

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

NATIONAL FEDERATION OF THE BLIND, *et al.*,

Plaintiffs,

v.

Case No. 3:23cv127

VIRGINIA DEPARTMENT OF CORRECTIONS, *et al.*,

Defendants.

ANSWER TO AMENDED COMPLAINT

Virginia Department of Corrections (“VDOC”), Chadwick Dotson, Harold Clarke, Barry Marano, Larry Edmonds, Officer D. Smith, Tammy Williams, Kevin Punturi, Darrell Miller, Lane Talbott, and Lakeisha Shaw (collectively, the “VDOC Defendants”), by counsel, hereby answer the Plaintiffs’ Amended Complaint, ECF No. 136, as follows:

INTRODUCTION¹

1–5. Paragraphs 1 through 5 summarize the Plaintiffs’ contentions, which are detailed more fully in the Amended Complaint’s factual allegations. As such, they do not merit separate individualized responses.

JURISDICTION AND VENUE

6–8. The allegations in Paragraphs 6 through 8 regarding jurisdiction and venue are legal assertions to which no response is required. To the extent a response is required, Defendants deny that the Plaintiffs are entitled to any relief from them on the basis of the allegations in the Amended Complaint.

¹ For ease of reference, Defendants adopt the headings used in the Amended Complaint.

PARTIES

9. Admitted that Plaintiff Courtney has been diagnosed with keratoconus. Defendants lack sufficient information to admit or deny that this condition caused him to become blind, and therefore the allegation is denied. The remaining allegations in Paragraph 9 are admitted.

10. Defendants lack sufficient information to admit or deny that Plaintiff Hajacos is blind and deaf, and therefore the allegation is denied. The remaining allegations in Paragraph 10 are admitted.

11. Defendants lack sufficient information to admit or deny that Plaintiff McCann has been blind since he was five years old, and the allegation is therefore denied. The remaining allegations in Paragraph 11 are admitted.

12. Defendants lack sufficient information to admit or deny that Plaintiff Rogers became partially blind in the late 1990s or that he has been fully blind for the last 15 years, and therefore the allegations are denied. The remaining allegations in Paragraph 12 are admitted.

13. Defendants lack sufficient information to admit or deny that Plaintiff Shabazz has been blind since age 17, and therefore the allegation is denied. The remaining allegations in Paragraph 13 are admitted.

14. Defendants lack sufficient information to admit or deny that Plaintiff Shaw experienced deteriorating vision for ten years before going completely blind in 2009, and therefore the allegation is denied. The remaining allegations in Paragraph 14 are admitted.

15. Defendants admit that Plaintiff Stravitz was diagnosed with cataracts. Defendants lack sufficient information to admit or deny that Plaintiff rapidly lost his vision over the last two years due to this condition, and therefore the allegation is denied. The remaining allegations in Paragraph 15 are admitted.

16–17. Defendants lack sufficient information to admit or deny the allegations in Paragraph 16 through 17, and therefore the allegations are denied.

18–19. The allegations in Paragraphs 18 through 19 are legal assertions to which no response is required. To the extent a response is required, the allegations are denied.

20–29. Admitted.

30–34. The allegations in Paragraphs 30 through 34 are not directed to the VDOC Defendants. Therefore, no response is required of those Defendants.

35. Admitted.

FACTS

A. National Federation of the Blind

a. **Blind prisoners, including Individual Plaintiffs, lack equal access to written materials and information.**

i. **VDOC’s written materials are inaccessible for blind prisoners.**

36–37. The allegations in Paragraphs 36 through 37 are legal assertions to which no response is required.

38. Admitted.

39. Denied.

40. Admitted to the extent that Greenville uses an electronic message board and television screens to display announcements for inmates with hearing impairments.

41. Denied to the extent that announcements are also made verbally.

42. Admitted that the grievance process requires prisoners to fill out written forms and provides written responses. The remaining allegations in Paragraph 42 are denied.

