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FOR THE PLAINTIFF

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING**

STEVEN R. ERVIN,)	Civil Action No. 09-CV-044D
)	
Plaintiff)	
vs.)	SECOND AMENDED
)	COMPLAINT
)	
JUSTIN SNELL,)	JURY TRIAL DEMANDED
In his Official and Individual Capacities)	
)	
Defendant)	

PRELIMINARY STATEMENT

In 2001, the U.S. Court of Appeals for the Tenth Circuit expressly held that a Prison guard who deliberately labels a prisoner a “snitch” to other prisoners is placing that prisoner in danger of assault and may be sued for damages. See Banefield v. Medowell, 241 F. 3d 1267 (10th Cir. 2001). On or about March 3rd, 2008, Defendant Justin Snell, a Correctional Officer, (Corporal) at the Wyoming State Penitentiary (WSP), told three African American inmates, while other inmates in the B-2 Unit listened in, that the Plaintiff, Steven R. Ervin, was currently in a room with his (WSP) caseworker,

“snitching” on the three African American inmates, Vernon Hairston, Stacey Daniels, and Mike Patterson. Upon leaving said room with his Caseworkers, Randy Baunach, and Ron Schmitz, the Plaintiff, entered the B-2 Unit and was soon after confronted and threatened in the B-2 Unit computer room by three (WSP) inmates, Vernon Hairston, Stacey Daniels, and Mike Patterson while other inmates in the unit looked on, as the Defendant, Justin Snell nonchalantly did a walk through the unit.

(WSP) Inmate Stacey Daniels spoke first to the Plaintiff, Steven R. Ervin saying, “Snell, (the Defendant) just came and told us, (referring to (WSP) inmates Hairston, and Patterson), that you were in the ‘back room’ “snitching.” “Inmate Daniels proceeded to tell the Plaintiff, that the Defendant, Justin Snell, had just told the three African American inmates as other inmates within the unit listened in, that, “he” (the Plaintiff) Steven R. Ervin was in the back room with them white folks snitching on us, and telling them peckerwoods that the Plaintiff, did not want to be housed up with inmate Patterson for alleged conflicts with inmate Patterson and preferred to cell up with a ‘white boy’.”

The Plaintiff was backed up against the west wall of the computer room with only one way in or out, preparing to defend his self, when inmate Patterson interjected, “I’m ready to handle this (explicative) right now!” “Come on let’s handle this fool.” meaning the Plaintiff, Steven R. Ervin was to get a beat down. At which the Plaintiff’s response was, “What ever I was in the back room talking about is nobody’s business but my own, and who put a ‘snitch’ jacket on me?” Inmate Hairston then said to the Plaintiff; Steven R. Ervin, “Snell!” referring to the Defendant; Justin Snell a Correctional Officer at the Wyoming State Penitentiary with the title of ‘Corporal.’ Inmate Hairston said, “Snell just came in here and told us that you were in the back room with them white folks, snitching

on all of us, now why would he just come in here and lie 'Dino' calling the Plaintiff by his 'nickname? Inmate Hairston then pointed to the Defendant, Justin Snell, and said, "Ask him, ask him if he didn't come right out and call you a snitch, said you been back there talking to them white folks about the brothers. The Plaintiff Steven R. Ervin then moved between the three inmates and approached the Defendant, Justin Snell and asked the Defendant, "What the (explicative) Snell, you trying to put a snitch jacket on me?"

The Defendant, Justin Snell responded to the Plaintiff by saying, "Don't try to lie out of it Ervin, you know you were back there running your mouth off." At which the Plaintiff responded with, "You don't know what I was back there talking about and it's not your business to spread rumors to anybody about my business." The Plaintiff then turned to face an eventual confrontation between his self and the three African American inmates, when inmate Hairston said, "Everybody just be cool, their watching us now from the control unit, come on in here man we just want to talk to you about this." The Defendant; Justin Snell remained at the pod control podium, while the Plaintiff walked with the three African inmates to the computer room leaving the door open as a precaution because it was imminent there was an eventual confrontation.

The Plaintiff; Steven R. Ervin then attempted to reconcile with the three inmates as the rest of the B-2 Unit inmates looked on. Inmate Patterson kept repeating, 'Let's handle this fool, (implicating the Plaintiff), I'm ready to get down right now, I'm not scared of these punk (explicative) cops, let's do this.'" Inmate Patterson was obviously not concerned with (WSP) prison staff and was intent on beating the Plaintiff to a pulp. Plaintiff was fearful for his life but maintained calm, calculating a way this incident could be reconciled without incident. (WSP) Policy is such that both parties in a fight

regardless of who is the initiator get placed in Disciplinary Segregation and served with additional charges. The Plaintiff promised his Wife, Mother and Pastor he would make it to his Parole Hearing with a clean slate and not get into any trouble during his incarceration.

