appropriate undergarments. When she did receive her bras, the pads inside them had been removed.

163. Additionally, Ms. Cross was denied her medication for several days after being transferred to Kirkland. This deviation from her prescribed healthcare regimen caused her to become intensely emotionally upset. She has also been denied the use of her laser hair removal equipment, which was approved by the warden at Lieber, and as a result, she is forced to wear facial hair.

164. Because of Cross's unique circumstances, solitary confinement has taken a particularly heavy toll on her. SCDC largely denies Ms. Cross's gender identity by refusing to give her accommodations that would be given to any other female Death Row inmate. This fact undermines Ms. Cross's sense of herself as a human being, which is only compounded by the dehumanizing nature of Death Row in general.

165. The current conditions of confinement have been highly detrimental to her mental health. The isolation and dehumanization contribute to her sense that she is alone, and the lack of exposure to natural light has had a depressing influence.

166. Ms. Cross's family live out of state and visits are a rare occasion. As a result, the phone has become her sole source of meaningful human interaction aside from legal visits. However, Ms. Cross's family members work during regular business hours so she can only call them in the evening or on weekends—when the phones are in the most demand by all of the inmates. As described above, Kirkland's phone policies and procedures for the MSU mean that Ms. Cross never gets the phone at the times that she is signed up for and often goes days without being able to make even a legal call. The lack of access to a phone while at Kirkland has had a detrimental effect on Ms. Cross's mental health. And she has not seen a mental health counselor since her transfer from Lieber to Kirkland.

167. Ms. Cross has also been denied access to outside recreation. She has requested recreation time but did not receive one single recreation session during her first month at Kirkland. There is no natural light in her cell and the only time she could get natural light is from recreation.

168. When she was finally given recreation, the space was unusable. The mesh wiring that tops the areas is an ideal place for birds to perch. The birds excrete feces all over the yard, which is never cleaned, making it unusable for Ms. Cross because she fears contracting a disease from the unsanitary conditions.

169. When SCDC transferred Ms. Cross's property to Kirkland she was not given an inventory sheet prior to the move. Then, on October 2, 2017, she was given two different property sheets listing items that were allowed in her cell while at Lieber. One of the sheets listed items that must be "sent home" and the other listed items she would be allowed to keep at Kirkland. All

the items listed on both sheets were purchased while she was incarcerated and were allowed items at Lieber. None of the items caused a problem while in Ms. Cross's possession at Lieber.

170. Then, on October 15, 2017, Ms. Cross was given another two sheets documenting property to be sent home and property allowed at Kirkland. The October 15 inventory was different from the October 2 inventory.

171. And, when prison staff finally returned her property, they did not give Ms. Cross items of personal significance, including a religious necklace, tarot cards, and a wooden box. She is also missing two laser hair removal machines, hobby craft materials, a television, a fan, an electric razor, and a coffee pot. Ms. Cross is anxious to receive her hobby craft materials because they help maintain her mental health.

William Dickerson

172. Plaintiff William Dickerson has spent the past eight years in solitary confinement.

173. Although his circumstances at Lieber were isolating and harmful, Mr. Dickerson was able to partially manage the isolation by communicating with other inmates and by establishing a routine and a sense of personal space. The move to Kirkland has been devastating for Mr. Dickerson.

174. Mr. Dickerson has been struggling with anger and hopelessness since arriving at Kirkland. He feels that he is subject to dehumanizing conditions. When he needs to get the attention of the officers, he has to bang on his cell door like a "wild animal," and it can take hours for anybody to respond. The constant shouting and banging from other inmates on his wing means that it is nearly impossible for him to communicate with other inmates. He goes several days at a time without seeing any natural light.

175. All of Mr. Dickerson's meals are cold, which is especially dehumanizing because he knows that it is intentional: he can see where the prison removed sockets from the cells to prevent inmates from using a hot pot to warm the food.

176. Mr. Dickerson feels that the officers are using the showers punitively because the inmates have no control over them. Sometimes they are left on for up to an hour and the cells flood, while other times they are not on long enough for the inmates to wash off the soap. When Mr. Dickerson has complained about the latter, the officers responded with verbal abuse.

177. Mr. Dickerson is sensitive to the unsanitary environment. Prison staff has returned his clothing and undergarments from the laundry using a cart covered with food waste and garbage, and in much worse condition than when he handed them over to be cleaned. He has only been allowed to clean his cell a few times since arriving at Kirkland—but he can smell the cleaning agents when the officers mop the hall in front of his cell and so he knows that cleaning supplies are available.

178. The officers at Kirkland do not appear to be adhering to any specific guidelines for treatment of Death Row inmates. Mr. Dickerson observes that the policies that they enforce are arbitrary and subject to change at any moment. As a result, he has been unable to establish a routine; the chaos on Death Row causes him to feel as though he is not in control of his own thought processes. He cannot sleep for more than a few hours at a time because the officers turn on all of the lights and bang on the cell doors to do inmate counts in the middle of the night, and he is experiencing uncharacteristic agitation and moodiness because of the resulting physical discomfort.

179. All of these factors contribute to Mr. Dickerson's increasing sense that he is mentally unwell.

180. When the prison returned Mr. Dickerson's property, they did not give him back several items, including one of his two religious prayer rugs, his religious oils, a toboggan, his laundry soap, an electric razor, a television, a radio, a lamp, and a hot pot. Because he has not been given his electric razor, Mr. Dickerson was forced to have the prison cut his hair before a court appearance. The person who cut his hair used a dull blade and Mr. Dickerson developed painful razor burn all over the back of his head.

Ron Finklea

181. Plaintiff Ron Finklea has spent the past ten years in solitary confinement.

182. Mr. Finklea, a medically-retired former Army Staff Sergeant, has been distraught and on the verge of a breakdown since arriving at Kirkland. Prior to the transfer, he led a somewhat regimented life and had friendships that made Death Row bearable. But he is now desperate for human contact.

183. Mr. Finklea suffers from severe post-traumatic stress disorder and since the transfer he has suffered recurring nightmares of being locked in a closet and being killed by correctional officers and his mother. For the first week at Kirkland, he was without his photos of his children and his grandparents, which was almost more than he could bear.

184. Mr. Finklea also suffers from severe obsessive-compulsive behaviors, mostly related to cleanliness. He feels tortured by the filthy conditions of his cell, which he tries to clean repeatedly using water and bar soap. The filth grates on his psyche, such that he has become hyper-vigilant and extremely disturbed.

185. Furthermore, Mr. Finklea is not housed near any of his longtime Death Row friends—individuals he became accustomed to speaking with over the course of his long

confinement. He has nothing to fill the vast void that is his current day to day existence. He has thoughts of suicide that he is only able to control by thinking of his children and baby grandson.

186. After the transfer to Kirkland, prison staff have not returned a number of Mr. Finklea's possessions. He has lost all of his electrical devices and when he received his clothes, his new long johns were not among them. Instead, the property control officer kept his new long johns and returned to him two old pairs of long johns that were riddled with holes and practically shredded. Worst of all, Mr. Finklea has not received two Bibles that he read every day first thing in the morning and before going to sleep at night.

Jerry Inman

187. Plaintiff Jerry Inman has spent the past eleven years in solitary confinement.

188. At Lieber, Mr. Inman made friendships with the other Death Row inmates and talked often with his out-of-state family members. He spent hours at a time drawing intricate works of art. Kirkland has stripped him of even these small pleasures and emotional outlets, leaving him to sit alone in the darkness and watch TV all day, every day.

189. Mr. Inman is a quiet man and so the setup of Kirkland is particularly difficult for him. Some inmates hold conversations by yelling, and—to get the officers' attention—inmates must yell and beat on their cell doors. However, Mr. Inman does not yell, so he cannot communicate with any other inmates or get the officers' attention to get his needs met. He has stopped even trying to access the phone.

190. Mr. Inman has also stopped scheduling visits because of how unpredictable and disorganized the visiting process is at Kirkland. His visitors are all from out of state, so it is a major investment of time and money for them to come. Mr. Inman had a Saturday visit that was approved prior to the move to Kirkland. The afternoon before his scheduled visit, the officers told

Mr. Inman that the visit had been moved. Mr. Inman was unable to access a phone to alert his out-of-town visitors, so they arrived on Saturday as scheduled. It turned out that the officers were incorrect, and the visit had never been moved in the first place. Mr. Inman does not want to ask visitors to travel from out of state if he does not know that he will be able to see them.

191. Mr. Inman's cell is next to one of the SSR inmates, who constantly yells and throws feces. The smell is disgusting. When the officers squeegee up the feces, it seeps under Mr. Inman's door. This is especially distressing because Mr. Inman has only been able to get cleaning supplies once, and has been forced to let the feces remain on his floor.

192. Mr. Inman is only able to sleep five or six hours a night, due to the incessant yelling of his SSR neighbor, and due to the hall gate which bangs throughout the night and wakes him up.

193. Since his arrival at Kirkland, Mr. Inman has experienced difficulties obtaining medications he was previously taking while at Lieber.

194. When SCDC transferred Mr. Inman's property to Kirkland, officials did not return the lamp, fan, coffee pot, cooler, or TV that he had purchased from the commissary at Lieber.

195. Due to the conditions at Kirkland, Mr. Inman is strongly considering waiving his appeal. He already discussed this with his family, and told them that he would wait until after the holidays. He does not want to stay alive in these conditions for the four of five years that it would take to exercise his legal rights.

Richard Moore

196. Plaintiff Richard Moore has spent the past sixteen years in solitary confinement.

197. Mr. Moore is originally from Michigan, where most of his family and friends remain, and has no family in South Carolina. Due to the distance, Mr. Moore's family rarely gets

to visit him and so he almost never has a visit with anyone besides his legal team. As a result, his isolation from other inmates deprives him of virtually all human interaction.

