

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

JEROME BARTEE, JR.,  
*Plaintiff,*

§  
§  
§  
§  
§  
§  
§  
§

CIVIL ACTION NO. 4:16-cv-02944

VS.

Jury Requested

HARRIS COUNTY; AND ANDREW ROWELL,  
JEREMY RINGLE, AND SALVADOR GARIBAY  
IN THEIR INDIVIDUAL CAPACITIES, ONLY  
*Defendants.*

**PLAINTIFF’S SECOND AMENDED COMPLAINT**

Plaintiff Jerome Bartee, Jr. [“Bartee”] respectfully comes before this Honorable Court pursuant to 42 U.S.C. § 1983 complaining that Defendants herein acted under color of state law and unreasonably deprived him of his clearly established Fourteenth Amendment right to due process as a pretrial detainee. In support thereof, Plaintiff alleges the following:

**I. SUMMARY OF THE ACTION**

1. Bartee was a pretrial detainee in the Harris County Jail medical unit on September 4, 2016.
2. A Harris County Detention Officer shoved Bartee against a holding cell door, another grabbed him around the neck from behind, a sheriff’s deputy grabbed him around his head from the front, more than 10 officers took Bartee to the ground and, while they restrained him on his back, brutally assaulted him with more than 20 punches to his face and kicks to his legs and body.
3. Bartee suffered bilateral nasal bone fractures, a left orbital floor blowout fracture, multiple cuts and bruises, a closed head injury and a deprivation of his clearly established constitutional rights under color of state law.
4. Bartee has permanent vision deficits in his left eye as a result of his injuries.

5. At all times relevant hereto, Harris County policymakers were aware of the culture within the Harris County jail which caused Barteo to be unnecessarily assaulted while he was on his back, held down by all of his limbs, and unable to move (much less defend himself).

**II. SUMMARY OF AMENDMENTS**

6. Plaintiff respectfully amends his First Amended Complaint and:
  - a. adds:
    - i. Defendants Danny Meece, Joshua Degler, Hunter Harrison, Micaela Martinez, Giovana Campos, Abraham Romero and John Payne;
    - ii. a failure to protect cause of action;
    - iii. a failure to supervise cause of action; and
    - iv. an additional *Monell* claim; and
  - b. deletes the state causes of action herefrom.

**III. NATURE OF THE ACTION**

7. This suit arises under the Constitution of the United States (particularly the Fourteenth Amendment) and 42 U.S.C § 1983.

**IV. DEMAND FOR JURY TRIAL**

8. Plaintiff respectfully demands a trial by jury.

**V. JURISDICTION AND VENUE**

9. This Honorable Court has jurisdiction over the claims raised in this Complaint under 42 U.S.C. § 1983 and 1988.
10. Venue is appropriate in the Southern District of Texas Under 28 U.S.C. § 1391 as Defendants reside, and the acts complained of arose, in the Southern District of Texas.

**VI. PARTIES**

11. Defendant HARRIS COUNTY<sup>1</sup> is:

- a. a county in the State of Texas authorized by the laws of the State of Texas to operate the Harris County Jail; and
- b. has appeared herein for all purposes and may be served through its attorney of record.

12. Defendant ANDREW ROWELL:

- a. was at all relevant times to this cause a Harris County employee;
- b. is a resident of Texas;
- c. was a participant in the incident made basis of this lawsuit;
- d. is being sued in his individual capacity only; and
- e. has appeared herein for all purposes and may be served through his attorney of record.

13. Defendant JEREMY RINGLE (previously named as JOHN DOE I):

- a. was at all relevant times to this cause a Harris County employee;
- b. is a resident of Texas;
- c. was a participant in the incident made basis of this lawsuit;
- d. is being sued in his individual capacity only; and
- e. has appeared herein for all purposes and may be served through his attorney of record.

---

<sup>1</sup> “Harris County” herein means Harris County, Texas and its Sheriff’s Office, Corrections Department, Boards, Commissioners Court, Personnel Divisions, agents, policy makers and/or officials, collectively or individually.

14. Defendant SALVADOR GARIBAY (previously named as JOHN DOE II):

- a. was at all relevant times to this cause a Harris County employee;
- b. is a resident of Texas;
- c. was a participant in the incident made basis of this lawsuit;
- d. is being sued in his individual capacity only; and
- e. has appeared herein for all purposes and may be served through his attorney of record.

15. Defendant DANNY MEECE:

- a. was at all relevant times to this cause a Harris County employee;
- b. was a supervisor of the jail clinic (the area where the incident in question occurred);
- c. was a participant in the incident made basis of this lawsuit;
- d. is a resident of Texas;
- e. is being sued in his individual capacity only; and
- f. may be served wherever he may be found in Texas.

16. Defendant JOSHUA DEGLER:

- a. was at all relevant times to this cause a Harris County employee;
- b. is a resident of Texas;
- c. was a participant in the incident made basis of this lawsuit;
- d. is being sued in his individual capacity only; and
- e. may be served wherever he may be found in Texas.

17. Defendant ABRAHAM ROMERO:

- a. was at all relevant times to this cause a Harris County employee;
- b. is a resident of Texas;

- c. was a participant in the incident made basis of this lawsuit;
- d. is being sued in his individual capacity only; and
- e. may be served wherever he may be found in Texas.

18. Defendant HUNTER HARRISON:

- a. was at all relevant times to this cause a Harris County employee;
- b. is a resident of Texas;
- c. was a participant in the incident made basis of this lawsuit;
- d. is being sued in his individual capacity only; and
- e. may be served wherever he may be found in Texas.

19. Defendant JOHN PAYNE:

- a. was at all relevant times to this cause a Harris County employee;
- b. is a resident of Texas;
- c. was a participant in the incident made basis of this lawsuit;
- d. is being sued in his individual capacity only; and
- e. may be served wherever he may be found in Texas.

20. Defendant MICAELA MARTINEZ:

- a. was at all relevant times to this cause a Harris County employee;
- b. is a resident of Texas;
- c. was a participant in the incident made basis of this lawsuit;
- d. is being sued in her individual capacity only; and
- e. may be served wherever she may be found in Texas.

21. Defendant GIOVANA CAMPOS:

- a. was at all relevant times to this cause a Harris County employee;

- b. is a resident of Texas;
- c. was a participant in the incident made basis of this lawsuit;
- d. is being sued in her individual capacity only; and
- e. may be served wherever she may be found in Texas.

