

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION

SHIRLEY BROWN, AS NATURAL MOTHER AND  
NEXT FRIEND OF JOSHUA BROWN, A MINOR

PLAINTIFF

VS.

CIVIL ACTION NO. 3:24cv556-TSL-MTP

JACKSON STATE UNIVERSITY;  
JACKSON STATE UNIVERSITY CAMPUS POLICE  
DEPARTMENT; DR. ELAYNE HAYES ANTHONY,  
in Her Individual Capacity and Official Capacity;  
HERMAN HORTON, in His Individual  
Capacity and Official Capacity;  
TERRANCE JACKSON, in His Individual and Official Capacity;  
TYREE JONES, in His Individual and Official Capacity;  
ALPHA PHI ALPHA FRATERNITY, DELTA PHI CHAPTER;  
HINDS COUNTY, MISSISSIPPI;  
AND AS-YET UNKNOWN PERSON(S) JOHN DOES 1-10

DEFENDANTS

COMPLAINT  
*Jury Trial Requested*

COMES NOW, SHIRLEY BROWN, AS NATURAL MOTHER AND NEXT  
FRIEND OF JOSHUA BROWN , A MINOR, and files this COMPLAINT against the  
Defendants JACKSON STATE UNIVERSITY (hereinafter "JSU"); JACKSON STATE  
UNIVERSITY CAMPUS POLICE DEPARTMENT (hereinafter "JSU Campus Police"); DR.  
ELAYNE HAYES ANTHONY (hereinafter "Dr. Anthony"), in her individual and official capacity;  
HERMAN HORTON (hereinafter "Chief Horton"), in his individual and official capacity;  
TERRANCE JACKSON (hereinafter "Detective Jackson"), in his individual and official capacity;  
TYREE JONES (hereinafter "Jones"), in his individual and official capacity; ALPHA PHI ALPHA  
FRATERNITY (hereinafter "Alpha"); HINDS COUNTY, MISSISSIPPI (hereinafter Hinds  
County) AND AS-YET UNKNOWN PERSON(S) JOHN DOES 1-10 and, in support thereof,  
would show as follows:

**JURISDICTION AND VENUE**

1. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1323 because the matters in controversy arise under the Constitution and laws of the United States including 42 U.S.C. § 1983.
2. This Court has supplemental jurisdiction over Plaintiff's state law claims under 28 U.S.C. § 1367.
3. Venue is proper in this Court pursuant to 28 U.S.C. §1391 (b) because the conduct, acts and/or omissions upon which this cause of action is based occurred in Hinds County, Mississippi, which is completely within the jurisdiction of the United States District Court for the Southern District of Mississippi, Jackson Division, and this cause involves Federal Questions of law.

**PARTIES**

4. Plaintiff is Shirley Brown, as Natural Mother and Next Friend of Joshua Brown, a minor, and is an adult resident citizen of Columbia, Marion County, Mississippi.
5. Defendant Jackson State University ("JSU") is a public university located at 1400 John R. Lynch Street, Jackson, Mississippi 39217, and organized under the laws of the State of Mississippi. Pursuant to Mississippi Rules of Civil Procedure, Rule 4(d)(8), this Defendant may be served by delivering a copy of the Summons and Complaint to the Lynn Fitch, Attorney General for the State of Mississippi, Walter Sillers Building, 550 High Street, Jackson, Mississippi 39201, Dr. Marcus L. Thompson, JSU President, 1400 J. R. Lynch Street, Administration Tower, Jackson, Mississippi 39217, and Bruce Martin, President, Board of Trustees of State Institutions of Higher Learning, 3825 Ridgewood Road, Jackson, Mississippi 39211. Defendant JSU is sued because of the official policy decisions and customs of the JSU Campus Police Chief, Herman Horton, who is the official policymaker for the JSU Campus Police and the official decisions and policy decisions of JSU

Campus Police AND because of the official policy decisions and customs of JSU, and of Dr. Elayne Hayes Anthony, who was the official policymaker, during the time of these alleged acts.

6. Defendant Jackson State University Campus Police Department ("JSU Campus Police") is a department of JSU, responsible for law enforcement on JSU's campus. Pursuant to Mississippi Rules of Civil Procedure, Rule 4(d)(8), this Defendant may be served by delivering a copy of the Summons and Complaint to the Lynn Fitch, Attorney General for the State of Mississippi, Walter Sillers Building, 550 High Street, Jackson, Mississippi 39201, Dr. Marcus L. Thompson, JSU President, 1400 J. R. Lynch Street, Administration Tower, Jackson, Mississippi 39217, Eric B. Stanton, JSU Department of Public Safety, 1400 J.R. Lynch Street, Jackson, Mississippi 39217, Sean Tindell, Commissioner of Public Safety of Mississippi, 1900 E. Woodrow Wilson Avenue, Jackson, Mississippi 39216, and Bruce Martin, President, Board of Trustees of State Institutions of Higher Learning, 3825 Ridgewood Road, Jackson, Mississippi 39211. JSU Campus Police is sued because of the official policy decisions and customs of the JSU Campus Police Chief, Herman Horton, who is the official policymaker for the JSU Campus Police.

7. Defendant Dr. Elayne Hayes Anthony is an adult resident citizen of Madison County, Mississippi and was the Acting Interim President of JSU at all times relevant to the facts and occurrences alleged in this Complaint. She may be served with process at Jackson State University E-Center, at 1230 Raymond Road, Jackson, Mississippi 39204, or 101 Normandy Circle, Madison, Mississippi 39046, or wherever she may be found. Dr. Anthony is being sued in her individual and official capacity as interim president.

8. Defendant Herman Horton is an adult resident citizen of Madison County, Mississippi and was the acting Chief of JSU Campus Police at all times relevant to the facts and occurrences alleged in this Complaint. He may be served with process at 107 Bridge Park Drive, Canton,

Mississippi 39046 or wherever he may be found. Herman Horton is being sued in his individual capacity or wherever he may be found.

9. Defendant Terrance Jackson is an adult resident citizen of Hinds County, Mississippi and was an acting Detective with JSU Campus Police at all times relevant to the facts and allegations made in this Complaint. He may be served with process at his current employer, Jackson Police Department, Robbery- Homicide Division, 327 E. Pascagoula Street, Jackson, Mississippi 39205 or wherever he may be found.

10. Defendant Hinds County, Mississippi is a political subdivision of the State of Mississippi. Defendant County may be served with process through Hinds County Chancery Court Clerk, Eddie Jean Carr, who also serves as the Clerk of Hinds County Board of Supervisors, located at the Hinds County Chancery Courthouse, 316 South President Street, Jackson, Mississippi 39201. Defendant County controls the Hinds County Detention Center in Raymond, Mississippi. The inhumane conditions in the jail, to be described herein, are the proximate result of official policy decisions of the Sheriff of Hinds County, Mississippi and of its Board of Supervisions.