198. The move to Kirkland has been particularly detrimental to Mr. Moore because he has had difficulty accessing the phone. His two children live out-of-state and he relies on phone calls to be able to stay in touch with them. At times, it has been over a week between instances when Mr. Moore is able to obtain the phone. When they first arrived at Kirkland, the phone was not available after 6:00 p.m. and Mr. Moore had even greater difficulty reaching his now-adult children who work during the day, especially his daughter who lives in a different time zone.

199. When SCDC transferred Mr. Moore's property to Kirkland, officials did not return the lamp, hot pot, electric hair clippers, fan, or television that he had purchased from the commissary at Lieber.

200. Mr. Moore recognizes the conditions in the MSU at Kirkland have been detrimental to him, even in the relatively short time he has been confined in the MSU. He is currently housed next to an SSR inmate who consistently seeks attention from the officers by banging on the door, yelling, and throwing feces. The combination of this inmate, who continues making noise at night, and the hall doors opening and closing has caused Mr. Moore to be unable to sleep for more than an hour or two at a time. He sought medication to help him sleep because he cannot continue to function with such limited sleep. Mr. Moore also feels the harm of increased isolation. He is an intelligent man who attempts to keep his mind sharp by reading, writing, and interacting with his fellow inmates. Due to his inability to interact with others, he fears that his mind will slow down. Mr. Moore has stated that the isolation he is currently experiencing "is not healthy."

Clinton Northcutt

201. Plaintiff Clinton Northcutt has spent the last fourteen years in solitary confinement.

202. Over the years, Mr. Northcutt has grown close to the other inmates on death row. Yet the move to Kirkland has left him isolated. His cell is located at the end of his wing, meaning that he only has one neighbor with whom he can communicate.

203. Mr. Northcutt has also grown close with many pen pals, who help him feel a connection to the outside world. When SCDC transferred Mr. Northcutt's property from Lieber to Kirkland, officials did not return his typewriter or his many letters from his pen pals. Without the letters, Mr. Northcutt has lost the addresses for many of his pen pals and cannot write to them. Without the typewriter, Mr. Northcutt has lost the means to type his letters.

204. When SCDC transferred Mr. Northcutt's property from Lieber to Kirkland, officials also failed to return his lamp and his television.

205. Mr. Northcutt suffers from depression, and his depression has been exacerbated by the isolation of Kirkland. During his first interaction with a mental health worker at Kirkland, he said that he was "not good," but the mental health worker only gave him a cursory response and continued to move down the row. Indeed, Mr. Northcutt is often moved to tears when discussing the intense loneliness he feels at Kirkland.

James Robertson

206. Plaintiff James Robertson has spent the past eighteen years in solitary confinement.

207. Mr. Robertson suffers from bipolar disorder and has experienced periods of deep depression, including suicidal ideation. He suffered a severe bout of depression last year after another inmate committed suicide. Mr. Robertson recognizes the dehumanizing effects of solitary confinement, and he feels that SCDC is "turning us into animals."

208. After the move from Lieber to Kirkland, SCDC failed to return a significant amount of Mr. Robertson's property. Upon his arrival at Kirkland, his inventory listed 294 canteen items,

of which he only received 72; 25 hygiene items, of which he only received 6; and 27 books, of which he only received 2. Mr. Robertson also did not receive any of his electronic devices, including his radio, typewriter, lamp, and television. Mr. Robertson also lost approximately 60 pictures that he had at Lieber.

209. Another inmate requested to move to the cell next to Mr. Robertson. That inmate suffers from various medical conditions, and he believed that if he became ill, his only chance of help was for Mr. Robertson to notice and alert the otherwise inattentive officers.

Brad Sigmon

210. Plaintiff Brad Sigmon has spent the past fifteen years in solitary confinement.

211. At Lieber, Mr. Sigmon was a trustee and was granted the freedom to leave his cell in order to clean death row. He lost this privilege for no reason other than the move to Kirkland.

212. Mr. Sigmon feels that his mind—especially his memory—has been negatively affected by years of solitary confinement. The transfer to Kirkland has exacerbated these effects, because the facility does not allow for him to speak with other inmates.

213. Despite taking a sleeping medication, Mr. Sigmon is unable to sleep. The door to the control area loudly opens and closes throughout the night. He is also woken every morning before 5:00 a.m. when the officers turn on his cell light for count.

214. When SCDC transferred Mr. Sigmon's property from Lieber to Kirkland, SCDC failed to return the bottom plate of his dentures, his denture cream, his tennis shoes, his address book, his lamp, his fan or his television. Mr. Sigmon's fan is necessary for medical reasons, yet he is not able to have it at Kirkland. He also had difficulty obtaining his prescription pain medication for the first couple of days at Kirkland.

215. Upon arrival at Kirkland, Mr. Sigmon engaged in a hunger strike for eighteen days. He started eating again because a prison official told him that if he needed medical care over the weekend, the prison would be unable to provide it in time to save him. Upon eating, Mr. Sigmon began suffering significant chest pains, and believed that he was having a heart attack. He attempted to alert the officers, but he was unable to see a doctor for more than five hours. He thought that he would die before the doctor arrived.

216. The inmate in the cell next to Mr. Sigmon is awake all night and shouts and screams through a vent that carries straight into Mr. Sigmon's cell. Mr. Sigmon has been unable to obtain a full night's sleep since on or about November 1, 2017. Mr. Sigmon's requests to have this inmate moved or counseled have been ignored. This inmate is an SSR inmate, sent to the MSU as a disciplinary measure.

217. In 2016, Mr. Sigmon purchased from the SCDC canteen a pair of reading eyeglasses. These eyeglasses have not been returned to him, nor replaced, since the transfer. Mr. Sigmon cannot read anything without his eyeglasses.

218. Since ending his hunger strike after eighteen days, Mr. Sigmon and all other inmates, on information and belief, have received only one hot meal. All meals are served cold.

Stephen Stanko

219. Plaintiff Stephen Stanko has spent the past eleven years in solitary confinement.

220. Mr. Stanko is an intelligent man, but as a result of solitary confinement, he has seen his mind lose its sharpness. This sense of deterioration scares him. He says that he is starting to feel the pressure of isolation caving in on him.

221. When SCDC transferred his property from Lieber to Kirkland, officials did not return Mr. Stanko's headphones and coiled extension, ink pens, medical socks, fan, electric hair

clippers, lamp, and hot pot. The medical socks were issued to him at Lieber to address circulation problems he has in his feet and lower legs. They also did not return Mr. Stanko's Bible, which is important to him as a practicing Catholic.

222. The loss of Mr. Stanko's ink pens has been particularly difficult. In order to keep his mind active, he writes books and letters and tracks daily activities. At Lieber, he wrote enough to drain the ink of five pens per week. Mr. Stanko had approximately twenty ink pens at Lieber, which he purchased from the canteen, that were not returned to him. The loss of this intellectual stimulation is causing Mr. Stanko great distress.

Norman Starnes

223. Plaintiff Norman Starnes has spent the last twenty years in solitary confinement.

224. At Kirkland, Mr. Starnes is unable to communicate with the Death Row inmates who had become his friends during his decades at Lieber.

225. Mr. Starnes has made multiple requests to be seen by a mental health professional, as has his defense counsel, and has been suicidal much of the time since he has been at Kirkland.

226. Mr. Starnes is very distressed by the isolation of solitary confinement. He says that he feels lost and adrift on an uninhabited arctic island. He also describes feeling like a caged animal, abandoned by humanity.

227. In order to receive help from the officers, Mr. Starnes has to bang on his cell door and cell wall for hours before the officers will check on him.

228. Mr. Starnes' mother is on oxygen and her health is steeply declining. She has been turned away at the front gate at Kirkland because the gate officer did not have the correct paperwork and when she is able to visit, SCDC cuts her visits short. This is incredibly distressing to Mr. Starnes.

229. In the move from Lieber to Kirkland, Mr. Starnes lost his books—including a special autographed copy of a book—as well as a fan, television, typewriter, radio, ice chest, electrical cords, and sweatpants that he needs to keep warm.

Sammy Stokes

230. Plaintiff Sammy Stokes has spent the last eighteen years in solitary confinement.

231. Mr. Stokes is HIV-positive. Due to his necessary medications, he has a debt of almost \$1,500 to SCDC, which prevents him from buying any food from the canteen to supplement his diet. He shivers uncontrollably at times, especially after showers.

232. The filth at Kirkland is also very distressing to Mr. Stokes. Because of his condition, he has always prized cleanliness. Yet he cannot obtain cleaning supplies to clean his cell.

233. The officers are very antagonistic towards Mr. Stokes, and he feels like he is losing his mind in solitary confinement. The combination causes him to stay in bed most of the time. He has said that death would be better than living in these conditions.

234. Mr. Stokes has also been receiving religious oils for years. However, he has been told that he cannot have his religious oils anymore because they are not allowed at Kirkland.

Bobby Stone

235. Plaintiff Bobby Stone has spent the past twenty years in solitary confinement.

236. Mr. Stone has developed positive relationships with many of the other inmates, as well as the officers, over the course of two decades. Since the move to Kirkland, however, Mr. Stone has felt completely isolated. He has been uncharacteristically irritable, withdrawn, and despondent.

237. At Lieber, for many years, Mr. Stone took care of a severely mentally ill Death Row inmate named James Wilson. Mr. Stone had an arrangement with the officers that allowed him to clean Mr. Wilson's cell, feed Mr. Wilson, and attend to Mr. Wilson's needs. Now, Mr. Stone is unable to see Mr. Wilson or communicate with him. Mr. Stone is suffering because he is unable to help his friend.

238. When Mr. Stone arrived at Kirkland, there were feces smeared on the outer door of his cell and the officers refused to clean it or to let him clean it for weeks. He still has not been able to properly clean and disinfect his cell.

239. Since the move to Kirkland, Mr. Stone has engaged in hunger strikes that have lasted close to two weeks. He was placed in the infirmary because his physical health was in danger. Mr. Stone feels that refusing to eat or drink is his sole means to call attention to the needs of the Death Row inmates.

240. When Mr. Stone needs to get the attention of the officers, he says that he needs to bang on the cell door like a wild animal. He feels that the treatment is very dehumanizing.

