UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

SHAWN JOHNSON,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 1:23-cv-00443-MPB-KMB
	)	
GEO GROUP INC., et al.,	)	
	)	
Defendants.	)	

ORDER

Plaintiff Shawn Johnson is a prisoner currently incarcerated at New Castle Correctional Facility ("New Castle"), where the events that gave rise to his complaint took place. Mr. Johnson brought this lawsuit against Defendants Sergeant Smith, Officer Dunlap, Officer Brown, the GEO Group, Inc. ("GEO") and Centurion Health ("Centurion"). Dkt. 27. Upon screening of the amended complaint, the Court allowed the following claims to proceed: (1) Eighth Amendment failure to protect and common law negligence claims against Defendants Dunlap, Smith, and Brown; (2) a *Monell* claim against Centurion; and (3) *Monell* claims against GEO. Dkt. 30 at 4.

Centurion moved for summary judgment. Dkt. 46. Since then, Mr. Johnson has filed a motion to dismiss Centurion, dkt. 57. That motion, dkt. [57] is **granted** and the *Monell* claim against Centurion is **dismissed.** The Court declines to address any briefing regarding Centurion, and Centurion's summary judgment motion, dkt. [46] is **denied as moot.**

On September 25, 2024, GEO Defendants moved for summary judgment. Dkt. 49. On October 23, 2024, Mr. Johnson moved for an extension of time of nearly 60 days to respond. Dkt. 55. The Court granted Mr. Johnson's motion and gave Mr. Johnson up to and including December 20, 2024, to respond to the motion for summary judgment, indicating that no further extension

requests would be granted. Belatedly, Mr. Johnson filed a response in opposition to GEO Defendants' motion for summary judgment on December 27, 2024. *See* dkts. 58, 59, 60. GEO Defendants filed a reply in support. Without leave to do so, Mr. Johnson filed a sur-reply. Dkt. 62.

For the reasons that follow, GEO Defendants motion for summary judgment, dkt. [49] is **granted in part and denied in part.**

I. Legal Standard

A motion for summary judgment asks the Court to find that a trial is unnecessary because there is no genuine dispute as to any material fact and, instead, the movant is entitled to judgment as a matter of law. *See* Fed. R. Civ. P. 56(a). When reviewing a motion for summary judgment, the Court views the record and draws all reasonable inferences from it in the light most favorable to the nonmoving party. *Khungar v. Access Cmty. Health Network*, 985 F.3d 565, 572–73 (7th Cir. 2021). It cannot weigh evidence or make credibility determinations on summary judgment because those tasks are left to the fact-finder. *Miller v. Gonzalez*, 761 F.3d 822, 827 (7th Cir. 2014). A court only has to consider the materials cited by the parties, *see* Fed. R. Civ. P. 56(c)(3); it need not "scour the record" for evidence that might be relevant. *Grant v. Trs. of Ind. Univ.*, 870 F.3d 562, 573−74 (7th Cir. 2017) (cleaned up).

A party seeking summary judgment must inform the district court of the basis for its motion and identify the record evidence it contends demonstrates the absence of a genuine issue of material fact. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986).

Whether a party asserts that a fact is undisputed or genuinely disputed, the party must support the asserted fact by citing to particular parts of the record, including depositions, documents, or affidavits. Fed. R. Civ. P. 56(c)(1)(A). Failure to properly support a fact in

opposition to a movant's factual assertion can result in the movant's fact being considered undisputed, and potentially in the grant of summary judgment. Fed. R. Civ. P. 56(e).

II. Factual Background

Because Defendants have moved for summary judgment under Rule 56(a), the Court views and recites the evidence in the light most favorable to Mr. Johnson and draws all reasonable inferences in his favor. *Khungar*, 985 F.3d at 572–73.

A. The Parties

Plaintiff Shawn Johnson was an inmate housed in M-Unit at New Castle, which was a statewide protective custody unit. Dkt. 60 at 2. This case involves an assault by inmate Joe Johnson. To avoid confusion, the Court refers to the two inmates by their first name in the facts section, and will otherwise refer to the plaintiff as "Mr. Johnson."

