
(full name/prisoner number)

(complete mailing address)

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
_____ DIVISION**

Plaintiff,

vs.

Defendant(s).

Case No. _____
(to be assigned by Court)

**PRISONER CIVIL RIGHTS
COMPLAINT: EXCESSIVE FORCE
CLAIM**

Jury Trial Requested: ___ Yes ___ No

JURISDICTION

The United States District Court for the District of Montana has jurisdiction over my claims because they arise under a federal statute or the federal Constitution.

PLAINTIFF

My name is _____ . I am a citizen of the State of _____ ,

presently residing at _____ .

Excessive Force Claim

DEFENDANT’S NAME and TITLE (one only) _____

DEFENDANT’S EMPLOYER and WORKPLACE _____

Prison officials may not use excessive force when interacting with you. At the most basic level, excessive force is physically abusive government conduct. Graham v. Connor, 490 U.S. 386, 394 (1989). The Eighth Amendment, which gives you the right to be free of “cruel and unusual punishment,” places limits on the physical force a prison official may use. The Eighth Amendment allows prison officials to use force in a good-faith effort to maintain or restore discipline but does not allow prison officials to assault you for the purpose of causing your harm. Wood v. Beauclair, 692 F.3d 1041, 1045 (9th Cir. 2012); Rodriguez v. Cnty. of Los Angeles, 891 F.3d 776, 795 (9th Cir. 2018).

You, as the plaintiff, bear the burden of proving that the defendant(s) ’s acts constituted excessive force and deprived you of your rights under the Eighth Amendment. You must show that the Defendant(s) used excessive and unnecessary force; the Defendant(s) acted maliciously and sadistically for the purpose of causing harm and not in a good faith effort to maintain or restore discipline; and the Defendant(s) ’s acts actually caused you harm.

To state a claim for excessive force, you will need to describe the following: (1) what you did or said (if anything) that led the Defendant(s) to think that physical force was necessary; (2) that the Defendant(s) used physical force on you in a “malicious” and “sadistic” way to cause harm, and not in a good-faith effort to maintain or restore discipline (this requires you to show that the Defendant(s) specifically intended to cause you harm); (3) the Defendant(s) ’s stated or perceived reason for using physical force; (4) whether the Defendant(s) made any effort to lessen or temper the severity of a forceful response; (5) why the amount of forced used was unreasonable; and (6) the extent of injury you suffered.

The rest of this complaint form contains boxes for your answers. If you need more space, please attach an additional page or pages and write the question number(s) to which you are responding. Fill out all questions to the best of your ability. If you do not know or do not have the information you need to answer the question, state that and then move on to the next question.

If you name more than one Defendant, then you will need to copy and fill out pages with questions that ask for specific information about a particular Defendant. For example, if you name three Defendants, then fill out the questions that ask about the role and/or conduct of a specific Defendant a total of three times (once per Defendant).

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1. On this date _____, at this place _____, I said or did the following, after which the Defendant used physical force against me (describe what you were doing just before the Defendant used physical force; this could include that you were doing nothing):

2. Before applying any force, this particular Defendant responded or reacted in this way to what I said or did (describe what the Defendant said or did in the moments just before they used force against you, including whether they gave any verbal warning or made any taunting, jeering, or other unprofessional comments):

2. (continued):

3. During the use of force incident, I said or did this (if anything) (include anything you said to the Defendant and/or others, including whether you attempted or refused to cooperate with the Defendant's commands):

4. During the use of force incident, this particular Defendant said or did this, including why they were using force:

5. This is what the Defendant tried to do (if anything) before or during the incident to lessen or the amount of force that the Defendant eventually used (if the Defendant did nothing to reduce the amount of force they used during the incident, say so):

6. These are particular facts that show the amount of forced used was unreasonable and was too much force under the circumstances, and how this particular Defendant used force in a malicious and sadistic way to cause me harm (describe how you know that the Defendant intended to harm you, including for example any comments they made, how the force used appeared calculated to inflict pain rather than just subdue you, and whether any other prison staff were watching):

7. As background information only, here are other facts about when, where, how, and why any other people involved in the incident said or did something before, during or after the incident:

8. These are the injuries I suffered from this Defendant's acts or inaction:

9. This is a brief list of the evidence (witnesses and documents) I now know of or possess that I intend to present at trial to prove all of the allegations above and a brief explanation of what it proves:

10. These are the remedies I am asking for (such as money, or an order that this Defendant act or stop acting in a certain way, or a Court declaration that the Defendant violated my constitutional rights):

11. **If this is a claim against prison officials:** On these dates, _____, this is what I did to exhaust my administrative remedies to bring this claim to the attention of supervisors or authorities before I included this claim in a federal civil rights lawsuit, and I am attaching the grievance forms and grievance appeals to this document, or explaining why I have not used the grievance process or attached the forms:

DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury that I am the Plaintiff in this action; that I have read this Complaint; that the information contained in this Complaint is true and correct (28 U.S.C. § 1746; 18 U.S.C. § 1621); and that this Complaint was placed in the prison mailing system or handed to the prison legal resource personnel for e-filing on _____.
(month, date, year)

(signature of Plaintiff)

Forms for related claims (available in PDF format from District Court website):

- Conditions of Confinement claim
- Medical Care claim
- Retaliation claim