11. Defendant, Tyree Jones, is the duly elected Sheriff of Hinds County, Mississippi. Sheriff Jones is the policy maker of the Hinds County Sheriff Department, which also includes the HCDC. Sheriff Jones knew prior to this incident that the HCDC was understaffed with untrained officers and of inhumane and unsafe conditions of the jail. Sheriff Jones was sworn into office on December 3, 2021, and attended numerous court hearings regarding the consent decree with the United States of America which was entered into on June 23, 2016. See *U.S. v. Hinds County, et, al.* 3:16-cv-489, that was in effect prior to him being elected. Since the consent decree was in effect, independent expert jail consultants have continued to note the jail was not adequately staffed, the jailers were not trained, and that inmates were not being protected from harm, and inhumane

conditions. Sheriff Jones' inactions created a policy at the HCDC of understaffing the jail with untrained officers and failing to protect inmates, like Joshua, from inhumane conditions. In an evidentiary hearing against Hinds County from February 14, 2022 to March 1, 2022, before Judge Carlton Reeves in U.S. District Court, where the Judge found the county in contempt for a second time on March 23, 2022, after the same conclusion the previous month, both time outlining various violations, Hinds County Sheriff Tyree Jones testified he didn't want the Raymond Detention Center to be put into federal receivership. He stated, "I want the opportunity for my administration to make a difference to address the jail situation. It's the sheriff's duty to oversee the jail as well as jail operations. I want to be responsible for getting us out of the current situation we're in." In his ruling on the evidentiary hearing, Judge Reeves questioned the county's testimony that it had failed to implement the decree, in part, due to significant changes in leadership. Sheriff Jones argued that he had only been in office a couple of months prior to the hearing. However, Judge Reeves stated Sheriff Jones was familiar with the jail as a member of the former Sheriff Lee Vance's command staff and that the Board of Supervisors President, Credell Calhoun, along with his wife, had served the county longer than the RDC has been in place. See Honorable District Carlton Reeves Order, *Case 3:16-cv-00489-CWR-RHWR*, attached as Exhibit "A" filed on July 29, 2022. As a result of the inhumane conditions, Joshua Brown experienced and witnessed acts that have caused him irreparable harm. Accordingly, Sheriff Jones is being sued in his official and individual capacity. Defendant, Tyree Jones may be served with process through Hinds County Chancery Court Clerk, Eddie Jean Carr, who also serves as the Clerk of Hinds County Board of Supervisors, located at the Hinds County Chancery Courthouse, 316 South President Street, Jackson, Mississippi 39201. Additionally, Sheriff Jones may be served with process at his place of

employment, Hinds County Sheriff Department, 407 East Pascagoula Street, Jackson, Mississippi 39205, place of residence, or wherever he may be found.

12. Defendant Alpha Phi Alpha Fraternity, Inc. is a fraternal organization registered to do business in the state of Mississippi and has a chapter on the JSU campus (Delta Phi Chapter). This Defendant may be served with process by serving their agent for service of process Brian Carter located at 134 West McDowell Road, Jackson, Mississippi 39204, or wherever he may be found.

### **FACTS**

13. On or about October 15, 2023, Jaylon Burns was shot and killed on the campus of JSU. The investigation of this homicide was conducted by JSU Campus Police, including the Chief of Police, Herman Horton, Detective Terrance Jackson, and other unknown officers or detectives of the JSU Campus Police. On or about October 16, 2023, Detective Jackson signed a sworn affidavit in order to obtain an arrest warrant for Joshua Brown for the murder of Jaylon Burns. On information and belief, an arrest warrant for Joshua resulted from statements given by members of Alpha, who were involved in the incident which led to the death of Jaylon Burns, along with other alleged facts gathered during the “investigation” led by Chief Horton and/or Detective Jackson and unknown officers or detectives of JSU Campus Police. These allegations regarding Joshua Brown were false and these defendants negligently, grossly negligently and/or recklessly withheld truthful information from the Judge issuing the arrest warrant and/or the arrest was a result of a grossly negligent or reckless investigation by JSU Campus Police, led by Chief Horton and/or Detective Jackson and other unknown officers or detectives of JSU Campus Police.

14. Hinds County Detention Center, where Joshua Brown was housed, is a facility operated by Defendant Hinds County. The conditions at the Raymond Detention Center were inhumane and had fallen below Eighth Amendment and Fourteenth Amendment constitutional standards, see

*United States v. Hinds County*, 2022 WL 1112223 (S.D. Miss. 2022) and as described throughout the pleadings in the case styled *United States v Hinds County*, et al., United States District Court, Southern District of Mississippi, Civil Action No.: 3:16vc489.

15. Joshua Brown appeared at an initial appearance on October 20, 2023, to the formal charges of capital murder and possessing a firearm on a college campus. Bond was denied to Joshua, based on representation by Detective Jackson at this initial appearance.

16. On or about October 19, 2023 (right date), JSU and/or JSU campus police, began to make statements to the media about the wrongful accusations, wrongful arrest, wrongful detainment and imprisonment of Joshua Brown. Photographs of Joshua Brown were disseminated by the Associated Press, among others, which showed Joshua in a red jumpsuit, the likes of which indicates an inmate charged with capital murder or similar heinous and violent offenders.

17. As time passed, it became evident that the accusation of Joshua Brown was a rush to charge someone for a for a highly publicized murder on a Mississippi College Campus in a conspiracy of actions involving grossly negligent lies and deceit by JSU, JSU Campus Police, Alpha, Dr. Anthony, Chief Horton and Detective Jackson. This rush to “solve the crime”, combined with a reckless and grossly negligent investigation by JSU Campus Police, Acting Interim JSU President Dr. Anthony, Chief Horton, Detective Jackson and unknown other individuals, of all of the facts, known and obvious from beginning, caused irreparable damage to Joshua Brown.

18. On or about October 24, 2023, Joshua’s family provided video evidence to JSU, which clearly showed that he was in Jones County, Mississippi, approximately 90 miles from JSU on the date of the murder of Jaylen Burns.

19. On or about November 10, 2023, when Joshua Brown was scheduled to have a preliminary hearing, the court was notified by Detective Jackson that the charges “were being”

dismissed. On that date, no preliminary hearing was held, signifying that there was no probable cause for the arrest of Joshua Brown and Joshua was released.

20. Between October 18, 2023, and November 10, 2023, multiple calls were made to release Joshua Brown from custody. An Order of Dismissal was finally filed in the County Court of Hinds County, Mississippi, formally dismissing the charges. See Attached Order (Ex. A).

21. As a result of Defendants' unlawful actions, Joshua Brown was falsely imprisoned in inhumane conditions, subjected to baseless criminal prosecution, and suffered mental anguish and suffering, severe reputational, emotional and financial damages.

**CLAIMS FOR RELIEF**

**COUNT I**

**Violation of Fourth and Fourteenth Amendment Rights**

**42 U.S.C. § 1983**

**(Against Defendants Horton and Jackson)**

22. Plaintiff incorporates by reference the allegations in all preceding paragraphs.

23. Defendants Horton and Jackson, acting under color of state law, violated Joshua Brown's clearly established rights under the Fourth and Fourteenth Amendments to the U.S. Constitution to be free from unreasonable seizure and not to be deprived of liberty without due process of law.

24. Defendants lacked probable cause to arrest Joshua Brown for murder; thereby Defendants caused a malicious prosecution, by acting with reckless disregard to the rights of Joshua Brown, and caused him to be falsely arrested and falsely imprisoned in the Hinds County Detention Center in Raymond, MS. , thereby violating Mississippi state law, all of which violated the Fourth Amendment, the Eighth Amendment and Fourteenth Amendment.

25. Defendants' actions were objectively unreasonable in light of the facts and circumstances.

26. As a direct and proximate result of Defendants' unconstitutional conduct, Joshua Brown suffered substantial damages.

**COUNT II**  
**Violation of Fourth, Eighth and Fourteenth Amendment Right**  
**42 USC §1983**  
**(Against Defendants JSU, JSU Campus Police)**

27. Plaintiff incorporates by reference the allegations in all preceding paragraphs.
28. Defendants JSU and, its Department JSU Campus Police, are liable to Joshua Brown for violations of the Fourth, Eighth and Fourteenth amendments which were caused by official policies or customs made by all Defendants, in being indifferent to citizens be arrested without probable cause and failing to train its officers on the necessity of probable cause, thereby, causing the Defendant to be imprisoned in a facility, controlled by Hinds County, which has been previously determined to violate the constitutional rights of inmates. All Defendants again recklessly disregarded the constitutional rights of Joshua Brown. These Defendants, making policy decisions to give no training on the meaning of probable cause, or how probable cause might be established, and of failing to instruct its officers that underlying facts sworn to establish the facts supporting an arrest warrant, must be further investigated and found to be true, by corroboration of same. Alternatively, Defendants JSU, and/or JSU Campus Police are liable because they delegated to Defendant Jackson, the full authority to make arrests without supervision. Defendants were all aware that this false arrest and malicious prosecution (both a violation of Joshua Brown's Fourth and Fourteenth Amendment rights) would result in imprisonment in Hinds County Detention Center in Raymond, Mississippi, which would violate Joshua Brown's Eighth and Fourteenth Amendment Rights.