Officer Dunlap was a correctional officer working as the pod control booth officer in M-Unit on June 25, 2022. Dkt. 51-1 at 1, 3. Officer Dunlap maintains that she was not notified of any problem between Joe and Shawn. Dkt. 51-1 at 5 (Officer Dunlap's Interrogatory Responses) ("To my recollection, no, I was not notified of a problem").

Officer Smith was a correctional officer working in the M-Unit and who submitted reports based on Shawn's assault by Joe on June 25, 2022. Dkt. 51-4 at 1, 7 (Officer Brown's Interrogatory Responses). Officer Brown maintains that she remembers a shakedown being performed on June 24, 2022, but does not recall Joe threatening Shawn. Dkt. 51-4 at 4 (Officer Brown's Interrogatory Responses).

Sergeant Smith was a correctional sergeant over M-unit on June 25, 2022, and was the main control bubble officer running the floor. Dkt. 51-5 at 1-2 (Sgt. Smith's Interrogatory Responses). Sgt. Smith maintains that she does recall conducting a shakedown of Joe's cell, but

that she does not recall hearing any threats. Dkt. 51-5 at 3 (Sgt. Smith's Interrogatory Responses). However, Sgt. Smith "believe[s] Officer Brown stated she heard it via intercom and was advised to complete a conduct." *Id.*

GEO Group maintains a policy which instructs officers on post orders, duties, and responsibilities for M-unit. *See* dkt. 51-3 (NCN Unit Officer Policy).

B. Threats on June 24, 2022

On June 24, 2022, Joe's cell was shaken down by Sgt. Smith and Officer Brown. Dkt. 59 at 101 (Sgt. Smith's Admissions Responses). Sgt. Smith and Officer Brown placed Joe in the showers while they conducted the shakedown. Dkt. 59 at 109 (Affidavit of Lionel Gibson). While Joe was in the shower, he yelled and screamed threats towards Shawn, saying he was going to "whoop" his ass, "stomp him out" and "kill him." *Id.* Joe also said, "I'm going to beat your ass," "you cho-mo bitch I'm going to kill you" and "fucking snitch you'll pay for this." *Id.* at 115 (Affidavit of Shawn Johnson).

Joe yelled these threats because he believed the shakedown occurred because Shawn "snitched" on him. *Id.* at 109. Joe was drunk and yelling, so the whole unit heard it. *Id.* at 110. Sgt. Smith and Officer Brown told Joe to stop threatening Shawn. *Id*. at 110 (Affidavit of Lionel Gibson); 115 (Affidavit of Shawn Johnson).

Officer Brown heard the continued threats from Joe via the intercom and assured Shawn that a conduct report would be written and that she would seek to have Joe moved. Dkt. 59 at 116 (Affidavit of Shawn Johnson); 121 (Affidavit of Jerome Maxwell).

C. The Assault on June 25, 2022

The next day, while Shawn was out of his cell doing his job passing out food trays, Officer Dunlap said she was going to open the cell doors one at a time for the inmates to serve the meal.

Dkt. 59 at 116. Shawn told Officer Dunlap that he did not feel safe serving Joe's trays to him because he threatened Shawn the day before. *Id.* Officer Dunlap said she already knew and had talked to Joe who promised not to do anything to Shawn. *Id.* She further told Shawn that passing out the tray was a direct order, and that if he failed to comply, she would write him a conduct report and he would lose his job. *Id.* at 116-17.

As soon as his cell door was opened, Joe assaulted Shawn. *Id.* at 117. Dkt. 51. Joe repeatedly punched Shawn for approximately ten seconds before Shawn escaped and ran down the stairs. *See* dkt. 51 (Video of incident) at 1:10-1:20. Shawn lost several teeth and thought he may have suffered a concussion. Dkt. 59 at 117.