43. Admitted that notices about disciplinary charges, hearings, and dispositions are provided in writing. Denied to the extent it is purported that this is the only means by which this information is conveyed. The remaining allegations in Paragraph 43 are denied.

44. Admitted to the extent that prisoners can request medical appointments in writing. Denied to the extent it is purported that this is the only means by which to request medical appointments. The remaining allegations in Paragraph 44 are denied.

45. Admitted to the extent that prisoners can request in writing to include a person on the prisoner's visitor list. Denied to the extent it is purported that this is the only means by which to request that a person be included on the visitor list. The remaining allegations in Paragraph 45 are denied.

46. Denied.

ii. Forcing blind prisoners to rely on other prisoners does not provide them with independent, effective access to VDOC communications.

47. Admitted to the extent that VDOC sometimes assigns inmate helpers to visually impaired prisoners and that inmate helpers can assist with reading and writing. Denied to the extent it is purported that written materials are inaccessible to visually impaired prisoners.

48. Admitted to the extent that sensitive information may be made known to an inmate helper if the visually impaired prisoner chooses to share that information. Denied to the extent it is purported that visually impaired prisoners are required to disclose such information to inmate helpers.

49. Denied.

50. Denied that prisoners are forced to rely on other inmates if an inmate helper is not available. To the extent it is purported that some prisoners may choose to do so, Defendants lack sufficient information to admit or deny such allegations, and therefore they are denied.

51. Admitted to the extent that inmate helpers may be tasked with guiding blind prisoners if it is determined that such assistance is needed.

52. Admitted that inmate helpers do not receive training as readers or scribes. Denied that inmate helpers receive no other training. To the extent it is purported that inmate helpers are not “qualified” to be readers or scribes, this is a legal assertion to which no response is required. To the extent a response is required, that allegation is denied.

53. Denied to the extent it is purported that blind prisoners are forced to rely on other prisoners. To the extent it is purported that some prisoners may choose to do so, Defendants lack sufficient information to admit or deny such allegations, and therefore they are denied.

54. Defendants lack sufficient information to admit or deny the allegations in Paragraph 54, and the allegations are therefore denied.

55. Denied.

56–57. Defendants lack sufficient information to admit or deny the allegations in Paragraphs 56 through 57, and the allegations are therefore denied.

58. Denied that blind prisoners cannot access written information, medical care, grievance programs, and other programs.

iii. Library computers are inaccessible for blind prisoners.

59. Admitted.

60. Admitted.

61. Admitted that the library at Greenville does not have a scanner. Denied to the extent it is purported that there is no accessible method to access documents. Admitted that time in the library is limited per visit. Denied to the extent that inmates can request multiple visits.

Defendants lack sufficient information to admit or deny the allegation that prisoners cannot complete their work in the allotted time, and the allegation is therefore denied.

62. Admitted that a SARA scanner converts printed text into spoken text. Denied that Deerfield has only one SARA scanner. Admitted to the extent that inmates must request permission for movement to the SARA scanner. Denied that request forms are inaccessible. Denied that inmates are limited in their access to the SARA scanner.

iv. Other prison technology is inaccessible for Individual Plaintiffs and other blind prisoners.

63. Admitted that VDOC has procured and provided technologies for prisoners, including tablets, kiosks, and computers. Denied that this technology is not accessible to blind or visually impaired prisoners.

64. Admitted.

65. Admitted that tablets have touch-screen surfaces. Defendants lack sufficient information to admit or deny the allegation that individual prisoners cannot navigate the touch-screen interface, and therefore the allegation is denied. Denied to the extent it is purported that external keyboards are not available.

66. Admitted that kiosks are provided in common areas for prisoners to send JPay messages. Admitted that kiosks do not have text-to-speech capability. Defendants lack sufficient information to admit or deny the allegation that individual prisoners cannot utilize the kiosks, and therefore the allegation is denied.

b. VDOC Defendants have denied blind prisoners, including the Individual Plaintiffs, equal access to work assignments.

67–68. The allegations in Paragraphs 67 through 68 are legal assertions to which no response is required.