**COUNT III**  
**State Law Claim for Defamation**  
**(Against all Defendants except Hinds County and Tyree Jones)**

29. Plaintiff incorporates by reference the allegations in all preceding paragraphs.

30. Defendants, with the exception of Hinds County, made false and defamatory statements about Joshua Brown to third parties by publicly accusing him of murder.

31. Defendants made these statements with knowledge of or reckless disregard for their falsity.

32. The false statements constitute defamation per se under Mississippi law, as they accuse Joshua Brown of criminal activity.

33. As a direct and proximate result of Defendants' defamation, Joshua Brown suffered substantial damages, including mental anguish and suffering, harm to his reputation and standing in the community.

**COUNT IV**  
**Violation of Eighth and Fourteenth Amendments**  
**(As to JSU, JSU Campus Police and Hinds County)**

34. Plaintiff incorporates by reference the allegations in all preceding paragraphs.

35. Defendants JSU, JSU Campus Police and Hinds County are jointly liable for violation of the Eighth and Fourteenth Amendments of the United States Constitution with respect to jail conditions because their official policy decision to arrest caused pretrial confinement, resulted in Joshua Brown's being confined in inhumane conditions. Joshua Brown was held in conditions which violated the standards of the Fourteenth amendment substantive due process and the Eighth Amendment prohibition of cruel and unusual punishment. The conditions were not necessary to assure Joshua Brown's presence at trial. These conditions have been held unconstitutional by this Court in *United States v. Hinds County*, 2022 WL 1112223 (S.D. Miss. 2022) and Defendant is collaterally estopped to deny that Joshua Brown was held in conditions which violate the Eighth and Fourteenth Amendments. This Court's opinion and consent orders in Civil Action No. 3:16cv489, reported at *United States v. Hinds County*, 2022 WL 1112223 (S.D. Miss. 2022) are hereby incorporated into this Complaint by reference.

**COUNT V**  
**Civil Conspiracy of Violation of Fourth, Eighth and Fourteenth Amendment Right**  
**42 USC §1983**  
**(Against All Defendants)**

36. Plaintiff incorporates by reference the allegations in all preceding paragraphs.
37. Defendants reached an agreement and conspired among themselves to violate Joshua Brown's Fourth, Eighth and Fourteenth Amendment rights.
38. Defendants JSU and, its Department JSU Campus Police, as well as Defendants Dr. Anthony, Chief Horton, Detective Jackson, Alpha and Hinds County are liable to Joshua Brown for conspiracy to commit violations of the Fourth, Eighth and Fourteenth amendments which were caused by official policies or customs made by JSU and/or JSU Campus Police. Defendants, in being indifferent to citizens being arrested without probable cause and failing to train its officers on the necessity of probable cause, thereby, causing the Defendant to be imprisoned in a facility, controlled by Hinds County, which has been previously determined to violate the constitutional rights of inmates. All Defendants conspired to recklessly disregarding the constitutional rights of Joshua Brown. Defendants JSU and/or JSU Campus Police, made policy decisions to give no training on the meaning of probable cause, or how probable cause might be established, and of failing to instruct its officers that underlying facts sworn to establish the facts supporting an arrest warrant, must be further investigated and found to be true, by corroboration of same. Defendants JSU and/or JSU Campus Police delegated to Defendant Jackson, the full authority to make arrests without supervision. Defendants were all aware, during their conspiracy and agreement therein, that their actions would result in false arrest and malicious prosecution (both a violation of Joshua Brown's Fourth and Fourteenth Amendment rights) in imprisonment in Hinds County Detention Center in Raymond, Mississippi, which would violate Joshua Brown's Eighth and Fourteenth Amendment Rights.

**COUNT VI**  
**State Law Claim for Conspiracy to Defame**  
**(Against Defendants JSU, JSU Campus Police and Alpha)**

39. Plaintiff incorporates by reference the allegations in all preceding paragraphs.
40. These Defendants agreed to and conspired to defame Joshua Brown
41. Defendants made false and defamatory statements about Joshua Brown to third parties by publicly accusing him of murder.
42. Defendants made these statements with knowledge of or reckless disregard for their falsity.
43. The false statements constitute defamation per se under Mississippi law, as they accuse Joshua Brown of criminal activity.
44. As a direct and proximate result of Defendants' defamation, Joshua Brown suffered substantial damages, including mental anguish and suffering, harm to his reputation and standing in the community.

**DAMAGES**

45. Plaintiff incorporates by reference the allegations in all preceding paragraphs.
46. Joshua Brown has suffered mental anguish, anxiety, suffering and stress, and permanent loss to his reputation as a result of his arrest and imprisonment for murder all of which has resulted in past, present and future financial damage.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff Shirley Brown, as Natural Mother and Next Friend of Joshua Brown, a Minor, respectfully requests that the Court enter judgment in favor of Joshua Brown and against Defendants, and award the following relief:

- a) Compensatory damages in an amount to be determined at trial to include past, present and future medical bills and loss of past, present and future wages and wage-earning capacity.
- b) Punitive damages against the individual Defendants in an amount to be determined at trial;

- c) Reasonable attorneys' fees and costs and expenses under 42 U.S.C. § 1988;
- d) Pre-judgment and post-judgment interest; and
- e) Such other and further relief as the Court deems just and proper.

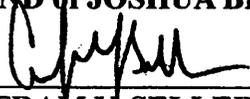
**JURY DEMAND**

Plaintiff demands a trial by jury on all issues so triable.

Respectfully submitted, this the 17<sup>th</sup> day of September, 2024.

**SHIRLEY BROWN, as NATURAL MOTHER, and  
NEXT FRIEND of JOSHUA BROWN, a MINOR**

BY: \_\_\_\_\_

  
**AAFRAM Y. SELLERS**  
*Attorney for Plaintiffs*

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No. 3:16-CV-489-CWR-RHWR

UNITED STATES OF AMERICA,

*Plaintiff,*

*v.*

HINDS COUNTY, ET AL.,

*Defendants.*

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ORDER

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Before CARLTON W. REEVES, *District Judge.*

After nearly a decade of investigation and litigation regarding conditions at Hinds County's Raymond Detention Center (RDC), *see* Docket No. 3-4 (2014 Grand Jury Report), the factual and procedural history of this case is well-known. For today's purposes, a brief summary of the present situation will suffice.

In 2016, the United States Department of Justice brought this action to end unconstitutional conditions of confinement at



RDC and two other facilities that comprise the Hinds County jail system. The parties entered into a Consent Decree—and later, a Stipulated Order—to correct the problems.

The County managed to turn the tide at the Work Center. Through its efforts, the County transformed the Work Center into “a functional jail for the citizens of Hinds County.”<sup>1</sup> Docket No. 100 at 8 (citing the Fourteenth Monitoring Report at 29).

The story was not the same at RDC. Despite promises to comply with this agreement, the County continually failed to abide by the Consent Decree’s provisions. Conditions there remained unchanged. As a result, in November 2021 the Court issued an Order to Show Cause directing the County to “explain why it should not be held in civil contempt and why a receivership should not be created to operate RDC.” *Id.* at 28.

The County responded with more promises. It vowed to correct the deficiencies at RDC if only the Court would extend the compliance deadline to July 1, 2022. *See* Docket No. 105 at 5 (“The County thus respectfully requests this Court give them until July 1, 2022 to prove they can make even more significant, positive change at RDC before the Court decides whether to take the drastic, extraordinary steps it is considering taking.”). Quoting Robert Frost, the County declared “we ‘have promises to keep and miles to go before we sleep.’” *Id.* at 4. Rather than work to remedy the situation, though, the County moved to terminate or modify the Consent Decree under the Prison Litigation Reform Act (PLRA). Docket No. 111.

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<sup>1</sup> The third facility, the downtown jail, closed in 2020.