D. GEO Policies

GEO policy requires that inmate cell doors should be opened only when a staff member is present. Dkt. 51-3 (NCN Unit Officer Policy). No doors should be opened without an officer present. Dkt. 51-4 at 3 (Officer Brown's Interrogatory Responses). Staff are trained to have a staff member either standing at the pod door or in the pod completely before calling for doors to be unsecured. Dkt. 51-5 at 3 (Sgt. Smith's Interrogatory Responses).

Despite this policy, Mr. Johnson has presented evidence that officers regularly open inmate cell doors without staff present at the cell front. Dkt. 59 at 133 (Declaration of Arthula Miller) ("I have personally witnessed both Officer Dunlap and Brown opening doors of offenders without staff being present several times.") (cleaned up); dkt. 59 at 137 (Declaration of Dwight Teague) ("I have personally witnessed Officer Dunlap and Officer Brown open doors without staff present on a regular basis. I have even made complaints about it.") (cleaned up).

III. Discussion

Mr. Johnson proceeds on Eighth Amendment failure to protect claims against Defendants Dunlap, Brown, and Smith.[1] Dkt. 30 at 4. Mr. Johnson's claims against Officer Dunlap proceed based on the allegations that she opened Joe Johnson's cell door even though she knew Joe threatened to assault or kill Mr. Johnson. *Id.* Mr. Johnson also proceeds on Eighth Amendment failure to protect claims based on the allegations that Officer Brown and Sgt. Smith waited several minutes before intervening to stop the other inmate's attack on Mr. Johnson. *Id*. Mr. Johnson also proceeds on common law negligence claims against these Defendants. *Id.*

Mr. Johnson also proceeds on *Monell* claims against GEO based on allegations that GEO (1) has a policy or practice of disregarding safety measures, which led to Joe Johnson attacking him, and (2) has a policy of practice effectively chilling inmate speech by subjecting them to punishment for voicing safety concerns. *Id.*

A. Eighth Amendment Legal Standard

Prison officials have a duty under the Eighth Amendment to protect inmates from violent assaults by other inmates. *Farmer v. Brennan*, 511 U.S. 825, 833 (1994). They incur liability for the breach of that duty when they were "aware of a substantial risk of serious injury to [an inmate] but nevertheless failed to take appropriate steps to protect him from a known danger." *Guzman v. Sheahan*, 495 F.3d 852, 857 (7th Cir. 2007) (quoting *Butera v. Cottey*, 285 F.3d 601, 605 (7th Cir. 2002)); *see also Santiago v. Walls*, 599 F.3d 749, 758–59 (7th Cir. 2010). To succeed on a claim for failure to protect, Mr. Johnson must show that (1) Defendants were aware of a substantial risk of serious injury to him, and (2) they acted with deliberate indifference to that risk. *See Farmer*,

[1] The amended complaint, dkt. 27, does not name Captain Lundsford as a defendant, the Court did not allow any claims to proceed against him in the operative screening order, dkt. 30, and Plaintiff offers no argument related to him in the response in opposition, dkt. 59. Accordingly, the **clerk is directed** to terminate Captain Lundsford as a defendant on the docket.

511 U.S. at 834, 837; *Dale v. Poston*, 548 F.3d 563, 569 (7th Cir. 2008). An official will only be liable when he disregards that risk by failing to take reasonable measures to abate it. *Borello v. Allison*, 446 F.3d 742, 747 (7th Cir. 2006).

1. Officer Dunlap

Mr. Johnson proceeds on an Eighth Amendment failure to protect claim against Officer Dunlap based on the allegation that she opened Joe Johnson's cell door even though she knew he threatened to assault or kill Plaintiff Shawn Johnson. Dkt. 30 at 4.

Officer Dunlap argues that her action of opening the cell door was merely a deviation from GEO policy but did not amount to negligence or criminal conduct. Dkt. 50 at 9. Officer Dunlap also argues that Mr. Johnson' claims against her must fail in that "[i]t is not enough that a reasonable prison official would or should have known that the prisoner was at risk; the official must actually know of and disregard the risk to incur culpability." *Id.* at 10 (citing *Farmer*, 511 U.S. at 837-38).