241. Because the officers enforce policies in an arbitrary manner, Mr. Stone has been unable to establish a routine or organize his life in order to manage his anxiety and depression.

242. Mr. Stone is a vegetarian, but he is regularly given meat dishes, or simply given less food.

243. Mr. Stone's cell has no heat, and the inmates on his wing did not receive coats.

244. Mr. Stone's laundry has been returned in such an unsanitary condition that he has refused to give his bedding to the officers for washing. When the officers forcibly removed his bedding from his cell, Mr. Stone went on a hunger strike until clean bedding was returned to him.

245. After the move from Lieber to Kirkland, SCDC failed to return much of Mr. Stone's property. The prison has not returned Mr. Stone's cooler or a coffee cup that he has had for over eighteen years that is emotionally significant to him. SCDC gave Mr. Wilson's bag to Mr. Stone but Mr. Stone's bag has not been recovered. Some of the missing items in the bag include: two new t-shirts, seven pairs of socks, seven pairs of boxers, four towels, two green jumpsuits, two new sets of sheets and pillowcases, a jar of butter, a jar of coffee, forks, spoons, bowls, and a calendar. Mr. Stone is also missing his electronic equipment, including his television, his radio, his lamp, his fan, and his hot pot.

Gary Terry

246. Plaintiff Gary Terry has spent the past twenty years in solitary confinement.

247. Mr. Terry struggles with debilitating pain. He requires a brace, has persistent weakness on one side of his body, has nerve pain, and trembles for no apparent reason. Sometimes the pain prevents him from opening his eyes. He is prescribed pain medications, but it takes long periods of time to acquire refills. Mr. Terry is unable to communicate with the staff about his physical problems because he is too weak and in too much pain to self-advocate. He is unable to speak clearly through the doors that separate him from the staff, and the staff is unresponsive to his needs when he has been able to communicate his problems. Mr. Terry has thought of waiving his appeals so that execution would relieve him of his physical suffering.

248. Mr. Terry suffers from depression due to the lack of natural light.

249. At Lieber, Mr. Terry dealt with the isolation by writing, or by drawing elaborate portraits and making crafts for his lawyers and pen pals. However, SCDC did not return his hobby craft materials after he moved to Kirkland, and the canteen at Kirkland regularly runs out of pens. Therefore, Mr. Terry is deprived of the creative outlets that allowed him to cope with the isolation.

250. Mr. Terry's television is broken and has not been fixed. This is a particularly severe deprivation for someone in solitary confinement, as television is the primary source of mental stimulation for inmates.

251. After the move from Lieber to Kirkland, SCDC did not return many of Mr. Terry's medical belongings. He is missing an arm brace that is part of his pain management program, and he was without a cane and a leg brace that he requires for walking for several days after his arrival at Kirkland. Mr. Terry's new glasses, which he put in a hardcover case for transport to Kirkland, were returned to him with the lenses pitted and scratched to the point that they are unusable. He now has difficulty seeing and cannot read or write without significant effort.

252. SDCD also failed to return other items after the move. Mr. Terry is missing his radio, his television, his electric razor, and his typewriter. Mr. Terry's fan and lamp are not listed on his inventory accounting, and are also missing. Mr. Terry has repeatedly attempted to file property grievances, but he is unable to obtain a form.

John Weik

253. Plaintiff John Weik has spent the past eighteen years in solitary confinement. He has never had a single disciplinary charge.

254. Mr. Weik is not currently sentenced to death. After fifteen years on death row, his death sentence was reversed and a new sentencing trial was ordered. He has been kept on Death Row, and in solitary confinement, while his new trial is pending.

255. Since his move to Kirkland, Mr. Weik has been much more isolated. His family has attempted to visit him, but was turned away twice for alleged paperwork irregularities. Since his transfer, he has not been able to visit with anyone other than his legal team. Coupled with the isolation of the facility, Mr. Weik is deprived of virtually all human interaction.

256. Because his family lives out of state, Mr. Weik relies on phone calls with them to stay in touch. However, they work during regular business hours, so he can only call them in the evening or on weekends. Mr. Weik is never able to use the phone at the times he is signed up for, so he cannot maintain contact. Moreover, he often goes days without being able to make a legal call.

257. Mr. Weik suffers from schizotypal personality disorder or paranoid schizophrenia, and his isolation has caused further deterioration of his mental health status. At Lieber, his interactions with other inmates allowed him to stay in touch with reality. Now, without that interaction, he is too disorganized to express himself. He is confused and cannot maintain a conversation; he is easily distracted and cannot focus.

258. At Lieber, Mr. Weik had regular checkups from mental health professionals, and their interaction helped his mental health status. Since his transfer to Kirkland, Mr. Weik has not seen a single mental health professional.

259. Mr. Weik's medical conditions cause him to get migraine headaches or even seizures when constantly exposed to florescent lights. At Lieber, Mr. Weik had a lamp and some access to natural light, but at Kirkland he has neither. Therefore, his cell remains dark at all time. His only light source is a small window that filters light from the hallway through his double cell doors.

260. Mr. Weik cannot sleep for more than an hour or two at a time. He is housed next to an SSR inmate who constantly bangs on the door and yells. The combination of this inmate, who makes noise all night, and the hall doors opening and closing keeps Mr. Weik awake.

261. Mr. Weik has been offered outside recreation twice, but the space was unusable. The mesh wiring that tops the areas is an ideal place for birds to perch. The birds excrete feces all

over the yard, which is never cleaned, making it unusable for Mr. Weik because he fears contracting a disease from the unsanitary conditions.

262. Mr. Weik used to cope with solitary confinement by folding paper into elaborate origami shapes. However, he is no longer able to access craft materials at Kirkland, and has lost this mentally stimulating outlet.

263. When SCDC transferred Mr. Weik's property to Kirkland, they did not return his lamp, hot pot, electric hair clippers, fan, or television, which he had purchased from the commissary at Lieber. They returned his soup cups and commissary food, but he is unable to use them without access to a microwave.

Louis Winkler

264. Plaintiff Louis Winkler has spent the past nine years in solitary confinement. He has had no disciplinary charges.

265. Mr. Winkler has significant hearing loss, which amplifies the extent of his isolation, since inmates must yell to be heard by anyone at Kirkland. Mr. Winkler also suffers from severe headaches that are triggered by loud noises and yelling, so—since getting the officers' attention requires banging on his cell door and yelling—he cannot get their attention.

266. At Kirkland, Mr. Winkler already had a medical need that went unmet. He had his hair cut, and the person cutting his hair took the safety off the razor and did not disinfect it. Mr. Winkler was cut, and the wound became infected. He developed a welt the size of a golf ball on the side of his head. Because he could not attract the attention of the officers, he waited the several days required to access a phone, at which point he called his sister and asked her to alert his attorney. Once the attorney was alerted, Kirkland took a full day and required the intervention of an administrator before providing Mr. Winkler with necessary medical care.

267. Mr. Winkler suffers from vertigo, and often loses his balance. He has already slipped on the slick floor in his cell after a shower, but luckily he caught himself and only scraped his arm. He worries that if he falls and seriously injures himself, he will not receive any aid.

268. When SCDC returned Mr. Winkler's property after the transfer, many items were missing. He has a set of false teeth that the prison did not return to him for several days after the transport, which made it difficult for him to eat. He does not have any of his toboggans, which he has requested multiple times, and SCDC has only returned his oldest and most threadbare set of thermals, even though he had three new sets. His first inventory sheet at Kirkland indicated that he had five toboggans, but the most recent inventory sheet shows that he had none. Mr. Winkler is also missing five of his eight towels, half of his t-shirts, and his electronics, including his razor.

Prisoners Housed in Prolonged Solitary Confinement Suffer Severe Harm

269. Plaintiffs' psychological symptoms mirror those reported in the literature about individuals placed in prolonged solitary confinement.⁵ Indeed, the extreme duration of Plaintiffs' confinement has meant that the effects of solitary confinement have become even more pronounced.

⁵ There is consensus in the literature that prisoners subjected to solitary confinement, even for a relatively short amount of time, risk severe emotional, psychological, and physiological damage. See, e.g., Alison Shames et al., *Solitary Confinement: Common Misconceptions and Emerging Safe Alternatives*, Vera Inst. of Just. 17–18 (May 2015), <http://archive.vera.org/sites/default/files/resources/downloads/solitary-confinement-misconceptions-safe-alternatives-report.pdf> (noting that after only seven days in solitary confinement, prisoners experience a range of symptoms including “hypersensitivity to stimuli, distortions and hallucinations, increased anxiety and nervousness, diminished impulse control, severe and chronic depression, appetite loss and weight loss, heart palpitations, talking to oneself, problems sleeping, nightmares, [and] self-mutilation”); Stuart Grassian, *Psychiatric Effects of Solitary Confinement*, 22 WASH. UNIV. J. L. & POL'Y 325, 338 (2006) (“By now the potentially catastrophic effects of restricted environmental stimulation have been the subject of a voluminous medical literature.”).

270. Prolonged solitary confinement indisputably causes painful, severe, and at times, irreversible harm. The physical and psychological harm of prolonged solitary confinement has been well-documented for decades. Indeed, there is a substantial body of literature that has documented distinctive and inescapable patterns of negative physiological and psychological harm when individuals are placed in long-term solitary confinement. Spanning as far back as the 1960s, studies on the effects of solitary confinement have reported observable negative effects amongst prisoners subject to such conditions.⁶ As stated by one prison staff psychiatrist in 2002, “[i]t’s a standard psychiatric concept, if you put people in isolation, they will go insane Most people in isolation will fall apart.”⁷

271. By definition, solitary confinement isolates prisoners from social interactions, restricts their environmental stimulation, and affords them no control over their daily life. This combination of factors results in a series of harmful psychiatric effects, including hypersensitivity to external stimuli, perception distortions, claustrophobia, delusions, hallucinations and panic attacks. Minimal social and environmental stimulation has serious effects on an individual’s mental functioning. Prisoners housed in solitary confinement report difficulty with thinking, concentration, and memory; intrusive obsessional thoughts; increased anxiety and nervousness; overt paranoia; severe and chronic depression; and problems with impulse control.⁸

⁶ See, e.g., Bruno M. Cormier & Paul J. Williams, *Excessive Deprivation of Liberty*, 11 CANADIAN PSYCHIATRIC ASSOCIATION JOURNAL 470-484 (1966); Hans Toch, *Men in Crisis: Human Breakdowns in Prison* (1975); Craig Haney & Mona Lynch, *Regulating Prisons of the Future: A Psychological Analysis of Supermax and Solitary Confinement*, 23 N.Y.U. REV. L. & SOC. CHANGE 477 (1997).