69. Admitted.

70. Denied.

71. Admitted.

72. Denied.

73. Admitted that such information is contained in the orientation manuals. Denied that this is not provided in an accessible format.

74. Admitted that job descriptions are provided in print. Denied that this is not provided in an accessible format.

75. Admitted with respect to the pay rates for Grade I through Grade III jobs. Denied to the extent that jobs for workers in Virginia Correctional Enterprises or with other classifications may be paid at different rates.

76. Denied that all inmates with visual impairments are ineligible for Grade III assignments. Denied that all inmates with visual impairments are relegated to Grade I assignments or ineligible for all work.

c. VDOC has failed to provide reasonable accommodations to blind prisoners.

77–78. The allegations in Paragraphs 77 through 78 are legal assertions to which no response is required.

79. The allegations in Paragraph 79 are legal assertions to which no response is required. To the extent a response is required, the allegations are denied.

80. Admitted.

81. Admitted.

82. Admitted.

83. Denied.

84. Denied that items frequently partially or fully obstruct the aisles. Defendants lack sufficient information to admit or deny the remaining allegations in Paragraph 84, and the allegations are therefore denied.

85. Admitted that Greenville has a housing unit in which written messages are displayed for inmates with hearing impairments. Denied that this housing unit is used to house all inmates with disabilities.

B. Nacarlo Courtney

a. VDOC has denied Mr. Courtney reasonable accommodations.

86. Admitted that Plaintiff Courtney has been diagnosed with keratoconus. Defendants lack sufficient information to admit or deny the remaining allegations in Paragraph 86, and therefore the allegations are denied.

87. Admitted with respect to the letter written by Dr. Pinsky. Admitted that Plaintiff Courtney was housed at Sussex II State Prison at this time. Admitted that staff at Sussex II State Prison dimmed Plaintiff's lighting by removing a light bulb. Defendants lack sufficient information to admit or deny the allegation that Plaintiff was permitted to cover his windows, and the allegation is therefore denied.

88. Defendants lack sufficient information to admit or deny the allegations and Paragraph 88, and the allegations are therefore denied.

89. Admitted the Plaintiff Courtney was transferred in November 2021. Admitted that Plaintiff submitted requests and grievances. Denied that Plaintiff did not receive accommodations.

90. Admitted.

91. Admitted.

92. Admitted with respect to Defendant Talbott's response. Defendants lack sufficient information to admit or deny the remaining allegations in Paragraph 92, and the allegations are therefore denied.

93. Admitted that complaints and requests for accommodation were submitted during this time. Denied that no responses were provided. Denied that no accommodations were provided.

94. Denied to the extent it is purported that disciplinary charges were issued for Plaintiff Courtney covering his window. Defendants lack sufficient information to admit or deny the remaining allegations in Paragraph 94, and the allegations are therefore denied.

95. Admitted that Plaintiff Courtney was moved into reentry housing in the fall of 2022. The remaining allegations in Paragraph 95 are denied.

b. Defendants Armor, VitalCore, and Dr. Gore failed to provide medically necessary treatment to Nacarlo Courtney.

96–107. The allegations in Paragraphs 96 through 107 are directed toward other defendants who are not a party to this Answer. Thus, no response is required from the VDOC Defendants. To the extent a response is required, Defendants deny the allegations and demand strict proof thereof.

c. Defendants Clarke, Marano, Talbott, and Smith retaliated against Mr. Courtney for grieving his lack of accommodations.

108. Defendants lack sufficient information to admit or deny the allegations in Paragraph 108, and the allegations are therefore denied.

109. Defendants lack sufficient information to admit or deny the allegations in Paragraph 109, and the allegations are therefore denied.

110. Upon information and belief, denied.

111. Admitted.

112. Denied.

113. Denied that investigators are required to conduct and seal tests on camera. Admitted to the extent that policy provides safeguards against tampering with samples.

