

**UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE**

GEOFFREY REESE,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
RANDALL LIBERTY, as Maine	)	
Department of Corrections	)	1:18-CV-00421-JDL
Commissioner, MATTHEW	)	
MAGNUSSON, as Maine State Prison	)	
Warden; and MICHAEL BURNS,	)	
KEVIN COURT, MICHAEL	)	
LECLAIRE, KYLE RUFFNER, and	)	
TROY ROSS, in their individual	)	
capacities.	)	
	)	
Defendants.	)	

**SECOND AMENDED COMPLAINT**

Plaintiff Geoffrey Reese, through his undersigned counsel, states the following as his Complaint against Defendants Randall Liberty and Matthew Magnusson, in their official capacities, and Defendants Kevin Court, Michael Burns, Kyle Ruffner, Michael LeClair, and Deputy Warden Troy Ross in their individual capacities:

**INTRODUCTION**

1. Mr. Reese, a prisoner at the Maine State Prison, presented no threat to prison officers or prison security when he covered the window of his single-man cell on May 6, 2016 to express objection to officers’ wrongful withholding of his legal materials. Nonetheless, Michael Burns, Kevin Court, Michael LeClaire and Kyle Ruffner (the “Defendant Officers”) deployed three doses of chemical agents totaling 76 seconds of exposure — an amount more than eight times greater than the maximum permissible dosage recognized by Maine State Prison policies in effect, and the chemical agent manufacturer’s directives. In doing so, the Defendant Officers maliciously

or sadistically intended to cause Mr. Reese injury as a punishment for trying to advocate for his own rights. Mr. Reese was totally debilitated by the excessive dose of chemical agent, and suffered serious burns and extreme pain from his over-exposure to the chemicals. Those injuries were then exacerbated by a Defendant Officer's malicious refusal to permit Mr. Reese any opportunity to bathe or rinse the residual chemical agents from his skin for the following *three days*. The Defendant Officers' individual acts, along with the Department of Corrections and the Maine State Prison failure to train the Defendant Officers on reasonable use of force via chemical agents, violated Mr. Reese's clearly established rights under both the Eighth Amendment to the United States Constitution and the Maine Constitution.

### **JURISDICTION AND VENUE**

2. This action seeks to vindicate due process rights guaranteed by the Eighth and Fourteenth Amendments to the United States Constitution, and is brought pursuant to 42 U.S.C. § 1983.

3. The Court has federal question jurisdiction of this civil rights action pursuant to 28 U.S.C. § 1331(a) and 28 U.S.C. § 1343(a)(3), (4).

4. This Court has jurisdiction pursuant to 28 U.S.C. §§ 2201-2202 to declare rights of the parties and to grant all further relief found necessary and proper.

5. Venue is proper pursuant to 28 U.S.C. § 1391(b).

### **THE PARTIES**

6. Plaintiff Geoffrey Reese is a prisoner committed to the custody of the Maine Department of Corrections at the Maine State Prison in Warren, Maine.

7. Defendant Randall Liberty is the Commissioner of the Maine Department of Corrections (the "DOC"), which oversees operations of the Maine State Prison. Commissioner

Liberty serves as the Department's authorized final decisionmaker for implementation and/or enforcement of all Department policies and procedures. Mr. Liberty is sued in his official capacity.

8. Defendant Matthew Magnusson is the Warden of the Maine State Prison (the "Prison") who is responsible for training corrections officers and implementing the policies and procedures of the Maine State Prison. Mr. Magnusson is sued in his official capacity.

9. Defendant Michael Burns, acting as a corrections special operations officer and sergeant at the Maine State Prison, was personally involved in an altercation with Mr. Reese on or about May 6, 2016. Mr. Burns is sued in his individual capacity.

10. Defendant Kevin Court, acting as a corrections officer and sergeant at the Maine State Prison, was personally involved in an altercation with Mr. Reese on or about May 6, 2016. Mr. Court is sued in his individual capacity.

11. Defendant Michael LeClair, acting as a corrections officer and sergeant at the Maine State Prison, was personally involved in an altercation with Mr. Reese on or about May 6, 2016. Mr. LeClair is sued in his individual capacity.

