

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

| | | |
|------------------------------------|---|------------------------------------|
| TAMRA TUCKER-BOLES, |) | |
| |) | CAUSE NO. 1:12cv478-JMS-TAB |
| PLAINTIFF, |) | |
| |) | |
| v. |) | |
| |) | |
| HAMILTON COUNTY SHERIFF, |) | |
| CORRECTIONAL OFFICER AMANDA |) | |
| KINYON, |) | |
| CORRECTIONAL OFFICER TODD |) | |
| FRANKLIN, |) | |
| and, |) | |
| CORRECTIONAL OFFICER ROBERT |) | |
| GUNN, |) | JURY TRIAL REQUESTED |
| |) | |
| DEFENDANTS. |) | |

FIRST AMENDED COMPLAINT

I. Nature of Case

1. This lawsuit seeks money damages against the Hamilton County Sheriff and three of its correctional officers for injuries received by Tamra Tucker-Boles when, on May 23, 2010, the defendants failed to protect Ms. Tucker-Boles from another inmate at the Hamilton County Jail who threatened to hurt her and who later made good on that threat by physically assaulting her, leaving her with serious physical injuries.

II. Jurisdiction and Venue

2. This action is brought pursuant to 42 U.S.C. §1983 and is premised on the Fourteenth Amendment to the United States Constitution.
3. This Court has original subject matter jurisdiction of the federal questions presented, pursuant to 28 U.S.C. §§1331 and 1343.

4. Venue is proper in this Court and Division, pursuant to 28 U.S.C. §1391, because the events giving rise to this action occurred in, and the defendants are residents of Hamilton County, Indiana, which is located in the Indianapolis Division of the Southern District of Indiana.
5. This Court has supplemental jurisdiction over plaintiff's state law claims for negligence pursuant to 28 U.S.C. §1367.

III. Parties

6. Tamra Tucker-Boles is an adult resident of Indiana.
7. Defendant Correctional Officer Amanda Kinyon is an adult resident of Indiana, and for all times relevant to this complaint was a female correctional officer employed by the Hamilton County Sheriff. This defendant is sued in her individual capacity on the federal claim only.
8. Defendant Correctional Officer Todd Franklin is an adult resident of Indiana, and for all times relevant to this complaint was a male correctional officer employed by the Hamilton County Sheriff. This defendant is sued in his individual capacity on the federal claim only.
9. Defendant Robert Gunn is an adult resident of Indiana, and for all times relevant to this complaint was a correctional officer employed by the Hamilton County Sheriff. This defendant is sued in his individual capacity on the federal claim only.
10. Defendant Hamilton County Sheriff is located in Hamilton County, Indiana, and is a political subdivision of the state of Indiana. This defendant is sued with respect to state law claims only and is sued for compensatory, not punitive, damages.

IV. Facts

11. In early 2010, Tamra Tucker-Boles was in inmate in the Hamilton County Jail.
12. A fellow inmate, Danielle Adesso, was housed in the cell next to Ms. Tucker-Boles.
13. Inmate Adesso repeatedly harassed and threatened physical harm to Ms. Tucker-Boles during their confinement.
14. Ms. Tucker-Boles informed correctional officers Kenyon, Franklin, and Gunn of these threats as they occurred.
15. Other inmates also expressed concern to correctional officers about inmate Adesso's harassment of Ms. Tucker-Boles.
16. Despite having knowledge that Ms. Adesso had threatened and harassed Ms. Tucker-Boles, the jail took no steps to separate these two inmates.
17. On May 23, 2010, at approximately 7:30 a.m., Ms. Adesso came into Ms. Tucker-Boles' cell and grabbed Ms. Tucker-Boles by the hair.
18. Ms. Adesso physically overpowered Ms. Tucker-Boles and repeatedly slammed her head into a concrete wall while also punching her in the face.
19. Ms. Adesso kicked Ms. Tucker-Boles hard in the chest.
20. Other inmates were screaming for officers to assist.
21. Ms. Adesso left the cell before the officers arrived.
22. Ms. Tucker-Boles was taken to the jail's medical unit and, from there, to Riverview Hospital.
23. Ms. Tucker-Boles suffered a fractured nose, a busted and bloodied lip, a head injury, and bruising in the chest.
24. Following the assault, Ms. Tucker-Boles developed seizures and temporomandibular joint

disorder.