But there is a dispute of fact with respect to Officer Dunlap's knowledge of a risk of harm to Mr. Johnson. Officer Dunlap maintains that she was not notified of any problem between inmates Joe and Shawn Johnson. Dkt. 51-1 at 5 (Officer Dunlap's Interrogatory Responses) ("To my recollection, no, I was not notified of a problem"). But Mr. Johnson maintains that Officer Dunlap knew that Mr. Johnson was at risk.

Mr. Johnson states that, while he was out of his cell doing his job passing out food trays, Officer Dunlap said she was going to open the cell doors one at a time for the inmates to serve chow. Dkt. 59 at 116. Mr. Johnson told Officer Dunlap that he did not feel safe serving Joe Johnson's trays to him because he threatened Mr. Johnson the day before. *Id.* Officer Dunlap said she already knew and had talked to Joe Johnson who promised not to do anything to Mr. Johnson.

Id.

Accepting Mr. Johnson's version of the facts, as the Court must at this stage, a reasonable jury could readily conclude that Officer Dunlap was aware of Joe Johnson's threats of physical harm to Mr. Johnson and was deliberately indifferent to that risk by opening Joe Johnson's cell door regardless.

Accordingly, summary judgment is **denied** as to the failure to protect claim against Officer Dunlap.

Likewise, Officer Dunlap presents no developed argument to the Court as to why summary judgment should be granted in her favor on the negligence claim against her. "Perfunctory and undeveloped arguments are waived, as are arguments unsupported by legal authority." *M.G. Skinner & Associates Ins. Agency, Inc. v. Norman-Spencer Agency, Inc.*, 845 F.3d 313, 321 (7th Cir. 2017). "It is not the obligation of the court to research and construct the legal arguments open to parties . . . ." *Riley v. City of Kokomo*, 909 F.3d 182, 190 (7th Cir. 2018) (internal quotation omitted). Accordingly, summary judgment is **denied** as to the state-law negligence claim against her.

2. Officer Brown and Sgt. Smith

Mr. Johnson proceeds on an Eighth Amendment failure to protect claim based on the allegation that Officer Brown and Sgt. Smith waited several minutes before intervening to stop the other inmate's attack on Mr. Johnson. Dkt. 30 at 4. Mr. Johnson alleged in his amended complaint that "Sgt. Smith and Officer Brown stood outside the unit door and watched Plaintiff get assaulted for minutes before finally intervening." Dkt. 27 at 5.

Officer Brown maintains that she does not recall inmate Joe Johnson threatening Plaintiff Shawn Johnson. Dkt. 51-4 at 4 (Officer Brown's Interrogatory Responses). Sgt. Smith maintains

that she does recall conducting a shakedown of inmate Joe Johnson's cell, but that he does not recall hearing any threats. Dkt. 51-5 at 3 (Sgt. Smith's Interrogatory Responses). However, Sgt. Smith "believe[s] Officer Brown stated she heard it via intercom and was advised to complete a conduct." *Id.*

Mr. Johnson maintains that Sgt. Smith and Officer Brown told Joe Johnson to stop threatening Plaintiff Shawn Johnson. (Lionel Gibson's affidavit). Dkt. 59 at 110. Officer Brown heard the continued threats from Joe Johnson via the intercom and assured Plaintiff Shawn Johnson that a conduct report would be written and that she would seek to have Joe Johnson moved. Dkt. 59 at 121 (Affidavit of Jerome Maxwell). Accepting Mr. Johnson's version of the facts, Sgt. Smith and Officer Brown surely knew that Joe Johnson was threatening Shawn Johnson because they told Joe to stop threatening Shawn.

But even if Sgt. Smith and Officer Brown knew that Joe Johnson was threatening Plaintiff Shawn Johnson on June 24, this has no bearing on the relevant issue here: whether they waited several minutes before intervening to stop the attack on June 25. Mr. Johnson's response in opposition falls short. He fails to provide evidence to support that Officer Brown and Sgt. Smith failed to intervene while he was under attack.