The Plaintiff asked inmate Daniels, who seemed to be more restrained and willing to listen, "What you going to try and beat me up now, I can take an (explicative) whipping, and I can give one too?" The Defendant, Justin Snell seemed to be enjoying the situation by sneering and laughing at the Plaintiff, when inmate Hairston said, "Hey they're locking us down for count in just a few minutes; we're going to handle this (explicative) when we come out for count Dino, Plaintiff; Steven R. Ervin."

The Plaintiff went to his cell, and was shortly approached by the Defendant, Justin Snell, inside his cell. The Defendant asked the Plaintiff, "You got any conflicts with anybody in this pod Ervin?" To which the Plaintiff responded, "I have never had nor do I have a conflict with anybody in this prison." The Defendant; Justin Snell then asked the Plaintiff; Steven R. Ervin, "You know you were back there talking to them caseworkers about what's going on in this pod Ervin."

The Plaintiff, then told the Defendant, 'Snell it really don't look good with you standing here in my cell man you got to get out of here.'" The Defendant left the Plaintiff's cell, walked down the stairs and went to inmate Hairston's cell door for a few brief moments, then returned to the Plaintiff's cell, and ordered the Plaintiff, to roll his (explicative) up. The Plaintiff asked the Defendant, "What's going on here Snell, why are you (explicative) with me, where you moving me too?" The Defendant asked the

Plaintiff, "Do you feel safe in this pod Ervin?" The Plaintiff responded, he never had a conflict with any inmate in any prison because he tried mind his own business.

The Defendant, Justin Snell then told the Plaintiff, "Well you must have some kind of conflict if you were back there running your mouth, roll your (explicative) up Ervin, I ain't got time to play with you."

The Defendant assisted the Plaintiff in gathering up his belongings and escorted him out of the unit under the watchful eyes of the entire B-2 Unit, and placed the Plaintiff in A-1 Unit, to which the Plaintiff learned three days later, from a (WSP) Correctional Officer in the A-1 Unit, that he the Plaintiff Steven R. Ervin, was in Administrative Segregation because The Defendant, Justin Snell, had (explicative) up by telling the 'Brothers' the Plaintiff; Steven R. Ervin was a 'snitch.' A second shift Correctional Officer for A-1 Unit went on further and confided confidential information to the Plaintiff; Steven R. Ervin that he the Plaintiff, was in Protective Custody for something involving the 'Brothers' in B-2 Unit.

Some time between March 3rd 2008, and March 10th, 2008 The Defendant, Justin Snell went to the Plaintiff's wife's place of employment, (The Rifleman Bar) in Rawlins, Wyoming and reported to the Plaintiff's wife, (Jo Ann Evans) that he, the Defendant had her husband the Plaintiff, Steven R. Ervin moved into Protective Custody because the 'Brothers' (African American Inmates) were going to kill the Plaintiff for being a 'snitch.' The Defendant then began making more and more appearances at the Plaintiff's wife's job to the point she felt very uncomfortable with the Defendant's occurrences and questioned if the Defendant had ulterior motives for making his presence known more and more, and making comments about the Plaintiff's current predicament with not only

the African American Inmates in (WSP) but other inmates within the facility as well with a 'snitch' jacket on the Plaintiff.

On or about May 1st, 2008, the Plaintiff, Steven R. Ervin was moved from Administrative Segregation into the 'A-1 Unit of the Wyoming State Penitentiary (WSP) General Population. Almost immediately after placement in this unit, the Defendant, Justin Snell began to harass, antagonize and humiliate the Plaintiff. Manufacturing contemptuous attempts to provoke the Plaintiff at every opportunity and making his presence known every where the Plaintiff went within the (WSP) facility, more than ever at Chapel Services, Meals, Medical appointments and Visitation with the Plaintiff's Wife (Jo Ann Evans).

On or about September 5th, 2008, at approximately 07:00hrs, the Defendant, Justin Snell was working as 'A-1 Unit' Pod Officer. The Defendant stood in front of the A-1 Unit's showers across from the Plaintiff's cell, and stood motionless staring into the Plaintiff's cell (A-1-234). At approximately 07:15hrs, the Defendant opened the Plaintiff's cell door while laughing at the Plaintiff. Plaintiff, Steven R. Ervin went down the stairs to the A-1 Units phone station and called his wife to notify ACLU Senior Staff Counsel, Stephen L. Pevar, and make Mr. Pevar aware that the Defendant; Justin Snell persisted in intimidating the Plaintiff, and did not trust the Defendant; Justin Snell.