⁷ Human Rights Watch, *Ill-Equipped: U.S. Prisons and Offenders with Mental Illness*, 149 & n.512 (2003), <https://www.hrw.org/reports/2003/usa1003/usa1003.pdf> (emphasis omitted).

⁸ See, e.g., Am. C. L. Union, *The Dangerous Overuse of Solitary Confinement in the United States* 4 & nn.15–25 (Aug. 2014) (citing numerous studies discussing the effects of solitary confinement), goo.gl/Iwcbq3; Craig Haney, *Mental Health Issues in Long-Term Solitary and “Supermax” Confinement*, 49 CRIME & DELINQUENCY 124, 130–132 (Jan. 2003) (referencing various studies

272. Researchers have found that physiological effects may be directly caused by prisoners' physical state of confinement.⁹ For example, studies have reported lower levels of brain function as a result of solitary confinement.¹⁰ Additionally, prisoners complain of abdominal pains, as well as muscle pains in the neck and back, which may be caused by long periods of inactivity.¹¹ Further, many researchers conclude that some adverse consequences of solitary confinement are a direct result of sensory deprivation.¹² This sensory deprivation often times leads to an increased oversensitivity to normal stimuli; for example, a closing door could lead to sleeping difficulties for someone experiencing this kind of deprivation.¹³

273. Studies have also shown that depriving individuals of social interactions by placing them in solitary confinement over a long period of time can destroy their ability to function normally.¹⁴ Additionally, studies have found that many individuals in solitary confinement will suffer permanent harm as a result of their confinement, even upon its termination.¹⁵ As explained by one survivor of solitary confinement:

“[L]ife in the vacuum of a cell is spirit-killing, mind-altering, and the zenith of human cruelty . . . Deprived of the frame of reference that social interaction provides, you lose the sense of yourself as part of a larger whole, the context in which your existence has meaning. You struggle to keep your sanity because in

on solitary confinement), goo.gl/0Qfp2V; Solitary Watch, *Fact Sheet: Psychological Effects of Solitary Confinement*, 1 (2011), goo.gl/NCsvHY.

⁹ See, e.g., Peter Scharff Smith, *The Effects of Solitary Confinement on Prison Inmates: A Brief History and Review of the Literature*, 34 CRIME & JUST. 441, 502–504 (2006), goo.gl/2glujG.

¹⁰ Grassian, *supra* note 5, at 335–338.

¹¹ Smith, *supra* note 9, at 489.

¹² See generally *id.*

¹³ *Id.* at 489.

¹⁴ Haney & Lynch, *supra* note 6, at 503–506.

¹⁵ Grassian, *supra* note 5, at 332–333.

the vacuum of that cell, where there is no meaning, your mind tries to create meaning out of nothing, and this can lead you to confuse fantasy with reality.”¹⁶

274. In addition to the psychiatric symptoms, the risk of self-harm, self-mutilation, and suicide is much higher for individuals in solitary confinement. A 2007 study investigating attempted suicide in six state prison facilities in Oregon identified solitary confinement as one of the main factors in suicidal thoughts and suicide attempts.¹⁷ One study recently found inmates in solitary confinement in New York City jails were 6.9 times more likely to commit self-harm than those in the general population.¹⁸ Even more tragically, approximately fifty percent of completed prisoner suicides occur among prisoners in solitary confinement.¹⁹ One court recently noted that solitary confinement in Indiana resulted in a disproportionately higher percentage of suicides among prisoners in segregation compared with those in the general population.²⁰

275. Adverse physiological effects of isolation are especially significant for persons with serious mental illness. Deprivations in solitary confinement exacerbate symptoms of mental illness or provoke a recurrence, and can cause severe impairment in one’s ability to function.²¹ As the DOJ noted in a 2014 investigation of the Pennsylvania Department of Corrections, isolating

¹⁶ Wilbert Rideau & Linda LaBranche, *44 Years in Solitary Confinement is Even Worse Than You Can Imagine*, MOTHER JONES (Feb. 22, 2016), goo.gl/yr5X9G.

¹⁷ Ildiko Suto, Doctoral Dissertation, *Inmates Who Attempted Suicide in Prison: A Qualitative Study*, Pac. Univ. 122–123 (July 27, 2007), goo.gl/1ZGqpo; see also Bruno M. Cormier & Paul J. Williams, *Excessive Deprivation of Liberty*, 11 CANADIAN PSYCHIATRIC ASSOCIATION JOURNAL 470-484 (1966); Hans Toch, *Men in Crisis: Human Breakdowns in Prison* (1975).

¹⁸ Fatos Kaba et al., *Solitary Confinement and Risk of Self-Harm Among Jail Inmates*, 104 AM. J. PUB. HEALTH 442–447 (Mar. 2014), goo.gl/dma34K.

¹⁹ Stuart Grassian & Terry Kupers, *The Colorado Study vs. the Reality of Supermax Confinement* Am. C.L. Union 11 (created Mar. 6, 2012), goo.gl/ERzw3z.

²⁰ *Ind. Prot. & Advocacy Servs. Comm’n v. Comm’r*, No. 1:08-CV-01317-TWP-MJD, 2012 WL 6738517, at *16 (S.D. Ind. Dec. 31, 2012).

²¹ See, e.g., Human Rights Watch, *Callous and Cruel: Use of Force against Inmates with Mental Disabilities in US Jails and Prisons*, (May 12, 2015), goo.gl/3n2j9S.

prisoners with serious mental illness “exacerbates their mental illness and leads to serious psychological and physiological harm . . . including severe mental deterioration, psychotic decompensation, and acts of self-harm.”²²

276. A 2016 DOJ report, aimed at offering recommendations for safely reducing the use of restrictive housing, includes guiding principles for American correctional facilities. The Guidelines state that “inmates with serious mental illness (SMI) should not be placed in restrictive housing.”²³ Similarly, Human Rights Watch recommends that prisoners with mental disabilities should not be housed in solitary confinement.²⁴

277. On information and belief, Defendant Stirling has admitted that SCDC is not yet in compliance with the DOJ recommendations regarding restrictive housing. He has also stated that SCDC has made efforts to reduce the number of inmates kept in solitary confinement. However, there has been no effort to reduce the use of solitary confinement with Death Row inmates.

278. Recognizing the dangers associated with prolonged solitary confinement, numerous major legal and medical organizations have issued statements opposing long-term solitary confinement. For example, the American Bar Association (ABA) mandates that “[s]egregated housing should be for the briefest term and under the least restrictive conditions practicable.”²⁵ Similarly, a bipartisan Commission on Safety and Abuse in America’s Prisons

²² Letter from Jocelyn Samuels, Acting Assistant Att’y Gen., Civil Rights Div., U.S. Dep’t of Justice & David J. Hickton, U.S. Att’y, W.D. Pa., to Gov. Tom Corbett, 3 (Feb. 24, 2014), goo.gl/TyUZyT (Investigation of the Pennsylvania Department of Corrections’ Use of Solitary Confinement on Prisoners with Serious Mental Illness and/or Intellectual Disabilities).

²³ U.S. Dep’t Just., *Report and Recommendations Concerning the Use of Restrictive Housing*, 99 (Jan. 2016), goo.gl/ky0xEg.

²⁴ Human Rights Watch, *Callous and Cruel*, *supra* note 21.

²⁵ ABA Standards for Criminal Justice, *Treatment of Prisoners*, Standard 23-2.6(a) at 50 (3d ed. 2011), goo.gl/zIBJ8E.

commissioned by the Vera Institute of Justice recommended that correctional facilities “[e]nd conditions of isolation,” calling solitary confinement “expensive and soul-destroying.”²⁶ Members of the Commission included a former Chief Judge of the U.S. Court of Appeals for the Third Circuit, a former Attorney General of the United States, a former California Senator, a former death row prisoner, and a former federal prison warden, amongst many others.²⁷ In 2012, the American Psychiatric Association (APA) issued a formal policy statement against solitary confinement, noting that “[p]rolonged segregation of adult inmates with serious mental illness, with rare exceptions, should be avoided due to the potential for harm to such inmates.”²⁸

Requiring All Death Row Prisoners to be Housed in Solitary Confinement Does Not Promote Safety and Security and is Inconsistent With Correctional Best Practices

279. As set forth above, placement in solitary confinement is due to South Carolina’s blanket policy rather than the result of disciplinary violations or individualized considerations of an individual’s behavior; in South Carolina, Death Row prisoners are kept in solitary confinement merely because of their criminal sentence.

280. A 2016 report by the DOJ concerning the use of restrictive housing recommends that, “[c]orrectional systems should always be able to clearly articulate the specific reason(s) for an inmate’s placement and retention in restrictive housing.”²⁹ The reason(s) should be supported

²⁶ John J. Gibbons & Nicholas de B. Katzenbach, *Confronting Confinement*, The Comm’n on Safety & Abuse in America’s Prisons, 52, 59 (June 2006), http://archive.vera.org/sites/default/files/resources/downloads/Confronting_Confinement.pdf.

²⁷ John E. Dannenberg, *Confronting Confinement, A Report On Safety and Abuse In America’s Prisons*, Prison Legal News (Feb. 15, 2007), <https://www.prisonlegalnews.org/news/2007/feb/15/confronting-confinement-a-report-on-safety-and-abuse-in-americas-prisons-vera-justice-institute-2006-118-pp/>.