114. Admitted that Defendant Smith had Plaintiff Courtney subjected to urinalysis on December 20, 2022. Admitted that staff bathrooms do not have cameras. Defendants lack sufficient information to admit or deny the remaining allegations in Paragraph 114, and the allegations are therefore denied.

115. Denied.

116. Admitted that Plaintiff Courtney tested positive for marijuana and amphetamines. Denied that these were the only substances that were tested for. Denied that Plaintiff Courtney was informed of the result on December 20, 2022. Admitted that Plaintiff received a disciplinary charge.

117. Admitted that Plaintiff Courtney was released on March 16, 2023. Denied that Plaintiff lost any good time credits or privileges as a result of the disciplinary charge. Defendants lack sufficient information to admit or deny the remaining allegations in Paragraph 117, and the allegations are therefore denied.

118. Denied that the drug test was inconsistent with VDOC policy or was outside of the normal course of business. Defendants lack sufficient information to admit or deny that there was no reason to suspect Plaintiff Courtney of drug use, and the allegation is therefore denied.

119. Denied.

C. William Hajacos

120. Defendants lack sufficient information to admit or deny the allegations in Paragraph 120, and the allegations are therefore denied.

121. Admitted that Plaintiff Hajacos was enrolled in a computer class. Defendants lack sufficient information to admit or deny the remaining allegations in Paragraph 121, and the allegations are therefore denied.

122. Admitted that Plaintiff Hajacos worked in the woodshop from February 2019 through December 2021. Admitted the woodshop workers were asked to move to the same housing unit as a precaution during the COVID-19 pandemic. Admitted Plaintiff elected not to move to the new housing unit. Denied that accommodations would not have been made available in the new housing unit. Defendants lack sufficient information to admit or deny the remaining allegations in Paragraph 122, and the allegations are therefore denied.

D. Michael McCann

123. Defendants lack sufficient information to admit or deny the allegations in Paragraph 123, and the allegations are therefore denied.

124. Admitted that Plaintiff McCann was previously enrolled in a horticulture class and dropped out. Defendants lack sufficient information to admit or deny the remaining allegations in Paragraph 124, and the allegations are therefore denied.

125. Admitted that Plaintiff McCann was formerly assigned to work as a Housekeeper and that this was a Grade 1 work assignment. Defendants lack sufficient information to admit or deny the remaining allegations in Paragraph 125, and the allegations are therefore denied.

126. Admitted that Plaintiff McCann is ineligible for some job assignments. Defendants lack sufficient information to admit or deny the remaining allegations in Paragraph 126, and the allegations are therefore denied.

127. Admitted that Plaintiff McCann has worked as an Assistant to the ADA Coordinator and Counselor's Aide. Denied that Plaintiff has no job responsibilities.

128. Admitted.

129. Admitted that Plaintiff McCann's helper was previously assigned to a bed in another part of the pod. Defendants lack sufficient information to admit or deny the remaining allegations in Paragraph 129, and the allegations are therefore denied.

130. Admitted.

131. Defendants lack sufficient information to admit or deny the allegations in Paragraph 131, and the allegations are therefore denied.

132. Defendants lack sufficient information to admit or deny the allegations in Paragraph 132, and the allegations are therefore denied.

133. Defendants lack sufficient information to admit or deny the allegations in Paragraph 133, and the allegations are therefore denied.

134. Admitted that Plaintiff McCann requested that tape be placed on the pod floor. Admitted that tape was applied to the floor in response to the request. Defendants lack sufficient information to admit or deny the allegation that a single line of tape to the microwave was placed, and the allegation is therefore denied.

135. Admitted the Plaintiff McCann requested additional tape be placed. Admitted that the request was at one point denied. Denied to the extent it is purported that additional tape has not been placed in the pod since this time.

136. Defendants lack sufficient information to admit or deny the allegations in Paragraph 136, and the allegations are therefore denied.

137. Denied that Plaintiff McCann's helper is not permitted to walk around the recreation area with him. Defendants lack sufficient information to admit or deny the remaining allegations in Paragraph 137, and the allegations are therefore denied.

