

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division**

KEVIN JOHNSON,

Plaintiff,

v.

VIRGINIA DEPARTMENT OF  
CORRECTIONS, DIRECTOR CHADWICK  
S. DOTSON, in his official capacity; CHIEF  
OF CORRECTIONS OPERATIONS A.  
DAVID ROBINSON, in his official and  
individual capacities; BETH CABELL, in her  
official and individual capacities; WARDEN  
KEMSY BOWLES, in his official capacities;  
WARDEN KEVIN MCCOY, in his individual  
capacity; SGT. MATTHEW BLAHA, in his  
individual capacity; SGT. BROOKS  
WALLACE, in his individual capacity;  
OFFICER SMITH, in his individual capacity;  
WARDEN RICK WHITE, in his official and  
individual capacity; HEALTH SERVICES  
ADMINISTRATOR D. TRENT, in his official  
and individual capacity; SENIOR MENTAL  
HEALTH CLINICIAN E. CREECH, in his  
official and individual capacity; MENTAL  
HEALTH CLINICIAN J. MONIHAN, in his  
official and individual capacity; and CHIEF  
OF SECURITY MAJOR JOHNNY HALL, in  
his official and individual capacity,

Defendants.

Civ. Case No. \_\_\_\_\_  
JURY TRIAL DEMANDED

**COMPLAINT**

1. Kevin Johnson is an incarcerated activist who believes in speaking out against injustices. He is acclaimed for his journalism, having published pieces with The Guardian, PBS, and other global publications, as well as producing two books. He has taken on the important role of publicizing inhumane conditions and brutal conduct of guards and certain prison officials,

including in the Virginia Department of Corrections.

2. Unfortunately, this critical First Amendment service has landed a target on Mr. Johnson's back, and he is often the subject of unconstitutional retaliation by guards and officials.

3. Most recently, Mr. Johnson was transferred away from critical medical providers—Mr. Johnson suffers from prostate cancer, chronic high blood pressure, hyperlipidemia, chronic edema and other symptoms related to heart issues—to a supermax prison entirely across the state as retaliation for his Constitutionally protected conduct. This transfer came just days after Mr. Johnson published an article about misconduct at Sussex I State Prison, where he had been housed. The article specifically mentioned Defendants Chadwick Dotson and Beth Cabell as individuals to whom members of the public should express concern about Mr. Johnson's treatment. The Defendants received numerous calls.

4. Defendants transferred Mr. Johnson to Red Onion State Prison ("Red Onion") across the state, not only violating their own transfer policies in the process but also brutalizing him with pepper spray without provocation at the beginning of his transfer. Upon arriving at Red Onion, Defendants cut Mr. Johnson off from all avenues of communication and any ability to report out about the system's abuses. They also placed him in solitary confinement without the hearings dictated by their own policies and told him that they would move him to general population if he would agree to curtail his First Amendment-protected activities at Red Onion. Mr. Johnson refused, and he remained in solitary confinement.

5. Mr. Johnson and over a dozen other individuals detained in solitary confinement began a hunger strike in late December 2023 to protest Red Onion's punitive use of solitary confinement. Defendants quickly became retributive and torturous in an attempt to "break" the prisoners off their hunger strike.

6. Defendants, who were entrusted with Mr. Johnson's health and safety, denied him

access to running or bottled water; housed him in an excessively cold cell without any means of keeping warm (sheets or extra clothing); deprived him of his hygiene supplies, prescription medications, and writing supplies; and prevented him from having showers or access to outdoor recreation and mobility.

7. When Mr. Johnson needed water, he was forced to lap water out of his uncleaned toilet in his cell like a dog.

8. Mr. Johnson has suffered severe dehydration that has required three emergency hospitalizations in the last month simply to keep him alive. But even that serious and expensive step did not quell Defendants' campaign.

9. Defendants instead sought a court order to force-feed Mr. Johnson on grounds that he was mentally incompetent rather than simply providing him his constitutionally protected rights. But the Wise County General District Court rejected this effort, noting that Mr. Johnson was cogent and competent, even after a month without food.

10. Now, Defendants have hidden Mr. Johnson away in a largely shuttered prison facility and removed his prisoner ID number from their system, in a further attempt to avoid transparency, compromise, and to block Mr. Johnson's ability to speak out against these life-threatening abuses.

11. Mr. Johnson's fact pattern is extreme, but the events that precipitated his hunger strike—the retaliatory transfer and placement in solitary confinement without means of communication—are not unique. Instead, this is a well-worn retributive technique that VADOC officials use to hide the truth of their unconstitutional and harmful behavior towards the individuals entrusted to their care. He is experiencing brutal conditions not in spite of his talents as a journalist and his bravery as an activist, but specifically because of them. This Court should intervene and conclude that the measures to which Mr. Johnson has been subject are not constitutional, legal, or humane.

## **JURISDICTION AND VENUE**

12. This Court has subject matter jurisdiction over Mr. Johnson's claims under 42 U.S.C. § 1983 and the Americans with Disabilities Act pursuant to 28 U.S.C. § 1331.

13. Venue lies in the Eastern District of Virginia under 28 U.S.C. § 1391 because a substantial part of the events giving rise to the claims in this action took place in this District, Mr. Johnson is currently being detained in this District, and many of the Defendants reside in this District.

14. Pursuant to Eastern District of Virginia Local Rules 3(B)(4) and 3(C), assignment to the Richmond Division of the Eastern District of Virginia is proper, because a substantial part of the acts and omissions giving rise to Plaintiff's claims occurred in this division.

## **PARTIES**

### Plaintiff

15. Kevin Johnson is a 52-year-old Black man who is currently imprisoned at the Powhatan Medical Unit in Virginia, a Virginia Department of Corrections facility. He has been detained at Powhatan Medical Unit since on or around January 27, 2024. Before that point, he was incarcerated at Red Onion from approximately October 30, 2023 through January 26, 2024 and Sussex I State Prison at all times relevant to this Complaint prior to approximately October 30, 2023.

### Defendants

16. The Virginia Department of Corrections (VADOC) is an agency of the Commonwealth of Virginia, which oversees Sussex I State Prison, Red Onion State Prison, and Powhatan Medical Unit.

17. Chadwick S. Dotson is the Director of the Virginia Department of Corrections (VADOC) and therefore is the final decisionmaker for all decisions within the VADOC. He is being sued in his official capacity.

18. A. David Robinson is the Chief of Corrections Operations for the Virginia Department of Corrections and “leads the operations of the VADOC’s facilities . . . throughout the state” since 2011.<sup>1</sup> He oversees matters within prisons in Virginia. He is being sued in his official and individual capacities.