25. The medical care Ms. Tucker-Boles received at the Hamilton County Jail was inadequate.
26. Following her return from the hospital, administration of pain medication was delayed for one day until her emergency room orders could be located.
27. In June 2010, approximately 1-2 weeks after the assault, Ms. Tucker-Boles started to suffer seizures.
28. Despite her requests to be seen by a doctor in June for the seizures, Ms. Tucker-Boles did not see a doctor until August 18, 2010.
29. The jail's doctor, Dr. Harris, prescribed dilantin and also changed her Valium prescription level to a lower dose at her request, so she could eventually be weaned from this drug.
30. The jail staff incorrectly administered the Valium prescription giving her more than the prescribed dose.
31. Beginning August 19, 2010, which was the first day Ms. Tucker-Boles received the dilantin and the increased Valium dose, she experienced the following physical symptoms: racing heart, tightness in the throat, difficulty swallowing, vomiting and diarrhea.
32. Ms. Tucker-Boles notified Nurse Ruth of her symptoms but did not get medical assistance.
33. Ms. Tucker-Boles experienced the same symptoms for the next four days, from August 19-23, 2010.
34. Ms. Tucker-Boles reported her symptoms to the jail guards but no medical care was provided.
35. Ms. Tucker-Boles became increasingly weak from being unable to eat and was dehydrated from vomiting and diarrhea.

36. On August 23, 2010, Ms. Tucker-Boles was transferred to Rockville Correctional Facility.
37. Ms. Tucker-Boles was so weak and dehydrated that she passed out upon her arrival. Her blood pressure was 53/42 and she needed IV fluids to improve her condition.
38. Plaintiff properly served defendant Hamilton County Sheriff with a notice of tort claim under Indiana state law.
39. At all times relevant to this suit, the individual defendants were employed by the Hamilton County Sheriff and acted within the scope of such employment.
40. At all times relevant, the individual defendants were acting under color of state law.

V. Claims

41. The actions and inactions of the three correctional officer defendants in failing to protect Ms. Tucker-Boles from a known threat deprived Ms. Tucker-Boles of her interest in bodily integrity in violation of the due process clause of the Fourteenth Amendment to the United States Constitution, actionable pursuant to 42 U.S.C. § 1983.
42. The actions and inactions of the Hamilton County Sheriff in failing to protect Ms. Tucker-Boles from a known threat also constitute negligence under Indiana common law.
43. The actions and inactions of the Hamilton County Sheriff in failing to provide appropriate medical care to Ms. Tucker-Boles constitute negligence under Indiana common law.
44. Defendant Hamilton County Sheriff is legally responsible under Indiana law, specifically under the doctrine of *respondeat superior*, for the actions and inactions of its employees and for its own actions and inactions, as regards to Plaintiff's state law claims.

45. Plaintiff reserves the right to proceed with any and all claims which the facts in this Complaint support, pursuant to the notice pleading procedures of Fed. R. Civ. Pro. 8.

VI. Jury Trial Requested

46. Ms. Tucker-Boles requests a jury trial on her claims.

VII. Relief Requested

47. Ms. Tucker-Boles seeks all relief available under the law, including compensatory and punitive damages, attorney fees and costs, and all other appropriate relief.

Respectfully submitted,

Dated: May 3, 2012

/s/ Richard A. Waples
Richard A. Waples
JauNae M. Hanger
Attorneys for Plaintiff

WAPLES & HANGER
410 N. Audubon Road
Indianapolis, Indiana 46219
TEL: (317) 357-0903
FAX: (317) 357-0275
EMAIL: rwaples@wapleshanger.com
jhanger@wapleshanger.com

CERTIFICATE OF SERVICE

The undersigned certifies that on May 3, 2012, a copy of this document was filed electronically. Notice of this filing will be sent to counsel of record by operation of the Court's electronic filing system. Parties may access this filing through the Court's system:

mhinkle@chwlaw.com

jmaurovich@chwlaw.com

dmurphy@ori.net

/s/ Richard A. Waples
Richard A. Waples

WAPLES & HANGER
410 N. Audubon Road
Indianapolis, IN 46219
TEL: (317) 357-0903
FAX: (317) 357-0275
EMAIL: rwaples@wapleshanger.com