²⁸ APA, *Position Statement on Segregation of Prisoners with Mental Illness*, (Dec. 2012), http://www.dhcs.ca.gov/services/MH/Documents/2013_04_AC_06c_APA_ps2012_PrizSeg.pdf.

²⁹ *Report and Recommendations Concerning the Use of Restrictive Housing*, *supra* note 23, at 94.

by objective evidence. Additionally, the report observes that “[r]estrictive housing should always serve a specific penological purpose.”³⁰

281. South Carolina’s current blanket policy of housing all Death Row prisoners in solitary confinement serves no penological purpose.

282. In its own publication issued to local detention facilities,³¹ SCDC discusses “Forms Of and Limits on Disciplinary Action” in Section 2003. SCDC advises the local detention facilities that “minor infractions shall not exceed . . . [a] loss of privileges including disciplinary detention of no more than three (3) consecutive days,” and further notes that inmates shall maintain their basic rights, including access to courts, counsel, legal materials, and/or medical care; they shall not be deprived of the implements necessary to maintain an acceptable level of personal hygiene; medication or the withholding of medication and/or treatment shall not be used for the purpose of discipline; “[n]o inmate shall be subjected to discipline or treatments which are dehumanizing, including but not limited to disrespect, profanity, or taunting”; and inmates shall be entitled to correspondence, visitation, and telephone privileges.

283. Additionally, SCDC provides minimum standards for detainee living arrangements. “Each facility shall provide, in addition to the fixed sleeping surface, a desk or approved writing surface; hooks or storage space; and a chair or stool for each inmate.” Inmates who are confined to their rooms must “have access to natural light.”³²

³⁰ *Id.*

³¹ S.C. Dep’t of Corrs., *Minimum Standards for Local Detention Facilities in South Carolina*, Standard 2003 at 31 (July 26, 2013), www.sccounties.org/Data/Sites/1/media/publications/sc-jail-standards-final.pdf.

³² *Id.* Standard 2013, at 34; Standard 2014-20 at 39.

284. A report by the National Institute of Justice of the DOJ found that “almost no literature documents the utility of [administrative segregation] or demonstrates that the use of [restrictive housing] has achieved specific aims in demonstrable ways . . . [I]t is virtually impossible to find empirical evidence supporting its utility or efficacy.”³³

285. South Carolina has claimed, without any justification, that Death Row prisoners are housed on Death Row “[t]o promote safety and security.”³⁴ However, the policy does not specify that inmates on Death Row must be kept in solitary confinement.

286. South Carolina’s blanket policy of housing everyone on Death Row in solitary confinement is inconsistent with accepted correctional practices. Studies show prisoners convicted of murder are not more violent and are no more of a security risk than prisoners convicted of other crimes. Additionally, their rates of “violent or assaultive rule infractions” have been found “below or near the mean for the entire inmate cohort.”³⁵

287. A study conducted by forensic psychologists comparing the institutional violence histories of death-sentenced prisoners with those of prisoner groups living in conditions similar to the general population at Potosoi Correctional Center, a maximum-security facility in Missouri, showed that death-sentenced individuals who are classified using the same processes as other prisoners, and are sometimes integrated into general population, have rates of institutional violence

³³ Natasha A. Frost & Carlos E. Monteiro, *Administrative Segregation in U.S. Prisons: Executive Summary*, Nat’l Inst. of Just. 4 (Mar. 2016), <https://www.ncjrs.gov/pdffiles1/nij/249750.pdf>.

³⁴ SCDC Policy OP-22.16, attached as Exhibit A.

³⁵ Jon Sorensen & Mark D. Cunningham, *Conviction Offense and Prison Violence: A Comparative Study of Murderers and Other Offenders*, 56 CRIME & DELINQUENCY 103, 114 (Jan. 2010), <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.899.5515&rep=rep1&type=pdf>.

that are equivalent to prisoners sentenced to life without parole and significantly lower than parole-eligible inmates.³⁶

288. In fact, death-sentenced prisoners are statistically less violent than prisoners who are eligible for parole.³⁷ Other prisoners in South Carolina who have been convicted of murder, including former Death Row prisoners serving life sentences, are frequently housed in dormitories and general population units where they are able to participate in prison programming, and are not locked in their cells for upwards of twenty-three hours a day.

289. Best correctional practices dictate that an individualized assessment and classification is appropriate for Death Row inmates rather than a blanket assignment to the significant dangers of solitary confinement. In a brief supporting prisoners challenging an almost identical Death Row solitary confinement policy, corrections directors and administrators, including former directors of several state prison systems around the country, evidence was cited showing that individualized assessment and classification based on objective factors, such as age and disciplinary history, is more predictive for security purposes rather than classifications based on conviction status.³⁸ They cited the work of Dr. James Austin, who has written and researched extensively on prison classification and promotes overhauling the traditional classification system. Dr. Austin advocates introducing a classification model that focuses on objective factors that are predictive of a prisoner's behavior, such as age, recent disciplinary action, or history of violence while incarcerated rather than non-predictive factors such as the severity of the offense or sentence

³⁶ Mark D. Cunningham et al., *Is Death Row Obsolete? A Decade of Mainstreaming Death-Sentenced Inmates in Missouri*, 23 BEHAV. SCI. LAW 307, 316–319 (2005), <http://onlinelibrary.wiley.com/doi/10.1002/bsl.608/epdf>.

³⁷ *Id.* at 316.

³⁸ Brief of Amici Curiae Corr. Experts in Supp. of Appellee at 21, *Prieto v. Clarke*, No.13-8021 (4th Cir. June 4, 2014), Doc. No. 36-1.

length.³⁹ The premise of reclassification is that “errors” can be made at the initial classification stage and should be fixed based on the prisoner’s current behavior.

290. The Association of State Correctional Administrators issued a report calling prolonged isolation of inmates in jails and prisons “a grave problem in the United States.”⁴⁰ That report analyzes the use of solitary confinement across the country and notes nationwide efforts to improve restrictive housing conditions, focusing specifically on jurisdictions revising the criteria for being placed in solitary confinement.⁴¹

291. The ABA’s *Standards for Criminal Justice, Treatment of Prisoners* instructs that while death-sentenced prisoners might be separated from other inmates, they should be housed in comparable conditions to those of the general population, with solitary confinement being used only for brief periods, only when related to compelling reasons of security, crime, or discipline, and only with adequate process.⁴²

292. The 2016 DOJ Guidelines state that at a minimum, restrictive housing must be “well-ventilated, adequately lighted, appropriately heated, and maintained in sanitary conditions.”⁴³

Solitary Confinement on Death Row Violates International Norms

³⁹ James Austin, *Findings in Prison Classification and Risk Assessment*, Nat’l Inst. of Corrs. 5, (June 25, 2003), http://www.jfa-associates.com/publications/pcras/10_Findings_2003.pdf (“Very few persons convicted of murder, a sex offense, or with a long prison term become management problems or escape.”).

⁴⁰ *Aiming to Reduce Time-In-Cell Restrictions*, *supra* note 5, at 1.

⁴¹ *See generally id.*

⁴² ABA Standards for Criminal Justice, *Treatment of Prisoners*, *supra* note 25, Standards 23-2.6(a), 23-2.9, at 50, 57.

⁴³ *Report and Recommendations Concerning the Use of Restrictive Housing*, *supra* note 23, at 29.

293. The United States is a party to international conventions bearing on the issue of prolonged solitary confinement.⁴⁴ The United States has ratified the International Covenant on Civil and Political Rights (“ICCPR”) (ratified by the United States in 1992) and the Convention Against Torture (“CAT”) (ratified by the United States in 1994), both of which prohibit torture and other cruel, inhuman, or degrading treatment or punishment. Both have been interpreted to prohibit the use of prolonged solitary confinement.

294. Article 10 of the ICCPR mandates that “[t]he penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation.”⁴⁵ The United Nations Human Rights Committee (“UNHRC”) has clarified that the ICCPR’s prohibition of torture and other cruel, inhuman or degrading treatment under international

⁴⁴ International courts have also unanimously condemned the use of prolonged solitary confinement. The Inter-American Court of Human Rights (IACHR) has repeatedly found violations of international human rights law for prolonged solitary confinement. For example, in *Montero Aranguren et al. (Detention Center of Catia) v. Venezuela*, the Court held that “solitary confinement cells must be used as disciplinary measures or for the protection of persons only during the time necessary and in strict compliance with the criteria of reasonability, necessity and legality.” *Montero Aranguren et al. (Detention Center of Catia) v. Venezuela*, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 150, ¶ 94 (July 5, 2006) (footnote omitted), http://www.corteidh.or.cr/docs/casos/articulos/seriec_150_ing.pdf. In *Velásquez-Rodríguez v. Honduras*, the IACHR held that “prolonged isolation and deprivation of communication is in itself cruel and inhuman treatment which harms the psychological and moral integrity of the person, and violates the right of every detainee . . . to treatment respectful of his dignity.” *Velásquez-Rodríguez v. Honduras*, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 4, ¶ 187 (July 21, 1989), http://www.corteidh.or.cr/docs/casos/articulos/seriec_07_ing.pdf. Similarly, the European Court of Human Rights held in *A.B. v. Russia* that detaining an individual in solitary confinement for three years constituted a violation of Article 3 of the European Convention on Human Rights which prohibits “torture or inhuman or degrading treatment or punishment.” *A.B. v. Russia*, App. No. 1439/06 Eur. Ct. H.R., ¶ 99 (Oct. 14, 2010), [https://hudoc.echr.coe.int/eng#{"itemid":\["001-100964"\]}](https://hudoc.echr.coe.int/eng#{).