On February 4, 2022, disturbed by the record number of assaults, fires, and deaths, including murders, suicides, and overdoses, this Court issued its First Order of Contempt. Docket No. 126. The Order identified “more than two dozen provisions [of the Consent Decree] where the County is simply non-compliant with a Court Order.” *Id.* at 20.

On February 14, 2022, the parties commenced a two-week trial regarding the appropriate remedy for the finding of contempt against the County, and to address the County’s PLRA motion. The United States urged for appointment of a receiver, arguing that “[c]ontinuing remedial efforts short of receivership will only lead to further confrontation, delay, and serious harm to the people confined to the Jail.” Docket No. 138 at 89. Taking the opposite position, the County contended that the Consent Decree should be “terminated and dissolved in its entirety.” Docket No. 140 at 29. The United States, the County submitted, “failed to prove either that the County failed to reasonably respond to any substantial risk of serious harm or that the prospective relief in the Consent Decree meets the PLRA’s . . . requirements.” *Id.* at 28-29. There was no need for further oversight or supervision, the County claimed.

After the February 2022 proceedings, the Court again found the County in contempt. Docket No. 165. The Second Order of Contempt centered on the County’s decision to house detainees in A-Pod, in violation of the Stipulated Order. *See* Docket No. 165. This, despite Sheriff Tyree Jones admitting that the unit was unsafe. *See id.* at 5. The Order emphasized that “[i]mposition of ‘an appropriate sanction for that contempt’ is again reserved pending the PLRA termination

motion.” *Id.* at 18 (citing *Petroleos Mexicanos v. Crawford Enters.*, 826 F.2d 392, 398 (5th Cir. 1987) (collecting cases)).

The County has asked the Court to reconsider that Order.<sup>2</sup> Docket No. 171. The United States opposes reconsideration.

Next came this Court’s Order on the PLRA motion. In April, the County’s motion to modify or terminate was substantially granted. The Order revised the Consent Decree, excising those provisions that exceeded the constitutional minimum. *See* Docket No. 169 (“The New Injunction”). The New Injunction removed the Work Center from the scope of remedial relief and dramatically scaled back the provisions applicable to RDC.<sup>3</sup>

Having given the County until July 1, 2022 to purge itself of contempt, per the County’s request, the Court held a final mitigation hearing on July 19, 2022. The undersigned invited the County to argue its motion for reconsideration and welcomed any evidence that would ameliorate its record of non-compliance. After the better half of a day, the parties rested.

After ample time and opportunity, regrettably, it is clear that the County is incapable, or unwilling, to handle its affairs. The County’s motion for reconsideration is denied. Additional intervention is required. It is time to appoint a receiver.

### I. Legal Standard

“There can be no doubt that the paramount duty of the federal judiciary is to uphold the law. That is why, when a state fails

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<sup>2</sup> The County has not sought reconsideration of the First Order of Contempt.

<sup>3</sup> Both parties have expressed their disagreement with aspects of the New Injunction by appealing the order.

to comply with the Constitution, the federal courts are compelled to enforce it." *Newman v. State of Ala.*, 466 F. Supp. 628, 635 (M.D. Ala. 1979).

The Fifth Circuit has recognized the availability of receiverships "in the context of ensuring a governmental entity's compliance with court orders." *Netsphere, Inc. v. Baron*, 703 F.3d 296, 306 (5th Cir. 2012) (internal citations omitted). "There can be little question . . . that receiverships are recognized equitable tools available to the courts to remedy otherwise uncorrectable violations of the Constitution or laws." *Plata v. Schwarzenegger*, 603 F.3d 1088, 1093-94 (9th Cir. 2010).

When determining whether to appoint a federal receiver to manage a state facility, a court considers the following factors:

- (1) Whether there is a grave and immediate threat or actuality of harm . . . ;
- (2) Whether the use of less extreme measures of remediation have been exhausted or prove futile;
- (3) Whether continued insistence [upon] compliance with the Court's orders would lead only to confrontation and delay;
- (4) Whether there is a lack of leadership to turn the tide within a reasonable period of time;
- (5) Whether there is bad faith;
- (6) Whether resources are being wasted; and
- (7) Whether a receiver is likely to provide a relatively quick and efficient remedy.

*Plata v. Schwarzenegger* (“*Plata I*”), No. C01-1351 TEH, 2005 WL 2932253, at \*23 (N.D. Cal. Oct. 3, 2005) (collecting cases), *aff’d*, *Brown v. Plata*, 563 U.S. 493 (2011).

The Fifth Circuit has identified similar factors in the context of “appoint[ing] a receiver to take possession of the judgment debtor’s property for preservation.” *Santibanez v. Wier McMahon & Co.*, 105 F.3d 234, 241 (5th Cir. 1997). Factors such as “a valid claim by the party seeking the appointment;” “imminent danger” to the property at issue; “lack of less drastic equitable remedy;” and “likelihood that appointing the receiver will do more harm than good” parallel those used in the jail receivership analysis. *Id.* at 241-42 (quoting *Aviation Supply Corp. v. R.S.V.I. Aerospace, Inc.*, 999 F.2d 314, 316-17 (8th Cir. 1993)). Jail receiverships therefore hew to the recognized statutory and equitable bounds of a district court’s authority.

“The most significant factor in the propriety of appointing a receiver is whether any other remedy is likely to be successful.” *Dixon v. Berry*, 967 F. Supp. 535, 550 (D.C.C. 1997) (internal citation omitted).

While a court will consider whether the defendants acted in bad faith, “the Court need not ascribe ill will to defendants as a predicate to appointing a Receiver.” *Plata I*, 2005 WL 2932253 at \*30.

The PLRA does not prohibit or otherwise foreclose appointment of a receiver. *Plata*, 563 U.S. at 526. Critically, “[t]he PLRA should not be interpreted to place undue restrictions on the authority of federal courts to fashion practical remedies when confronted with complex and intractable constitutional violations.” *Id.*

## II. Discussion

Below, the Court considers the *Plata* factors for appointment of a receiver. Nearly all of the factors weigh in favor of instituting a receivership.

### A. Risk of Harm

First up is whether RDC presents “grave and immediate threat or actuality of harm” to detainees. *Plata I*, 2005 WL 2932253 at \*23. The record indicates that it does. As discussed extensively in the November 2021 Show Cause Order and April 2022 Order instituting the New Injunction, conditions at RDC subject detainees to unconstitutional risk of harm, including death, rampant physical and sexual assaults, and neglect of the seriously mentally ill. *See* Docket Nos. 100 at 10-13; 168 at 43-56. Indeed, the record overwhelmingly indicates that RDC is “an institution ‘where terror reigns.’” *Alberti v. Klevenhagen*, 790 F.2d 1220, 1226 (5th Cir. 1986) (citing *Jones v. Diamond*, 636 F.2d 1364, 1373 (5th Cir. 1981)).

Persistent shortcomings in staffing and supervision embolden gangs and encourage the prevalent circulation of contraband, including narcotics and weapons, within RDC. Jail staff continue to receive inadequate training regarding use of force, such as the use of tasers.