Mr. Johnson argues in his response: "Sgt. Smith had a responsibility to report the threat and or verify that her subordinate did take action." Dkt. 59 at 7. He further argues that her responsibility extended to the moment when the conduct report was signed and submitted for processing. *Id.* at 8. Similarly, Mr. Johnson argues "[Officer Brown] shared the same duty as Sgt. Smith to report the threats." *Id.* at 9.

But there is a difference between calling for help when an inmate is attacked and issuing a conduct report against the attacker. The former requires urgency, the latter does not. The spirit of

Mr. Johnson's response indicates that he cared more about the attacker getting held accountable via the prison disciplinary procedure than he cared about his own safety. *See* dkt. 58 at 9-10.

Despite what Mr. Johnson thinks these defendants may have known *before* he was attacked, Mr. Johnson has not put forth any evidence showing that Officer Brown and Sgt. Smith witnessed the attack, much less that they stood there watching for "minutes" and failed to intervene. *See* dkt. 58. Likewise, Mr. Johnson does not present any evidence to show how Officer Brown or Sgt. Smith could have somehow stopped the attack. *Id.* The video evidence designated by defendants illustrates that neither Officer Brown nor Sgt. Smith were present at the time of the attack, and therefore could not have intervened. *See* Dkt. 51 (Video of incident). Further, the duration of the attack was approximately 10 seconds. *Id.* at 1:10-1:20. Assuming *arguendo*, that Officer Brown and Sgt. Smith were in the vicinity of Joe Johnson's cell, they would not have been able to intervene given the brevity of the attack. Officer Brown and Sgt. Smith are entitled to summary judgment on the Eighth Amendment claims against them. And because the Court's Screening Order explicitly provided that negligence claims were proceeding "based on the same factual allegations," dkt. 30 at 4, Officer Brown and Sgt. Smith are also entitled to summary judgment on the negligence claim due to their lack of personal involvement the day of the altercation.

B. *Monell* Legal Standard

Private corporations acting under color of state law—including those that contract with the state to provide essential services to prisoners—are treated as municipalities for purposes of Section 1983. *Dean v. Wexford Health Sources, Inc.*, 18 F.4th 214, 235 (7th Cir. 2021). GEO cannot be held liable under the common-law theory of respondeat superior for its employees' actions. *Howell v. Wexford Health Sources, Inc.*, 987 F.3d 647, 653 (7th Cir. 2021).

To prevail on a claim against GEO, Mr. Johnson must first show that he was deprived of a federal right, and then he must show that the deprivation was caused by a GEO custom or policy or failure to implement a needed policy. *Dean*, 18 F.4th at 235. As the Seventh Circuit has explained:

> There are at least three types of municipal action that may give rise to municipal liability under § 1983: (1) an express policy that causes a constitutional deprivation when enforced; (2) a widespread practice that is so permanent and well-settled that it constitutes a custom or practice; or (3) an allegation that the constitutional injury was caused by a person with final policymaking authority. Inaction, too, can give rise to liability in some instances if it reflects a conscious decision not to take action.

Id.

1. *Monell* claim regarding GEO policy, practice, or custom of disregarding safety measures, including short staffing and opening cell doors without staff present

Mr. Johnson proceeds on a *Monell* claim against GEO based on allegations that GEO has a policy or practice of disregarding safety measures, which led to the other inmate attacking him. Dkt. 30 at 4. Mr. Johnson argues that a reasonable trier of fact could conclude that GEO disregards the safety of inmates designated to state-wide protective custody by routinely understaffing the protective custody unit. Dkt. 58 at 12.