**FACTS COMMON TO ALL COUNTS**

- 22. As part of its responsibilities and services, Harris County operates a law enforcement agency – the Harris County Sheriff’s Office.
- 23. Among other duties, the Harris County Sheriff’s Office operates and controls the Harris County Jail.
- 24. The Harris County Sheriff is the policymaker for Harris County with regards to both the Harris County Jail and the employees of the Sheriff’s Office.
- 25. Defendant Harris County:
  - a. employed relevant persons, including Defendants Andrew Rowell, Jeremy Ringle, Salvador Garibay, Danny Meece, Joshua Degler, Abraham Romero, Hunter Harrison, John Payne, Micaela Martinez, Giovana Campos and others;
  - b. clothed said persons with authority over its employees under color of state law;
  - c. clothed said persons with the responsibility to observe, watch over, and manage persons placed in custody within the Harris County Jail;
  - d. at all times relevant to this litigation acted under color of law;
  - e. has a constitutional duty to refrain from practices and cultures which deprive the People of their right to Due Process;
  - f. had notice of other materially similar incidents occurring in its jail;

- g. had notice of a constitutionally deficient culture, practice, training, or custom that allowed detention officers to restrain and senselessly beat inmates in its custody; and
- h. knew or should have known said constitutionally deficient culture was the moving force behind its officers' practice of depriving inmates of their constitutional rights.

26. At all times relevant to this litigation, Defendants Andrew Rowell, Jeremy Ringle, Salvador Garibay, Danny Meece, Joshua Degler, Abraham Romero, Hunter Harrison, John Payne, Micaela Martinez, and Giovana Campos were:

- a. acting in the course and scope of their agency and/or employment relationship with the Harris County;
- b. acting under color of law; and
- c. acting in accordance with Harris County's customs, policies, and practices which were the moving force behind the constitutional violations asserted herein.

27. On or about September 4, 2016, at approximately 7:30 p.m.:

- a. Defendant Rowell was escorting Bartee to Holding Cell 4 in the Harris County Jail clinic;
- b. Defendant Rowell was 6' 1" tall and weighed 285 pounds;
- c. Bartee was 5'11" tall and weighed 156 pounds;
- d. there were two surveillance cameras in the hallway by Holding Cell 4;
- e. there was no operable surveillance camera in the clinic hall where Defendant Rowell began escorting Bartee;
- f. Defendant Rowell put his hand on Bartee's shoulder while they were in the clinic hall (off camera);

- g. Bartee turned away from Defendant Rowell and told him not to put his hands on him (on camera from here forward);
- h. Bartee raised his hands;
- i. Bartee took two steps backwards while talking to Defendant Rowell;
- j. Bartee turned to walk toward the holding cell;
- k. Defendants Garibay, Martinez, Campos and Romero were following closely behind Defendant Rowell;
- l. Defendant Rowell pushed Bartee's left shoulder twice;
- m. Bartee turned around;
- n. Defendant Rowell raised his right arm and put it across Bartee's chest (just below his chin);
- o. Defendant Rowell slammed Bartee back against the cell door;
- p. Defendant Martinez grabbed Bartee's right arm;
- q. Defendants Martinez and Rowell pushed Bartee against the cell door in unison;
- r. Defendants Garibay and Campos joined in the fray;
- s. Defendant Joshua Degler grabbed Bartee around the neck from behind;
- t. Defendant Degler put Bartee in a choke hold;
- u. Defendant Degler said, "Time to go night night";
- v. Defendant Romero joined in the fray;
- w. Defendant Harrison leaped from his chair and grabbed Bartee around the head from the front exerting force diametrically opposed to the forces exerted by Defendant Degler;
- x. Bartee was thrown on his back onto the floor;



- y. as many as ten officers held Bartee down at different points on his body;
  - z. Defendant Rowell kicked Bartee in the thigh;
  - aa. Defendant Rowell maneuvered around the crowd to the left side of Bartee's head;
  - bb. Defendant Rowell hit Bartee in the face with closed fist hammer blows;
  - cc. Defendant Garibay repeatedly kicked and stomped on Bartee's lower legs, thighs and groin; and,
  - dd. Defendant Payne retrieved leg shackles from the holdover desk and returned to watch the beating continue.
28. At the same time that the above was occurring, Defendant Jeremy Ringle:
- a. was in another area of the jail clinic;
  - b. was alerted to the commotion involving Bartee;
  - c. walked calmly down the hall toward the beating;
  - d. maneuvered himself through the crowd of officers towards Bartee's head;
  - e. pulled a female detention officer from the pile to gain access to Bartee's head;
  - f. dropped to one knee; and,
  - g. commenced rapid fire, closed-fist punches to Bartee's face for approximately 15 seconds as the other detention officers held Bartee down by each of his limbs.
29. During the assault on Plaintiff:
- a. at least 10 officers placed their hands on and restrained Bartee;
  - b. Plaintiff was on his back or his side;
  - c. at least four officers had definitively secured each of Plaintiff's various limbs;
  - d. Defendant Degler had Plaintiff in a chokehold from behind/underneath him;

- e. at least 15 Harris County employees, including those with active involvement, were in the immediate vicinity;
- f. at least 10 officers were exerting various physical forces on Bartee;
- g. there was at least one supervisor on scene;
- h. no Harris County employee attempted to coordinate the efforts of the officers who were exerting various physical forces on Bartee;
- i. no Harris County employee attempted to place Bartee on his stomach;
- j. no Harris County employee made any effort to handcuff Bartee before striking him in the face;
- k. no Harris County employee attempted to protect Bartee from Defendants' use of excessive force;
- l. at least eight officers were simultaneously shouting commands at Bartee;
- m. it was physically impossible for Bartee to comply with any one officer's verbal commands due to the number of people who were exerting competing forces onto various parts of his body;
- n. it was physically impossible for Bartee to comply with any officer's physical force due to the number of people who were exerting competing forces onto various parts of his body;
- o. Plaintiff's inability to comply with the officers' verbal instructions and/or physical forces caused him to be punched in the face at least 14 times;
- p. all Defendants knew Plaintiff was unarmed;
- q. all Defendants knew Plaintiff was not a flight risk;
- r. all Defendants knew Plaintiff did not pose a physical threat to them;

