

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO**

VICENTE SANCHEZ,

Plaintiff,

v.

BRADY KEHRES,

Defendant.

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

Plaintiff Vicente Sanchez, through undersigned counsel, files this Complaint for damages caused by the violation of his civil and constitutional rights. Plaintiff brings these claims under the Civil Rights Act, the United States Constitution, and the New Mexico Tort Claims Act.

In support, Plaintiff alleges the following:

JURISDICTION AND VENUE

1. Jurisdiction over the subject matter of this action is conferred by 28 U.S.C. § 1331 and 1367, and 42 U.S.C. §§ 1983 and 1988.
2. Plaintiff notified Doña Ana County of his tort claims as required under the New Mexico Tort Claims Act, NMSA, § 41-4-16.
3. Venue is proper as the acts complained of occurred exclusively within Doña Ana County, New Mexico.

PARTIES

1. Plaintiff Vicente Sanchez is incarcerated in Clayton, New Mexico.

2. Defendant Brady Kehres was employed as a corrections officer at the Doña Ana County Detention Center (“DACDC”) in Las Cruces, New Mexico during events material to this complaint.

3. At all times material to this Complaint, Defendant was acting under color of state law and within the scope of his employment at DACDC.

FACTUAL ALLEGATIONS

4. Vicente Sanchez arrived at DACDC on July 8, 2020.

5. He remained incarcerated pending trial in two criminal matters for nearly two years.

6. During this time, his criminal cases were repeatedly postponed due in large part to COVID-19 related court closures and delays.

7. On May 5, 2022, Vicente pleaded guilty in his two pending matters.

8. On May 4, 2022, during the event central to this Complaint, Vicente was a pretrial detainee at DACDC.

9. That evening, at 8:45 p.m., Vicente was in the shower in his housing unit.

10. Also on May 4, 2022, around 8:45 p.m., DACDC Sergeant Christian Ramirez entered Vicente’s unit to pass shaving razors out to the inmates.

11. Sgt. Ramirez later wrote an incident report, providing his version of the events that unfolded.

12. According to this report, he instructed all inmates in the unit to return to their cells.

13. According to Sgt. Ramirez, several inmates continued to play card games and watch television.

14. According to Sgt. Ramirez's report, at his very last directive inmate Rafael Rodriguez ignored him and entered the shower.

15. Vicente was not aware that Sgt. Ramirez had entered in the unit.

16. He was not aware Sgt. Ramirez had instructed inmates to return to their cells.

17. It was difficult for Vicente to hear what was going on in the unit while in the shower with water running.

18. After a few short minutes, Sgt. Ramirez determined his directives had been ignored and called for assistance.

19. Vicente and the other inmates presented no threat to Sgt. Ramirez, or to anyone else.

20. Still, multiple corrections officers responded to the unit.

21. One of these officers was the Defendant, Brady Kehres.

22. Defendant was wearing a body-worn recording device.

23. Defendant was armed with a Kel-Tec shotgun.

24. This shotgun was loaded with "less-lethal" ammunition – meaning projectiles loaded into the otherwise fully functional firearm.

25. These projectiles are expelled from the firearm by the firing of the trigger.

26. Medical research shows that these types of projectiles can cause serious injury, disability, or death.

27. Upon information and belief, as a trained corrections officer at DACDC, Defendant knew this.

28. When Defendant entered the unit, several corrections officers were standing near or in front of the shower area.

29. A large group of inmates were already visibly secured behind a door.

30. Vicente and Mr. Rodriguez were in separate shower stalls, across from each other.

31. Both men had the curtains closed over the shower stall and the water running.

32. Both were naked.

33. Defendant knew neither Vicente nor Mr. Rodriguez were posing a threat to anyone.

34. Defendant immediately raised his rifle upon entering the unit.

35. He shrieked at the other officers to move out of his way.

36. He moved quickly forward and screamed one time, "get out of the shower!"

37. He then immediately fired a round into the shower area.

38. Less than two seconds elapsed between Defendant's verbal warning and the shot.

39. It would have been impossible for Vicente or Mr. Rodriguez to comply with this instruction before the shot was fired.

40. But afterward, both Vicente and Mr. Rodriguez looked out from the shower stalls.

41. Vicente was unable to fully exit the shower without exposing himself.

42. He showed the officers his hands.

43. In one hand he held a plastic shampoo bottle and a washcloth.

44. Defendant could see that Vicente was naked, and not armed.

45. Vicente made no verbal threats to corrections staff.

46. He was not acting aggressively towards corrections staff.

47. Again, he posed no threat to anyone.

48. Meanwhile, Rafael Rodriguez walked out of the shower naked and attempted to wrap a towel around his waist.

49. It was immediately clear to Defendant that Mr. Rodriguez also had no weapon and presented no threat.

50. Defendant continued yelling at him to get down on the ground.

51. Mr. Rodriguez got down on his knees.

52. It was obvious to everyone nearby that if he were to get fully down on the ground, he would lose his towel and be naked, lying face down on the shower floor.

53. Suddenly, Defendant changed position and pointed his Kel-Tech weapon directly into Vicente's shower stall.

54. Vicente continued to pose no threat to corrections officers or anyone else.

55. Defendant knew that Vicente presented no threat.

56. Defendant's own video confirms that Vicente tried to comply with the confusing command to expose himself to this group of officers.