Where a plaintiff is not challenging an explicit policy as being unconstitutional but rather asserts that the defendants' practice is unconstitutional he must show (1) "defendants' practice in [opening cell doors without staff present] violated his constitutional rights, and (2) that practice was 'so pervasive that acquiescence on the part of policymakers was apparent and amounted to a policy decision.'" *Hildreth v. Butler*, 960 F.3d 420, 426 (7th Cir. 2020) (quoting *Phelan v. Cook Cty.*, 463 F.3d 773, 789, 790 (7th Cir. 2006)). A few instances of failure to follow a safety protocol is insufficient to prove this type of *Monell* claim. *Id.* Rather, "[t]here must be systemic and gross deficiencies[,]" and Mr. Johnson "must show policymakers knew of the deficiencies and failed to

correct them, manifesting deliberate indifference." *Id.* (internal citations and quotation marks omitted).

Because GEO has a policy requiring staff presence when an inmate's door is opened, dkt. 51-3, the Court must decide whether Defendants' deviation from that policy was so widespread as to constitute an unconstitutional practice or policy. Mr. Johnson has introduced evidence that that policy was violated on more than one occasion by Officers Dunlap and Brown. Dkt. 59 at 133 (Declaration of Arthula Miller) ("I have personally witnessed both Officer Dunlap and Brown opening doors of offenders without staff being present several times.") (cleaned up); dkt. 59 at 137 (Declaration of Dwight Teague) ("I have personally witnessed Officer Dunlap and Officer Brown open doors without staff present on a regular basis. I have even made complaints about it.") (cleaned up).

But these vague statements by other inmates fall short of proving that this custom was so widespread as to put policymakers at GEO on notice that the officers' behavior was posing a threat to inmate safety. There is no indication that either Inmate Miller or Inmate Teague was attacked as a result of the deviation from the cell door policy, or that they complained to administrators at New Castle about the deviation from the policy. And a failure to adhere to a New Castle policy itself is insufficient to state a constitutional violation. *Estate of Simpson v. Gorbett*, 863 F.3d 740, 746 (7th Cir. 2017) ("Section 1983 protects against constitutional violations, not violations of departmental regulation and practices.") (cleaned up). Accordingly, GEO is entitled to summary judgment on this *Monell* claim.

2. *Monell* claim regarding GEO policy, practice, or custom which effectively chills inmate speech by subjecting them to punishment for voicing safety concerns

Mr. Johnson also proceeds on a *Monell* claim based on allegations that a GEO policy or practice effectively chills inmate speech by subjecting them to punishment for voicing safety concerns. Dkt. 30 at 4. Mr. Johnson alleges that GEO maintains a custom or practice of disregarding staff policies and subjecting inmates to punishment for attempting to enforce safety measures. Dkt. 27 at 9. Specifically, Mr. Johnson explains that, if an inmate refuses to obey a direct order from staff, he will receive a Class A conduct report. *Id.* at 5. Mr. Johnson believes that he had to do his job passing out chow trays because Officer Dunlap gave him a direct order to do so. *Id.*

But Mr. Johnson's *Monell* claim fails. Inmates do not get to decide when they are going to choose to obey orders. To rule otherwise would undermine the deference prison officials are afforded. "[I]t is without rational dispute that security officials are justified in maintaining decorum and discipline among inmates to minimize risks to themselves and other prisoners. *Lewis v. Downey*, 581 F.3d 467, 476 (7th Cir. 2009) (citing *Bell v. Wolfish*, 441 U.S. 520, 546 (1979)).

The Seventh Circuit has made clear: "Orders given must be obeyed. Inmates cannot be permitted to decide which orders they will obey, and when they will obey them.... Inmates are and must be required to obey orders." *Soto v. Dickey*, 744 F.2d 1260, 1267 (7th Cir. 1984). *See also Bell*, 441 U.S. at 546 ("[M]aintaining institutional security and preserving internal order and discipline are essential goals that may require limitation or retraction of the retained constitutional rights of both convicted prisoners and pretrial detainees.") Mr. Johnson's *Monell* claim regarding chilling speech therefore cannot survive summary judgment.