12. Defendant Kyle Ruffner, acting as a corrections officer at the Maine State Prison, was personally involved in an altercation with Mr. Reese on or about May 6, 2016 upon information and belief. Mr. Ruffner is sued in his individual capacity.

13. Defendants Michael Burns, Kevin Court, Michael LeClair and Kyle Ruffner are hereinafter collectively referred to as the "Defendant Officers."

14. Defendant Troy Ross, acting as the Deputy Warden at the Maine State Prison during the relevant period, was responsible for reviewing use-of-force reports in the years leading up to the altercation on May 6, 2016, and for overseeing training of officers at the Maine State Prison regarding the use of chemical agents and cell extractions. Deputy Warden Ross is sued in his individual capacity.

**FACTS COMMON TO ALL COUNTS**

15. On or about May 6, 2016, Mr. Reese was involved in a use-of-force incident with the Defendant Officers during which he received a 76-second dosage of chemical agent over a period of approximately five-minutes (hereinafter “the Incident”).

**The Prison’s Chemical Agent Policies**

16. At the time of the Incident, the DOC and Maine State Prison had established policies governing use of chemical agents on inmates who necessitate extraction from their cell for belligerent or threatening behavior.

17. DOC and/or Prison policies for inmate cell extraction in effect in May 2016 provided that chemical agents may be utilized to remove a belligerent inmate from his cell if the usage is limited to a three-second dose of the chemical agent, followed by a five minute delay to allow the inmate to submit to officers’ direction, followed by a second three-second dose of the chemical agent, followed by a second five-minute delay, followed by a third and final three-second dose of the chemical agent and a final five-minute delay (collectively the “Chemical Agent Policy”).

18. The Jail’s Chemical Agent Policy effectively established a maximum permissible net chemical agent dosage of 9-seconds over a 15-minute exposure period.

19. The Jail’s Chemical Agent Policy was tailored to follow use guidelines established by Sabre, the manufacturer of the chemical agent spray product deployed against Plaintiff Reese during the Incident.

20. The Sabre directives provide that use of its chemical agent product on inmates in cell extractions must be limited to three-second doses, followed by a several minute delay period to allow the inmate to submit to officer directives (hereinafter the “Manufacturer’s Directives”).

21. But, at the time of Mr. Reese's use-of-force incident, and for approximately 18 months prior, the DOC and the Prison had engaged in a pattern of practice led by Defendant Burns and others to utilize the Sabre chemical agent spray in doses far exceeding the Prison's Chemical Agent Policy and the Manufacturer's Directives.

22. Defendant's pattern of practice to deploy chemical agents in excessive, "super-soaker" doses was established to punish inmates for belligerent conduct requiring cell extractions, and deter other inmates from necessitating officer intervention.

23. Additionally, the Prison policies in effect at the time of the Incident provided that an inmate who submits to officer directives during the cell extraction process be immediately handcuffed through the cell's food tray slot, removed from the contaminated cell, and then patted down by officers (the "Removal-After-Submission Policy").

24. Following an inmate's exposure to chemical agents, Prison officers were trained and directed to decontaminate inmates' skin with "copious amounts of water," a directive consistent with Sabre's manufacturer guidelines for decontamination from its chemical agent products utilized by the Prison (the "Decontamination Directive").

25. Deputy Warden Ross was the supervisor responsible for training staff at the Maine State Prison. For approximately two years leading up to the May 2016 incident, Deputy Warden Ross oversaw the training of old and new staff in cell extractions, and trained staff to use the super-soaker "cell saturation" method, instead of the method dictated by policy.

26. The cell extraction procedure required a video recording of each cell extraction, including any use of chemical agents, for supervisors to evaluate reasonableness and compliance with policy.

27. Deputy Warden Troy Ross was responsible for reviewing cell extractions, including video recordings of cell extractions, to ensure compliance with policy. He viewed

numerous videos reflecting the practice of using “super soaker” amounts of chemical agent, in violation of the cell extraction policy.

28. Despite the obvious violation of policy and the risk of serious harm posed by the practice, Deputy Warden Ross repeatedly approved the use of “super soaker” quantities of chemical agents. He did not instruct officers to follow the policy’s effective maximum dosage of 9-seconds over a 15-minute exposure period.