- s. all Defendants knew Plaintiff was secured on the ground by multiple officers and was unable to move;
  - t. all Defendants knew Plaintiff did not pose a physical threat to others; and
  - u. all Defendants knew Plaintiff did not do anything to cause or warrant his injuries.
30. At some point during the beatdown (but before Bartee was handcuffed), Defendant Meece ordered:
- a. Bartee to place his hands behind his back, and
  - b. the staff members to get him handcuffed.
31. When the beatdown finally stopped, a Harris County Sheriff's Deputy handcuffed a nearly unconscious Bartee.
32. Defendant Ringle pulled Bartee up from a pool of his own blood.
33. All reasonable law enforcement officers in a comparable scenario would know that they would not attempt to place handcuffs on Plaintiff until he was on his stomach.
34. All reasonable persons and law enforcement officers would know that at least 10 people exerting simultaneous and opposing physical forces onto a single person who is on his back:
- a. prohibits the victim from complying with any person's verbal commands and/or physical forces;
  - b. eliminates any reasonable possibility that the victim will mount a meaningful counter-attack;
  - c. eliminates any reasonable possibility that the victim will escape;
  - d. eliminates any reasonable possibility that the victim will harm himself;
  - e. eliminates any reasonable possibility that the victim will harm others;

- f. eliminates any reasonable possibility that the victim can be placed onto their stomach;
  - g. eliminates any reasonable possibility that the victim can be handcuffed before being subjected to excessive force; and,
  - h. eliminates the purpose of compliance techniques because the victim is incapable of complying with anything.
35. The individual Defendants acted in accordance with a pre-existing and longstanding Harris County practice, custom, procedure or culture whereby:
- a. an unnecessarily large number of officers subdue inmates without any attempt to coordinate their respective efforts without repercussion;
  - b. officers utilize excessive force when the inmate fails to comply with verbal orders and/or physical forces without repercussion;
  - c. officers create scenarios in which victims cannot comply and unnecessarily harm them in response without repercussion;
  - d. officers do not accurately document their respective uses of force without repercussion;
  - e. supervisors do not adequately supervise officers who use force to subdue inmates without repercussion; and
  - f. officers were not held accountable for their unreasonably excessive uses of force inside the jail.
36. The Harris County Jail has a long history of:
- a. using an “unnecessary application of force” on its detainees;
  - b. not disciplining its jailers for using unreasonably excessive force;

- c. not requiring its jailers to submit accurate use of force reports;
- d. not disciplining its jailers for refusing to submit accurate use of force reports;
- e. allowing or encouraging an unreasonably large number of jailers to swarm inmates and engage in uncoordinated efforts to subdue them (thereby preventing inmates from complying with verbal commands or physical forces exerted on them); and
- f. allowing or encouraging jailers to utilize excessive force when inmates inevitably fail to comply with verbal commands or physical forces due to uncoordinated efforts.

37. Alternatively, Harris County jailers intentionally coordinate their efforts and forces in such a way that ensures inmates are unable to comply with verbal commands or physical forces, thereby providing a systematic pretext for the deprivation of inmates' constitutional rights.

**A. THE UNITED STATES DEPARTMENT OF JUSTICE MEMORANDUM**

38. On June 9, 2009, the United States Department of Justice ["DOJ"] issued a memorandum entitled "Investigation of the Harris County Jail" ["2009 DOJ Memorandum"].

39. The DOJ concluded generally "that certain conditions in the [Harris County] Jail violate the constitutional rights of detainees."

40. Of the many constitutional deficiencies identified by the DOJ, two are specifically pertinent to this case:

- a. Harris County permitted its employees to use significant force without having measures in place that would enable it to review the propriety of such uses of force; and
- b. jail supervisors approved officers' use of force without investigating the need for that force.

41. The DOJ referred to these specifically relevant deficiencies as “systemic.”
42. The 2009 DOJ Memorandum recommended that Harris County “alter its procedures for cell extractions and other use of force situations to ensure that staff are utilizing appropriate force techniques.”
43. The DOJ submitted these recommendations to the Harris County Judge, Harris County Attorney, and the Harris County Sheriff.
44. The Harris County Judge is a policymaker with respect hereto.
45. The Harris County Attorney is a policymaker with respect hereto.
46. The Harris County Sheriff is Harris County’s final policymaker with respect hereto.
47. Specifically, the Harris County Sheriff is the final policymaker concerning both the Harris County Jail and the Harris County Sheriff’s Deputies as a matter of law.
48. Despite the DOJ’s 2009 recommendations, violence against Harris County Jail detainees by Harris County employees continued.
49. In the year before the beating of Plaintiff, the Harris County Jail had:
  - a. 64 recorded incidents involving use of force on an inmate where three or more officers were involved;
  - b. 21 recorded incidents involving use of force on an inmate/detainee where five or more officers were involved; and
  - c. at least 5 incidents involving use of force on an inmate where the Harris County officers involved failed to report the use of force.
50. Upon information and belief, Harris County Jail has a history of determining that actions by employees that constitute an unnecessary use of force (specifically closed fist strikes to the face) were “justified” and “within the guidelines of policy, procedure, and law.”

51. Such determinations and persistent practices were moving forces behind injuries to prisoners and pretrial detainees, including Plaintiff Bartee.

52. Upon information and belief, Harris County intentionally and consciously disregarded the DOJ's 2009 admonitions and recommendations.

53. Said conscious disregard and deliberate indifference caused Plaintiff's injuries herein.

**B. HARRIS COUNTY'S UNCONSTITUTIONAL PRACTICES, CUSTOMS, CULTURES, AND/OR TRAININGS**

54. Upon information and belief, Harris County had actual knowledge of unconstitutional customs, cultures, trainings, and/or practices in the Harris County Jail of using excessive force against inmates and detainees.

55. Harris County has actual knowledge of said customs, cultures, training, and practices despite official written policies to the contrary.

56. Harris County has permitted and condoned these customs, cultures, training, and practices despite official written policies to the contrary.

57. The present case arises from Harris County's continued implementation of improper and illegal customs, cultures, training, and practices that cause severe injuries, including those injuries suffered by Plaintiff.

58. At all times relevant to this litigation, Harris County was required to train its detention employees on the use of appropriate force on persons in custody to keep them safe from unnecessary physical or psychological injury or harm.