19. Beth Cabell is a Regional Administrator for the Eastern Region of the Virginia Department of Corrections and oversees matters within the prisons in that region. She is being sued in her official and individual capacities.

20. Kemsy Bowles is the current Warden of Sussex I State Prison. He is being sued in his official capacity.

21. Kevin McCoy was the Warden of Sussex I State Prison while Mr. Johnson was detained there in October 2023. He is being sued in his individual capacity.

22. Sergeant Matthew Blaha is a guard in Sussex I State Prison and is an employee of the VADOC. He is being sued in his individual capacity.

23. Sergeant Brooks Wallace is a guard in Sussex I State Prison and is an employee of the VADOC. He is being sued in his individual capacity.

24. Officer Smith, whose first name is unknown at the time of filing, is a guard believed to work at either Sussex I State Prison or Wallen’s Ridge State Prison and is an employee of the VADOC. He is being sued in his individual capacity.

25. Rick White is the Warden of Red Onion and is a member of Mr. Johnson’s Hunger Strike Management Committee. He is being sued in his official and individual capacities.

26. D. Trent is the Health Services Administrator at Red Onion and is a member of Mr. Johnson’s Hunger Strike Management Committee. They are being sued in their official and

---

<sup>1</sup> About Us, Virginia Department of Corrections, <https://vadoc.virginia.gov/about/> (last visited Feb. 1, 2024).

individual capacities.

27. E. Creech is the Senior Mental Health Clinician at Red Onion and is a member of Mr. Johnson's Hunger Strike Management Committee. They are being sued in their official and individual capacities.

28. J. Monihan (phonetic spelling) is a Mental Health Clinician at Red Onion and a member of Mr. Johnson's Hunger Strike Management Committee. They are being sued in their official and individual capacities.

29. Major Johnny Hall is the Chief of Security at Red Onion and is a member of Mr. Johnson's Hunger Strike Management Committee. He is being sued in his official and individual capacities.

30. All Defendants were acting at all relevant times under color of state law.

#### **FACTUAL ALLEGATIONS**

31. In October 2023, Plaintiff Kevin Johnson was detained in the Sussex I State Prison, near Richmond, Virginia. This was an important housing placement for him, as Mr. Johnson suffers from prostate cancer,<sup>2</sup> chronic high blood pressure, lipidemia, and numerous conditions consistent with heart issues<sup>3</sup>; this prison was proximate to his health care providers at the Virginia

---

<sup>2</sup> Mr. Johnson's medical records initially showed concerns for cancer in or around October 2021. However, he was not aware of these concerns for approximately six months, until a chronic care appointment where he was referred to a urologist. VADOC officials delayed his access to that specialist until after a public protest on Mr. Johnson's behalf. He received a biopsy and tests to determine that he had prostate cancer in July 2022. Yet again, VADOC staff members delayed his care or forced him to miss medical appointments until 2023, after more public protests. In sum, it took Mr. Johnson 1.5 years to begin receiving treatment for his prostate cancer. Before the retaliatory move at issue in this Complaint, Mr. Johnson had been receiving radiation treatments from VCU for this cancer.

<sup>3</sup> Mr. Johnson suffers from the following chronic conditions: edema, cough, fatigue, weight gain from fluid retention. Notwithstanding these documented conditions, Mr. Johnson has not been able to get diagnostic, preventative, or ongoing care from VADOC medical staff. He has been referred to the cardiac clinic at VCU by his cancer care providers, but VADOC staff members never brought him for that referral.

Commonwealth University (VCU)'s Medical College of Virginia, as well as to his family.

32. Mr. Johnson has been detained in VADOC since July 1991, and he is well known as an outspoken journalist and advocate who shines a light on the VADOC's failures to meet the constitutional floor in their detention practices. His written works have appeared in *The Guardian*, PBS, *W Magazine*, the *San Francisco Bay View*, and other publications, as well as on his own website. He has also published two books of his work.

33. Mr. Johnson has filed numerous lawsuits against VADOC, starting within a couple of years of his incarceration in 1991. Most of these cases challenged his conditions of confinement, as well as the fact of his confinement. He currently maintains five cases in the Virginia state courts and two in federal court in Indiana.

34. In 2009, Mr. Johnson was improperly labeled as a domestic terrorist by VADOC officials at the prompting of the Red Onion gang investigation team. The reason provided was that Mr. Johnson was a chronic propagandist whose written work—about the conditions and abuses in VADOC facilities—turned the public against law enforcement and prison officials. Officials blocked his access to the telephone and stopped his mail as result.

35. Because of his efforts to speak out against VADOC and to bring together various groups of prisoners to raise awareness about unconstitutional conditions in VADOC, VADOC officials transferred Mr. Johnson out of state in or around 2012. Mr. Johnson was moved around from Oregon to Texas to Florida to Virginia to Indiana to Ohio and finally back to Virginia, where he is from, over nine years. These moves were all in efforts to silence Mr. Johnson's First Amendment protected activity.

36. On October 18, Mr. Johnson was ordered to move to a new cell by Sussex I officials. The cell had been vacant for roughly six months before because of problems with the door, and it was not inspected for contraband by guards—as required by VADOC policy—before

he was placed in it around 6pm.

37. At 3:00am during that overnight (October 19), a Strike Force team burst into his cell, suddenly waking him from his sleep.

38. The Strike Force is comprised of guards drawn from prisons across the state to perform riot containment and targeted searches. None of the guards who raided Mr. Johnson's cell were wearing nametags, in an effort to conceal their identity.

39. The Strike Force team strip searched and handcuffed Mr. Johnson, then proceeded to dump his property all over the floor. The Investigator told the team to "find something" and kept telling them to search until they found something.

40. Strike Force team members supposedly found a "street knife"—not a homemade shiv, but a manufactured knife—that they claimed Mr. Johnson had affixed to the underside of the cell door. Strike Force team members passed the knife amongst themselves with many people touching it; they did not handle it like evidence in an investigation. They left Mr. Johnson in the cell, and he did not receive any punishment for allegedly having contraband at that time. Mr. Johnson wrote up several grievances that night.

41. A few hours later, around 8 or 9 that morning, guards came to his cell and told him they needed to move him to the Restrictive Housing Unit (RHU), a euphemism for solitary confinement. He received a hearing and was placed on RHU status.

42. After he was placed in RHU/solitary confinement, officials admitted to Mr. Johnson that the raid had been a set-up. Sergeant Hall came to Mr. Johnson's cell in the RHU and told Mr. Johnson that he was being set up and that the plan was to transfer him out of Sussex I. Sergeant Hall said the knife was planted and that officials at Sussex I were trying to get rid of him and were tired of his efforts to draw attention to issues in the prison. Sergeant Hall also reported that staff were trying to tie Mr. Johnson to another incident with a nurse who got caught bringing contraband

into the prison on or around October 16.