### **The Use-of-Force Incident**

29. Reese is known among the prison staff as a prisoner who routinely asserts his lawful rights through the prison’s administrative grievance and appeal system.

30. Immediately prior to the Incident, Mr. Reese was assigned to a single-man cell in a segregated housing unit after objecting in writing to a supervising corrections officer’s wrongful seizure of Mr. Reese’s legal research materials that pertained to other legal matters.

31. Mr. Reese had requested to speak with the supervising corrections officer to discuss the legal materials that were taken from Mr. Reese, but assumed his request was ignored or denied after receiving no response.

32. Mr. Reese attempted to cover the window of his single-man cell using strips of toilet paper with understanding that such action would initiate a conversation with the supervising unit officer to address the wrongful seizure of legal materials.

33. Mr. Reese made no threat, verbal or physical, toward any staff member or other inmate at any time immediately prior to, during or after placing the toilet paper over his cell window.

34. Defendant LeClair reported the window covering to Defendant Court, who initiated the use of chemical agents against Mr. Reese to extract him from his cell.

35. The Defendant Officers subsequently responded to the incident at Mr. Reese's cell, and ordered the toilet paper to be removed from the window.

36. Mr. Reese did not immediately respond to the Defendant Officers' orders to remove the toilet paper from the cell window.

37. The Defendant Officers made no effort to view Mr. Reese despite the ready availability of tools that allowed officers to partially open Mr. Reese's cell door to see inside while ensuring the door remained secure and impenetrable.

38. Mr. Reese's acts – including covering the cell window with toilet paper and failing to immediately respond to Defendant Officers' orders – posed *no threat* to officer safety, the safety of any other prisoner, or to prison security.

39. The Defendant Officers initiated the use of force within seconds of their initial contact with Mr. Reese, despite seeing no aggressive behavior and hearing no aggressive behavior, and making no attempt to view Mr. Reese by alternate means.

40. The Defendant Officers, acting without sufficient warning, deployed a *twenty-three-second* dose of vaporized chemical agent into Mr. Reese's small cell, in violation of the Jail's Chemical Agent Policy and the Manufacturer's Directives.

41. Approximately one minute after the first chemical agent dose was completed, and without checking whether the initial chemical agent dosage had sufficiently debilitated Mr. Reese, Defendant LeClaire then deployed a *second* dispersal of chemical agents into Mr. Reese's cell, extending about ten seconds in duration via a fogger mechanism that emptied the chemical agent canister faster than the earlier vaporized dispersal.

42. Approximately one minute after the second chemical agent dosage was completed, Defendants Burns and Ruffner then simultaneously dispersed a third and fourth canister of chemical agents into Mr. Reese's cell. Each canister sprayed for approximately 23 seconds,

providing a total third chemical agent dosage extending for a combined duration of approximately 46 seconds.

43. Mr. Reese removed the toilet paper covering after the third chemical agent dosage.

44. In total, Mr. Reese was exposed to a net 80-second dosage of Sabre chemical agents for covering his cell window with toilet paper. Mr. Reese's net dosage included the entire contents of four full chemical agent canisters that were emptied in Mr. Reese's cell over a period of time spanning approximately three minutes.

45. Mr. Reese's 80-second exposure to chemical agents constituted a net dosage eight times greater than the maximum dose permitted by the Jail's Chemical Agent Policy, and contrary to Manufacturer's Directives for proper usage of the chemical agent product.

46. The Defendant Officers maliciously acted with the intent to injure and/or cause Mr. Reese pain as a punishment for covering his cell windows with toilet paper and/or for failing to immediately respond to the Defendant Officers' orders.

47. The Defendant Officers maliciously acted with intent to make an example of Mr. Reese with excessive force to deter other inmates from engaging in similar conduct.

48. Mr. Reese was incapacitated by the Defendant Officers' excessive use of force.

49. The Defendant Officers intended and anticipated the excessive dosage caused Mr. Reese to suffer extreme and unbearable pain.