After several of the Defendant's fellow officers informed the Plaintiff to be 'leery' of the Defendant, Corporal Justin Snell, as there have been in the past numerous complaints to (WSP) and (WDOC) Administration of working in a 'Hostile Environment' with the Defendant by his fellow correctional officers, and numerous

grievances by inmates in (WSP) against the Defendant; Justin Snell which only made any (WSP) inmates time just that much harder.

While the Plaintiff was on the phone with his wife, approximately 07:20hrs, September 5th, 2008, the Defendant, Justin Snell moved towards the phones and appeared to be listening to the phone conversation between the Plaintiff and his wife. The Defendant; Justin Snell over heard the Plaintiff mention Stephen Pevar. The Defendant approached the Plaintiff and asked, "Is there anything I can help you with?" The Plaintiff responded respectfully with, "I'm on the phone with my wife if you don't mind." The Defendant screamed at the Plaintiff, "Oh don't you mess with me today Ervin or I'll make it very hard for you today!"

Plaintiff's wife overheard this exchange and asked the Plaintiff, "Did he just threaten you?" To which the Plaintiff replied, "Yes, and thank God these calls are recorded, now maybe someone will believe me how he's been antagonizing me since I filed a grievance against him."

On or about September 5th, 2008, at approximately 07:45hrs, the Plaintiff, Steven R. Ervin was called to the (WSP) Medical Unit for transport to the Dentist. Plaintiff notified the (WSP) transport officer of the latest interaction with the Defendant; Justin Snell. The Transport officer assured the Plaintiff that he would notify Captain Caruthers of the incident because he witnessed the Defendant, Justin Snell, maliciously verbally assault (WSP) Inmate Andrew Larson immediately after the conflict with the Plaintiff; Steven R. Ervin.

On or about September 5th, 2008 at approximately 08:15hrs, the Plaintiff; Steven R. Ervin was finished with his Dental appointment and was awaiting the (WSP) Medical

Transport Officer to escort him to the (A-Unit) Caseworker's Office to speak with Captain Caruthers about the recent threat made by the Defendant; Justin Snell.

On or about September 5th, 2008 at approximately 08:30hrs, the Defendant Justin Snell arrived at the Medical Unit holding cell, and notified the Plaintiff, that he had a visit, and he, The Defendant was personally going to escort him. Promptly arriving at the Visitation holding unit, The Defendant; Justin Snell strip searched the Plaintiff; Steven R. Ervin and allowed him to dress for his visit. Plaintiff's wife was awaiting him and said, "That's the guy that came to my job, he came in here and told me, Oh I'll be escorting your 'ole man' (the Plaintiff, Steven R. Ervin) up here for his visit."

On or about September 6th, 2008 at approximately 09:00hrs, the Plaintiff; Steven R. Ervin, called the Wyoming State Penitentiary 'Hot-Line' to report the threat made by the Defendant, and his interactions with his wife at her place of employment.

On or about September 6th, 2008 at approximately 11:00hrs the Plaintiff was placed into Administrative Segregation to protect him from the Defendant, Justin Snell.

On or about September 9th, 2008, the Defendant; Justin Snell, beat on the Plaintiff's cell door in Administrative Segregation C-1 Unit, and announced smiling, "Hey Ervin, I brought you your commissary." The Plaintiff feared for his life.

JURISDICTION AND VENUE

1. This action seeks relief under the First, Eighth, and Fourteenth Amendments to the United States Constitution. Venue is appropriate in this Court pursuant to 28 U.S.C. § 1391 (b).

PARTIES

2. Plaintiff, Steven R. Ervin was serving a criminal sentence in the State of Wyoming and was incarcerated in the Wyoming State Penitentiary (WSP).

Plaintiff had been placed under the care, custody, and control of the Wyoming Department of Corrections (WDOC).

3. Defendant Justin Snell is a citizen and resident of Wyoming. At all times Relevant to this action, Justin Snell was a Correctional Officer, (Corporal) at the Wyoming State Penitentiary (WSP). As such, he has a duty to behave in a manner consistent with State and Federal Law.

4. All acts and omissions of the Defendants described below were done Under color of State Law and were performed during the scope of his employment. The Defendant, Justin Snell is being sued in his Official and Individual capacities.