59. On or about September 4, 2016 (and at all times relevant to this matter) Harris County was required to keep Bartee safe and free from unnecessary physical and psychological injury or harm.

60. The photograph below is Bartee upon booking into the Harris County Jail on September 3, 2016:



61. The photograph below is Bartee after the beating:





62. At the time of the incident, Ron Hickman was the Harris County Sheriff.
63. On or about September 4, 2016, the unnecessary and excessive beating was digitally recorded by the Harris County Jail's high-definition surveillance video camera system.
64. The videos of the beating show the following officers engaging in, encouraging, supporting, and/or allowing the county-sponsored violence within the Harris County Jail:
  - a. seven Harris County Detention Officer employees in white shirts;
  - b. two Harris County Detention Officers in blue shirts;
  - c. three uniformed Harris County Sheriff Deputies; and
  - d. one Special Operations Detention Officer.
65. The most brutal violence was meted out by Defendants Andrew Rowell, Jeremy Ringle, Joshua Degler, Hunter Harrison, and Salvador Garibay.
66. Harris County Sheriff Ron Hickman and other Harris County policymakers viewed the video recording(s) of the beating.

67. On or about September 4, 2016, Defendant Payne contacted the Harris County District Attorney to file charges against Bartee for Assault on a Public Servant (Injury), a third-degree felony.

68. On or about September 4, 2016, the Harris County District Attorney accepted the Harris County Sheriff's version of the incident and filed charges against Bartee for Assault on a Public Servant (Injury), a third-degree felony.

69. On or about September 7, 2016, Sheriff Hickman held a press conference concerning the incident at issue herein, and:

- a. announced that Harris County Jail detention employees had used "an unnecessary application of force" (a.k.a. excessive force) against Bartee;
- b. announced that it is Harris County's responsibility "to care for that inmate and make sure that he's treated properly, regardless of his response";
- c. announced that the jail camera system is designed so that he can gather information and then decide whether or not Harris County employees "can be held accountable for what's being done";
- d. announced that the Harris County Sheriff's Office Internal Affairs Division began an investigation of the incident within 13 hours of the beating (including an analysis of the video and questioning the Harris County employees involved);
- e. announced that his investigation led him to suspend with pay three Harris County detention employees in connection with the beating;
- f. announced that the videos of the beating would not be released to the public or media;

- g. announced that Harris County alleged that the beating stemmed from an altercation between Defendant Rowell and Bartee that was initiated by Bartee;
  - h. announced the \$5 million high-definition surveillance video cameras in the jail were “very new installations;”
  - i. announced said surveillance cameras were put in place “within the last weeks” before the beating of Bartee;
  - j. announced said surveillance cameras would revolutionize the “antiquated video system” that had been in place in the jail and was unable to record
  - k. said, “The failed leadership of the past decade has left the jail woefully understaffed by a young workforce;”
  - l. said, “the video obviously depicts what we would see as unnecessary application of force. You know, obviously we have a group of people. There's a point where you can see there's enough to restrain the individual; and then when you go beyond that, that's not what we're here for;”
  - m. said, “in the investigation we felt like their [the three suspended officers’] role went above and beyond what was necessary”; and
  - n. said, “We've been very hopeful that this helps change the culture in the jail on both sides.”
70. These statements from the Harris County policymaker with respect to law enforcement in Harris County (and at the Harris County Jail in particular) evidence:
- a. the longstanding pre-existing culture, practice, custom, and training of using excessive force on inmates and detainees that was the moving force behind Plaintiff’s injuries; and

- b. Harris County's notice thereof via a relevant policymaker.
71. Upon information and belief, Defendants Andrew Rowell, Jeremy Ringle, and Salvador Garibay were the suspended Harris County employees Sheriff Hickman had referenced in his press conference.
72. On or about September 7, 2016, immediately after being released from jail, Bartee returned to Ben Taub Hospital where he received further medical treatment and learned for the first time the serious nature and extent of his injuries.
73. Below is a photo of Bartee at the hospital:



74. On or about September 8, 2016, the Harris County District Attorney dismissed the assault charge against Bartee.
75. Upon information and belief, the decision to dismiss the charges came after the Harris County District Attorney's Office:
- a. viewed the video of the beatdown; and
  - b. concluded that Bartee did not initiate the incident that led to the unconscionable and excessive beating he suffered.

76. Each of the individual Defendants caused and is responsible for the unlawful conduct described herein and the resulting injuries therefrom, including:

- a. personally participating in the unlawful conduct, acts or omissions, or acting jointly with the others who did so;
- b. authorizing, acquiescing in, or setting into motion practices, customs, cultures, training, plans, or actions that led to the unlawful conduct;
- c. failing and refusing with deliberate indifference to supervise Harris County detention officers;
- d. failing or refusing with deliberate indifference to protect Bartee from Due Process violations; and
- e. ratifying the unlawful conduct that occurred by agents and officers under their discretion and control (including failing to take remedial or disciplinary action against officers who failed to protect or supervise).

77. All Defendants acted under color of state law at all times relevant hereto.

78. Defendants deprived Bartee of his constitutional rights, including his right to be free from excessive and unreasonable force in violation of the Fourteenth Amendment.

79. Defendants were deliberately indifferent to their duty to protect Bartee from harm.

80. Defendants

- a. had actual knowledge that Bartee was in imminent danger of being injured; and
- b. failed to offer or procure appropriate interventions.

81. On September 26, 2016 (19 days after he was released from Harris County's custody), Bartee underwent 4½ hours in surgery at Ben Taub Hospital to repair the fractures in his nose and to have a metal plate implanted in place of the badly fractured left orbit.

82. Bartee was discharged from the hospital on September 28, 2016.

83. Below are photos of Bartee shortly before and after surgery:



84. The beating has caused Bartee to suffer not only physically, but also mentally and emotionally.

85. The injuries caused by this beating have prevented Bartee from returning to work for several months and continue to affect his ability to work on a consistent basis.