50. Mr. Reese, in fact, suffered extreme pain from the Defendant Officers' excessive use of chemical agents.

#### **Mr. Reese's Additional Exposure**

51. After indicating his cooperation to the Defendant Officers' directives following the third dosage, Mr. Reese remained sealed in his cell with ongoing exposure to the chemical agents for nearly five additional minutes, contrary to the Jail's Removal-After-Submission Policy.



52. The additional exposure resulted from Defendant Officers' demand that Mr. Reese engage in a visual strip search before venting or opening the cell door. Officers conducted the strip search by viewing Mr. Reese through his cell window in order to avoid exposure to the chemicals that were inside Mr. Reese's cell.

53. Mr. Reese displayed no conduct or indication suggesting that he posed an elevated threat to the Defendant Officers requiring advanced strip search procedures over and above the Jail's Removal-After-Submission Policy.

54. The Defendant Officers had access to an internal air venting system capable of removing the chemical agent from Mr. Reese's sealed cell immediately after Mr. Reese submitted to Officer's directives.

55. Still, to extend Mr. Reese's discomfort from extended exposure, the Defendant Officers opted against use of the venting system until after Mr. Reese completed the strip search process from within his cell.

#### **Denial of Decontamination Treatment**

56. Defendants Michael Burns and Kyle Ruffner then transported Mr. Reese to a medical treatment area where a nurse rinsed Mr. Reese's eyes with a saline solution and used a cloth to wipe residual chemical agent from his eyes.

57. No decontamination treatment was provided for the chemical agent's residue that remained on Mr. Reese's skin.

58. Mr. Reese immediately requested access to a shower to rinse his skin, in a manner consistent with Jail and Manufacturer's Decontamination Directives.

59. Defendant Burns refused to permit Mr. Reese to bathe or to otherwise rinse away the residual chemical agent from his skin upon return to a housing unit.

60. Defendant Burns then provided Mr. Reese with false information that rinsing contaminated skin with water in a manner consistent with the Decontamination Directives would exacerbate Mr. Reese's pain and discomfort.

61. Mr. Reese was ultimately denied any opportunity to shower for three days following the Incident.

62. The unnecessarily prolonged contact with the chemical agent's residue exacerbated Mr. Reese's injuries and caused Mr. Reese to endure severe skin burning and itching until the residue was washed away three days later.

63. The unnecessarily prolonged contact with the chemical agent's residue was reasonably foreseeable to Defendant Burns when Mr. Reese was denied the opportunity to immediately rinse or wash the chemical agent residue from his skin.

64. Requiring Mr. Reese to suffer prolonged exposure to the chemical agent's residue long after the incident resolved was a malicious act intended to punish Mr. Reese for his conduct by causing him pain and discomfort.

65. Mr. Reese required continuing medical care for the extended exposure to the chemical agent over a period of weeks.

66. Mr. Reese suffered actual injuries from the Defendant Officers' use of force and extended exposure, including skin burns, extreme pain to his eyes and skin, temporary vision loss and restricted breathing from the excessive exposure to a chemical agent within a tightly confined space.

67. Mr. Reese suffers from a chronic high blood pressure condition, which makes him part of a high-risk population that is at a high-risk of complications in relation to chemical agent exposure. Still, Defendant Officers failed to take account of how the excessive use of the chemical agents would adversely affect Mr. Reese's health.

### **The DOC's and/or Prison's Inaction**

68. Defendant Burns and/or the Defendant Officers collectively had established a practice of routinely deploying chemical agents in excessive, “super-soaker” doses during cell extractions for at least 18 months prior to the Incident.

69. Similar incidents involving Maine State Prison corrections officers’ excessive and malicious use of chemical agents against prisoners who posed no immediate threat to corrections officers, other prisoners or prison security occurred prior to, and since, the use of force at issue herein.

70. The DOC and/or the Prison failed to sufficiently train the Defendant Officers in its policies and/or practices governing use of force and cell extraction to ensure compliance in a manner consistent with the Manufacturer’s Directives.

71. The DOC and the Jail knew or should have known that Defendant Burns and other corrections officers had established a practice of chemical agent usage in a manner that violated the Jail’s Chemical Agent Policy and the Manufacturer’s Directives.

72. Nonetheless, neither the Jail nor the DOC took any action to train or correct any of the Defendant Officers in the proper use of chemical agents on inmates during cell extractions.