138. Admitted that Plaintiff McCann received a magnifier from the Virginia Department for the Blind and Visually Impaired approximately five years ago. Defendants lack sufficient information to admit or deny the allegation that this is no longer an effective auxiliary aid, and the allegation is therefore denied. Admitted to the extent that Plaintiff's request for a new magnifier was denied because Plaintiff needed to undergo an eye examination to determine what strength of magnifier was needed.

139. Admitted that Plaintiff McCann was provided a Sharpie by DBVI. The remaining allegations in Paragraph 139 are denied.

140. Defendants lack sufficient information to admit or deny the allegations in Paragraph 140, and the allegations are therefore denied.

141. Defendants lack sufficient information to admit or deny the allegations in Paragraph 141, and the allegations are therefore denied.

E. Wilbert Rogers

142. Admitted to the extent that single cell orders provide for a prisoner to be housed in a single cell without a cellmate. Denied that Plaintiff Rogers was issued single cell orders. Defendants lack sufficient information to admit or deny whether Rogers is completely blind, and the allegation is therefore denied.

143. Defendants lack sufficient information to admit or deny the allegations in Paragraph 143, and the allegations are therefore denied.

144. Defendants lack sufficient information to admit or deny the allegations in Paragraph 144, and the allegations are therefore denied.

145. Defendants lack sufficient information to admit or deny the allegations in Paragraph 145, and the allegations are therefore denied.

146. Defendants lack sufficient information to admit or deny the allegations in Paragraph 146, and the allegations are therefore denied.

F. Kevin Muhammad Shabazz

147. Defendants lack sufficient information to admit or deny the allegations in Paragraph 147, and the allegations are therefore denied.

148. Admitted that Plaintiff Shabazz has to request to use the SARA scanners. The remaining allegations in Paragraph 148 are denied.

149. Admitted that Plaintiff Shabazz was enrolled in a computer course. Admitted that VDOC installed speech-to-text software for his use. The remaining allegations in Paragraph 149 are denied.

150. Admitted that Plaintiff Shabazz is enrolled in a GED course. Admitted that inmate tutors work in GED classes. Defendants lack sufficient information to admit or deny the remaining allegations in Paragraph 150, and the allegations are therefore denied.

151. Admitted that Plaintiff Shabazz has worked as a laundry worker from 2017 through the present. Admitted that this is a Grade 2 work assignment. Defendants lack sufficient information to admit or deny the remaining allegations in Paragraph 151, and the allegations are therefore denied.

152. Defendants lack sufficient information to admit or deny the allegations in Paragraph 152, and the allegations are therefore denied.

G. Patrick Shaw

153. Defendants lack sufficient information to admit or deny the allegations in Paragraph 153, and they are therefore denied.

154. Admitted that Plaintiff Shaw does not currently have a job. Defendants lack sufficient information to admit or deny the remaining allegations in Paragraph 154, and the allegations are therefore denied.

155. Admitted that Plaintiff Shaw previously lived in a single cell. Denied that the cell was converted into storage. Admitted that Plaintiff currently lives in general population dorm-style housing.

156. Admitted that the dorms include some single beds without a top bunk. Defendants lack sufficient information to admit or deny the remaining allegations in Paragraph 156, and the allegations are therefore denied.

157. Defendants lack sufficient information to admit or deny the allegations in Paragraph 157, and the allegations are therefore denied.

158. Defendants lack sufficient information to admit or deny the allegations in Paragraph 158, and the allegations are therefore denied.

H. William Stravitz

a. VDOC has failed to reasonably accommodate Mr. Stravitz.

159. Defendants lack sufficient information to admit or deny the allegations in Paragraph 159, and they are therefore denied.

160. Defendants lack sufficient information to admit or deny the allegations in Paragraph 160, and they are therefore denied.

161. Defendants lack sufficient information to admit or deny the allegations in Paragraph 161, and they are therefore denied.