43. While this was happening, Mr. Johnson wrote and published an article asserting that Sussex I guards had planted a knife in his cell. The article named Defendants Beth Cabell and Chadwick Dotson, as well as former Sussex I Warden Kevin McCoy, as individuals that readers should reach out to with complaints about what was happening to Mr. Johnson. The article was published on October 22, 2023.

44. Shortly after this article was published, Sussex I officials told Mr. Johnson that he was being stepped down from RHU to SD1 status, a form of general population status.

45. People started calling VADOC officials about the article Mr. Johnson published, including Defendants Dotson and Cabell and former Warden McCoy.

46. Mr. Johnson also wrote nine different complaints about the incidents to which he had been subject, including about the shakedown, the retaliatory planting of a weapon, how the Strike Force threw his property all over the floor and walked on it, Sussex I staff's efforts to set up a reason to transfer him, guards' failure to inspect the cell before placing him in it, the fact that the Strike Force raided the cell within hours of putting him in it, and similar concerns. Mr. Johnson gave all nine complaints to Sergeant Sealey on or around October 26 or 27 and asked Sergeant Sealey to confirm on his body camera footage that he received nine written complaints and put them in the appropriate box.<sup>4</sup>

47. Roughly four days after the publication of his article, Mr. Johnson was emergency transferred to Red Onion State Prison, Virginia's supermax. The transfer was difficult to explain—he was not eligible for such an emergency move under Operating Procedure 830.5, he had just been “stepped down” back to general population, and he had not actually been disciplined for

---

<sup>4</sup> Later, in Red Onion, Mr. Johnson filed a complaint expressing his concern that these nine complaints were not processed. The Sussex I Institutional Ombudsman in charge of the grievance system responded that he had received only three of the complaints.

purportedly having a knife. Defendants also violated Operating Procedure 830.5 by denying Mr. Johnson the hearing or the notice that he was supposed to receive before being subject to the emergency transfer.

48. Instead, Defendants Sgt. Blaha,<sup>5</sup> Sgt. Wallace, and Officer Smith approached Mr. Johnson's cell as part of a special task force to perform the transfer. Mr. Johnson informed these Defendants—without belligerence—that he had an order for oversized handcuffs in his medical file due to chronic edema in his wrists. Defendant Blaha told Mr. Johnson that he did not care about the order or did not believe that the order existed and if Mr. Johnson persisted in his requests, Blaha would assault him with pepper spray. When Mr. Johnson, befuddled, tried to explain again, Defendant Blaha gassed Mr. Johnson. Defendant Blaha then went to the unit's booth, got a bigger canister of pepper spray, and sprayed Mr. Johnson again. Sgt. Wallace and Officer Smith either participated in this gassing or did not stop Defendant Blaha. Sgt. Wallace captured this incident on his body camera, and Mr. Johnson asked that the body camera and block surveillance footage be preserved.

49. Other staff members came to the scene of the incident and reported that Mr. Johnson did in fact have an oversized-cuffs order. They expressed confusion at the event: staff should not have come to Mr. Johnson's unit at all and there was no reason to pepper spray him. They brought him the oversized cuffs from his medical order and insisted that he would get the opportunity to decontaminate before he was physically taken to Red Onion, although he never actually did.

50. Mr. Johnson was transferred to Red Onion on Monday, October 30, 2023, at the direction of the then-acting Warden of Sussex I, Defendant Kevin McCoy, and the VADOC Eastern Regional Director, Defendant Beth Cabell. This transfer was endorsed by VADOC

---

<sup>5</sup> Upon information and belief, Defendant Blaha is an officer who usually works at Wallens Ridge State Prison, on the west side of the state; he had been brought out to Sussex I State Prison specifically to transfer Mr. Johnson.

administrators, including Defendants Dotson and Robinson, who were aware of the transfer because numerous community members called VADOC's central office and complained to these individuals on Mr. Johnson's behalf. Defendants Dotson and Robinson were aware that Mr. Johnson's transfer violated their policies, but they did not do anything to correct or change the transfer and thus endorsed it.

51. Mr. Johnson had been detained in Red Onion previously and spent over 14 years in long-term solitary confinement there when VADOC officials previously tried to block his efforts to speak out against their abuse. He also suffered an extensive history of racialized physical assaults and other tortures and abuses.

52. At Red Onion, Mr. Johnson did not receive the back-up hearing he was supposed to get under Operating Procedure 830.5 since he did not receive a hearing at Sussex I State Prison. Instead, officials told him that they were going to place him on RHU because of his alleged (but unidentified) misbehavior on the transfer. Defendant Major Hall erroneously retorted to Mr. Johnson that his medical file did not have an oversized-cuffs order when Mr. Johnson asked them to honor the order. Mr. Johnson asked that their body camera footage be preserved. He was also able to produce this order later.

53. Mr. Johnson was placed in RHU without the necessary hearing as required in Operating Procedure 830.5. The prison also cut off access to the kiosk terminals that he had used to publish his articles about prison conditions and horrors and to communicate with the outside world. His friends and family were also unable to register for in-person visitation. He also began having trouble sending and receiving mail, the other avenue he could use to publish his articles and also to continue litigating several ongoing cases he had maintained *pro se*. These limitations on communication were not done as part of any prison policy but in violation of prison policy. Because he was on segregation in the RHU, he was limited to two 20-minute phone calls each

month. This placement was a direct attempt to prevent Mr. Johnson from speaking out about the conditions and his treatment in Red Onion.

54. Mr. Johnson received visits from Defendant Warden Rick White on his first day in Red Onion and Assistant Warden Dwayne Turner on his second day. Both men tried to dissuade Mr. Johnson from speaking out against the prison and assured him that they would be accommodating of him if he did not engage in First Amendment activity.

55. When Mr. Johnson refused, Red Onion officials began bringing disciplinary charges against him for trivial matters allegedly related to his transfer to Red Onion. These charges had been lodged by Sgt. Blaha and included that Mr. Johnson had disobeyed an order when he asked for the handcuff accommodation, that Mr. Johnson had tried to cover his cell with a mattress and blanket after they gassed him, and that Mr. Johnson had tampered with a security device by removing the black mitts on his hands during transportation.

56. As to the first charge, when Mr. Johnson challenged the charge and sought evidence, the charge suddenly disappeared from the system, and he heard nothing more about it.

57. Mr. Johnson took a penalty on the other two charges to avoid being put on a phone restriction for 60 days. As to the charge about the mitts, Mr. Johnson had not been permitted to decontaminate from the chemical agents used on him, and his hands began sweating and burning in the mitts in the sweltering hot transportation van.