86. Bartee has suffered economic losses as a result of this beating at the hands of Harris County Sheriff's Deputies.

**COUNTS 1-5 – 42 U.S.C. § 1983**

**Plaintiff alleges Defendants Andrew Rowell, Jeremy Ringle, Salvador Garibay, Joshua Degler and Hunter Harrison violated his clearly established rights to Due Process under the Fourteenth Amendment to the United States Constitution**

87. The foregoing paragraphs are incorporated herein as if quoted verbatim.

88. On September 4, 2016, Plaintiff was a pretrial detainee in the Harris County Jail.

89. On September 4, 2016 Plaintiff's constitutional right to Due Process as a pretrial detainee

was:

- a. secured to him by the Fourteenth Amendment to the United States Constitution;
- b. violated by Defendants Rowell, Ringle, Garibay, Degler and Harrison; and
- c. clearly established within both the Fifth Circuit and the Southern District of Texas.

90. On September 4, 2016, said Defendants violated Plaintiff's Fourteenth Amendment right to Due Process when they:

- a. used unnecessarily excessive force;
- b. caused (*inter alia*) partial loss of vision in Plaintiff's left eye and a blowout fracture of Plaintiff's left orbit;
- c. utilized said excessive force without furthering any legitimate penological interest;
- d. utilized said excessive force in bad faith, maliciously, and recklessly; and
- e. by using excessive force that was objectively unreasonable under the circumstances herein.

91. Defendants' conduct was:

- a. deliberate and purposeful;
- b. was plainly incompetent;
- c. a knowing violation of the law;
- d. predicated upon the patently unreasonable belief that the conduct herein was reasonable;
- e. an intentional violation of the law;

- f. consciously and deliberately indifferent to Plaintiff's constitutional rights and safety;
  - g. performed while knowingly disregarding the obvious risk that repeatedly punching a defenseless person in the face while he was being held down on his side and/or back by more than 10 officers who had indisputably and designedly secured each of his limbs (while intentionally choking him) would constitute unreasonably excessive force that caused serious bodily injury;
  - h. performed while knowingly disregarding the obvious risk that more than 10 officers actively involved in securing each of his limbs (while intentionally choking him) would designedly result in his inability to comply with any officer's verbal commands or physical forces;
  - i. a significant threat to Plaintiff's clearly established constitutional right to remain free from Due Process violations and excessive force; and
  - j. evidences unreasonable misunderstandings of their respective powers and responsibilities.
92. No reasonable officer could ever believe that Plaintiff's inability to comply with an officer's commands or forces under the circumstances herein warranted the reckless, malicious, bad faith, and deliberately indifferent abuse perpetrated by Defendants herein.
93. Police officers are not even arguably given the discretion to beat the People until they lose part of their sight simply because they are incapable of complying with officers' commands or forces.
94. Plaintiff seeks punitive damages against Defendants because they:



- a. knew they lacked constitutional authority to treat Plaintiff the way they did under the circumstances herein;
  - b. acted with conscious indifference to the possibility that they were performing unreasonably unlawful acts;
  - c. acted with reckless or callous indifference to Plaintiff's federally protected rights;
  - d. recklessly violated Plaintiff's clearly established constitutional rights to remain free from Due Process violations; and
  - e. acted in a grossly negligent manner.
95. No reasonable police officer would ever believe they had the right to participate in and allow the beating of Plaintiff under the facts herein.

**COUNTS 6-14 – 42 U.S.C. § 1983**

**Plaintiff alleges Defendants Danny Meece, Andrew Rowell, Joshua Degler, Salvador Garibay, Hunter Harrison, Abraham Romero, Micaela Martinez, Giovana Campos and John Payne unreasonably violated his clearly-established Fourteenth Amendment right to Due Process by consciously refusing to protect him from violations thereof.**

96. The foregoing paragraphs are incorporated herein as if quoted verbatim.
97. On September 4, 2016, Plaintiff's constitutional right to Due Process as a pretrial detainee was:
- a. secured to him by the Fourteenth Amendment to the United States Constitution;
  - b. violated by Defendants Danny Meece, Andrew Rowell, Joshua Degler, Salvador Garibay, Hunter Harrison, Abraham Romero, Micaela Martinez, Giovana Campos and/or John Payne;
  - c. clearly established within both the Fifth Circuit and the Southern District of Texas.
98. Defendants Rowell, Ringle, Harrison and Degler had no reasonable justification for choking and punching Plaintiff approximately 22 times in the face while restrained until

(*inter alia*) his left orbit was fractured, his nasal bone was fractured, his face was lacerated and he had lost a portion of his vision.

99. Despite said Defendants' lack of any arguable justification for choking and punching Plaintiff approximately 22 times in the face causing serious and objective injuries, all individual Defendants herein allowed said assaults to take place in their immediate vicinity.

100. Defendants:

- a. were deliberately indifferent to Plaintiff's constitutional right to remain free from deprivations of his right to Due Process;
- b. intentionally ignored the fact that Plaintiff was physically incapable of complying with any officers' commands and/or forces precisely because more than 10 Harris County detention officers prevented him from doing anything of his choosing;
- c. intentionally disregarded facts which demonstrated to all reasonable officers that Plaintiff was incapable of complying with any officer's actions or orders; and
- d. allowed Defendants Rowell, Ringle, Garibay, Harrison and Degler to utilize excessive force against a defenseless inmate without making any effort to protect him therefrom.

101. All reasonable officers would know:

- a. Plaintiff could not comply with any officer's actions or orders under the circumstances;
- b. Plaintiff had a clearly-established right to Due Process under the circumstances herein;
- c. Plaintiff had a clearly established right to remain free from excessive force;

- d. the manner in which Defendants seized and assaulted Plaintiff under the circumstances was patently unreasonable;
- e. Defendants could not legitimately ignore the fact that Plaintiff was incapable of complying with their orders and forces before commencing an unnecessarily sadistic assault;
- f. peace officers who know that a fellow officer is depriving the People of their clearly established constitutional rights have a duty to protect the People therefrom; and
- g. Defendants' seizure and assault of Plaintiff under the circumstances herein was a knowing violation of the law.

102. Defendants:

- a. acted as patently unreasonable officers when they failed to protect Plaintiff from an assault they subjectively knew (or should have known) was plainly unconstitutional;
- b. acted as plainly incompetent officers when they failed to protect Plaintiff from an unreasonable assault they knew (or should have known) was plainly unconstitutional; and
- c. knowingly violated the law when they failed to protect Plaintiff from an assault they subjectively knew was plainly unconstitutional.