⁴⁵ ICCPR art. 10, Dec. 19, 1966, 999 U.N.T.S. 176.

law includes physical as well as mental pain and asserted “that prolonged solitary confinement” may violate this prohibition.⁴⁶

295. Article 1 of the CAT defines torture as “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as . . . punishing him for an act he or a third person has committed . . . when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity.”⁴⁷

296. In a 2011 report to the General Assembly, the United Nations’ Special Rapporteur on torture, Juan Mendez, stated that prolonged solitary confinement was prohibited by the ICCPR and CAT. He further concluded that the assessment of whether solitary confinement amounts to torture should be conducted in light of the totality of the circumstances and on a case-by-case basis. Mr. Mendez wrote, “No prisoner, including those serving life sentence and prisoners on death row, shall be held in solitary confinement merely because of the gravity of the crime.”⁴⁸

297. On SCDC’s Death Row, no factor other than the sentence of the prisoners is taken into consideration and the indefinite nature of their confinement is in direct violation of the ICCPR and CAT.

⁴⁶ UNHRC, 44th Sess., General Comment 20, art. 7, U.N. Doc. HRI/GEN/1/Rev.7 (May 12 2004), http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=HRI%2FGEN%2F1%2FRev.7&Lang=en.

⁴⁷ UNHRC, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment art. 1, Dec. 10, 1984, 1465 U.N.T.S. 85, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx>.

⁴⁸ Juan E. Méndez (Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman, or degrading treatment or punishment), *Torture and other cruel, inhuman or degrading treatment or punishment*, ¶ 61, U.N. Doc. A/68/295 (Aug. 9, 2013), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N13/422/85/PDF/N1342285.pdf?OpenElement>.

298. Additionally, in 2015, the U.N. General Assembly adopted the U.N. Standard Minimum Rules for the Treatment of Prisoners, known as the “Nelson Mandela Rules.” The Rules specifically prohibit the practice of solitary confinement that is “indefinite” or “[p]rolonged,” which they define as a “period in excess of [fifteen] consecutive days,” and emphasize that solitary confinement should be used only as a last resort, for the shortest amount of time possible and should be subject to independent review by a competent authority.⁴⁹ Solitary confinement is defined by the Nelson Mandela Rules as “confinement of prisoners for 22 hours or more a day without meaningful human contact,” and “prolonged solitary confinement” is defined as “a time period in excess of 15 consecutive days.”⁵⁰

299. Additionally, in its Periodic Report to the U.N. Committee Against Torture, the United States confirmed that persons with a “serious mental illness” cannot be held in solitary confinement because it violates the Eighth Amendment’s right to be free from cruel and unusual punishment. It further confirmed that subjecting a prisoner to solitary confinement without an administrative hearing is a violation of the Fourteenth Amendment’s guarantee of due process. As a result, the Committee Against Torture has stated, “The [United States] should . . . [l]imit the use

⁴⁹ U.N. Office on Drugs & Crime, *The United Nations Standard Minimum Rules for the Treatment of Prisoners*, R. 43 at 13 & R. 44 at 14, https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/E_ebook.pdf (last visited Nov. 28, 2017); *see also* Comm. against Torture on Its Fifty-Third Session, *Concluding observations on the combined third to fifth periodic reports of the United States of America*, ¶ 20, U.N. Doc. CAT/C/USA/CO/3-5 (Nov. 20, 2014), <https://www.state.gov/documents/organization/234772.pdf> (“hereinafter U.N. Doc. CAT/C/USA/CO/3-5”); G.A. Res. 70/175, annex, *United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)* (Jan. 8, 2016), http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/70/175.

⁵⁰ *The United Nations Standard Minimum Rules for the Treatment of Prisoners*, *supra* note 49, R. 44 at 14.

of solitary confinement as a measure of last resort, for as short [a] time as possible, under strict supervision and with the possibility of judicial review.”⁵¹

300. The Inter-American Commission on Human Rights (IACHR) issued a 2011 report that specifically addressed solitary confinement of death-sentenced prisoners finding that prisoners on death row should not be subjected to harsher conditions of imprisonment just because of their sentence, and more specifically, that they should not be confined to prolonged and indefinite solitary confinement. Prisoners “sentenced to death should not be subjected to harsher conditions of imprisonment.”⁵² The report further stated, “[i]t is not reasonable to presume that all convicts sentenced to capital punishment necessarily have to be imprisoned under maximum security.”⁵³

301. Additionally, IACHR has reiterated its concerns about the use of solitary confinement by stating that “Member States must adopt strong, concrete measures to eliminate the use of prolonged or indefinite isolation under all circumstances.”⁵⁴ The Commission has specifically stated that the use of solitary confinement “should be absolutely prohibited . . . for persons with mental disabilities, and for death row and life-sentenced prisoners by virtue of their sentence.”⁵⁵

⁵¹ U.N. Doc. CAT/C/USA/CO/3-5, *supra* note 49, at ¶ 20.

⁵² IACHR, *Report on the Human Rights of Persons Deprived of Liberty in the Americas*, ¶ 517 (Dec. 31, 2011), <http://www.oas.org/en/iachr/pdl/docs/pdf/ppl2011eng.pdf>.

⁵³ *Id.*

⁵⁴ Press Release, IACHR, IACHR Expresses Concern over Excessive Use of Solitary Confinement in the United States, No. 51/13 (July 18, 2013), http://www.oas.org/en/iachr/media_center/PReleases/2013/051.asp.

⁵⁵ *Id.*

FIRST CAUSE OF ACTION

**Declaratory Judgment and Injunctive Relief for Violations of
Eighth and Fourteenth Amendments (Cruel and Unusual Punishment)
*Against All Defendants in Their Official Capacities***

302. Plaintiffs incorporate by reference each and every allegation contained in Paragraphs 1–295 as if set forth fully herein.

303. At all times material to this action, defendants, in their official capacity, were responsible for promulgating and implementing policies, practices, procedures, or customs providing for the determination of inmate classification and the overall care of prisoners placed in the custody of the South Carolina Department of Corrections.

304. South Carolina’s policy and practice of automatically placing all Death Row prisoners in solitary confinement have deprived, and continue to deprive, Plaintiffs of basic human needs. This practice violates their human dignity and their constitutional right to be free from cruel and unusual punishment under the Eighth and Fourteenth Amendments to the United States Constitution. Specifically, Defendants’ policies and practices are cruel and unusual because they deprive Plaintiffs of basic human needs, impose serious and irreparable psychological and physical injury, and violate present-day concepts and standards of human dignity.

Deprivation of Basic Human Needs

305. The physical and psychological consequences of long term isolation constitute a severe denial of human fundamental needs, including, but not limited to: lack of human interaction, sensory stimulation, sleep deprivation, and adequate outdoor physical exercise.

Imposition of Serious Psychological and Physical Injury

306. This extensive deprivation of basic human needs causes intense psychological anguish and is likely to result in lasting psychological and physical injury to Plaintiffs.

307. The indefinite and undetermined length of solitary confinement the Plaintiffs are subjected to poses significant risk of potentially incapacitating and permanent mental illness and physical harm.

Deprivation of Human Dignity in Violation of Contemporary Standards of Human Decency and Disproportionate Punishment

308. Defendants' policy and practice of indefinite and lengthy placement in solitary confinement inflicts disproportionate punishment on Plaintiffs.

309. Housing prisoners in these cruel conditions simply because they were sentenced to death serves no valid, legal purpose and lacks penological justification. This policy has no legitimate rationale and does not serve any security needs.

310. Defendants' infliction of mental and physical harm on Plaintiffs strips them of their dignity and worth, transgresses civilized society's notions of decency, and constitutes a practice that is disavowed in modern society.

311. The fact that South Carolina's practices, with respect to Plaintiffs, violate present-day society's concept and standards of human dignity is also evidenced by the international community's universal denunciation of extended solitary confinement.

Defendants' Deliberate Indifference to the Deprivations Suffered by Plaintiffs

312. The policies and practices that South Carolina applies to Death Row prisoners have been, and continue to be, implemented by Defendants.

313. Literature condemning prolonged and indefinite solitary confinement is extensive and unanimous in its conclusions on the harms of solitary confinement. Defendants have been on notice, and continue to be on notice, of all the deprivations stated above and yet have upheld the Death Row policy and practice.

314. The mental anguish and suffering arising out of the conditions that Plaintiffs are confined to and their long-term effects should be evident to Defendants and to any reasonable person. Furthermore, Defendants have frequently been made aware, through administrative grievances and written complaints, that Plaintiffs are presently suffering substantial and ongoing injury.

315. As a direct and proximate result of Defendants' constitutional violations described above, Plaintiffs will be irreparably injured. Plaintiffs would have no adequate remedy at law for Defendants' actions. Plaintiffs will suffer irreparable harm to their constitutional rights unless Defendants are enjoined from continuing their unlawful policies, practices, and customs which have directly and proximately caused these constitutional abuses.

316. Additionally, an actual controversy exists regarding the constitutionality of Defendants' practices and policies regarding the placement of all Death Row prisoners in solitary confinement. A declaration on this issue will resolve that portion of the controversy between the parties, and the Court's determination of the issues will guide Defendants' actions.

SECOND CAUSE OF ACTION
Declaratory Judgment and Injunctive Relief for Violations of
the Fourteenth Amendment (Due Process)
Against All Defendants in Their Official Capacities

317. Plaintiffs incorporate by reference each and every allegation contained in Paragraphs 1–295 as if set forth fully herein.

318. At all times material to this action, defendants, in their official capacity, were responsible for promulgating and implementing policies, practices, procedures, or customs providing for the determination of inmate classification and the overall care of prisoners placed in the custody of the South Carolina Department of Corrections.

319. By denying Plaintiffs meaningful review of their prolonged placement in solitary confinement and not giving them the ability to be removed from their complete isolation, Defendants are denying Plaintiffs liberty without due process of law in violation of the Fourteenth Amendment to the United States Constitution.

320. The conditions and the length of confinement to which Plaintiffs are subjected constitute an atypical and significant hardship as compared with the ordinary incidents of prison life for three reasons: (1) the complete isolation on Death Row; (2) the indefinite nature of their confinement; and (3) their inability to challenge their placement in solitary confinement.