58. Red Onion officials ultimately determined that Mr. Johnson should be moved to the long-term solitary confinement program at Red Onion called Level S or Level Six, which included a two-year minimum sentence in solitary confinement. They commenced the process to move him to this housing assignment after he refused to stop exercising his First Amendment rights.

59. On December 26, 2023, Mr. Johnson and several other prisoners in the RHU B3

unit at Red Onion began a hunger strike to protest the VADOC's improper use of solitary confinement. Each of these individuals was in the process of being moved to Level S housing. The hunger strikers hoped to highlight the continued and punitive use of solitary confinement at Red Onion following Virginia's recent efforts to reform solitary confinement in the state. Mr. Johnson also specifically protested his improper transfer from Sussex I to Red Onion. Mr. Johnson has remained on RHU status throughout the pendency of his hunger strike.

60. After a prisoner in VADOC declines fifteen meals, they are placed on Hunger Strike Protocol, a VADOC-wide policy for which Defendant Director Dotson is responsible. Under this policy, prisoners on hunger strike are assigned a Hunger Strike Management Committee ("Committee"). Mr. Johnson's Committee is comprised of Defendants Red Onion Warden Rick White, Health Services Administrator D. Trent, Senior Mental Health Clinician E. Creech, Mental Health Clinician J. Monihan, and Red Onion Chief of Security Major Johnny Hall. Upon information and belief, this Committee makes the decisions about Mr. Johnson's housing, medical care, access to property, and other life-preserving measures in the facility during his hunger strike.

61. Instead of providing for Mr. Johnson's care and health, however, the Committee—largely comprised of medical caregivers—engaged in shocking efforts to torture and "break" Mr. Johnson off his hunger strike and to strip him of his rights.

62. On December 30, the Committee directed that the water to Mr. Johnson's solitary confinement cell be cut off, preventing him from having water for drinking, hygiene, or cleaning his cell. The Committee also directed Sgt. Osborne, a guard at Red Onion, to take most of Mr. Johnson's personal, non-contraband property, including his hygiene items such as toothpaste, soap, and deodorant and his religious items (including his Rastafarian Bible and prayer books). The removal of Mr. Johnson's personal property was captured on Sgt. Osborne's body camera.

63. On January 3, 2024, Red Onion staff moved Mr. Johnson to the prison's medical

unit, where he continued to be detained in solitary confinement conditions, locked in his cell at almost all times (except, upon information and belief, for three showers and approximately two legal calls over the course of a month).

64. During that move, staff member Gilbert and Property Officer Cochran took the rest of Mr. Johnson's property, including his writing supplies (ink pens and paper). He was left with the clothing on his body and a few papers. The staff members indicated that this deprivation was at the direction of Defendant and Committee member E. Creech. Mr. Johnson's transfer and the deprivation of the remainder of his property items were captured on Gilbert's and Cochran's body cameras.

65. Mr. Johnson's solitary confinement cell in the medical unit also had no running water. Mr. Johnson was unable to drink water from the faucet, bathe himself, brush his teeth, wash his hands, or clean his cell.

66. If Mr. Johnson wanted water, he was forced to drink from the toilet in his cell, like an animal.

67. Even when Mr. Johnson asked guards for water, they did not bring him any. Upon information and belief, surveillance footage of the front of his cell shows guards declining to provide Mr. Johnson with water.

68. On January 4, 2024, Mr. Johnson was brought to the emergency room of a hospital in the community because he was severely dehydrated due to the lack of potable water in his cell. He received critical intravenous fluids at the hospital.

69. After he returned to Red Onion, however, the Committee continued to deny Mr. Johnson access to running or bottled water.

70. By January 9, 2024, Mr. Johnson was severely dehydrated again and felt like he was "not good at all." He had started passing blood in his urine, which was dark brown from

dehydration and red from the blood he was passing. He had not had fluids since his stay in the hospital. His kidneys “hurt real bad.”

71. On January 19, 2024, Mr. Johnson was again rushed to the hospital for severe dehydration. He received intravenous fluids and a CT scan of his kidneys after reporting pain in his left kidney.

72. Hospital medical staff warned that Mr. Johnson needed an echocardiogram to check on his ongoing heart issues and determine if his symptoms were worsening on the hunger strike and under Defendants’ punitive conditions of confinement. Red Onion medical staff had provided Mr. Johnson with an echocardiogram on January 3, the day they moved him to the medical department and before either of his emergency hospitalizations. He did not receive another of these critical tests at Red Onion.

73. After his return to Red Onion following his second hospitalization for dehydration, the Committee continued to deprive Mr. Johnson of running or bottled water for drinking or hygiene purposes.

74. In addition to this horrifying and life-threatening condition of the Committee’s “care” for Mr. Johnson, the Committee chose to detain Mr. Johnson in a cell that was well below room temperature and uncomfortably cold. Mr. Johnson estimated his environment was around 55 degrees.

75. Under the Hunger Strike Protocol, the Committee denied Mr. Johnson any means to retain body warmth in this cell, including sheets and (until January 17, three weeks into his strike) a blanket. He slept on a bare mattress.

76. He was also denied additional clothing to layer for warmth. The only clothing he had were the items on his body when he was transferred to the medical unit: a tee-shirt, scrub pants, a scrub top, socks, and one thermal top that did not help him stay warm. These items were

not laundered during his time on hunger strike at Red Onion, and he was forced to live in the same dirty clothing for more than a month. His white clothing had turned tannish brown with dirt and grime by the time he left Red Onion. He was able to change his undergarments only twice while in Red Onion after January 3, 2024.

77. These dangerous conditions served only to exacerbate the health risks Mr. Johnson faces from his underlying health conditions (cancer, high blood pressure, and heart issues) and to create additional risks for him to catch other illnesses. Mr. Johnson's inability to warm up or leave the cell for additional warmth or movement constituted a form of psychological torture and further harm to Mr. Johnson.

78. These risks were compounded by the fact that Mr. Johnson was denied a shower for the first approximately two-and-a-half weeks of his hunger strike. He received only three showers at Red Onion after his transfer to the medical unit on January 3, 2024.

79. Without running water in his cell and without his hygiene supplies, Mr. Johnson was unable to brush his teeth for over a month, to put on deodorant, or to wash his hands. He felt like he was being left to smell and live like an animal.

80. Because of his underlying medical conditions, the medical staff on his Committee should have been taking extra precautions to ensure his health and safety; instead, they deprived him of as many basic necessities of life as they possibly could and callously exacerbated the risks he faced. The Committee's actions could very readily have caused Mr. Johnson's death.