103. Defendants' acquiescence to Plaintiff's brutal assault under the circumstances:

- a. was plainly incompetent;
- b. knowingly violated the law;
- c. intentionally violated the law;

- d. was consciously and deliberately indifferent to Plaintiff's constitutional rights and safety;
- e. was the product of unreasonably mistaken beliefs;
- f. was objectively unreasonable under these particular circumstances;
- g. evidences an unreasonable misunderstanding of their powers and responsibilities; and
- h. was a moving force behind Plaintiff's injuries.

104. Plaintiff seeks punitive damages against Defendants because they:

- a. knew there was no justifiable cause to deprive Plaintiff of his Due Process rights under the circumstances herein;
- b. acted with conscious indifference to the imminent possibility that there was no justifiable cause to deprive Plaintiff of his Due Process rights under the circumstances herein;
- c. acted with reckless or callous indifference to Plaintiff's federally protected rights;
- d. recklessly trampled on Plaintiff's rights through plainly unlawful conduct; and/or
- e. were grossly negligent with respect to Plaintiff.

**COUNT 15 – 42 U.S.C. § 1983**

**Plaintiff alleges Defendant Danny Meece unreasonably violated Plaintiff's clearly-established Fourteenth Amendment right to Due Process by failing to supervise officers under his command.**

105. The foregoing paragraphs are incorporated herein as if quoted verbatim.

106. On September 4, 2016, Plaintiff's constitutional right to Due Process as a pretrial detainee was:

- a. secured to him by the Fourteenth Amendment to the United States Constitution;

- b. violated by Defendant Meece; and
- c. clearly established within both the Fifth Circuit and the Southern District of Texas.

107. On September 4, 2016, Defendant Meece:

- a. was a Harris County Detention Sergeant;
- b. was a supervisor in the medical wing of the Harris County Jail;
- c. had a duty to supervise officers in the medical wing of the Harris County Jail;
- d. failed to supervise officers in the medical wing of the Harris County Jail;
- e. deliberately ignored the fact that his subordinate officers had made it physically impossible for Plaintiff to comply with any officer's commands or forces (much less defend himself);
- f. failed to designate a person in charge during incidents involving more than one officer at times that he was not personally present;
- g. closed his eyes to the excessive use of force that occurred in his presence; and
- h. intentionally disregarded facts that eliminated any justifiable cause for his officers to senselessly beat Plaintiff until he was seriously injured.

108. Defendant Meece's failure to supervise the officers under his command:

- a. caused Plaintiff to be deprived of his constitutional rights under color of state law;
- b. was grossly negligent;
- c. was deliberately and consciously indifferent to Plaintiff's clearly established rights;
- d. created an unusually serious risk that Plaintiff would be seriously and unnecessarily injured;
- e. was perpetuated despite his actual knowledge or willful blindness to the unusually serious risk that Plaintiff would be unnecessarily and seriously injured; and

- f. was perpetuated despite the existence of obvious and available steps to address the unusually high risk that Plaintiff would be unnecessarily and seriously injured by officers under his command.

109. It was plainly obvious that Defendant Meece could have (*inter alia*):

- a. coordinated the officers' efforts;
- b. assigned a "lead officer" for incidents involving more than one officer when he was not immediately available;
- c. trained his officers how to conduct multi-officer takedowns;
- d. disciplined his officers for incorrectly executing multi-officer takedowns;
- e. told additional officers to assist if numbers were desired;
- f. told officers to let go of Plaintiff if the numbers were already too high;
- g. instructed his officers to utilize other compliance techniques with less risk of causing unnecessarily grievous injury; and/or
- h. instructed his officers to use a lesser quantum of force at any time prior to the infliction of grievous injury.

110. Defendant Meece unreasonably permitted officers under his supervision to:

- a. swarm Plaintiff;
- b. act as a mob without any leadership;
- c. prevent Plaintiff from moving; and
- d. unnecessarily inflict serious bodily injury upon Plaintiff while he was defenseless.

111. All reasonable officers would know:

- a. failing to ensure that subordinate officers coordinate their efforts to subdue inmates when they are simultaneously exerting various physical forces would result in the inability to comply with officers' orders and forces;
- b. failing to supervise officers could foreseeably result in serious bodily injury;
- c. most people are incapable of moving once they are taken to the ground by more than 10 officers;
- d. no reasonable officer would permit an inmate to be assaulted in a comparable manner in their presence when he was already securely held down by more than 10 officers;
- e. no reasonable officer could close their eyes to the deprivation of the People's clearly established constitutional rights occurring in their presence;
- f. Defendant Meece (and his subordinates) had a duty to protect Plaintiff from deprivations of clearly established constitutional rights inflicted by officers under his command;
- g. the individual officers' conduct under these particular circumstances was patently unreasonable in light of clearly established law; and
- h. the individual officers' use of force against Plaintiff was a knowing violation of the law.

112. Defendant Meece's conduct in permitting officers under his command to deprive Plaintiff

of his clearly established right to Due Process was:

- a. plainly incompetent;
- b. a knowing violation of the law;
- c. an intentional violation of the law;

- d. objectively unreasonable under the circumstances; and
- e. a moving force behind Plaintiff's injuries.

113. Plaintiff seeks punitive damages against Defendant Meece because he:

- a. knew there was no justifiable cause to deprive Plaintiff of his Due Process rights under the circumstances herein;
- b. acted with conscious indifference to the imminent possibility that officers under his command would prevent an inmate's movement and utilize excessive force;
- c. acted with reckless or callous indifference to Plaintiff's federally protected rights;
- d. recklessly trampled on Plaintiff's rights through plainly unlawful conduct; and/or
- e. was grossly negligent with respect to Plaintiff.