162. Admitted that Plaintiff Stravitz's supervisor made the comment alleged or a similar statement. Denied to the extent it is purported that Plaintiff's supervisor intended to discriminate

against him. Defendants lack sufficient information to admit or deny the allegations in Paragraph 162, and they are therefore denied.

b. Defendants Armor, VitalCore, Dr. Harris, and Dr. Gupta failed to provide medically necessary treatment to Mr. Stravitz.

163–73. The allegations in Paragraphs 96 through 107 are directed toward other defendants who are not party to this Answer. Thus, no response is required from the VDOC Defendants. To the extent a response is required, Defendants deny the allegations and demand strict proof thereof.

**FIRST CLAIM FOR RELIEF:
VIOLATION OF TITLE II OF THE AMERICANS WITH DISABILITIES ACT
42 U.S.C. § 12131 *et seq.***

(Plaintiffs NFB-VA, Courtney, Hajacos, and Rogers against Defendants VDOC, Dotson, Marano, Punturi, Edmonds, and Talbott, in their official capacities, and Plaintiffs NFB-VA, McCann, Shabazz, Shaw, and Stravitz against Defendants VDOC, Dotson, Marano, Miller, Williams, and Shaw, in their official capacities)

174. Defendants incorporate their responses to the foregoing allegations as if fully set forth herein.

175–83. Paragraphs 175 through 183 state legal assertions to which no response is required. To the extent response is required, Defendants deny that they are liable to the Plaintiffs on any legal theory proposed in the Amended Complaint.

**SECOND CLAIM FOR RELIEF:
VIOLATION OF TITLE II OF THE AMERICANS WITH DISABILITIES ACT
42 U.S.C. § 12131, *et seq.*
(Nacarlo Courtney against Defendants Clarke, Marano, Talbott, and Smith, in their official capacities)**

184. Defendants incorporate their responses to the foregoing allegations as if fully set forth herein.

185–88. Paragraphs 185 through 188 state legal assertions to which no response is required. To the extent response is required, Defendants deny that they are liable to the Plaintiffs on any legal theory proposed in the Amended Complaint.

**THIRD CLAIM FOR RELIEF:
VIOLATION OF SECTION 504 OF THE REHABILITATION ACT
29 U.S.C. § 794**

(Plaintiffs NFB-VA, Courtney, Hajacos, and Rogers and Defendants VDOC, Dotson, Marano, Punturi, Edmonds, and Talbott, in their official capacities, and Plaintiffs NFB-VA, McCann, Shabazz, Shaw, and Stravitz against Defendants VDOC, Dotson, Marano, Miller, Williams, and Shaw, in their official capacities)

189. Defendants incorporate their responses to the foregoing allegations as if fully set forth herein.

190–99. Paragraphs 190 through 199 state legal assertions to which no response is required. To the extent response is required, Defendants deny that they are liable to the Plaintiffs on any legal theory proposed in the Amended Complaint.

**FOURTH CLAIM FOR RELIEF:
VIOLATION OF THE VIRGINIANS WITH DISABILITIES ACT
Va. Code Ann. § 51.5-40**

(Plaintiffs NFB-VA, Courtney, Hajacos, and Rogers against Defendants VDOC, Dotson, Marano, Punturi, Edmonds, and Talbott, in their official capacities, and Plaintiffs NFB-VA, McCann, Shabazz, Shaw, and Stravitz against Defendants VDOC, Dotson, Marano, Miller, Williams, and Shaw, in their official capacities)

200. Defendants incorporate their responses to the foregoing allegations as if fully set forth herein.

201–09. Paragraphs 201 through 209 state legal assertions to which no response is required. To the extent response is required, Defendants deny that they are liable to the Plaintiffs on any legal theory proposed in the Amended Complaint.

**FIFTH CLAIM FOR RELIEF:
VIOLATION OF THE EIGHTH AMENDMENT TO THE U.S. CONSTITUTION
AND 42 U.S.C. § 1983
(Nacarlo Courtney against Defendant Dr. Gore)**

210–17. Plaintiffs’ Fifth Claim for Relief is not asserted against the VDOC Defendants. Therefore, no response is required from those Defendants. To the extent response is required, Defendants deny that they are liable to the Plaintiffs on any theory proposed in the Amended Complaint.