Conditions on Death Row

321. The conditions of Death Row are unjustifiably severe. Prisoners are forced to live in complete isolation in small windowless cells. Their ability to exercise is limited, and they are afforded few visits and are denied even minimal mental stimulation.

Duration of Confinement

322. Plaintiffs have been held in these devastating conditions between nine and twenty years.

Lack of Meaningful Process

323. Plaintiffs are provided no notice of what they can do to be removed from solitary confinement and their placement is not properly reevaluated at any time. While Plaintiffs may apply for reconsideration of their solitary confinement every six months, their applications are summarily denied without adequate explanation. This sham review process does not comply with Plaintiffs' due process rights under the Fourteenth Amendment.

324. Defendants violate Plaintiffs' due process rights by forcing them to live in conditions that amount to atypical and significant hardship without procedural protections. No evidence suggests that this policy promotes safety and security of the prison and its staff.

325. As a direct and proximate result of Defendants' constitutional violations described above, Plaintiffs will be irreparably injured. Plaintiffs will have no adequate remedy at law for Defendants' actions. Plaintiffs will suffer irreparable harm to their constitutional rights unless Defendants are enjoined from continuing their unlawful policies, practices, and customs that have directly and proximately caused these constitutional abuses.

326. Additionally, an actual controversy exists regarding the constitutionality of Defendants' practices and policies regarding the placement of all Death Row prisoners in solitary confinement. A declaration on this issue will resolve that portion of the controversy between the parties, and the Court's determination of the issues will guide Defendants' actions.

THIRD CAUSE OF ACTION
Damages for Violations of the Eighth and
Fourteenth Amendments (Cruel and Unusual Punishment)
Against All Defendants, Except SCDC, in Their Individual Capacities

327. Plaintiffs incorporate by reference each and every allegation contained in Paragraphs 1–295 as if set forth fully herein.

328. At all times material to this action, defendants, together in their individual capacities, were responsible for promulgating and implementing policies, practices, procedures, or customs providing for the determination of inmate classification and the overall care of prisoners placed in the custody of the South Carolina Department of Corrections.

329. Plaintiffs, as SCDC prisoners confined to Death Row, were and are protected by the South Carolina Constitution and the Eighth and Fourteenth Amendments of the United States Constitution; they bring this action pursuant to 42 U.S.C. § 1983.

330. Defendants were acting under the color or pretense of State law, customs, practices, usage, or policy at all times mentioned herein as correctional officers and/or supervisors who had certain duties imposed upon them with regard to Plaintiffs' placement, care, and treatment. Additionally, during all periods in question, Defendants were well aware of the Plaintiffs' constitutional rights, including their right to be free from cruel and unusual punishment.

331. Defendants' policies and practices violate standards for human dignity and the constitutional right to be free from cruel and unusual punishment under the Eighth and Fourteenth Amendments of the United States Constitution. Defendants' policies and practices are cruel and unusual because they deprive Plaintiffs of basic human needs, impose serious and irreparable psychological and physical injury, and violate present-day concepts and standards of human dignity.

332. Defendants, collectively and/or individually, refused, and continue to refuse, to provide necessary essentials to Plaintiffs and/or Death Row inmates, and failed, and continue to fail, to provide a confinement space that is free from cruel and unusual punishment to Plaintiffs. Their actions are negligent, grossly negligent, reckless, willful, wanton, consciously indifferent, and deliberately indifferent to Plaintiffs in one, more, or all of the following particulars:

- a. In placing Plaintiffs and/or Death Row inmates in solitary confinement, isolation, and/or MSU cells for years without consideration to classification criteria used for general population inmates;
- b. In failing to provide necessary medical care and treatment;
- c. In failing to provide necessary mental health care and treatment;
- d. In failing to properly evaluate the mental condition of Plaintiffs and/or Death Row inmates;

- e. In failing to properly supervise and/or train personnel, agents, and/or employees so as to ensure that Plaintiffs and/or Death Row inmates are provided with basic needs so as to be free from cruel and unusual punishment;
- f. In failing to draft and institute proper policies and/or procedures necessary to ensure that Plaintiffs and/or Death Row inmates are provided basic needs and care so as to be free from cruel and unusual punishment;
- g. If such policies and/or procedures exist, in failing to follow the same to ensure Plaintiffs and/or Death Row inmate well-being;
- h. In failing to develop, institute and/or maintain an adequate grievance and staff request policy, procedure, and/or process for Plaintiffs and/or Death Row inmates;
- i. If such policies and/or procedures exists, in failing to follow the same;
- j. In engaging in a pattern and practice of failing to meaningfully classify Plaintiffs and/or Death Row inmates into the respective SCDC institution;
- k. In failing to maintain an effective and reasonable classification system for Plaintiffs and/or Death Row inmates;
- l. In engaging in a pattern and practice of failing to provide the appropriate booking and/or screening procedures regarding Plaintiffs and/or Death Row inmates to properly determine their housing needs;
- m. In engaging in a pattern and practice of failing to provide for reasonable and/or timely medical care to Plaintiffs and/or Death Row inmates;

- n. In failing to maintain an adequate and reasonable medical care policy, procedure, and/or process for Plaintiffs and/or Death Row inmates;
- o. If such policies and/or procedures exists, in failing to follow the same;
- p. In engaging in a pattern and practice of failing to provide adequate and reasonable mental health care to Plaintiffs and/or Death Row inmates;
- q. In failing to maintain an adequate and reasonable mental health care policy, procedure, and/or process for Plaintiffs and/or Death Row inmates;
- r. If such policies and/or procedures exists, in failing to follow the same;
- s. In confiscating, which ultimately led to a “taking,” of Plaintiffs and/or Death Row inmates personal property without justification and without the intent to return said property;
- t. In failing to file and/or deliver to Plaintiffs and/or Death Row inmates’ grievances or staff requests to the appropriate SCDC employee and/or department for resolution;
- u. In failing to respond to Plaintiffs and/or Death Row inmates’ grievances and staff requests;
- v. In failing to file, deliver, and/or respond to Plaintiffs and/or Death Row inmates’ requests for sick call and/or medical care;
- w. In engaging in a pattern and practice of failing to provide Plaintiffs and/or Death Row inmates adequate resources and facilities for reasonable personal hygiene needs;

- x. In engaging in a pattern and practice of failing to provide Plaintiffs and/or Death Row inmates adequate recreation time outside of their cell, to include adequately sized outdoor areas;
- y. In failing to allow Plaintiffs and/or Death Row inmates reasonable access to a law library;
- z. In failing to allow Plaintiffs and/or Death Row inmates reasonable access to a library;
- aa. In failing to provide reasonable cooking supplies so that Plaintiffs and/or Death Row inmates can utilize their canteen goods and consume food;
- bb. In failing to provide electrical outlets and light switches in Plaintiffs and/or Death Row inmates' cells and/or dorms;
- cc. In failing to provide a healthy living environment that is free from mold, mildew, and/or other toxic conditions;
- dd. In failing to provide adequate and reasonable living quarters and/or cells;
- ee. In failing to provide Plaintiffs and/or Death Row inmates with a chair or any other piece of furniture on which to sit;
- ff. In failing to separate Plaintiffs and/or Death Row inmates and SSR isolated inmates into separate living quarters;
- gg. In failing to follow and/or prescribe to the existing policy regarding the separation of living quarters and/or cells for Plaintiffs and/or Death Row inmates and other segregated groups of inmates such as SSRs; and,

hh. In failing to adequately and reasonably provide for the health and well-being of the Plaintiffs, Death Row inmates, and/or prisoners placed in their care and keeping.

333. The acts, omissions, and/or practices alleged above constitute a pattern, practice, and/or custom of conduct that violates the rights given to Plaintiffs and/or Death Row inmates by the Eighth and Fourteenth Amendments of the United States Constitution, the South Carolina Constitution, and/or all applicable state and federal laws, statutes, and/or regulations, as well as by SCDC's own policies and procedures.

334. Defendants are, have been, or should have been aware of the deficiencies alleged herein.

335. To date, Defendants have failed to take sufficient and effective measures to remedy these violations. These failures amount to deliberate indifference to the safety and health of Plaintiffs and/or Death Row inmates, and are in direct violation of the rights afforded by the Eighth and Fourteenth Amendments of the United States Constitution, the South Carolina Constitution, and/or all applicable state and federal laws, statutes, and/or regulations.

336. As a proximate result of Defendants' constitutional violations, Plaintiffs suffered, and continue to suffer, conscious pain, suffering, indignity, dehumanization, and loss of the aforementioned federal and state rights, and demand ACTUAL, CONSEQUENTIAL, and PUNITIVE DAMAGES from Defendants. In addition, Plaintiffs are entitled to COSTS and ATTORNEYS FEES pursuant to the common law of the State of South Carolina and S.C. Code § 15-33-135, as applied to 42 U.S.C. § 1988.

FOURTH CAUSE OF ACTION
Damages for Violations of the Fourteenth Amendment (Due Process)
Against All Defendants, Except SCDC, in Their Individual Capacities

337. Plaintiffs incorporate by reference each and every allegation contained in Paragraphs 1–295 as if set forth fully herein.

338. At all times material to this action, Defendants, together in their individual capacities, continuously promulgated and implemented policies, practices, procedures, or customs providing for the determination of inmate classification and the overall care of prisoners paced in the custody of the South Carolina Department of Corrections.

339. Plaintiffs, as SCDC prisoners confined to Death Row, were and are protected by the South Carolina Constitution, and the Fourteenth Amendment of the United States Constitution; they bring this action pursuant to 42 U.S.C. § 1983.

340. Defendants were acting under the color or pretense of State law, customs, practices, usage, or policy at all times mentioned herein as correctional officers and/or supervisors who had certain duties imposed upon them with regard to Plaintiffs placement, care, and treatment. Additionally, during all periods in question, Defendants were well aware of the Plaintiffs’ constitutional rights, including their right to be free from cruel and unusual punishment.