FACTUAL ALLEGATIONS

5. On or about March 3rd, 2008 at approximately 08:00hrs, the Defendant, (WSP) Corporal Justin Snell approached the Plaintiff, Steven R. Ervin in his cell in the B-2 Unit (WSP) and stated that he the Plaintiff needed to move his personal

belongs to one side of the cell because he the Defendant was moving Inmate Mike Patterson in to house with the Plaintiff.

6. Plaintiff told the Defendant, that inmate Patterson had just recently moved out of this cell so inmate Patterson could be with an African American inmate closer to his age and someone who listened to 'rap' music and furthermore a move request had already been submitted to Ron Schmitz (B-Unit Housing Manager) to move a preferred inmate into the plaintiff's cell.

7. On or about March 3rd, 2008 at approximately 08:30hrs in the (WSP) Chow Hall, the Defendant began a oral assault on the Plaintiff, stating the Plaintiff had better have his belongings moved by the time he the Defendant got back form the chow hall, because he the Defendant; Justin Snell ran this prison, and he the Defendant could care less about any previous moving arrangements made between 'B- Unit' Housing staff and the Plaintiff, Steven R. Ervin. The Defendant overtly stated, "I'm running this prison Ervin, not you or whoever you made your request too."

8. At approximately 09:00hrs, after returning to B-2 Unit, the Plaintiff; Steven R. Ervin requested (B-Unit Control Officers) to see (WSP) Caseworker Randy Baunach. While conferring with Mr. Baunach over the Plaintiff's proposed rehabilitation project, a security issue and concern involving the beating

of an elderly African American inmate by four African American Inmates while a (WSP) staff Sergeant looked on, Mr. Schmitz, the Unit Manager (R. Schmitz) walked in on the conversation and acknowledged to the Plaintiff; Steven R. Ervin, that he had received the Plaintiff's request to have the a white inmate moved into his cell, and would grant such a request. Plaintiff told Mr. Schmitz, to make the move happen quickly before the Defendant, (Corporal) Justin Snell moved inmate Patterson back into the Plaintiff's cell and preferred to be with the inmate with similar interest and age.

9. Plaintiff went back into the B-2 Unit went to his cell to get Gospel Music material the Plaintiff was writing while incarcerated. Plaintiff observed the Defendant standing and speaking to the African American inmates at the table where the African American inmates were assigned to. Plaintiff went to the computer room to do work on his project when (WSP) inmate Stacey Daniels entered followed by inmates Vernon Hairston, and Mike Patterson. Inmate Daniels spoke first saying, "Dino (the Plaintiff's nickname) we need to talk to you." Inmate Daniels proceeded to elucidate that the Defendant, (Cpl) Justin Snell had told the three of them that the Plaintiff; Steven R. Ervin was in the back room with them white folks, 'snitching' on them inmates (Daniels, Hairston, and Patterson)

10. Because of the Defendant's labeling the Plaintiff as a snitch, inmates Hairston, Patterson, and Daniels were prepared to allocate prison justice (a beat down) on the Plaintiff, as the proof will show.

11. Because of the Defendant's labeling the Plaintiff a snitch to the African American inmates while other inmates within the B-2 Unit listened, it made the Plaintiff vulnerable to an eventual attack by other (WSP) inmates.

12. Plaintiff; is prepared to confirm to this Court a Notarized Affidavit from inmate Stacey Daniels that will attest that the Defendant, Justin Snell did inform the African inmates that the Plaintiff, Steven R. Ervin was a 'snitch', and it was imminent the Plaintiff's life was in danger from the African American Inmates as well as General Population inmates in the B-2 Unit of the Wyoming State Penitentiary because of the Defendant; Justin Snell's labeling the Plaintiff; Steven R. Ervin as a 'snitch.'

13. While the Plaintiff, Steven R. Ervin was housed in Administrative Segregation for his safety, from the African American inmates, the Defendant, Justin Snell did go to the Plaintiff's Wife's place of employment at the 'Rifleman Bar' in Rawlins, Wyoming and accounted how he, the Defendant had the Plaintiff; Steven R. Ervin moved to Protective Custody because the 'Brothers' (African American inmates) were going to 'Kill' the Plaintiff.

14. On or about March 10th, 2008, the Plaintiff, Steven R. Ervin filed a grievance against the Defendant, Justin Snell and followed to the best of his knowledge (WDOC) policies, procedures and appeals all the way to the Director of Department of Corrections, Robert Lambert to which a response was received. The Plaintiff exhausted all remedies to the best of his abilities, knowledge and understanding of (WDOC) Policy and Procedures.