IV. Conclusion

In summary, Mr. Johnson's motion to dismiss Centurion, dkt. [57], is **granted** and the *Monell* claim against Centurion is **dismissed.** Centurion's summary judgment motion, dkt. [46], is **denied as moot.** The motion for summary judgment filed by Defendants Dunlap, Brown, Smith, and GEO Group, dkt. [49], is **granted in part and denied in part.**

Officer Brown, Sgt. Smith, and GEO are entitled to summary judgment on all claims against them. **The clerk is directed** to terminate GEO Group, Inc., Captain Lunsford, Sgt. Smith, Officer Brown, and Centurion Health as defendants on the docket. No partial final judgment shall issue at this time.

Summary judgment is denied as to Mr. Johnson's Eighth Amendment and negligence claims against Officer Dunlap. These claims must be resolved by settlement or trial.

The **clerk is directed** to send Mr. Johnson a motion for assistance recruiting counsel with his copy of this Order. Mr. Johnson has **21 days** from the issuance of this Order to file a motion for counsel using this form motion or to inform the Court that he wishes to proceed pro se. Once the motion has been ruled on and counsel has been recruited, the magistrate judge is asked to schedule a telephonic status conference to discuss further proceedings.

IT IS SO ORDERED.

Dated: July 22, 2025

Matthew P. Brookman, Judge
United States District Court
Southern District of Indiana

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UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA

_____
Full name of plaintiff(s)

v. Case No._____

_____
Full name of defendant(s)

MOTION FOR ASSISTANCE WITH RECRUITING COUNSEL

I request the court's assistance recruiting counsel to represent me in this action.

(Note: You may attach additional pages to this motion.)

I. Financial Status

Have you previously filed a "Request to Proceed in Forma Pauperis" (an IFP application)? Please check the appropriate box below:

☐ I have previously filed an IFP application in this case, and it is a true and correct representation of my current financial status.

☐ I have not previously filed an IFP application in this case and now attach an original IFP application showing my financial status.

☐ I have previously filed an IFP application in this case, but my financial status has changed. I have attached a new IFP application showing my current financial status.

II. Attempts to Obtain Counsel

The law requires persons requesting assistance with recruiting counsel to first make a reasonable attempt to obtain counsel on their own or demonstrate that they have been effectively precluded from doing so. List all attorneys and/or law firms you have contacted to represent you in this case and their responses to your requests. If you have limited access to the telephone, mail, or other communication methods, or if you otherwise have had difficulty contacting attorneys, please explain.

III. Ability to Litigate the Case

1) Do you have any difficulty reading or writing English?

2) What is your educational background (including how far you went in school)?

3) Do you have any physical or mental health issues that you believe affect your ability to litigate this case on your own? If so, what are they?

_____

_____

_____

4) Have you received any assistance with this case from others, including other inmates? If so, describe the assistance you have received and whether you will continue to receive it.

_____

_____

_____

5) List any other cases you have filed without counsel, and note whether the Court recruited counsel to assist you in any of those cases.

_____

_____

_____

6) Describe any other factors you believe are relevant to your ability to litigate this case on your own.

_____

_____

_____

IV. Requirements for the Recruitment of Counsel

By filing this motion, I agree to the following conditions:

- While I set the objectives of the litigation, I acknowledge it is usually counsel's choice as to the strategies used to accomplish that objective.
- I will fully cooperate with recruited counsel. If I do not do so, I understand that recruited counsel may withdraw.
- I understand that counsel is not responsible for paying the costs associated with my lawsuit.
- I understand that I am not entitled to free legal counsel and that recruited counsel may require me to enter into a contingency fee agreement in order to represent me in this action.
- I understand that a portion of any monetary recovery (not to exceed 25%) may be used to satisfy the amount of attorney's fees awarded under 42 U.S.C. § 1988. This requirement is imposed by the Prison Litigation Reform Act, 42 U.S.C. § 1997e(d).
- I understand that even if the Court grants this motion, I will receive counsel only if an attorney volunteers to take my case and that there is no guarantee that an attorney will volunteer to represent me.
- I understand that if my answers in this motion or in my IFP application are false, I may be subject to sanctions, including the dismissal of my case.

I declare under penalties for perjury that the above statements are true and correct:

_____ _____

Date **Signature - Signed Under Penalty for Perjury**