**SIXTH CLAIM FOR RELIEF:
VIOLATION OF THE EIGHTH AMENDMENT TO THE U.S. CONSTITUTION
AND 42 U.S.C. § 1983
(William Stravitz against Defendants Dr. Harris and Dr. Gupta)**

218–26. Plaintiffs’ Fifth Claim for Relief is not asserted against the VDOC Defendants. Therefore, no response is required from those Defendants. To the extent response is required, Defendants deny that they are liable to the Plaintiffs on any theory proposed in the Amended Complaint.

**SEVENTH CLAIM FOR RELIEF:
MEDICAL MALPRACTICE
(Nacarlo Courtney against Defendant Dr. Gore and *respondeat superior* liability against
Defendants Armor and VitalCore)**

227–31. Plaintiffs’ Seventh Claim for Relief is not asserted against the VDOC Defendants. Therefore, no response is required from those Defendants. To the extent response is required, Defendants deny that they are liable to the Plaintiffs on any theory proposed in the Amended Complaint.

**EIGHTH CLAIM FOR RELIEF:
MEDICAL MALPRACTICE
(William Stravitz against Defendant Dr. Harris and Dr. Gupta and *respondeat superior*
liability against Defendants Armor and VitalCore)**

232–36. Plaintiffs’ Eighth Claim for Relief is not asserted against the VDOC Defendants. Therefore, no response is required from those Defendants. To the extent response is required, Defendants deny that they are liable to the Plaintiffs on any theory proposed in the Amended Complaint.

WHEREFORE, Plaintiffs respectfully request:

237–45. Defendants deny that the Plaintiffs are entitled to any of the relief requested.

AFFIRMATIVE DEFENSES

FIRST DEFENSE

The Amended Complaint fails to state a claim upon which relief can be granted and fails to satisfy the pleading requirements of the Federal Rules of Civil Procedure.

SECOND DEFENSE

Defendants deny that the claims in the Amended Complaint are cognizable under the Americans with Disabilities Act, the Rehabilitation Act, any section or clause of the United States Constitution, or any other federal law or regulation.

THIRD DEFENSE

Defendants deny that the claims in the Amended Complaint are cognizable under Virginia law.

FOURTH DEFENSE

Defendants deny that jurisdiction on the Amended Complaint is conferred upon the Court by any federal law. Further, Defendants specifically deny that the Court has jurisdiction over any claim which might be construed to state a claim under state law.

FIFTH DEFENSE

Defendants deny that the Plaintiffs have suffered any cognizable injuries or damages as a result of any act or omissions on the part of the Defendants and demand strict proof thereof.

SIXTH DEFENSE

Defendants deny that the Plaintiffs have suffered the injuries and damages alleged and call for strict proof thereof.

SEVENTH DEFENSE

Plaintiffs have failed to establish a physical injury that would entitle them to damages pursuant to 42 U.S.C. § 1997e(e).

EIGHTH DEFENSE

Defendants deny that they are indebted to or liable to the Plaintiffs in any sum whatsoever.

NINTH DEFENSE

Defendants are immune from suit based upon the Eleventh Amendment, sovereign immunity, and the discharge of their official duties.

TENTH DEFENSE

Defendants are entitled to good faith and/or qualified immunity.

ELEVENTH DEFENSE

To the extent any claim can be construed as alleging negligence on the part of the Defendants, that claim is barred in this Court by the Eleventh Amendment.

TWELFTH DEFENSE

Any injunctive relief imposed must be narrowly drawn, extend no further than necessary to correct an actual violation of a federal right, and must be the least intrusive means necessary to correct that specific harm pursuant to 18 U.S.C. § 3626.

THIRTEENTH DEFENSE

Plaintiff National Federation for the Blind of Virginia lacks standing to assert the claims in this action.