15. On or about April 22nd, 2008, (WSP) Internal Affairs Officer, Lt. Stillwell interviewed the Plaintiff, Steven R. Ervin, and the Plaintiff's wife Jo Ann Evans at the (WSP) facility in regards to these allegations by the Plaintiff.

16. On or about April 22nd, 2008, (WSP) Grievance Manager Jason Bohls acknowledges to the Plaintiff via State of Wyoming Memorandum that Staff, (Defendant Justin Snell) may have conducted himself in an inappropriate manner.

17. While the Plaintiff was housed in Administrative Segregation, Plaintiff was not allowed visits with his Wife, Mother or Pastor, and only allowed phone privileges after 03:00hrs to which numerous complaints in this regard were notated in grievances. Plaintiff was not allowed visits to Chapel, Programs, School, Meals or Recreation with other inmates and was subjugated to the same cruel and harsh restrictions of (WSP) inmates who were 'locked down' for disciplinary reasons and treated as such. Plaintiff was informed by (WSP) staff that Administrative Segregation would be permanent for the duration of the

Plaintiff's sentence, (Four and one half years) unless he signed (WDOC) (WSP) forms signifying his life was not in danger, and there were no conflicts with any (WSP) inmates.

18. On or about May 1st, 2008 the Plaintiff; Steven R. Ervin was moved from the Administrative Segregation Unit (C-2 Unit) to General Population in (A-1 Unit) where immediately the Defendant; Justin Snell began antagonizing, humiliating, and intimidating the Plaintiff at every opportunity. Plaintiff began notating the occurrences through (WDOC-WSP) Grievances and Appeals, as well as corresponding to Stephen L. Pevar of the ACLU, and Etosh Bakari the United States Department of Justice Civil Rights Division-Special Litigation Section-PHD, of which all responded with concerns and positive feedback to intervene.

19. On or about May 5th, 2008, the Plaintiff was visited at the Wyoming State Penitentiary Facility by; ACLU Senior Staff Counsel, Stephen L. Pevar in regards to the complaints involving the Defendant, Justin Snell. After consoling with Mr. Pevar, and returning to his housing unit, the Plaintiff was approached by several (WSP) personnel specifically Sergeants and Lieutenants questioning the Plaintiff's business with Mr. Pevar. Plaintiff; Steven R. Ervin was advised by several (WSP) Correctional Officers, Counselors, and Staff, that Mr. Pevar was highly disliked by Prison Administration and the Plaintiff; Steven R. Ervin's association with Mr. Pevar would 'Red-Tag' the Plaintiff, while serving his

sentence, articulating that every step the Plaintiff made would be under the severest scrutiny, and to watch his back.

20. On or about June 19th, 2008, the Plaintiff received a response to Grievance #317 from Bev Cook, (Executive Assistance) for Mr. R.O. Lampert Director, Wyoming Department of Corrections, stating Plaintiff's appeal did not include the grievance manager's response, (WDOC) Form #321, and that in the future, appeals not containing the required information and documentation would not be accepted and would be returned.

21. On or about June 23rd, 2008, the Plaintiff received a response from (WDOC) Director R.O. Lampert in response to Grievances #'s 262, and 317 stating an investigation of the Defendant; Justin Snell concluded that Corporal Snell shared information with the Plaintiff's wife while he was off duty. Appropriate corrective action had been initiated at the institutional level. The specific personnel action taken is considered to be confidential and the Plaintiff; Steven R. Ervin would not be made privy to that information. Based upon the corrective action taken, however, he, (Mr. Lampert) was confident that such actions would not recur. The Plaintiff's grievance appeal was denied in part, as the resolution requested was outside of the parameters of the grievance policy and would not be granted.

22. On or about September 5th, 2008 after several run-ins with the Defendant; Justin Snell, Plaintiff, Steven R. Ervin was on the phone with his wife, approximately 07:20hrs, the Defendant, Justin Snell moved towards the phones and appeared to be listening to the phone conversation between the Plaintiff and his wife.

23. On or about September 5th, 2008 approximately 0725hrs, The Defendant; Justin Snell over heard the Plaintiff mention Stephen Pevar. The Defendant approached the Plaintiff and asked, "Is there something I can help you with Ervin?" The Plaintiff responded respectfully with, "I'm on the phone with my wife if you don't mind." The Defendant screamed at the Plaintiff, "Oh don't you mess with me today Ervin or I'll make it very hard for you today!"