**COUNT 16 - 42 U.S.C. § 1983**

**Plaintiff alleges Defendant Harris County has a practice, custom, culture, procedure, and/or training of permitting and/or encouraging its detention officers to create scenarios in which (1) inmates are unable to comply with officers' verbal commands and/or physical forces and (2) officers respond thereto with excessive force**

114. The foregoing paragraphs are incorporated herein as if quoted verbatim.

115. The Harris County Sheriff is the policymaker for Harris County with respect to Sheriff's Deputies.

116. The Harris County Sheriff is the policymaker for Harris County with respect to the Harris County Jail.

117. Harris County has a plainly inadequate practice, custom, culture, protocol, procedure, and/or training whereby staff at the Harris County Jail are permitted and/or encouraged to:

- a. subdue inmates with as many officers as possible;
- b. engage in an uncoordinated and unsupervised effort by a swarm of officers to subdue inmates;



- c. prevent inmates from complying with verbal commands and/or physical forces;
- d. prevent inmates from defending themselves from foreseeable injury resulting from unnecessary assaults by staff members;
- e. utilize excessive force to subdue inmates who are incapable of complying with officers' verbal commands and/or physical forces;
- f. refrain from making full reports on uses of force against inmates by other Harris County officers;
- g. refrain from intervening when a fellow deputy is actively violating (or preparing to imminently violate) the People's constitutional rights; and
- h. refrain from properly supervising staff members that are violating the People's constitutional rights.

118. The actions of Harris County Sheriff's Deputies with respect to Plaintiff were performed pursuant to said plainly inadequate practice, custom, culture, protocol, procedure, and/or training.

119. Plaintiff's beatdown at the hands of Harris County officers was a predictable, plainly obvious, and highly likely consequence of Harris County's deliberately indifferent and ongoing practice, custom, culture, procedure, and/or training.

120. In other words, it was:

- a. highly predictable that Harris County employees would continue to follow standards of behavior, procedures, practices, customs, cultures, and/or protocols created, implemented, adopted, or maintained by Harris County policymakers which permitted them to utilize an excessive number of officers to takedown

inmates then use excessive force when they fail to comply with officers' commands or forces;

- b. obvious that those relevant standards of behavior were inconsistent with the Constitution; and
- c. highly predictable that constitutional violations would occur from Harris County policymakers' creation, implementation, adaptation, or maintenance of standards of behavior, procedures, practices, customs, cultures, procedures, or protocols that were inconsistent with the Constitution.

121. Harris County's relevant practice, custom, culture, procedure, and/or training is evidenced by the facts that:

- a. at least 10 officers were actively involved in subduing Plaintiff;
- b. said officers had Plaintiff restrained for at least five seconds before senselessly beating him in the face;
- c. additional officers were in the immediate vicinity at all times relevant hereto;
- d. no officer attempted to coordinate said officers' efforts;
- e. no supervisor attempted to coordinate said officers' efforts;
- f. no one attempted to protect Plaintiff from said officers' use of force;
- g. no one attempted to stop Defendant Ringle from punching Plaintiff more than 10 times in his face while Plaintiff was restrained;
- h. no one attempted to stop Defendant Rowell from striking Plaintiff in the face while Plaintiff was restrained;
- i. no one attempted to intervene to coordinate the actions of the many officers involved until after Plaintiff was severely injured;

- j. all Harris County employees performed their respective actions and inactions in front of numerous non-Harris County witnesses; and
- k. all Harris County employees performed their respective actions and inactions knowing that they were being video recorded.

122. Additionally, Defendant Rowell has testified under oath in deposition on May 25, 2017 that:

- a. he has been employed as a Detention Officer at the Harris County Jail since 2012;
- b. he received all his detention officer training from Harris County;
- c. he has watched the video of the assault on Plaintiff on at least two occasions;
- d. hitting a person in the face while they are restrained is an excessive use of force;
- e. everything he saw on the video comported with the accepted practices at the Harris County Jail since he began working there in 2012;
- f. he has been involved in several takedowns of inmates where multiple officers were involved;
- g. it is not unusual for multiple officers to join in the takedown of a single inmate;
- h. Harris County has no restriction on the number of officers who can be involved in the hands-on takedown of an inmate;
- i. he has seen a number of instances where multiple officers take down an inmate;
- j. when he is involved in a takedown of an inmate where multiple officers are involved, he only focuses on what he is doing and the immediate part of the inmate he controls; and
- k. when he is involved in the takedown of an inmate where multiple officers are involved, he does not care what the other involved officers are doing.

123. Defendant Rowell's testimony constitutes competent evidence that Harris County had a pre-existing culture, practice, custom, training, or protocol of permitting the beating at issue herein to occur and that the individual Defendants comported therewith.

124. Upon information and belief, the following officers believe that their conduct in the incident in question was reasonable under the circumstances because they complied with pre-existing practices, customs, cultures, protocols, procedures, and/or trainings at the Harris County Jail:

- a. Defendant Rowell;
- b. Defendant Ringle;
- c. Defendant Meece;
- d. Defendant Garibay,
- e. Defendant Degler;
- f. Defendant Harrison;
- g. Defendant Martinez;
- h. Defendant Castro;
- i. Defendant Payne; and
- j. Defendant Romero.

125. The individual Defendants' beliefs that their conduct herein was reasonable evidences the longstanding and widespread practices, customs, cultures, protocols, procedures, and/or training within the Harris County Jail that permitted officers to prevent inmates from complying with instructions then using excessive force in response thereto.

126. Under these circumstances, Harris County's procedure, custom, practice, culture, or protocol (by and through its policymakers) was consciously and deliberately indifferent,

created unmistakable municipal culpability, and was a directly related moving force behind the deprivation of Plaintiff's constitutional rights under color of law.

127. Said procedure, custom, practice, culture, or protocol included:

- a. permitting supervising officers to abdicate their supervisory responsibilities to prevent subordinates from utilizing excessive force against defenseless inmates in their presence; and
- b. failing (or refusing) to discipline or retrain officers who failed to protect inmates from the use of excessive force by county employees.

128. Additionally, Harris County's procedure, custom, practice, culture, or protocol (by and through its policymakers) of permitting individual officers at the Harris County Jail to abdicate their responsibilities to prevent fellow officers from utilizing excessive force against defenseless inmates in their presence was consciously and deliberately indifferent, created unmistakable municipal culpability, and was a directly related moving force behind the deprivation of Plaintiff's constitutional rights under color of law.

129. These actions and omissions of Harris County (by and through its policymakers) constitute municipal encouragement or acquiescence in the deprivations of Plaintiff's civil rights under color of law.

130. Specifically:

- a. Defendants had actual knowledge they were being video recorded in the jail;
- b. Defendants had actual knowledge that a supervisor was on the scene during the incident; and
- c. Defendants had actual knowledge that the supervisor on the scene was observing their actions during the incident.

131. Therefore, Defendants' conduct during the incident demonstrates the absence of any concern that any officer was acting in a manner arguably unacceptable to Harris County.