81. Although medical staff endeavored to regularly monitor Mr. Johnson's weight and vitals, they falsified his weight in their records to avoid showing how dangerous their treatment was of Mr. Johnson. When he began his hunger strike, Mr. Johnson weighed 262 pounds. In or around January 24, Mr. Johnson weighed around or below 225 pounds. But medical staff wrote down a weight in the 250s for him and blithely stated that he had not lost much weight. Red Onion

staff accused him of sneaking food because of these falsified records and did not believe that he was not eating.

82. The Committee also deprived Mr. Johnson of access to his prescribed, keep-on-person medications, including a muscle salve that reduces the pain and edema in his knees, an ointment for dry skin, and a hemorrhoid cream to treat the symptoms from the radiation treatment for his prostate cancer.

83. Mr. Johnson was deeply concerned and scared that the lack of care he received at Red Onion on his hunger strike has exacerbated his heart issues. He also did not receive any medical care for his prostate cancer while on hunger strike at Red Onion, which he fears will detrimentally affect his condition and quite possibly his life.

84. The Committee further denied Mr. Johnson access to a telephone or tablet. Without access to a telephone and without his writing supplies, Mr. Johnson was unable to write to the court about his current horrifying conditions and to seek protection for his life and health through that critical avenue. He was also unable to continue to prosecute his ongoing *pro se* matters, another way in which he was harmed in his efforts to protect his rights. Finally, he was unable to communicate with his loved ones about his ongoing health concerns and Defendants' torturous and dangerous conduct, which both precluded him from seeking help and also served as a form of psychological torture beyond that even permitted in most solitary confinement units.

85. Mr. Johnson grieved the Committee's decisions regarding his access to water, heat, hygiene, and writing supplies in an emergency grievance shortly after his transfer to the medical unit. He asserted that the Committee was improperly trying to strip him of his constitutional rights and life-saving basic needs. In response, Defendant D. Trent stated that Mr. Johnson "chose to be on hunger strike. I encourage you to eat." But Mr. Johnson did not choose the Committee's unconstitutional and horrifying conduct.

86. On or around January 24, 2024, the administrator in charge of the interstate compact for Virginia prisoners, Kyle Ross, spoke with Mr. Johnson for about 30 minutes and encouraged him to agree to another transfer out of state. He wanted Mr. Johnson to agree to a transfer and to agree not to exercise his First Amendment rights in the next state. Mr. Ross noted that Mr. Johnson was going to become “his problem” if he was transferred out of state and continued to raise concerns about the prison system to which he was sent.

87. That same day, Assistant Warden Turner informed Mr. Johnson that he had not been slated for long-term segregation and that he did this to himself. Mr. Turner told Mr. Johnson that they were going to put him in general population, but Mr. Johnson would not agree to their requests, i.e., that he forgo his First Amendment-protected activity. Mr. Turner made these statements several times and also told Mr. Johnson that Mr. Johnson created this problem.

88. During his time on hunger strike, Mr. Johnson received this message not only from Mr. Turner but also from Defendant Warden Rick White and Mr. Ross.

89. On or around Friday, January 26, VADOC Counsel filed an emergency petition for involuntary medical treatment (force-feeding) of Mr. Johnson, and he was transported to the Wise County General District Court for a hearing on the petition and a competency evaluation. Mr. Johnson elected to represent himself, and Special Justice Saylers determined that Mr. Johnson was cogent and competent to exercise his First Amendment right to engage in a hunger strike and his due process right to deny involuntary medication, and the Justice denied the petition for involuntary medical treatment. The Justice ordered a further psychiatric evaluation of Mr. Johnson by a professional independent from the VADOC.

90. On Saturday morning, VADOC officials transported Mr. Johnson to Virginia Commonwealth University (VCU)’s Medical College of Virginia (where Mr. Johnson has previously received medical care for his prostate cancer) for his psychiatric evaluation. The

evaluator determined that Mr. Johnson was cogent and competent, even though they refused to evaluate Mr. Johnson outside the presence of guards and Mr. Johnson did not feel comfortable speaking in front of the guards. He received some fluids while at the hospital.

91. VADOC officials then brought Mr. Johnson to the Powhatan Medical Unit, a prison medical facility just west of Richmond. They placed Mr. Johnson in the previously closed mental health unit alone. He is currently being guarded around the clock by members of the Strike Force, including three of the same guards who raided his cell in Sussex I. Since he has been placed in Powhatan, Mr. Johnson's prisoner ID number has been removed from the VADOC online system, so his loved ones could not find out where he was being detained.

92. Mr. Johnson has continued his hunger strike since he left Red Onion. At some point during his stay at Powhatan, two VADOC officials—a woman named Allen and a man named Bruce—visited him and told him that he will be going back to the RHU at Red Onion and not to Sussex I as soon as he ends his hunger strike. They told him they did not care about his hunger strike. Defendant Cabell also visited Mr. Johnson around Monday, January 29, 2024.

93. On Tuesday, January 30, 2024, Mr. Johnson started feeling dizzy and he became unable to keep down the water he was newly being given by VADOC staff. He was rushed to the VCU medical center again, where medical professionals provided him with intravenous fluids for several hours. They informed him that his vitals and electrolyte levels were dangerously off, including that his magnesium, potassium, and blood sugar were very low. His weight had dropped again, to 218 pounds—an approximately 44-pound loss since late December. Mr. Johnson understood from his conversations with medical professionals at VCU that he may be close to dying.

94. Since returning to Powhatan, Mr. Johnson has had dizzy spells and feels his body get very hot for no reason. He feels like his mind is starting to slip.

95. Nonetheless, Defendants continue to not take Mr. Johnson seriously or to seek a reasonable compromise that will address his concerns about his treatment in VADOC before they kill him.

96. Mr. Johnson remains persistently scared that he will die of a heart attack before he is able to achieve resolution of his grievances due to Defendants' conduct throughout his hunger strike.

## **CLAIMS FOR RELIEF**

### ***CLAIMS REGARDING INITIAL TRANSFER***

#### **COUNT I**

#### **42 U.S.C. § 1983 – First Amendment – Retaliation Against Defendants Dotson, Robinson, Cabell, Bowles, and McCoy**

97. Mr. Johnson incorporates each paragraph of this Complaint as if fully restated here.

98. Defendants Dotson, Robinson, Cabell, Bowles, and McCoy retaliated against Mr. Johnson when they conducted a counterfeit and baseless raid of his cell and threw him in solitary confinement in Sussex I State Prison. These Defendants undertook these actions in retaliation for Mr. Johnson's past protected conduct of publishing articles highlighting VADOC's poor conduct and treatment of prisoners in their system and filing lawsuits to vindicate his rights.

99. Mr. Johnson has a First Amendment right to speak out about the unconstitutional conditions and conduct of guards in the VADOC.