Current staffing levels are particularly egregious. “The lack of personnel has routinely been noted as the most significant problem facing the Jail System.” Docket No. 167 at 2.<sup>4</sup> Today,

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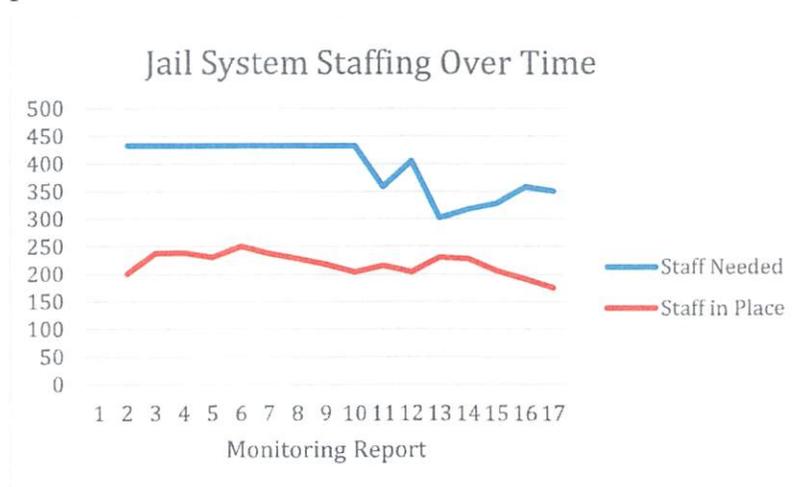
<sup>4</sup> The periodic Monitoring Reports are replete with urgent references to the County’s failure to ensure adequate staffing. *See* Docket Nos. 12-1 at 2 (“The overarching problem facing the Hinds County Jail System is the inability to hire and retain enough qualified personnel (deputies) to staff

staffing is at an all-time low. As recounted by Monitor Elizabeth Simpson during the July 19, 2022 mitigation hearing, the County currently employs 175 staff for the jail system, only 108 of whom work at RDC. Citing a staffing analysis, she reported the jail system requires 248 people to function. Moreover, while staffing has steadily decreased, the number of detainees has increased from a low of around 500 during spring of 2021 to current levels of around 700. The staffing situation is, candidly, deeply alarming.

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required positions."); 16 at 2 ("Lack of staff continues to be the most critical issue facing the Hinds County Jail System."); 22 at 2 ("[T]he lack of staff continues to be the most significant problem facing the Detention Services Division."); 23 at 14 ("The current staffing is inadequate to safely operate the jail."); 24 at 17 ("At the RDC lack of staff is still a critical issue."); 27 at 2 ("[T]he Detention Services Division (DSD) has made no appreciable progress in three critical areas: staffing, . . ."); 33 at 2 ("Because of the staff shortage, . . . the inmates, rather than the officers, are in charge of the facility."); 46 at 2 ("The lack of staff is still the most critical problem facing the DSD."); 67 at 3 ("When one considers the fact that the staffing study that was conducted in 2017[] called for over 400 personnel, these figures are particularly disturbing."); 75 at 30 ("The lack of staff has consistently been the greatest problem facing the Hinds County Jail System."); 77 at 29 ("Little has changed since the last Monitoring Report."); 83 at 30 ("The lack of staff to fill required posts has consistently been the single greatest shortfall of the HCSO and County since the beginning of the monitoring process in 2016."); 94 at 3 ("A review of previous Monitoring Reports points to one commonality: an ongoing shortage of staff"); 101 at 2 ("As always, the lack of personnel is the single greatest problem facing the Jail System.").

The below chart highlights the gap between the staff needed and the staff in place over the course of the monitoring reports.



Two takeaways are particularly salient. First, the County has never achieved adequate staffing. It came closest in spring of 2021. Even at that time, though, “RDC still experience[d] . . . a 40%” rate of unfilled positions. Docket No. 83 at 30.

Second, since the release of the Thirteenth Monitoring Report, the number of staff members has steadily decreased. In fact, the current staffing levels are the lowest they have ever been.

At the recent mitigation hearing, David Parrish of the Monitor’s team and Sheriff Jones testified that the County had implemented some changes to increase staffing numbers. For example, the County testified that it moved to direct deposit and bi-weekly pay. Sheriff Jones has also proposed a retention rewards program. The issue is that it has taken well over six years to implement these changes, and so far, none of them have borne fruit. And as Hinds County Administrator Kenny Wayne Jones testified during the mitigation hearing, the

projected opening of a new Misdemeanor Jail next month will likely exacerbate low staffing numbers at RDC.

The staffing crisis affects nearly every facet of operations at RDC. One of those is the treatment of detainees with serious mental illness. As recounted by Ms. Simpson at the July 19 hearing, at present approximately 250 detainees require mental health services, and over 200 suffer from serious mental illness.

The Monitoring Team has long worked with the County to establish a dedicated mental health unit to ensure the constitutional treatment of detainees with mental illness. The County has abandoned those plans. Sometimes the County even abandons detainees. Indeed, in reviewing records from surveillance of suicide-watch areas, Mr. Parrish testified that several had hours-long gaps. RDC staff, Mr. Parrish testified, are supposed to place detainees in suicide-watch areas under constant watch. These gaps in logged surveillance are therefore unacceptable.

Low staffing also heightens the rate and severity of physical violence at RDC. Deficiencies in supervision and staffing lead to a stunning array of assaults, as well as deaths. Seven individuals died last year while detained at RDC. Low staffing compounds these issues by forcing workers to hold multiple posts and skip scheduled surveillance rounds. It also leads to perilous situations, such as one guard manning the control center for an entire housing pod on his own,<sup>5</sup> and guards

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<sup>5</sup> RDC has three housing areas, A-Pod, B-Pod, and C-Pod. Each Pod has four units, and each unit holds about 64 detainees, for a total of up to 256 detainees on each Pod. *See* Tr. vol. 5 at 83; *see also* Tr. vol. 2 at 410. Each Pod also has one control room for computer surveillance.

stating that they are afraid to work and will not report to RDC if assigned to certain units or pods.

Inmates control A-Pod. Docket No. 168 at 79 (quoting Tr. vol. 1 at 96)). Failure to maintain this part of the facility enables detainees to “access the roof,” such that “detainees routinely escape . . . only to return with contraband.” Docket No. 165 at 17.<sup>6</sup> Gang committees, not guards, run A-Pod. Lack of a sprinkler system means that A-Pod is at an increased risk of burning down. The continued prevalence of trash dumpster cells, a term of art that refers to cells used as “trash receptacles,” serve “as a breeding ground for vermin.” *Id.* at 14 (internal quotation marks and citation omitted). These inadequacies raise serious health and safety concerns.

Many of the assaults at RDC occur in A-Pod. As recounted in the Second Contempt Order, staff’s failure to address the deleterious conditions in A-Pod contributed to a detainee getting assaulted three times—twice, stabbed—within the housing unit. *See id.* at 9-10. Each of the stabbings required medical transport. Yet, staff continued to house him in A-Pod. It is challenging to conceive of a practice more deliberately indifferent to the needs of a detainee than this. Unfortunately, the record indicates that violence is the norm, not the exception, at RDC.<sup>7</sup>

“Detainees ‘depend on the jail systems for their very lives.’” Docket No. 168 at 54 (citing PX-20 at 8). For too many years,

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<sup>6</sup> As noted in the Second Order of Contempt, “not all escapees return,” and of those who escape, not all are recaptured. Docket No. 165 at 17.

<sup>7</sup> The already cash-strapped County has had to pay millions of dollars in settling lawsuits arising from these conditions. *See* Docket No. 168 at 6 n.2 (listing the lawsuits against the County arising out of RDC’s conditions).

and for too many detainees, this dependency on RDC has proved deadly.

Evidence presented during the February 2022 proceedings demonstrated that the risk of harm to detainees—and staff—at RDC remains high. *See* Docket No. 168 at 40-75, 146. Recent incident reports confirm the danger. Amongst other alarming events, these reports specifically indicate:

- Detainees summoning guards to remove other detainees from A-Pod, stating “if you don[’]t get them out of here it would be blood shed;”
- Three detainees in A-Pod surrounding another detainee with knives to demand his food and belongings;
- Excessive contraband, including: cellphones, pills, tobacco, knives, screw drivers, lighters, 67 shanks, and other items;<sup>8</sup>
- Numerous assaults requiring medical treatment of the victims, both on-site and at an outside hospital;
- A March 2022 incident during which officers from Rankin County fired a beanbag shotgun at seven detainees, including one who was lying down;<sup>9</sup> and
- Detainees refusing placement in A-Pod due to threats of violence by other detainees.

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<sup>8</sup> For a photograph of the contraband retrieved during the March 18, 2022 shakedown, *see* PX-167. During the July 19 hearing, Mr. Parrish testified that based on the documents he reviewed, prior to the March 2022 shakedown, C-Pod had not undergone a shakedown in three to five months.