57. The video shows Vicente pulled his towel from the outside hook into the shower stall before Defendant fired at him.

58. But, before Vicente had a chance to exit the shower, Defendant maliciously fired two shots directly at him.

59. These shots were designed to make contact, a wanton and reckless disregard of Vicente's health and safety.

60. At least one shot hit Vicente's leg.

61. This resulted in a large, deep wound on his lower right leg.

62. Vicente began bleeding immediately.

63. Defendant had been in the unit for only thirty seconds, and already fired three rounds directly at these two naked, unarmed men.

64. In his subsequent incident narrative, Defendant claims that Vicente and Mr. Rodriguez acted "aggressive towards staff."

65. Six other corrections officers witnessed and wrote narratives about the incident.

66. Not one of these officers mentioned that Vicente – or Mr. Rodriguez – acted aggressively.

67. At no time during this entire incident did Vicente act aggressively to corrections officers or anyone else.

68. Vicente was brought to the medical staff at DACDC.

69. He was in a great deal of pain and bleeding profusely.

70. He left behind a pool of blood in the shower area.

71. Photographs show his blood spatter throughout the hallway of the facility.

72. Defendant remained in the unit after Vicente's departure, as officers escorted Mr. Rodriguez to his cell past Defendant.

73. Mr. Rodriguez protested that he would have returned to his cell as soon as he finished his shower.

74. Defendant responded that he and Vicente were given a chance to comply with directives and refused.

75. This statement was captured on Defendant's body-worn recording device.

76. This statement refutes Defendant's subsequent written narrative, in which he falsely contended that Vicente and Mr. Rodriguez were aggressive towards staff.

77. Defendant willfully and maliciously shot at Vicente even though Defendant knew that neither Vicente nor Mr. Rodriguez presented a physical safety threat.

78. In fact, the video itself disproves Defendant's fabricated claim of aggressive or threatening behavior.

79. Because of Defendant's malicious use of force, Vicente suffered a serious physical injury.

80. That night, jail medical staff instructed he be transported to the Emergency Department at the Memorial Medical Center in Las Cruces for further care.

81. Facility staff noted they removed a foreign body from the wound on Vicente's leg, and that the wound was deep with jagged edges.

82. Upon his return to DACDC, Vicente's pain was a 7 out of 10.

83. He had already bled through the wrap applied at the hospital.

84. Medical staff ordered that he receive extra blankets to keep his leg elevated, an extra towel for bleeding, and provided a high dose of over-the-counter pain medication.

85. Vicente's mobility was severely limited for the next several months.

86. He was in a great deal of pain.

87. He received daily wound care through July 8, 2022, when he was released from DACDC.

88. The wound remained open through August of 2022.

89. Vicente feels sharp pain in his leg to this day; it is hard to stand for long periods of time and nearly impossible to kneel.

90. He has a large scar and feels a sharp pain in his leg if it is bumped.

CLAIM

COUNT 1: VIOLATION OF FOURTEENTH AMENDMENT: EXCESSIVE USE OF FORCE

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

92. As a pretrial detainee, Vicente had the right to be free from the objectively unreasonable use of force.

93. Vicente presented no security threat to the officers.

94. He was completely naked and visibly unarmed.

95. He engaged in no aggressive physical conduct of any kind.

96. In fact, he engaged in no aggressive verbal conduct of any kind.

97. In other words, he did not threaten or even yell at the officers.

98. No reasonable officer would have believed that Vicente presented a physical threat.

99. Knowing this, no reasonable officer would have fired multiple rounds into Vicente's shower stall.

100. By doing so, Defendant employed an objectively unreasonable use of force and had no legitimate penological purpose for doing so.

101. When he shot at Vicente, Defendant knew that Vicente presented no physical threat.

102. Still, Defendant used force willfully, with wanton and reckless disregard for Vicente's health and safety.

103. Defendant acted out of malice, knowing his actions were a violation of Vicente's constitutional rights.

104. Defendant's conduct amounted to deliberate indifference to Vicente's health and safety.

105. For all these reasons, Defendant violated Vicente's Fourteenth Amendment due process rights.

COUNT 2: BATTERY

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

107. Defendant intended to cause a harmful and offensive contact with Vicente.

108. Defendant did cause a harmful and offensive contact with Vicente.

109. Vicente did not consent to this contact.

110. Defendant shot two less-lethal projective rounds from a Kel-Tech shotgun directly at Vicente, at short range.

111. Defendant intended to hit Vicente with these rounds.

112. Defendant did hit Vicente with at least one of the rounds.

113. Defendant had no penological justification or purpose for this excessive use of force.

114. Defendant acted maliciously and sadistically.

115. Because Defendant acted in a rude, insolent, and angry manner, his actions constitute criminal battery in violation of NMSA § 30-3-4.

116. Thus, Defendant committed a battery on Vicente.

117. This battery resulted in a significant wound on Vicente's leg, and significant, lasting pain.

JURY DEMAND

Plaintiff hereby demands a jury trial on all counts so triable.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff seeks the following relief:

1. Compensatory damages in a yet determined amount.
2. Punitive damages for Defendant's willful and wanton conduct, in a yet determined amount.
3. Reasonable costs and attorney's fees and costs incurred in bringing this action.
4. Such further relief as this Court deems just and proper.

Respectfully submitted,

/s/ Mallory Gagan

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