FOURTEENTH DEFENSE

Plaintiffs are not entitled to monetary damages under the Americans with Disabilities Act, the Rehabilitation Act, or the Virginians with Disabilities Act.

FIFTEENTH DEFENSE

Some or all of Plaintiffs' injuries did not arise due to the actions of the Defendants.

SIXTEENTH DEFENSE

Some or all of Plaintiffs' claims are barred by the applicable statute of limitations.

SEVENTEENTH DEFENSE

Plaintiffs failed to exhaust some or all of their claims as required under 42 U.S.C. § 1997e.

EIGHTEENTH DEFENSE

Plaintiffs Nacarlo Courtney and William Stravitz's claims for prospective relief are moot.

NINETEENTH DEFENSE

Plaintiffs have been provided with all reasonable accommodations to which they are entitled under federal or Virginia law.

TWENTIETH DEFENSE

Plaintiffs' requested accommodations would impose an undue burden on the Defendants.

TWENTIETH DEFENSE

Defendants will rely on any and all properly available defenses to the Amended Complaint which may arise from Plaintiffs' prosecution of this action and reserve the right to amend their Answer if at any time they should be so advised.

Respectfully submitted,

CHADWICK DOTSON, BARRY MARANO,
DARRELL MILLER, HAROLD CLARKE,
KEVIN PUNTURI, LAKEISHA SHAW, LANE
TALBOTT, LARRY EDMONDS, OFFICER D.
SMITH, TAMMY WILLIAMS, AND THE
VIRGINIA DEPARTMENT OF CORRECTIONS.

By: s/ Ann-Marie C. White Rene
Ann-Marie C. White Rene, VSB #91166
Assistant Attorney General
Office of the Attorney General
Criminal Justice & Public Safety Division
202 North 9th Street
Richmond, Virginia 23219
Phone: (804) 371-2084
Fax: (804) 786-4239
E-mail: arene@oag.state.va.us

CERTIFICATE OF SERVICE

I hereby certify that on the 16th day of November, 2023, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send a notification of such filing (“NEF”) to the following:

Vishal Agraharkar, Esq.
Samantha Westrum, Esq.
American Civil Liberties Union of Virginia
701 E. Franklin Street, Suite 1412
Richmond, VA 23219
vagraharkar@acluva.org
swestrum@acluva.org
Co-counsel for Plaintiffs

Rebecca Herbig, Esq.
Disability Law Center of Virginia
1512 Willow Lawn Drive, Suite 100
Richmond, VA 23230
rebecca.Herbig@dlcv.org
Co-counsel for Plaintiffs

Eve L. Hill, Esq.
Monica R. Basch, Esq.
Evan Monod, Esq.
Brown, Goldstein & Levy, LLP
120 E. Baltimore Street, Suite 2500
Baltimore, MD 21202
ehill@browngold.com
mbasche@browngold.com
emonod@browngold.com
Co-counsel for Plaintiffs

Jeff W. Rosen, Esq.
Pender & Coward, P.C.
222 Central Park Avenue, Suite 400
Virginia Beach, VA 23462
jrosen@pendercoward.com
Counsel for Alvin Harris, M.D.

Patrick Burns, Esq.
Gloria R. Cannon, Esq.
Gordon Rees Scully Mansukhani, LLP
1101 King Street, Suite 520
Alexandria, VA 22314
Pburns@grsm.com
gcannon@grsm.com
Counsel for Defendants VitalCore Health Strategies and Vincent Gore, M.D.

Kenneth T. Roeber, Esq. (VSB No. 41850)
Michelle L. Warden, Esq. (VSB No. 77266)
Wimbish Gentile McCray & Roeber PLLC
8730 Stony Point Parkway, Suite 201
Richmond, VA 23235
804-655-4830– Telephone
804-980-7819 – Facsimile
kroeber@wgmlaw.com
mwarden@wgmlaw.com
Counsel for Defendant Gupta

s/Ann-Marie C. White Rene
Ann-Marie C. White Rene, VSB #91166
Assistant Attorney General