<sup>9</sup> For contemporaneous accounts of this ill-fated use-of-force incident, *see* PX-163 through PX-166. When asked about the officers’ conduct during the hearing, Mr. Parrish responded: “I’ve never seen anything like this.”

Testimony and evidence offered during the July 19, 2022 mitigation hearing did not ameliorate these concerns. When asked about staffing levels in A-Pod, Mr. Parrish testified that it is getting worse. During an on-site visit in April 2022, for example, Mr. Parrish observed an officer leave the master control room of RDC unattended. Located in the booking area, the master control room contains video monitors that surveil the entire facility. Thus, when the sole officer on duty left that control room, he jeopardized the whole jail. When asked why he left his post, the officer said that he was tired of having to worry about opening and closing doors.

To borrow from the Supreme Court of Appeals of West Virginia, “the conditions have not improved, nor has the situation become any less unconstitutional” since the County was last directed “to remedy the problems.” *Crain v. Bordenkircher*, 376 S.E.2d 140, 142 (W.Va. 1988). Such a situation, the *Crain* Court found, warranted appointment of a receiver.<sup>10</sup> So too here. Detainees are at documented risk of “grave and immediate threat or actuality of harm.” *Plata I*, 2005 WL 2932253 at \*23. Thus, the first factor counsels in favor of a receivership.

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<sup>10</sup> That receiver oversaw “the construction of a new penitentiary” and the closure of the facility giving rise to the lawsuit. *See Crain*, 420 S.E. 2d at 733. Here, the undersigned will not distract from the County’s plans to construct a new facility. Appointment of a receiver in the present case is instead focused on ensuring constitutional conditions at RDC. *Crain’s* analysis proves useful, however, in demonstrating the propriety of a receiver in circumstances such as these, where a facility continually displays its aversion to managing its own affairs.

### B. Failure of Less Intrusive Means

Less intrusive means remedied conditions at the Work Center. Not so at RDC. There, lesser measures have failed to ensure constitutional conditions of confinement.

The Consent Decree and the Stipulated Order both contained mechanisms intended to aid the County in reaching a minimal level of constitutional compliance. Under the Consent Decree, for example, the County has received extensive technical assistance from the Monitor and her team. The 2020 Stipulated Order, meanwhile, represented “the most comprehensive remedial plan for Hinds County to become compliant that the Court ha[d] seen from the parties. *Id.* at 11. It was necessary because “the County ha[d] reached sustained compliance . . . in only one of the 92 requirements of the Consent Decree.” Docket No. 60 at 7. The Stipulated Order was thought to bolster compliance with the Constitution.<sup>11</sup> In retrospect, it did not.

Instead, then as now, conditions at RDC are severely deficient. Cell doors still do not lock. Docket No. 168 at 6 n.2, 7, and 84. There is no lighting in many cells in A-Pod, which makes life miserable for the detainees who live there and

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<sup>11</sup> Indeed, during the February 2022 evidentiary hearing, Ms. Simpson testified to providing the County with a “road map . . . to try to give step by step how to move towards compliance, and then the stipulated order itself, of course, was intended to provide—to break the steps up into more manageable steps to achieve compliance.” Tr. vol. 10 at 1179. Unfortunately, when asked how the County fared following this road map, Ms. Simpson replied “not well.” *Id.* She emphasized that the County’s motivation to implement changes “always seemed to sort of dissipate.” *Id.* Absent a receiver, Ms. Simpson testified, “I think we will not see the kind of improvements that we need to see.” *Id.*

prevents guards from adequately surveilling detainees. *Id.* at 84. Many cameras do not function. *Id.* at 92 (“At last count, 56 cameras were not working, 14 were missing and 10 needed adjusting.”) (citing Fifteenth Monitoring Report at 72). Even when the cameras work, guards tasked with monitoring them sometimes turn to “sleeping instead of manning the cameras in the control room.” *Id.* at 80 (citing Tr. vol. 11 at 1977). Staff fail to conduct mandatory welfare checks. *Id.* Such issues continue despite the original Consent Decree, Stipulated Order, and New Injunction, and we are past the July 1 deadline the County itself asked for to reach compliance.

The Court has considered other sanctions, which are both less and more intrusive than imposing a receivership.

Consider, for instance, financial sanctions that have been imposed in other jail conditions cases. *See Crain*, 376 S.E.2d at 142 (ordering the State to pay for construction of a new jail if it failed to purge itself of contempt, and recognizing this remedy as “clearly a lesser evil” than the “release [of prisoners] from the penitentiary because of the unconstitutional conditions of confinement”); *see also Morales Feliciano v. Hernandez Colon*, CIV. No. 79-4 (PG), 1990 WL 83321 at \*10 (D.Puerto Rico 1990) (putting the defendants on notice of the possibility of imposing “compensatory fines for the benefit of members of the plaintiff class” or “coercive fines at a level calculated to bring about speedy compliance” with the constitutional standards of confinement). Courts also regularly require named defendants to pay a monetary fine upon finding that they failed to comply with judicial orders. *See Campbell v. McGruder*, No. 1462-71, 1987 WL 8724 at \*1, 3 (D.D.C. Mar. 11, 1987).

Despite the prominence of monetary sanctions in the case law, the record suggests that financial penalties are inappropriate in this case. The County has reportedly spent millions of dollars trying to fix RDC, but to no avail. *See* Docket No. 168 at 6, n.2; 16. The purpose of sanctions in this case is to ameliorate the unconstitutional conditions at RDC. Given the ineffectiveness of the County's earlier expenditures to remedy the deficiencies at RDC, financial penalties are insufficient to cure the unlawful conditions at RDC. This type of lesser sanction is therefore inadequate.

Another option is to order the release of detainees into the public or close RDC outright. For instance, confronted with sweeping unconstitutional conditions in Alabama's prison system, Judges Frank M. Johnson, Jr. and W. Brevard Hand "enjoin[ed] state officials from accepting new prisoners into the system." Jack Bass, *Taming the Storm* 337 (1993). The run of cases indicates that these are more extreme remedies than a receivership. *See Plata I*, 2005 WL 2932253 at \*28; *see also Coleman v. Schwarzenegger*, 922 F. Supp. 2d 882, 951 (N.D. Ca. 2009) (ordering the release of prisoners upon finding "that the constitutional deficiencies in the California prison system's medical and mental health system cannot be resolved in the absence of a prisoner release order"); *Wayne Cnty Jail Inmates v. Wayne Cnty Chief Exec. Off.*, 444 N.W.2d 634, 645 (Mich. Ct. App. 1989) (referring to "the closing of the jail" as "an even more drastic remedy" than instituting a receivership). By extension, ordering the County to close A-Pod is also a more radical remedy than a receivership.

A third option is to require members of the Board and the Sheriff to spend a week or more<sup>12</sup> detained in RDC. Experiencing life at the jail firsthand would surely motivate the County's leaders to correct unconstitutional conditions therein. But this also seems an extreme remedy—at least, at present.

The troubling record in this case, then, demonstrates that a receivership is a remedy proportionate to the constitutional violations and gravity of harm faced by detainees at RDC.<sup>13</sup>

### C. Risk of Confrontation and Delay

Onto the third set of factors, the risk of confrontation and delay.

The story of RDC is a tale of perennial personnel power-struggles and institutional lag. From jail administrators to the Monitor and her team, the record reveals that the County continually obstructs and frustrates the initiative of would-be contributors. *See* Tr. vol. 5 at 794-95. For example, inactivity on the part of the County led the Monitor to “fund a policy development consultant under her budget to do work that

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<sup>12</sup> A week may not be an adequate dose since “[t]he length of stay at Hinds County Jail continues to be approximately double the national average,” *see* Sixteenth Monitoring Report at 6, which the Bureau of Justice Statisticians most recently calculated as approximately 28 days in custody, *see* Todd D. Minton & Zhen Zeng, U.S. Dep’t of Just., Bureau of Just. Stat., *Jail Inmates in 2020—Statistical Tables 4* (2021).