73. Mr. Reese has attempted to study the Jail’s and DOC’s policies and procedures governing his conduct as a prisoner at the Maine State Prison.

74. The Department has refused to disclose any policies or procedures governing use of force against Department prisoners, such as Mr. Reese, including use of chemical agents.

75. The Department has cited Maine public records laws, 1 M.R.S.A. § 402(3)(Q) and 16 M.R.S.A. § 804(7), to justify denial of use-of-force policies, claiming that disclosure of disciplinary policies would “endanger the life or physical safety of any individual,” pursuant to 1 M.R.S.A. § 402(3)(Q).

76. In fact, disclosure of Department policies governing use-of-force protocols against non-violent, non-aggressive prisoners in independent confinement, now or at the time of the incident, would not endanger any corrections officer, prisoner or prison security.

77. Disclosure of Department policies governing use-of-force protocols against non-violent, non-aggressive prisoners would, however, give prisoners fair notice to conform their conduct in a manner that can avoid the use of force against them.

78. Mr. Reese has exhausted the administrative remedies available for him to seek redress from the Maine State Prison.

**COUNT I**  
**42 U.S.C. § 1983 (Eighth Amendment)**  
**(Against Defendants Court, Burns, LeClaire and Ruffner)**

79. Mr. Reese repeats the allegations above in paragraphs 1 through 73 as if fully set forth herein.

80. Mr. Reese's act of covering his single-man cell's window with toilet paper did not pose any real or reasonably perceived threat to any corrections officer or prisoner, or to prison security.

81. Mr. Reese's refusal to comply with the Defendant Officers' verbal orders to remove the window covering did not pose any real or perceived threat to any officer or prisoner, or to any aspect of prison security.

82. Defendants Kevin Court, Michael Burns, Michael LeClair and/or Kyle Ruffner, acted under color of state law and Maine State Prison policy when they deployed 76 seconds of vaporized chemical agents (four full canisters) into Mr. Reese's small cell to incapacitate and inflict pain on Mr. Reese for covering his cell window with toilet paper and for refusing to timely comply with the Defendant Officers' orders.

83. One or more of the Defendant Officers' use of force against Mr. Reese was unreasonable under the circumstances because Mr. Reese's conduct did not threaten any person's safety, and did not threaten prison security.

84. One or more of the Defendant Officers' use of force against Mr. Reese was intended to arbitrarily punish Mr. Reese for his conduct.

85. One or more of the Defendant Officers' use of force against Mr. Reese was maliciously and/or sadistically intended to injure Mr. Reese, to cause him actual injury, and to make an example of Mr. Reese for other inmates.

86. It is clearly established law that a prison officer's use of physical force against a noncompliant prisoner whose conduct poses no threat to other persons or to prison security violates the rights and protections guaranteed by the Eighth Amendment to the United States Constitution.

87. It is clearly established law that a prison officer's malicious or sadistic use of force against any prisoner that is intended to cause injury, and causes actual injury, violates the rights and protections guaranteed by the Eighth Amendment to the United States Constitution.

**COUNT II**  
**42 U.S.C. § 1983 (Eighth Amendment)**  
**(Against Defendant Burns)**

88. Mr. Reese repeats the allegations above in paragraphs 1 through 82 as if fully set forth herein.

89. Mr. Reese posed no threat to any officer or prisoner at the Maine State Prison, and posed no immediate threat to prison security while he was incapacitated by chemical agents, handcuffed and returned to a housing unit.

90. Defendant Burns, acting maliciously or sadistically and under color of law, caused Mr. Reese to suffer ongoing pain and injury from the chemical agent residue that remained on his

skin by denying Mr. Reese the opportunity to shower, bathe or otherwise rinse the residue from his skin for a period of three days.

91. The forced and prolonged exposure to the chemical agent residue caused Mr. Reese actual injury through aggravated skin burns, altered vision and ongoing restricted breathing capacity.

92. It is clearly established law that a prison officer's malicious or sadistic use of force against any prisoner intended to cause injury, and causing actual injury violates the rights and protections guaranteed by the Eighth Amendment to the United States Constitution.