132. Harris County (through its Sheriff's Office) has perpetuated an institutional culture of attempting to cover its' officers' bad acts by baselessly charging inmates with crimes and providing misleading and inaccurate statements on offense/use of force reports to convince prosecutors to bring criminal charges.

133. In the present case, even though the Sheriff himself and several other supervisors viewed the video of the incident shortly after it occurred, it wasn't until Bartee's criminal defense counsel was allowed to view the video that the charges against him were dismissed.

134. Furthermore, the Harris County Sheriff upgraded the video system in the jail in order to capture incidents (such as these) on video at a cost of \$5,000,000, but spent only a fraction of that amount re-training Harris County detention officers on de-escalation techniques with detainees.

135. In fact, Defendant Rowell understands the term "de-escalation" to mean "subdue" in the context of dealing with a detainee conflict.

136. Therefore, it is clearly apparent that Harris County (by and through its Sheriff as final policymaker) has perpetuated and encouraged a custom, culture, practice, protocol, training, and/or procedure whereby:

- a. its detention officers systematically subdue inmates when de-escalation is proper;
- and
- b. its supervisors permit detention officers to file false charges on victims when physical altercations occur.

137. Harris County also ratified, condoned, and/or encouraged this unconstitutional conduct.

138. Harris County received notice of its' employees' unconstitutional custom, practice, culture, protocol, and training no later than 2009 when the DOJ issued its memorandum (and at numerous times since then).

139. Said custom, practice, culture, protocol, and training was the moving force behind Plaintiff's injuries.

140. Harris County's policies, customs, practices, and conditions described in this Complaint provided the moving force for and caused Bartee's injuries.

141. The foregoing policies, practices, customs and omissions, maintained by Harris County violated Bartee's constitutional rights, including but not limited to those granted by the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983.

**COUNT 17 - 42 U.S.C. § 1983**

**Plaintiff alleges Defendant Harris County ratified its officers' failures to protect and failures to supervise because (*inter alia*) they complied with Harris County's pre-existing culture, practice, protocol, custom, and/or training**

142. The foregoing paragraphs are incorporated herein as if quoted verbatim.

143. On September 4, 2016 Plaintiff's constitutional right to Due Process as a pretrial detainee was:

- a. secured to him by the Fourteenth Amendment to the United States Constitution;
- b. violated by Defendants; and
- c. clearly established within both the Fifth Circuit and the Southern District of Texas.

144. Upon information and belief, Defendant Harris County suspended Defendants Rowell, Garibay and Ringle based on their involvement in this incident.

145. Upon information and belief, Defendant Harris County did not suspend, retrain, or in any way discipline Defendants Degler, Meece, Payne, Harrison, Romero, Martinez, or Castro.

146. More than 10 Harris County officers were actively involved in restraining Plaintiff before he was assaulted.
147. These Defendants were clearly visible on the video of the incident that was reviewed by the Sheriff and other supervisors and/or policymakers.
148. More than two-thirds of said officers were not subjected to retraining or discipline because they acted in accordance with pre-existing cultures, practices, customs, protocols, and/or trainings.
149. Specifically, there were additional incidents in the Harris County Jail in which multiple Harris County detention officers swarmed inmates, fully restrained them, and then permitted them to be senselessly beaten while they were unable to defend themselves.
150. Upon information and belief, many of these previous incidents occurred without repercussions to the officers involved.
151. Therefore, Defendant Harris County's decision to refrain from re-training or disciplining its officers who both (a) were present and (b) uniformly refused or failed to even attempt to protect Plaintiff from being senselessly beaten (while he was unable to protect himself) constitutes ratification of their respective failures and refusals.
152. Additionally and/or alternatively, said conduct evidences one or more pre-existing Harris County cultures, practices, customs, protocols, and/or trainings with which the individual Defendants complied.
153. Said pre-existing Harris County cultures, practices, customs, protocols, and/or trainings were the moving forces behind Plaintiff's injury.

**DAMAGES**



154. Defendants are jointly and severally liable for the wrongs complained of herein, either by virtue of direct participation or by virtue of encouraging, aiding, abetting, committing, and/or ratifying and condoning the commission of the above described acts (and/or omissions associated therewith).

155. Plaintiff is entitled to compensatory, special, and punitive damages for (*inter alia*), the following:

- a. extreme mental anguish and emotional distress as a result of being physically assaulted and battered by Defendants;
- b. extreme physical abuse, mental anguish and emotional distress as a result of Defendants' improper conduct;
- c. violation of Plaintiff's civil rights by Defendants; and
- d. punitive damages for egregious acts and omissions of the individual Defendants only.

156. Plaintiff is entitled to attorney's fees for litigation of this matter under 42 U.S.C. § 1988.

**PRAYER FOR RELIEF**

Plaintiff Jerome Bartee, Jr., prays that for judgment on his behalf and against all Defendants jointly, severally, and *in solido*, as follows:

- a. compensatory and special damages;
- b. punitive damages as to the individual Defendants only;
- c. presumed damages;
- d. nominal damages;
- e. the cost of this action and reasonable attorney fees as provided by 42 U.S.C. §§ 1983 and 1988;

- f. judicial interest; and
- g. such further relief as this Honorable Court deems just and equitable.

Respectfully submitted,

**PERDUE & KIDD**

By: /s/ Donald H. Kidd  
Donald H. Kidd  
State Bar No. 11383100  
Southern District of Texas No. 15875  
[dkidd@perdueandkidd.com](mailto:dkidd@perdueandkidd.com)  
777 Post Oak Blvd., Suite 450  
Houston, Texas 77056  
Tel: (713) 520-2500  
Fax: (713) 520-2525

**ATTORNEY-IN-CHARGE FOR  
PLAINTIFF**

**OF COUNSEL:**

William Pieratt Demond  
Texas Bar No. 24058931  
So. Dist. Texas No. 1108750  
Email: [william.demond@demondhassan.com](mailto:william.demond@demondhassan.com)

Meagan Hassan  
Texas Bar No. 24065385  
So. Dist. Texas No. 1261057  
Email: [meagan.hassan@demondhassan.com](mailto:meagan.hassan@demondhassan.com)

DEMOND & HASSAN, PLLC  
1520 Rutland Street  
Houston, Texas 77008  
Tel: 713.701.5240  
Fax: 713.588.8407