<sup>13</sup> While the Court has considered other sanctions, it must be noted that the County has never suggested any other alternative. It has simply argued against a receivership. It continues to plead for more time, but we have been there and done that. There is no sense in granting the County more time to do nothing.

Defendants should have paid for directly and completed on their own.” Docket No. 138 at 90. Ms. Simpson also “fund[ed] a human resources consultant under her budget to do work that Defendants should have paid for directly and completed on their own.” *Id.* Forcing the Monitor to shoulder the burden of financing and spearheading essential initiatives contributes to further delays in work and staffing shortages.

The County’s culture of inertia means that even seemingly simple tasks, such as the procurement of tables and chairs for detainees to use for meals, remain unaccomplished. *See* Tr. vol. 2 at 307.<sup>14</sup> More egregiously, A-Pod remains incredibly dangerous. Docket No. 165. Similarly, the placement of detainees in reconstructed units of B-Pod not yet certified for occupancy, coupled with lack of direct supervision, has caused conditions there to deteriorate. *See* Docket No. 167 at 3, 51, 73. Three witnesses at the mitigation hearing testified that conditions in B-Pod are now almost as dire as in A-Pod.

The County’s brazenness extends to fulfillment of its obligations to the Monitor. Ms. Simpson testified at the July 19 mitigation hearing that, in contravention of earlier practices, the County had yet to turn over documents that were necessary to provide effective monitoring required for the most recent

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<sup>14</sup> At the July 19, 2022 hearing, the Sheriff testified that tables have been purchased, installed, and in use. This is not the first time someone from the County has made such a representation. As recounted in an earlier Order, “[w]hen the Court addressed this issue in 2019, the County assured the Court that it had indeed provided detainees with tables and chairs.” Docket No. 165 at 16. That was false. As of the February 2022 Evidentiary Hearing, there were still no tables or chairs. *Id.* at 17. This means that “detainees must eat on the floor or in their dark cells—the same cells with leaky or clogged toilets.” *Id.*

site visit. RDC's unwillingness to provide these documents, Ms. Simpson stated, prohibited the Monitor and her team from conducting productive interviews and evaluating jail conditions.

The County's pattern of obstinance indicates that lesser measures will not bring RDC into compliance with the Constitution. Absent a receivership, the risk of confrontation and delay remains high. As was true for the *Plata* Court, here, "[i]t is resoundingly clear to the Court that continued insistence on defendants' compliance with Court orders would lead to nothing but further delay, as well as further needless death and morbidity." *Plata I*, 2005 WL 2932253 at \*29. This factor therefore also weighs in favor of appointment of a receiver.

#### D. Wasted Resources

The record in this case indicates "that defendants have engaged in a huge waste of taxpayer's resources." *Id.* at \*31.

At the February 2022 hearing, Ms. Simpson testified that the County wastes time and resources, as "there seems to be a lot of stopping and starting and going in one direction and then . . . going in a different direction." *See* Tr. vol. 7 at 1189-90. Mr. Parrish likewise testified that failure to implement direct-supervision results in detainees "break[ing] locks, doors, and caus[ing] things to malfunction" even after the County repairs portions of the physical plant. Tr. vol. 2 at 213. When asked whether elements of the physical plant that he repairs "get broken at a pretty high rate or pretty frequently," Gary Chamblee said that they did. Tr. vol. 8 at 1506. Mr. Parrish described the cycle as "a never-ending process" where "things get repaired, and then there's more damage and they have to be repaired again." Tr. vol. 11 at 2081. Even Sheriff

Jones admitted that the County “waste[s] resources training people who don’t stay on.” Tr. vol. 10 at 1888.

This includes retaining the acting jail administrator, Frank Shaw. RDC hired Mr. Shaw for a six-month term beginning on February 7, 2022. In exchange for his part-time services, Mr. Shaw receives \$12,000 a month, his expenses, a housing allowance, and a \$60.00 per diem for each day he spends on-site at RDC or otherwise working for the County. It is unclear how many days, if any, Mr. Shaw has spent at RDC. No matter. By the close of his contract, Mr. Shaw will have collected at least \$72,000 from Hinds County’s taxpayers.

The County continues to allude to construction of the new jail as an opportunity for a fresh start. But, as Mr. Parrish testified during the July 19 proceeding, if the County continues to provide inadequate supervision and staffing, detainees will just dismantle that facility, too.<sup>15</sup> And the opening of a new jail several years in the future does not establish constitutional conditions for those detained at RDC now. Moreover, the County’s responsibility to provide constitutional detention facilities for its detainees is not dissipated, suspended, or placed in abeyance while the new facility is being constructed.

Despite the expenditure of millions of dollars by the County, the evidence distinguishes RDC as an institution “that far too often neglects, mistreats, and at times literally kills those it is intended to serve.” *Plata I*, 2005 WL 2932253 at \*31. Accordingly, absent appointment of a receiver, RDC will continue to leech from the County’s limited resources, resulting in “a massive waste of money and, more importantly, life.” *Id.* A

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<sup>15</sup> In fact, Mr. Parrish testified that the most recent fixes at RDC have already been damaged—the result of inadequate staffing.

receiver can prevent further misuse of financial resources and protect human lives.

### **E. Leadership**

Who is responsible for remedying the constitutional violations at RDC?

The parties have advanced different theories of responsibility. When pressed, Sheriff Jones admitted that the buck stops with him. But he went on to blame the facility's shortfalls on COVID, the Monitor, and previous administrator Kathryn Bryan, who was hired with much fanfare. Supervisor Calhoun blamed his predecessors on the Board of Supervisors, even his wife. The County also pointed its finger at its prior attorney for recommending the Consent Decree.<sup>16</sup>

Despite naming different individuals and entities, the defendants' assessments had one thing in common. When asked who was responsible, each person deflected, saying essentially, "not me." *See* Tr. vols. 9 at 1604; 10 at 1963; *see also* Docket No. 168 at 17.

The Hinds County Board of Supervisors is dysfunctional. The Board is presently distracted by a struggle regarding who is entitled to be Board President. During the Board's meetings, the would-be President, angry at being passed over, speaks over all others in the Boardroom and prevents the Board from conducting business. *See, e.g.,* Anthony Warren, '*Clown show*': Archie disrupts vote on his removal as vice president, president-

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<sup>16</sup> In the face of DOJ's voluminous and damning findings, counseling the County not to enter into the Consent Decree would have been ill-advised. *See* Docket No. 3-3 at 2 (finding by DOJ dated May 21, 2015 that "Constitutional deficiencies at the Jail violate prisoners' Eighth and Fourteenth Amendment rights," and detailing those violations).

*elect*, WLBT (July 28, 2021); WJTV, *Hinds County Supervisor David Archie arrested during Thursday's meeting*, YouTube (Sept. 30, 2021).

On January 12, 2022, the situation became so hostile that Sheriff Jones issued a public letter advising the Board of Supervisors that “[a]ny member or citizen interfering with the ability of the President of the Board to run the meeting in an appropriate manner will be removed, detained, and possible [sic] arrested.” See Anthony Warren and C.J. LeMaster, *Hinds Co. Sheriff to Supervisors: Disrupt a meeting, face arrest*, WLBT (Jan. 13, 2022). A local journalists observed that “little progress has been made by the supervisors over the past five years,” and therefore, “with the terrible conditions and mismanagement at the Raymond Detention, this could be that one situation where federal oversight is warranted and extremely necessary.” Ted Fortenberry, *Consider This: Hinds County Jail*, WLBT (Dec. 2, 2021).

This Court agrees. The County and Sheriff cannot continue this exercise in accountability hot-potato, one which has proved deadly to detainees. See Tr. vol. 1 at 167; Docket No. 168 at 48-51. As with the State officials in *Plata*, the County officials here:

have the ultimate responsibility to hire, train, supervise, and audit their own staff, and to provide sufficient resources, technology, and support for those staff members to ensure that instances of negligent care and malpractice are kept to a minimum and that the system operates at least at the level of constitutionally adequate care.