341. Defendants promulgated and implemented policies, practices, and customs that have denied Plaintiffs’ of their state-created, limited liberty interests without first being afforded the minimum requirements of procedural due process requirement of the Fourteenth Amendment to the United States Constitution. Plaintiffs are denied any review whatsoever of their prolonged placement in solitary confinement and are denied the ability to be removed from their complete and prolonged isolation. Their actions were negligent, grossly negligent, reckless, willful, wanton, consciously indifferent, and deliberately indifferent to Plaintiffs in one, more, or all of the following particulars:

- a. In engaging in a pattern and practice of failing to meaningfully classify Plaintiffs and/or Death Row inmates into the respective SCDC institution;
- b. In failing to maintain an effective and reasonable classification system for Plaintiffs and/or Death Row inmates;
- c. In engaging in a pattern and practice of failing to provide the appropriate booking and/or screening procedures regarding Plaintiffs and/or Death Row inmates to properly determine their housing needs;
- d. In placing Plaintiffs and/or Death Row inmates in solitary confinement, isolation, and/or MSU cells for years without consideration to classification criteria used for general population inmates;
- e. In failing to provide adequate and reasonable living quarters and/or cells;
- f. In failing to allow a review process for the classification, or lack thereof, of Plaintiffs and/or Death Row inmates;
- g. In failing to separate Plaintiffs and/or Death Row inmates and SSR isolated inmates into separate dorms;
- h. In failing to follow and/or prescribe to the existing policy regarding the separation of living quarters and/or cells for Plaintiffs and/or Death Row inmates; and,
- i. In failing to adequately and reasonably provide for the due process rights of Plaintiffs, Death Row inmates, and/or prisoners placed in their care and keeping.

342. The acts, omissions, and/or practices alleged above constitute a pattern, practice, and/or custom of conduct that violates the rights given to Plaintiffs and/or Death Row inmates by

Fourteenth Amendments of the United States Constitution, the South Carolina Constitution, and/or all applicable state and federal laws, statutes, and/or regulations.

343. Defendants are, have been, or should have been aware of the deficiencies alleged herein.

344. To date, Defendants have failed to take sufficient and effective measures to remedy these violations. These failures amount to deliberate indifference to the safety and health of Plaintiffs and/or Death Row inmates, and are in direct violation of the rights afforded by the Fourteenth Amendments of the United States Constitution, the South Carolina Constitution, and/or all applicable state and federal laws, statutes, and/or regulations.

345. As a proximate result of Defendants' constitutional violations, Plaintiffs suffered, and continue to suffer, conscious pain, suffering, indignity, dehumanization, and loss of the aforementioned federal and state rights, and demands ACTUAL, CONSEQUENTIAL, and PUNITIVE DAMAGES from Defendants. In addition, Plaintiff is entitled to COSTS and ATTORNEYS FEES pursuant to the common law of the State of South Carolina, and S.C. Code § 15-33-135, as applied to 42 U.S.C. § 1988.

FIFTH CAUSE OF ACTION
Negligence and/or Gross Negligence
Against Defendant SCDC and Defendant Stirling Only

346. Plaintiffs incorporate, by reference, each and every allegation contained herein in paragraphs 1-295 as if set forth fully herein.

347. Defendants SCDC and Stirling, in their official capacities and according to the laws of the State of South Carolina, are responsible for the development and implementation of all policies and/or procedures that are germane to this suit and applicable to Plaintiffs and/or Death Row inmates.

348. The above set forth incidents and the Plaintiffs' and/or Death Row inmates' injuries and damages were proximately caused by the negligent, grossly negligent, reckless, willful, and wanton acts of the Defendants, by and through their agents, servants, and/or employees in one, more, or all of the following particulars:

- a. In placing Plaintiffs and/or Death Row inmates in solitary confinement, isolation, and/or MSU cells for years without consideration to classification criteria used for general population inmates;
- b. In failing to provide necessary medical care and treatment;
- c. In failing to provide necessary mental health care and treatment;
- d. In failing to properly evaluate the mental condition of Plaintiffs and/or Death Row inmates;
- e. In failing to properly supervise and/or train personnel, agents, and/or employees so as to ensure that Plaintiffs and/or Death Row inmates are provided with basic needs so as to be free from cruel and unusual punishment;
- f. In failing to draft and institute proper policies and/or procedures necessary to ensure that Plaintiffs and/or Death Row inmates are provided basic needs and care so as to be free from cruel and unusual punishment;
- g. If such policies and/or procedures exist, in failing to follow the same to ensure Plaintiffs and/or Death Row inmate well-being;
- h. In failing to develop, institute and/or maintain an adequate grievance and staff request policy, procedure, and/or process for Plaintiffs and/or Death Row inmates;

- i. If such policies and/or procedures exists, in failing to follow the same;
- j. In engaging in a pattern and practice of failing to meaningfully classify Plaintiffs and/or Death Row inmates into the respective SCDC institution;
- k. In failing to maintain an effective and reasonable classification system for Plaintiffs and/or Death Row inmates;
- l. In engaging in a pattern and practice of failing to provide the appropriate booking and/or screening procedures regarding Plaintiffs and/or Death Row inmates to properly determine their housing needs;
- m. In engaging in a pattern and practice of failing to provide for reasonable and/or timely medical care to Plaintiffs and/or Death Row inmates;
- n. In failing to maintain an adequate and reasonable medical care policy, procedure, and/or process for Plaintiffs and/or Death Row inmates;
- o. If such policies and/or procedures exists, in failing to follow the same;
- p. In engaging in a pattern and practice of failing to provide adequate and reasonable mental health care to Plaintiffs and/or Death Row inmates;
- q. In failing to maintain an adequate and reasonable mental health care policy, procedure, and/or process for Plaintiffs and/or Death Row inmates;
- r. If such policies and/or procedures exists, in failing to follow the same;
- s. In confiscating, which ultimately led to a “taking,” of Plaintiffs and/or Death Row inmates personal property without justification and without the intent to return said property;

- t. In failing to file and/or deliver to Plaintiffs and/or Death Row inmates' grievances or staff requests to the appropriate SCDC employee and/or department for resolution;
- u. In failing to respond to Plaintiffs and/or Death Row inmates' grievances and staff requests;
- v. In failing to file, deliver, and/or respond to Plaintiffs and/or Death Row inmates' requests for sick call and/or medical care;
- w. In engaging in a pattern and practice of failing to provide Plaintiffs and/or Death Row inmates adequate resources and facilities for reasonable personal hygiene needs;
- x. In engaging in a pattern and practice of failing to provide Plaintiffs and/or Death Row inmates adequate recreation time outside of their cell, to include adequately sized outdoor areas;
- y. In failing to allow Plaintiffs and/or Death Row inmates reasonable access to a law library;
- z. In failing to allow Plaintiffs and/or Death Row inmates reasonable access to a library;
- aa. In failing to provide reasonable cooking supplies so that Plaintiffs and/or Death Row inmates can utilize their canteen goods and consume food;
- bb. In failing to provide electrical outlets and light switches in Plaintiffs and/or Death Row inmates' cells and/or dorms;
- cc. In failing to provide a healthy living environment that is free from mold, mildew, and/or other toxic conditions;

- dd. In failing to provide adequate and reasonable living quarters and/or cells;
- ee. In failing to provide Plaintiffs and/or Death Row inmates with a chair or any other piece of furniture on which to sit;
- ff. In failing to separate Plaintiffs and/or Death Row inmates and SSR isolated inmates into separate dorms;
- gg. In failing to follow and/or prescribe to the existing policy regarding the separation of living quarters and/or cells for Plaintiffs and/or Death Row inmates and other segregated groups of inmates such as SSRs; and,
- hh. In failing to adequately and reasonably provide for the health and well-being of the Plaintiffs, Death Row inmates, and/or prisoners placed in their care and keeping.

349. As a direct and proximate result of the aforementioned negligent, grossly negligent, and/or willful and wanton acts and/or omissions on behalf of Defendants SCDC and Stirling, Plaintiff has unjustifiably suffered, and further, was injured and damaged in ACTUAL AND CONSEQUENTIAL DAMAGES.

* * *

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment against the Defendants:

- (a) Declaring that Defendants’ policies and practices of confining all prisoners sentenced to Death Row in indefinite solitary confinement with no opportunity for review violates the Eighth and Fourteenth Amendments of the United States Constitution;
- (b) Granting permanent injunctive relief enjoining Defendants and their predecessors, successors, present or former agents, representatives, those acting in privity and concert with them, or on their behalf, from violating the Eighth and Fourteenth Amendments of the United States Constitution;

- (c) Granting permanent injunctive relief requiring Defendants to present a plan to the Court within 30 days that provides for:
 - (i) the release from solitary confinement of Plaintiffs, whose isolation constitutes cruel and unusual punishment and whose placement in isolation lacks meaningful process and is arbitrary and capricious, and the placement of Plaintiffs in either (i) a general population unit or (ii) in a modified general population unit, in which prisoners segregated from the general population have the same privileges as do prisoners in the general population;
 - (ii) alleviation of the conditions of confinement of Plaintiffs so that they are no longer incarcerated under conditions of isolation, sensory deprivation, and lack of social and physical human contact;
 - (iii) mandatory physical exams, mental health treatment, and other necessary rehabilitation and medical treatment for Plaintiffs; and
 - (iv) all other relief to which Plaintiffs are entitled;
- (d) Awarding Plaintiffs the compensatory damages they have sustained as a consequence of Defendants' Constitutional violations;
- (e) Awarding Plaintiffs punitive and nominal damages;
- (f) Awarding Plaintiffs costs and reasonable attorney's fees;
- (g) Granting Plaintiffs prejudgment and post-judgment interest; and
- (h) Granting such other equitable and further relief as the Court deems just and proper.

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial by jury on all issues so triable.

Dated: April 16, 2018

Respectfully submitted,

/s/ Aaron S. Jophlin

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Counsel for Plaintiffs

*Motion to appear *pro hac vice* to be filed

** Admitted *pro hac vice*