24. Plaintiff's wife overheard this exchange and asked the Plaintiff, "Did he just threaten you?" To which the Plaintiff replied, "Yes, and thank God these calls are recorded, now maybe someone will believe me how he's been antagonizing me since I filed a grievance against him." Plaintiff's Wife; Jo Ann Evans urged the Plaintiff to be very careful and notify someone immediately about the Defendant's current threat and previous actions against the Plaintiff; Steven R. Ervin that had gone unmolested by (WSP) Staff, or (WDOC) Administration in any regards as to keeping the Defendant; Justin Snell away from the Plaintiff; Steven R. Ervin.

25. On or about September 5th, 2008 at approximately 07:45hrs, the Plaintiff, Steven R. Ervin was called to the (WSP) Medical Unit for transport to the Dentist. Plaintiff notified the (WSP) transport officer of the latest interaction (threat) with the Defendant. The Transport officer assured the Plaintiff that he would notify Captain Caruthers (WSP) of the incident because he witnessed vaguely the interchange between the Defendant; Justin Snell, and the Plaintiff; Steven R. Ervin, and how immediately afterward the Defendant; Justin Snell unleashed a uncalled for verbal assault on (WSP) Inmate Andrew Larson immediately after the altercation with the Plaintiff; Steven R. Ervin.

26. On or about September 5th, 2008 at approximately 08:15hrs, while the Plaintiff was in the (WSP) Medical Unit Holding Cell awaiting the Medical Transport Officer to return the Plaintiff to (A-Unit) to speak with Captain Caruthers about the threat by the Defendant. The Defendant Justin Snell arrived at the Medical Unit holding cell, and notified the Plaintiff, that he had a visit, and he, The Defendant was personally going to escort him. Promptly arriving at the Visitation holding unit, The Defendant strip searched the Plaintiff, and allowed him to dress for his visit. Plaintiff's wife was awaiting him and said, "That's the guy that came to my job, he came in here and told me, Oh I'll be escorting your 'ole man' (the Plaintiff, Steven R. Ervin) up here for his visit." Plaintiff's wife indicated she would speak to the Warden Mike Murphey, who was a Deacon at the Church she attended and communicate her fears and concerns about the Defendant; Justin Snell. Plaintiff's wife feared for his safety in (WSP).

27. On or about September 6th, 2008 at approximately 09:00hrs the Plaintiff; Steven R. Ervin called the Wyoming State Penitentiary 'Hot-Line' to report the threat made by the Defendant, and his interactions with his wife at her place of employment. Approximately 10:00hrs the Plaintiff was placed into Administrative Segregation to protect him from the Defendant, Justin Snell. On or about September 12th, 2008, the Defendant knocked on the Plaintiff's cell door in Administrative Segregation, and announced, "Hey Ervin, I brought your commissary." Defendant smiled and laughed at the Plaintiff. The Plaintiff feared for his life.

28. On or about September 12th, 2008, ACLU Senior Staff Counsel; Stephen L. Pevar communicated to Wyoming Assistant Attorney General; Dana J. Lent as a courtesy to the Plaintiff, in regards to current allegations against the Defendant; Justin Snell, and his concern that while the Plaintiff was again placed in Administrative Segregation, because of the Defendant's threats to the Plaintiff, all the Plaintiff's legal documents, and computer discs in reference to the Defendant, were confiscated. Mr. Pevar made two respectful requests of Ms. Lent, to investigate the allegations, to include an interview with the Plaintiff; Steven R. Ervin, and his wife; Jo Ann Evans. Second, respectfully request that Warden Murphy (WSP) either ask the Defendant, (Cpl.) Justin Snell avoid all further contact with the Plaintiff, or limit his contacts as he (Mr. Pevar) wished to avoid

any possibility of further difficulties. Copies were emailed to: John Renneisen also of the Wyoming Attorney Generals Office.

29. On or about October 23rd, 2008, Assistant Attorney General; Dana J. Lent responded to Mr. Pevar (ACLU), Michael Murphy (Warden WSP) and Scott Abbott (Chief of Operations WDOC) stating; Administrative staff believed that enough information existed with respect to the Plaintiff's allegations to warrant further actions, however Ms. Lent would not comment on the allegations because any commentary she made was speculative. However additional investigation into inmate Ervin's complaints was necessary because it was evident that Cpl. Snell (the Defendant) has behaved unprofessionally and has shown a clear lack of appropriate judgment in his interactions with inmate Ervin (The Plaintiff) and requested Warden Michael Murphey limit the Defendant; Justin Snell's interactions with the Plaintiff.