*Plata I*, 2005 WL 2932253 at \*29.

Unfortunately, the record demonstrates that the County is either unable or unwilling to exhibit the leadership “necessary to protect the lives of [detainees].” *Id.* Put another way, the County is unwilling to manage its own affairs. This factor thus weighs in favor of a receivership.

#### **F. Bad Faith**

Again, a finding of bad faith is not required to institute a receivership. *Id.* at \*30. And, as observed by the *Plata* Court, “[t]he question of motive is complicated.” *Id.*

Guided by the *Plata* Court’s approach, this Court also declines to make a finding of bad faith. Whatever the County’s motives, despite years of supervision and support by the Monitor and her team, various jail administrators, and other personnel, conditions at RDC fall below the constitutional minimum. This is the key factor.

#### **G. Likelihood of a Quick and Efficient Remedy**

When assessing the speed and efficiency of a remedy, “the speed of reform must be judged relative to the scale of the project.” *Id.* at \*31. The *Plata* court underscored the “enormous” scope of overhauling California’s state prison system. *Id.* Ensuring constitutional compliance at RDC constitutes a comparatively modest project.<sup>17</sup>

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<sup>17</sup> The opening of the new jail, projected for completion in June 2025, *see* Docket No. 168 at 21, represents a natural projected end-date to the receivership. This constrains the potential scope of the receivership, thereby enabling the Receiver to focus his or her efforts on achieving constitutional compliance for the remaining life of RDC. In due time, the Receiver may convince the Court that her oversight is no longer needed.

Nevertheless, it is challenging to gauge the speed at which a receiver can reform RDC. Some of the candidates for the role of receiver supplied by the DOJ provide reason for cautious optimism, but none are on the ground yet.<sup>18</sup> Under the guidance of an experienced and well-qualified receiver, this Court “believes that steady progress . . . is possible.” *Id.* at \*31. Hence, this factor weighs in favor of a receivership.

#### H. The Role of the Court’s Monitor

Since 2016, Ms. Simpson and her team have monitored the County’s compliance with the Consent Decree, and later, the Stipulated Order. During this time, Ms. Simpson and her colleagues have ably served as the eyes and ears of the Court. The question is whether their services are still necessary.

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<sup>18</sup> At the Court’s invitation, the parties presented four candidates for the role of receiver. DOJ named three qualified potential receivers. The County chose to submit the name of one person, Frank Shaw. It appears that Mr. Shaw has no interest in being the Receiver, as his existing six-month contract with the County terminates on August 1, 2022. More importantly, as expressed in an earlier Order, Mr. Shaw’s history indicates that he is wholly unqualified for the role. *See* Docket No. 168 at 20 n.8 (observing that during his tenure at Management & Training Corporation (MTC), a private prison company, “Shaw presided over a series of riots at the Kingsman Complex in Arizona,” during which “[s]everal prison units were rendered uninhabitable and required tactical intervention,” resulting in the transfer of over 1,200 prisoners to other facilities, the Governor of Arizona’s termination of the state’s contract with MTC, and the “ratings downgrade” of the local government). An assessment by the Arizona Department of Corrections (ADC) concluded that MTC’s mismanagement sparked and inflamed the riots. *Id.* Based on the patterns of destruction, ADC concluded that “the riots were more likely precipitated by inmate dissatisfaction with MTC’s operation of the prison than by anger among the inmates themselves.” The Court will select one of the three remaining candidates to serve as receiver.

On the one hand, appointment of a receiver may negate the need for a separate monitoring team, conserving resources. On the other hand, the Monitor and her team's intimate familiarity with RDC and expertise in jail administration may aid the Receiver toward a more efficient turnaround. The Receiver can, in his or her discretion, determine whether the Monitor and her team members remain necessary in some capacity to ensure that RDC abides by the Constitution.

After the Court appoints the Receiver, the Monitor and her team should cease their operations as set forth in this Court's prior orders. Specifically, within 30 days of appointment of the Receiver, the Monitor and her team shall submit a final report and accounting. Upon receipt of the final report and accounting, the Court will be prepared to discharge Ms. Simpson as Monitor unless the Receiver determines her services remain necessary. Moving forward, the Receiver may communicate with the Monitor and her team as needed to effectuate a smooth transition.

### **III. Conclusion**

Nearly six years ago, the County entered into a Consent Decree, and later, a Stipulated Order, with the United States to ameliorate the unconstitutional conditions of confinement in its jail system. Its efforts succeeded at the Work Center. That facility is no longer under federal supervision. At RDC, however, the dire circumstances that drove this settlement persist.

The County refuses to take responsibility. Instead, it offers a litany of excuses. But each of these excuses ultimately boils down to the same argument: conditions at RDC are out of the defendants' hands. The County wishes to abdicate responsibility for ensuring the health and safety of detainees in its

custody. The Court is compelled to grant that wish. We can't wait for continued destruction of the facilities. We can't wait for the proliferation of more contraband. We can't wait for more assaults. We can't wait for another death. The time to act is now. There is no other choice, unfortunately.

Upon appointment of a receiver, RDC shall no longer languish in the County's inadequate grip. The Court will appoint a federal receiver to oversee operations at RDC, who shall begin work as soon as possible, but no later than November 1, 2022. The Second Order of Contempt shall remain undisturbed; the County's motion for reconsideration [Docket No. 171] is denied. Today's Order is intended to serve as the final sanction for the Court's two Orders of Contempt.

Within 14 days of this Order, the parties shall submit to the Court proposed orders that outline the proposed powers and duties of the Receiver. In the absence of consensus, the Court will consider the submissions of each party and devise its own list of the Receiver's duties.

**SO ORDERED**, this the 29th day of July, 2022.

s/ CARLTON W. REEVES  
*United States District Judge*

JS 44 (Rev. 03/24)

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

Shirley Brown, as Natural Mother and Next Friend of Joshua Brown, a Minor

(b) County of Residence of First Listed Plaintiff Hinds  
 (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Aafram Y. Seelers, Sellers & Associates, PLLC, 395 Edgewood Terrace Dr., Jackson (39206) (601)352-0102

**DEFENDANTS**

JSU, JSU Campus Police, Dr. Elayne Hayes Anthony, Herman Horton, Terrace, Jackson, Alpha, and Hinds Ctv  
 County of Residence of First Listed Defendant

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

Attorneys (If Known)

SEP 17 2024

ARTHUR JOHNSTON

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff  
 2 U.S. Government Defendant  
 3 Federal Question (U.S. Government Not a Party)  
 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |                                       |                                       |   |                            |                                       |
|---|---------------------------------------|---------------------------------------|---|----------------------------|---------------------------------------|
|   | PTF                                   | DEF                                   |   | PTF                        | DEF                                   |
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input type="checkbox"/> 2            | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5            |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3            | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6            |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>INTELLECTUAL PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS			
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**V. ORIGIN** (Place an "X" in One Box Only)

- 1 Original Proceeding  
 2 Removed from State Court  
 3 Remanded from Appellate Court  
 4 Reinstated or Reopened  
 5 Transferred from Another District (specify)  
 6 Multidistrict Litigation - Transfer  
 8 Multidistrict Litigation - Direct File

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

**VI. CAUSE OF ACTION**

Brief description of cause:

**VII. REQUESTED IN COMPLAINT:**

- CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ \_\_\_\_\_ CHECK YES only if demanded in complaint:  
 JURY DEMAND:  Yes  No

**VIII. RELATED CASE(S) IF ANY**

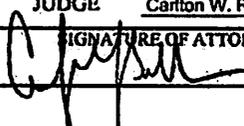
(See instructions):

JUDGE Carlton W. Reeves

DOCKET NUMBER 3:16-cv-00489

DATE 9/17/24  
 FOR OFFICE USE ONLY

SIGNATURE OF ATTORNEY OF RECORD



RECEIPT # 9657 AMOUNT \$405.00

APPLYING IFP

JUDGE

MAG. JUDGE