100. Defendants Dotson, Robinson, Cabell, Bowles, and McCoy further retaliated against Mr. Johnson by transferring him to Red Onion State Prison, across the state and away from his family and medical providers, where he was ultimately thrown in solitary confinement. This action was in retaliation for Mr. Johnson publishing an article about the fraudulent search of his cell that garnered public attention and complaints.

101. These Defendants knew about Mr. Johnson's news articles because members of the

public called into Sussex I State Prison and to the VADOC's Central Headquarters in response to the articles. The article about the cell search specifically named Defendants Dotson and Cabell, and the callers brought this to the attention of members of the VADOC.

102. Mr. Johnson is also well known by VADOC officials and these Defendants for his lawsuits and history of speaking out in writing. In 2009, VADOC deemed him a “domestic terrorist” for this work and, at least as early as that date, began interfering with his ability to communicate outside of the prison system and to speak out about VADOC's behavior.

103. Defendants Dotson, Robinson, Cabell, Bowles, and McCoy's baseless raid of Mr. Johnson's cell, placement of Mr. Johnson in solitary confinement in Sussex I, and transfer of Mr. Johnson from a prison near Richmond—where his family and medical care providers were located—to a prison nearly eight hours across the state are all actions that would be capable of deterring a person of ordinary firmness from further exercising his First Amendment rights.

104. Defendants Dotson, Robinson, Cabell, Bowles, and McCoy's actions were the direct and proximate cause of the violations of Mr. Johnson's constitutional rights and the damages he suffered, including pain, suffering, negative health effects, emotional distress, and other economic and non-economic losses, in an amount to be proven at trial.

## **COUNT II**

### **42 U.S.C. § 12102 – Retaliation, Americans with Disabilities Act Against Defendant Virginia Department of Corrections**

105. Mr. Johnson incorporates each paragraph of this Complaint as if fully restated here.

106. VADOC (by and through the individual Defendants acting in their official capacities) is a public entity as defined in 42 U.S.C. § 12131(1)(A).

107. Mr. Johnson experiences large and swollen wrists due to his size and medical conditions. This condition “substantially limit[s]” Mr. Johnson in “one or more of his major life activities,” qualifying him as an individual with a disability within the meaning of the Americans

with Disabilities Act. 42 U.S.C. §§ 12102(1)(A); 29 C.F.R. § 1630.2(j)(1) (2020).

108. The Americans with Disabilities Act (ADA) prohibits the VADOC from retaliating against Mr. Johnson for attempting to obtain disability accommodations or otherwise seeking to have the benefits, services, or advantages available under the ADA. *See* 28 C.F.R. § 36.206.

109. Defendant VADOC retaliated against Mr. Johnson for seeking access to oversized handcuffs, to which he was entitled to accommodate his physical disabilities of edema and swollen wrists, by spraying him with a chemical agent for requesting this accommodation.

110. This adverse action was directly caused by Mr. Johnson's protected activity in seeking a reasonable accommodation.

111. Defendants, moreover, knew of Mr. Johnson's disability because his condition was well-documented in his medical records, including through the addition of a pass that required the specific accommodation Mr. Johnson requested and because Mr. Johnson directly informed the officer who assaulted him.

### COUNT III

#### **42 U.S.C. § 12102 – Reasonable Accommodations, Americans with Disabilities Act Against Defendant Virginia Department of Corrections**

112. Mr. Johnson incorporates each paragraph of this Complaint as if fully restated here.

113. VADOC (by and through the individual Defendants acting in their official capacities) is a public entity as defined in 42 U.S.C. § 12131(1)(A).

114. Mr. Johnson experiences large and swollen wrists due to his size and medical conditions, including chronic edema. This condition “substantially limit[s]” Mr. Johnson in “one or more of his major life activities,” qualifying him as an individual with a disability within the meaning of the Americans with Disabilities Act (ADA). 42 U.S.C. §§ 12102(1)(A); 29 C.F.R. § 1630.2(j)(1) (2020).

115. Because of his disability, Mr. Johnson received a pass to receive oversized

handcuffs during transportation and whenever handcuffs are needed in the facility. When Defendants Blaha, Wallace, and Smith attempted to handcuff Mr. Johnson to transport him out of Sussex I, Mr. Johnson requested that he be provided with oversized handcuffs, in compliance with his medical pass.

116. Defendants Blaha, Wallace, and Smith declined to provide Mr. Johnson with this reasonable accommodation and instead gassed him with a chemical agent. In doing so, these Defendants and the VADOC denied Mr. Johnson equal access to the programs, services, and activities provided by VADOC. *See* 42 U.S.C. §§ 12131(2).

117. The VADOC violated the ADA by failing to make “reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability.” 28 C.F.R. §§ 35.130(b)(7).

118. Defendants’ actions were in contravention of prison policy and so constituted an unlawful and discriminatory practice.

119. Defendants, moreover, knew of Mr. Johnson’s disability because his condition was well-documented in his medical records, including through the addition of a pass that required the specific accommodation Mr. Johnson requested and because Mr. Johnson directly informed the officer who assaulted him.

**COUNT IV**  
**42 U.S.C. § 1983 – Eighth Amendment -- Excessive Use of Force**  
**Against Defendants Blaha, Wallace, and Smith**

120. Mr. Johnson incorporates each paragraph of this Complaint as if fully restated here.

121. Defendants Blaha, Wallace, and Smith purposefully and knowingly used unreasonable and harmful force against Mr. Johnson when they gassed him with a chemical agent for simply requesting the oversized handcuffs to which he was entitled by prison policies and records.

122. This use of force was more than *de minimis* and instead was harmful enough to amount to a constitutional violation.

123. The force that Defendants Blaha, Wallace, and Smith used against Mr. Johnson, as described above, was not a good-faith effort to maintain or restore discipline and was far in excess of any force that may have been needed in those circumstances.

124. Defendants Blaha, Wallace, and Smith's above-described actions were taken with malice and/or culpable disregard for Mr. Johnson's constitutional and statutory rights, as indicated *inter alia* by the fact that: Mr. Johnson was not resisting and was complying with Defendants' instructions; Mr. Johnson was simply requesting the use of handcuffs that would fit his body and that he should have been provided pursuant to his medical pass for this device; and this conduct was in service of Mr. Johnson's retaliatory transfer, undertaken with awareness of Mr. Johnson's efforts to speak out against the prison system.

125. Defendants Blaha, Wallace, and Smith's actions were the direct and proximate cause of the violations of Mr. Johnson's constitutional rights and the damages he suffered, including pain, suffering, emotional distress, and other economic and non-economic losses, in an amount to be proven at trial.