30. On or about September 23rd, 2008; Plaintiff regretfully contacted the Wyoming Board of Parole (Mr. Fetsco – Chairman) in an attempt to explain his current predicament and the circumstances behind being in Administrative Segregation as the Plaintiff's housing would discern how he would appear to the Parole Board, in chains and shackles because of the Administrative Segregation verses appearing at this hearing as an (WSP) inmate in General Population. This situation would be very embarrassing and humiliating to the Plaintiff.

31. On or about September 29th, 2008, Michael J. Murphy (Warden WSP) Communicated to the Plaintiff that in order to keep the Plaintiff in the safest situation possible the Plaintiff's ability to go to choir, chapel, groups, etc. would be severely limited, but encouraged the Plaintiff to continue to be patient and make positive changes in the future.

32. After more (WSP Internal Affairs) investigations with Lt. Stillwell (WSP) and Major William Moore (WDOC) in orientation to Defendant; Justin Snell, the Plaintiff was released back into General Population in a higher security facility (B-1 Unit) for his protection from the Defendant; Justin Snell. However, the Defendant made several appearances into the (B-Unit). After the Plaintiff was granted Parole, it was the Defendant; Justin Snell who inventoried the Plaintiff's Legal Materials, and personal possessions as (WSP) records will show, the Defendant inventoried the Plaintiff's legal materials on one another occasion prior to the Plaintiff's release on December 10th, 2008.

33. On or about December 12th, 2008 the Plaintiff; Steven R. Ervin accompanied his Wife; Jo Ann Evans to the Carbon County Sheriff's Office and filed a 'No Trespass Order' against the Defendant; Justin Snell whom the Sheriff's Department had no reservations in filing the order as the Deputy filing the paper work made several statements about the Defendant that shocked the Plaintiff, and his wife, questioning why the Defendant was even still employed with the Wyoming State Penitentiary and volunteered information in reference to

the Defendant; Justin Snell's past in the Wyoming State Penitentiary and other damaging and confidential materials that will be relevant to this complaint in regards to the Defendant's credibility. If this Court should desire.

34. After the Defendant; Justin Snell was served with a 'Protection/No Trespass Order' by a Deputy of the Carbon County Sheriff's Department, to have no contact with the Plaintiff; Steven R. Ervin, or his Wife; Jo Ann Evans, the Defendant went to the Plaintiff's wife's job (Rifleman Bar) making it clear that he was above the laws of this State by making an appearance at Ms. Evans place of employment being obnoxious rude, and abhorrent to Plaintiff's Wife.

35. On or about Mid-January 2009, the Defendant; Justin Snell made two appearances at the Plaintiff; Steven R. Ervin's place of employment (Cactus Jack's Restaurant) in Rawlins, Wyoming at approximately 13:00hrs, where he sat at the bar, and sneered at the Plaintiff while the Plaintiff attempted to avoid any confrontation. The facility's security system will verify these allegations.

36. At the time the Defendant; Justin Snell told (WSP) inmates the Plaintiff; Steven R. Ervin was a 'snitch', the Defendant was well aware that such a jacket or label at (WSP) has the potential for great harm because it subjects that inmate to life threatening retaliation by other inmates. Consequently, Snell violated Plaintiff's Constitutional Rights. See Banefield, 241 F.3d at 1270, 1271.

37. Because of the Defendant, Justin Snell's labeling the Plaintiff, Steven R. Ervin a 'snitch' it put many restrictions on the Plaintiff's attempt to attend useful and productive schooling, programs, and attend church services where the Warden (WSP) Michael Murphy had allowed the Plaintiff to form a choir, and record the music with a local Pastor to make a (CD), prior to the Plaintiff's being 'locked-down' into Administrative Segregation to protect him from the Defendant, Justin Snell on or about September 6th, 2008. And specifically restricted the Plaintiff from attending 'Native American Sweat Lodge, a precious tenant of the Plaintiff's belief systems that All of which were advantageous in the Plaintiff's rehabilitation back into society.

38. An inmate in the Wyoming State Penitentiary in Administrative Segregation is subjugated to the same cruel and most often humiliating punishments as Wyoming State Penitentiary inmates housed for Disciplinary Actions, (assaults, riots, etc.). Locked down Twenty-three (23) hours per day with one (1) hour out to shower, make phone calls, (no legal calls), and very limited in the use of exercise equipment, as (WSP) inmates in Administrative Segregation are released for the hour out after 12:00 Midnights on a schedule that put a significant strain on the Plaintiff's ability to communicate to his wife who worked two jobs and needed that time to rest.