**COUNT III**  
**42 U.S.C. § 1983 (Eighth Amendment)**  
**(Against Defendants Liberty, Magnusson, and Ross)**

93. Mr. Reese repeats the allegations above in paragraphs 1 through 87 as if fully set forth herein.

94. Deputy Warden Ross, the Maine Department of Corrections, acting under color of law through Defendant Liberty, and/or the Maine State Prison, acting under color of law through Defendant Magnusson, failed to train the Defendant Officers on the reasonable and prohibited uses of force against nonresponsive prisoners when they failed to train and enforce policies governing use of force on prisoners via chemical agents, or failed to ensure all prison officers were adequately trained on the Department's use of force policies on or about May 6, 2016.

95. The Maine Department of Corrections' and Deputy Warden Ross's failure to implement, train or enforce policies or sufficiently train prison officers on the reasonable use of force via chemical agents or on the necessary decontamination after exposure to chemical agents amounts to deliberate indifference to the rights of prisoners, like Mr. Reese, with whom prison officers routinely engage.

96. The need for detailed policies and procedures on the reasonable use of force via chemical agents or on the necessary decontamination after exposure to chemical agents is closely related to Mr. Reese's injury that was caused by the excessive and malicious use of chemical agents against him, and Mr. Reese's deliberately prolonged exposure to the chemical agent residue.

97. Any of the Defendant Officers' violation of Mr. Reese's Eighth Amendment rights was reasonably foreseeable to Deputy Warden Ross, the Department of Corrections, and/or the Maine State Prison because the Department authorized and equipped prison officers to carry and utilize chemical agents against prisoners, and because Deputy Warden Ross reviewed use-of-force reports documenting the use of chemical agents.

**COUNT IV**  
**42 U.S.C. § 1983 (Eighth Amendment)**  
**(Against Defendant Ross)**

98. Mr. Reese repeats the allegations above in paragraphs 1 through 98 as if fully set forth herein.

99. Acting under the color of state law, Deputy Warden Ross violated Mr. Reese's Eighth Amendment rights by failing to supervise the use of chemical agents by officers at the Maine State Prison.

100. In the lead-up to the May 2016 use of force against Mr. Reese, Deputy Warden Ross knew of the practice at the Maine State Prison to use "super-soaker" quantities of chemical agent during a planned cell extraction, in violation of policy, and further knew that systemic violation of this use-of-force policy was likely to lead to a deprivation of constitutional rights in violation of clearly established law.

101. Deputy Warden Ross's failure to supervise the "super-soaker" quantities of chemical agents was a proximate cause of the excessive use of chemical agents against Mr. Reese in May 2016.

**COUNT IV**  
**42 U.S.C. § 1983 (Substantive Due Process)**  
**(Against Defendants Liberty and Magnusson)**

102. Mr. Reese repeats the allegations above in paragraphs 1 through 92 as if fully set forth herein.

103. The Department has violated Mr. Reese's due process rights to sufficient notice and fair warning of that policy and/or procedure.

104. The Department of Corrections, acting under color of law through Defendant Liberty, and/or the Maine State Prison, acting under color of law through Defendant Magnusson, refuse to disclose to prisoners any Department policy related to permissible or prohibited use of force on prisoners via chemical agents.

105. The Department and/or Prison's refusal to disclose any use-of-force policy in effect denies Mr. Reese the opportunity to conform his future conduct in a manner to avoid forceful exposure to chemical agents.

106. Mr. Reese's inability to conform his conduct to avoid being subjected to chemical agents was a reasonably foreseeable result of the policy prohibiting disclosure of any use-of-force policy, and the ongoing refusal to disclose the policy places Mr. Reese at risk of future harm.

107. The Department and/or Prison's ongoing refusal to disclose any use-of-force policy in effect renders the policy (or policies) void for vagueness because the secret policy insufficiently defines its prohibitions.

108. The Department and/or Prison's ongoing refusal to disclose any use-of-force policy is an established policy or practice of the Department authorized by Defendant Liberty and/or Defendant Magnusson as the final decision maker, and not a rogue and unauthorized act.