**COUNT V**  
**42 U.S.C. § 1983 – Eighth Amendment – Failure to Protect**  
**Against Defendants Wallace and Smith**

126. Mr. Johnson incorporates each paragraph of this Complaint as if fully restated here.

127. On or around October 30, 2023, Defendants Sgt. Wallace and Officer Smith witnessed an attack on Mr. Johnson at Sussex I State Prison that posed a substantial risk of serious harm, but he failed to protect Mr. Johnson.

128. The use of force—namely, gassing with chemical agents—by Defendant Sgt. Blaha was objectively sufficiently serious.

129. By recording and/or standing by for the gassing of Mr. Johnson but failing to intervene and stop the violence, Defendants Wallace and Smith knew of and disregarded an excessive risk to Mr. Johnson's health and safety.

130. By failing to protect Mr. Johnson, Defendants Wallace and Smith were deliberately indifferent to Mr. Johnson's health and safety in violation of the Eighth Amendment of the United States Constitution.

131. As a result of Defendants Wallace and Smith's failure to protect him, Mr. Johnson experienced severe emotional distress, humiliation, and fear for his life.

#### **COUNT VI**

#### **42 U.S.C. § 1983 – Fourteenth Amendment – Due Process Against Defendants Dotson, Robinson, Cabell, Bowles, and McCoy**

132. Mr. Johnson incorporates each paragraph of this Complaint as if fully restated here.

133. Virginia Department of Corrections Operating Procedure 830.5 sets forth the process and procedures for transferring prisoners within facilities in VADOC. This document creates a protected liberty interest for Mr. Johnson in receiving certain hearings before he is transferred between facilities and to the RHU.

134. Defendants Dotson, Robinson, Cabell, Bowles, and McCoy violated this policy when they transferred Mr. Johnson without providing him the hearings required under Operating Procedure 830.5 for emergency transfers. Mr. Johnson was entitled to these hearings under the due process clause of the Fourteenth Amendment, and Defendants Dotson, Robinson, Cabell, Bowles, and McCoy violated this right.

135. Mr. Johnson's treatment throughout the transfer to Red Onion and the indefinite stay in the long-term segregation unit was an atypical and significant hardship.

136. Defendants Dotson, Robinson, Cabell, Bowles and McCoy's acts or omissions were and are the legal and proximate cause of Mr. Johnson's injuries and pain.

***CLAIMS REGARDING HUNGER STRIKE***

**COUNT VII**

**42 U.S.C. § 1983 – First Amendment – Retaliation  
Against Defendants White, Trent, Creech, Monihan, and Hall**

137. Mr. Johnson incorporates each paragraph of this Complaint as if fully restated here.

138. Defendants White, Trent, Creech, Monihan, and Hall retaliated against Mr. Johnson for exercising his First Amendment right to engage in a hunger strike as a form of protest against the placement of himself and other prisoners in solitary confinement.

139. Defendants White, Trent, Creech, Monihan, and Hall retaliated against Mr. Johnson by making his living conditions torturous, including by depriving him of water, clothing, bedding, hygiene products, showers, writing supplies, modes of external communication, religious supplies, recreation time, visitation, the rest of his property, and his access to visitation.

140. Defendants White, Trent, Creech, Monihan, and Hall were certainly aware of Mr. Johnson's hunger strike in their roles as administrators and medical professionals at Red Onion and in their roles on his Hunger Strike Management Committee. Red Onion officials, including Defendant White and Assistant Warden Turner, both further told Mr. Johnson that he did this to himself regarding his hunger strike and that he would not be in this position if he did not create a problem. Assistant Warden Turner even shared that Red Onion officials had been planning to put Mr. Johnson in general population if he had agreed not to engage in his First Amendment-protected activity. VADOC official Kyle Ross also told Mr. Johnson that he did this to himself and was causing problems. He further noted that he did not want Mr. Johnson to engage in First Amendment-protected conduct if he was transferred out of state. Mr. Johnson heard these messages several times from these Red Onion and VADOC officials.

141. Defendants White, Trent, Creech, Monihan, and Hall's torturous treatment of Mr. Johnson is undoubtedly conduct that would be capable of deterring a person of ordinary firmness

from further exercising his First Amendment rights; in fact, that was the very purpose of this conduct.

142. Defendants White, Trent, Creech, Monihan, and Hall's actions were the direct and proximate cause of the violations of Mr. Johnson's constitutional rights and the damages he suffered, including pain, suffering, negative health effects, emotional distress, and other economic and non-economic losses, in an amount to be proven at trial.

**COUNT VIII**  
**42 U.S.C. § 1983 – First Amendment – Denial of Access to Courts**  
**Against Defendants Dotson, Robinson, Cabell,**  
**White, Trent, Creech, Monihan, and Hall**

143. Mr. Johnson incorporates each paragraph of this Complaint as if fully restated here.

144. The First Amendment to the United States Constitution guarantees individuals the right to petition the court for their grievances and as a means of protecting their constitutional and statutory rights.

145. By depriving Mr. Johnson of his writing supplies, including ink pens and paper, during his hunger strike (both at Red Onion and Powhatan), the above-named Defendants have violated Mr. Johnson's First Amendment rights.

146. This deprivation is not rationally connected to a legitimate government interest; denies Mr. Johnson his sole avenue to access the courts, particularly on his *pro se* cases; providing these materials would not otherwise impact the prison's functioning or have negative ripple effects; and this is not the only option available to the above-named Defendants to keep Mr. Johnson safe during his hunger strike. In fact, it undermines his safety by preventing him from petitioning for the protection of his rights or sharing his dangerous and detrimental condition—caused by the above-named Defendants—with his loved ones.

147. The above-named Defendants' actions are excessive in relation to any such

legitimate purpose, were entirely punitive in nature, or were malicious or made with reckless disregard for Mr. Johnson's constitutional rights.

148. The above-named Defendants' actions are the direct and proximate cause of the violations of Mr. Johnson's constitutional rights and the damages he has suffered and will continue to suffer, including pain, suffering, emotional distress, and other non-economic losses, in an amount to be proven at trial.

### COUNT IX

#### **42 U.S.C. §1983 – Eighth Amendment – Cruel and Unusual Punishment Against Defendants White, Trent, Creech, Monihan, and Hall**

149. Mr. Johnson incorporates each paragraph of this Complaint as if fully restated here.

150. "Prisoners retain the essence of human dignity inherent in all persons. Respect for that dignity animates the Eighth Amendment prohibition against cruel and unusual punishment. . . . A prison that deprives prisoners of basic sustenance, including adequate medical care, is incompatible with the concept of human dignity and has no place in civilized society." *Brown v. Plata*, 563 U.S. 493, 510-11 (2011).

151. Prisoners are entitled to adequate food, clothing, shelter, sanitation, medical care and personal safety under the Eighth Amendment.