39. Wyoming State Penitentiary inmates housed in Administrative Segregation are subjected to cruel and unusual treatment of General Population inmates within the facility once they are released into General Population as the general prison consensus is that any inmate coming from Administrative Segregation is a 'Snitch.'

40. Upon the Plaintiff's releases from Administrative Segregation back into General Population, the Plaintiff, Steven R. Ervin lived in constant fear of an eventual 'beat down' looking constantly over his back developing extreme paranoia, and stress causing the Plaintiff to seek Psychiatric help from the Wyoming State Penitentiary Mental Health staff, where the general agreement by staff was the Plaintiff was suffering from mild Post Traumatic Stress Disorder, do to the Defendant, Justin Snell's labeling the Plaintiff a 'snitch' and living in a penal colony with such a stigmata.

41. Plaintiff's wife Jo Ann Evans has been confronted by several former inmates of the Wyoming State Penitentiary at her place of employment (Rifleman Bar), claiming while they were incarcerated in the Wyoming State Penitentiary, they heard the Plaintiff, Steven R. Ervin was a 'snitch' and they were going to 'beat the hell' out of him the Plaintiff when they caught up with him.

42. Plaintiff was briefly incarcerated in the Laramie County Jail in September 2009 and confronted by a former inmate of the Wyoming State Penitentiary (B-2 Unit) a Hispanic gentleman who was present when the Defendant, Justin Snell labeled the Plaintiff a 'snitch' to the African American inmates. The former inmate of the (WSP) told other inmates within the County Jail Facility Pod, that the Plaintiff, Steven R. Ervin was a 'snitch' which cause the Plaintiff to be housed in protective facility within the Laramie County Facility.

43. The Defendant, Justin Snell's labeling the Plaintiff, Steven R. Ervin a 'snitch' has caused the Plaintiff to live in constant state of fear and paranoia. Living within the small community of Rawlins, Wyoming where some former inmates of the Wyoming State Penitentiary are released, the subject of the Plaintiff's 'jacket' as a 'snitch' has come up on several occasions while the Plaintiff is shopping with his Eighty-nine year old Mother, or his Wife. This has put a inestimable strain on the Plaintiff's psyche, and no matter what amount of counseling the Plaintiff proscribes too to deal with the status quo, nothing can protect him from the harm done by a Wyoming State Penitentiary Correctional Officer, specifically the Defendant Justin Snell's labeling the Plaintiff a 'snitch.' A jacket that will stick with the Plaintiff for the rest of his life.

CLAIM FOR RELIEF

44. Based on the facts set forth above, Plaintiff Steven R. Ervin claims that Defendant Justin Snell in his individual and Official Capacity violated his rights to personal safety. Plaintiff seeks Compensatory and Punitive damages pursuant to 42 U.S.C. § 2000cc and 42 U.S.C. § 1983 as well as Injunctive, Discretionary, and Declaratory relief.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Steven R. Ervin respectfully prays that this Honorable Court will:

1. Grant Plaintiff, Steven R. Ervin a Jury Trial in these Proceedings.
2. Issue Injunctive relief pursuant to Rule 65 of the Federal Rules of Civil Procedure on behalf of the Plaintiff, Steven R. Ervin ordering the Defendant, Justin Snell and all persons acting in concert with him to cease spreading any rumor that the Plaintiff is a 'snitch' and direct the Director of the Wyoming Department of Corrections (Robert O. Lampert) to take appropriate disciplinary actions against the Defendant that will assure all future inmates within the Wyoming State Penitentiary the Defendant Justin Snell will never again repeat such intolerable behavior.
3. Issue Declaratory Relief pursuant to 28 U.S.C. § § 2201 and 2202.
4. Plaintiff, Steven R. Ervin seeks Compensatory Damages in the amount of Five Hundred Thousand Dollars to compensate the Plaintiff, for the cruel and unusual punishment and hardship suffered during incarceration and

housing in the Administrative Segregation Units specifically those mentioned in Section number Thirty-six (36) thru Forty-three (43).

5. Plaintiff seeks Punitive Damages in the amount of One Million Dollars (\$1,000,000.00) to punish the Defendant, Justin Snell for his labeling the Plaintiff a 'snitch', and subjugating the Plaintiff to the most malicious and inconsiderate management that follows the Plaintiff to this very day and for the rest of his life.
6. Plaintiff asks this Court to Grant Discretionary and additional relief's as this Honorable Court may deem proper under the circumstances, including an award of filing fees, attorney fees, and all costs incurred in this litigation.

Steven R. Ervin

FOR THE PLAINTIFF