**COUNT V**  
**5 M.R.S.A. § 4682 (Maine Constitution, Art. 1, § 9)**  
**(Against All Defendants)**

109. Mr. Reese repeats the allegations above in paragraphs 1 through 99 as if fully set forth herein.

110. The above-described conduct of the Defendant Officers and/or Defendant Liberty and Defendant Magnusson denied Mr. Reese of his rights, guaranteed by the Maine Constitution, Art. 1, § 9, to be free from infliction of cruel and unusual punishment.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Geoffrey Reese respectfully requests that the Court:

1. Declare that Defendants Kevin Court, Michael Burns, Michael LeClaire and/or Kyle Ruffner, violated Mr. Reese's clearly established Eighth Amendment rights and Maine constitutional rights when they maliciously and arbitrarily deployed a volume of chemical agents against Mr. Reese eight times greater than the maximums permitted by the Prison's Chemical Agent Policy and Manufacturer's Directives to incapacitate and punish Mr. Reese for covering his cell window with toilet paper and for refusing to comply with the Defendant Officers' orders.

2. Declare that Defendants Michael Burns and/or Kyle Ruffner violated Mr. Reese's clearly established Eighth Amendment rights and Maine constitutional rights when they maliciously caused Mr. Reese to endure ongoing pain and injury from residual chemical agent residue on Mr. Reese's skin when they refused to permit Mr. Reese to bathe or otherwise rinse the residue for a period of three days.

3. Declare that Deputy Warden Ross, the Maine Department of Corrections and the Maine State Prison, acting through Defendants Randall Liberty and Matthew Magnusson, violated Mr. Reese's Eighth Amendment rights and Maine constitutional rights when they failed to properly train prisoner officers who foreseeably engaged with prisoners such as Mr. Reese on prohibited

uses of force via chemical agent to punish or control nonaggressive prisoners who pose no threat to officer safety, prisoner safety, or general prison security.

4. Declare that Deputy Warden Ross violated Mr. Reese's Eighth Amendment right and Maine constitutional rights when he failed to properly supervise prison officers who use "super-soaker" quantities of chemical agents against prisoners in violation of prison policy and with deliberate indifference to the rights of prisoners, like Mr. Reese.

5. Declare that the Maine Department of Corrections and the Maine State Prison, acting through Defendant Randall Liberty and/or Defendant Matthew Magnusson violated Mr. Reese's clearly established due process rights when it established and enforced the Department of Corrections' policy prohibiting disclosure of any Department of Corrections use-of-force policy, if any.

5. Enjoin Commissioner Liberty, Warden Magnusson, the Department of Corrections and the Maine State Prison to adopt and implement policies governing reasonable use of force via chemical agents and chemical agent decontamination, and to properly train corrections officers on those policies.

6. Commissioner Liberty, Warden Magnusson, the Department of Corrections and/or the Maine State Prison from denying any prisoner access to any Department use-of-force policy in effect. Alternatively, declare that Department's secret use-of-force policies are void for vagueness because prisoners are denied the reasonable notice or opportunity to conform their conduct within the policy.

7. Award Mr. Reese compensatory damages for physical harm in an amount determined to be reasonable, award Mr. Reese's costs and attorney's fees pursuant to 42 U.S.C. § 1988(b), and award such other relief that the Court deems just and proper.

Dated at Portland, Maine this 14th day of February, 2020.

GEOFFREY REESE

By his attorneys,

/s/ James G. Monteleone

David A. Soley

James G. Monteleone

BERNSTEIN SHUR

100 Middle Street, P.O. Box 9729

Portland, ME 04104-5029

(207) 774-1200

Email: [dsoley@bernsteinshur.com](mailto:dsoley@bernsteinshur.com)

[jmonteleone@bernsteinshur.com](mailto:jmonteleone@bernsteinshur.com)

/s/ Emma E. Bond

Emma E. Bond

Zachary L. Heiden

AMERICAN CIVIL LIBERTIES UNION OF  
MAINE FOUNDATION

121 Middle Street, Suite 303

Portland, Me 04103

(207) 619-6224

Email: [zheiden@aclumaine.org](mailto:zheiden@aclumaine.org)

[ebond@aclumaine.org](mailto:ebond@aclumaine.org)