152. A prison official's deliberate indifference to a known, substantial risk of serious harm to the health or safety of a person in custody violates the Eighth Amendment to the United States Constitution.

153. The denial of water to a prisoner on a hunger strike creates a known and substantial risk of serious harm to his health or safety, including specifically to his ability to remain alive and avoid other serious health complications.

154. By failing to provide him with water despite knowing that he was on hunger strike and not eating, Defendants White, Trent, Creech, Monihan, and Hall have demonstrated deliberate

indifference to Mr. Johnson's health, safety, and Eighth Amendment rights.

155. Similarly, Defendants White, Trent, Creech, Monihan, and Hall purposefully, knowingly, and/or with deliberate indifference denied Mr. Johnson access to other important life-protective items, including clean clothing, bedding, showers, recreation, and hygiene supplies. The denial of these items constitutes a known and substantial risk of serious harm to Mr. Johnson's health and safety through the transmission of disease in unsanitary living conditions.

156. Finally, Defendants White, Trent, Creech, Monihan, and Hall purposefully, knowingly, and/or with deliberate indifference housed Mr. Johnson in a cell too cold for human habitation. This condition, particularly in conjunction with the denial of clothing and bedding or other sources of warmth, constitutes a known and substantial risk of serious harm to Mr. Johnson's health and safety through the likelihood of catching an illness or suffering other physical harm in these conditions.

157. These conditions, separately and in combination, deprive Mr. Johnson of his basic human needs, posed an unreasonable risk of harm to his health or safety, and were well below contemporary standards of decency.

158. Defendants White, Trent, Creech, Monihan, and Hall's actions are not rationally connected to a legitimate, non-punitive purpose and were excessive in relation to any such legitimate purpose or were entirely punitive in nature.

159. Defendants White, Trent, Creech, Monihan, and Hall's actions are malicious or made with reckless disregard for Mr. Johnson's constitutional rights.

160. Defendants White, Trent, Creech, Monihan, and Hall's actions are the direct and proximate cause of the violations of Mr. Johnson's constitutional rights and the damages he has suffered and will continue to suffer, including pain, suffering, emotional distress, and other non-economic losses, in an amount to be proven at trial.

**COUNT X**

**42 U.S.C. § 1983 – Eighth Amendment – Failure to Protect  
Against Defendants White, Trent, Creech, Monihan, and Hall**

161. Mr. Johnson incorporates each paragraph of this Complaint as if fully restated herein.

162. Defendants White, Trent, Creech, Monihan, and Hall were aware of the conditions in which Mr. Johnson was detained during the portion of his hunger strike in Red Onion, including being deprived of water, clothing, bedding, hygiene products, showers, writing supplies, modes of external communication, religious supplies, recreation time, visitation, the rest of his property, and his access to visitation.

163. Defendants White, Trent, Creech, Monihan, and Hall disregarded a substantial risk to Mr. Johnson's health and safety by failing to intervene and change these torturous living conditions, despite their capacity to do so as the members of Mr. Johnson's Hunger Strike Management Committee. These Defendants were subjectively aware of the risk to Mr. Johnson and the harm he experienced. By failing to intervene, these Defendants acted with deliberate indifference to Mr. Johnson's health and safety and did not take reasonable measures to abate the risk and harm he suffered.

164. As a result, Defendants' actions were the direct and proximate cause of the violations of Mr. Johnson's constitutional rights and the damages he suffered, including pain, suffering, emotional distress, and other economic and non-economic losses, in an amount to be proven at trial.

**COUNT XI**

**42 U.S.C. § 2000cc-1 – Religious Land Use and Institutionalized Persons Act  
Against Defendants White, Trent, Creech, Monihan, and Hall**

165. Mr. Johnson incorporates each paragraph of this Complaint as if fully restated here.

166. Defendants White, Trent, Creech, Monihan, and Hall imposed a substantial burden on the religious exercise of Mr. Johnson, a person confined within a prison, when they confiscated his Rastafarian bible and prayer books on or around January 3, 2024.

167. The burden imposed on Mr. Johnson's religious practice from the confiscation of his religious materials was not in furtherance of a compelling governmental interest. It also was not the least restrictive means of furthering the government's interest in this context.

168. Defendants White, Trent, Creech, Monihan, and Hall's actions were the direct and proximate cause of the violations of Mr. Johnson's constitutional rights and the damages he suffered, including pain, suffering, emotional distress, and other economic and non-economic losses, in an amount to be proven at trial.

#### **REQUEST FOR RELIEF**

169. Plaintiff respectfully requests the following relief:

- a. Enter judgment in favor of Mr. Johnson and against Defendants.
- b. Order that Mr. Johnson be returned to Sussex I State Prison or another prison in the Eastern or Central Region of Virginia (e.g., Buckingham, where the VADOC has previously placed Mr. Johnson by overriding security levels), to ameliorate the retaliation he suffered and to ensure his continued access to necessary medical care for his prostate cancer, high blood pressure, heart issues, and related symptoms.
- c. Enjoin Defendants from currently or in the future detaining Mr. Johnson in conditions that violate his constitutional rights, including ordering Defendants to provide Mr. Johnson with ready access to water, multiple changes of clothing, bedding, hygiene products, and writing materials; a cell that is maintained at room-temperature; access to the telephone, the kiosk for messaging, visitation, the

shower, and outdoor recreation on a daily basis; and the return of all his confiscated property.

- d. Award Mr. Johnson compensatory damages for physical injury and pain and suffering under the Eighth Amendment.
- e. Award Mr. Johnson punitive damages under the First and Eighth Amendments.
- f. Award Mr. Johnson compensatory damages under the ADA.
- g. Award Mr. Johnson costs and reasonable attorneys' fees as allowed by law.
- h. Award any other relief this Court deems just, equitable, and proper.

### **REQUEST FOR JURY TRIAL IN PART**

170. Plaintiff requests a jury trial to the extent it is established that the relief available herein is legal as opposed to equitable in nature.

Dated: February 5, 2024

Respectfully submitted,

/s/ Mark J. Krudys

Mark J. Krudys (VSB# 30718)

Danny Zemel (VSB# 95073)

THE KRUDYS LAW FIRM, PLC

Truist Place, 919 E. Main Street, Suite 2020

Richmond, VA 23219

Phone: (804) 774-7950

Fax: (804) 381-4458

mkrudys@krudys.com

dzemel@krudys.com

/s/ Miriam R. Nemeth

Miriam R. Nemeth\*

Samuel Weiss\*

RIGHTS BEHIND BARS

416 Florida Avenue, NW #26152

Washington, D.C. 20001

miriam@rightsbehindbars.org

sam@rightsbehindbars.org

*Attorneys for the Plaintiffs*

*\*Pro hac vice applications forthcoming*