Corporation Counsel
Kenosha Municipal Building
625 - 52nd Street
Kenosha, WI 53140

1/31/21

Re: Claim and Notice of Injury - Admitted Due Process Violations
re: MENTEK vs. KENOSHA COUNTY JAIL, et. al.

Dear Counsel:

Enclosed please find my Notice of Injury and Claim for Damages against Kenosha County Jail Staff members as follows:

1. On 1/24/21 @ 3:07 a.m., I was included in a "G-Block Shakedown" by Jail Staff, at which time I was placed into "solitary disciplinary confinement" as set forth in EX 2A. I was stripped of all property, rights, and privileges, w/ritting Notice of Violations and a hearing, pursuant to Due Process Safeguards (EX. 2A attached)

2. At 11:06 pm, on 1/24/21, Corp. Dubbs came to my solitary cell and asked me a few questions, however, I was NEVER served with any NOTICE of VIOLATIONS whatsoever. Corp. Dubbs said "she'd look into it", then found me GUILTY of both violations without NOTICE or ANY MEANINGFUL HEARING, a mere 5 minutes later, at 11:11pm, as reflected in EX. 2A attached.

3. At 11:25 pm, on 1/24/21, I did receive "NOTICE of GUILTY DISPOSITION" which indicated (8) days of Disciplinary Segregation (See EX 2B - Violation Discipline)

4. Montek requested Appeal forms and did not receive these JAIL FORMS on a PEN until 1/26/21, wherein Montek immediately filed his APPEAL alleging MULTIPLE DUE PROCESS and NOTICE VIOLATIONS as well as DELIBERATE and WILLFUL VIOLATIONS of POLICIES and PROCEDURES duly promulgated for the JAIL, of which JAIL SUPERVISION are FULLY AWARE, and submitted my APPEAL on 1/26/21 @ 6:35 PM. (See EX 1A-1B attached).

5. At 1:39 A.M. on 1/27/21, the Appeal was assigned to Sgt. Schroeder, who came to question me at 1:54 am regarding the egregious due process violations. (See EX 3A attached).

6. At 4:52 pm on 1/27/21, Sgt. Schroeder ruled "I was able to verify the inmate did not receive his intended notification", "I am thereby dismissing the 309A violation and releasing the inmate from Segregation". (See EX 3A attached)

7. This ADMISSION of DUE PROCESS VIOLATIONS also appears in EX 2B which indicates "based on an Appeal decision the 309A violation was dismissed due to a due process issue. Inmate was released from segregation time served for the one 202A violation (See EX 2B attached here).

8. While the "RELEASE" from Segregation was the ONLY immediate remedy the jail could provide, the ADMITTED DUE PROCESS VIOLATIONS now require compensatory and stiff punative damages as this is NOT an isolated incident between Montek and Jail Staff. Accordingly

as the JAIL is not only SO FAMILIAR with DUE PROCESS SAFEGUARDS under State and Federal Laws, as well as PRESENTIAL RULES PROMULGATED FOR THE JAIL, but also works with these IDENTICAL DISCIPLINARY SAFEGUARDS on a daily basis, they have NO EXCUSES, whatsoever, for the willful and deliberate violations thereof as in the case at hand. These violations may also be construed as RETALIATORY IN NATURE as this is indeed NOT the first entanglement of this nature that Mentek has had with the Kenosha County Jail.

9. As a direct result, Mentek has incurred loss of his Constitutional Rights as well as his LIBERTY and PROPERTY for a total of (4) days, from 1/24/21 through 1/27/21, said loss requiring compensatory and punative damages combined at $2,500 (two thousand five hundred) PER DAY, for these (4) days, totalling $10,000.00 (ten thousand Dollars) in damages being sought, out of Court, at this time.

10. That Mentek both expects and welcomes Counsel's "OFFER/COUNTEROFFER" that is usually tendered in a case such as this. Please be mindful that these violations must be construed as DELIBERATE and INTENTIONAL as they have been ADMITTED, in WRITING, by Supervisory Staff. Thus NO DEFENSE IS AVAILABLE, only a judgment by the Court or a selected Jury.

I therefore thank you for your anticipated complete assistance and PROMPT written response in these regards.

Respectfully Submitted,

James A. Mentek, Jr
PLAINTIFF PRO SE

- Incident Report -

File # _____ 2021-0434 Grievance ____ Appeal X

☐ Kenosha County Pre-Trial Detention Center
and
☐ Kenosha County Detention Center
Inmate Grievance Form

Print Name JAMES A. MENTEK ID# 123210 Dorm _____

Date of Occurrence 1/24/21
(month/day/year)

You are required to talk to a staff member to resolve your problem informally. The following rules will govern the processing of complaints:

1. An "Inmate Grievance Form" must be filed within seven days of the occurrence giving rise to the complaint. The reviewing officer may accept a late complaint due to unforeseen circumstances.
2. Every effort will be made to return grievances within 7 days of receipt of the grievance by the reviewing officer.
3. The complaint should address only one issue.
4. Complaints should be printed.
5. Unsigned complaints will not be accepted.
6. Profanity and/or threats will be cause for rejection of any inmate grievance.

NOTE: You will not be disciplined for the legitimate use of the inmate grievance process. However, making a threat or false statement about or to a staff member is a rule violation and will be treated accordingly.

To complete this form:
1. Print a description of the incident or action that the grievance is based upon. Be specific on dates, times and locations.
2. Specify what policy, rule, law, etc. is being violated.
3. Suggest a solution to the problem.

Appeal

(1) Violations of Morrissey v. Brewer, by Corp. Dibbs on 1/24/21 and other due process protections by
(A) Failing to serve me copy of violations within 24 hours of said violations. Violation report was served AFTER Corp. Dibbs was attempting a hearing, before any charges were issued, on 1/24/21
(B) Due process REQUIRES a minimum of 24 hours between notice of violation service and hearing to prepare for hearing which includes assistance of staff, advocate, and opportunity to call witnesses, and present evidence. - Mentek

EXHIBIT 1A

KCDC-024-098 (revised 4/22/16)

was denied any form of advocacy or time in which to prepare a defense as due process time lines were violated by Dobbs.

(C) Mentek was never issued any "Rule Book", and no Rules regarding canteen items are posted in any housing unit Mentek has been assigned to. As such, cannot enforce "rules" that Mentek had no adequate notice of, which violates due process of law.

(D) Dobbs and KCJ are in direct violation of their own procedural policies that have been promulgated for them by Due process Administrative Rule/Code, and both state and federal statutes regarding procedure to follow in due process hearings, as you CANNOT DEPRIVE ME OF LIFE, LIBERTY, OR PROPERTY WITHOUT ADEQUATE DUE PROCESS OF LAW. See Marlow v. Fitzgerald

(E) There was NO EVIDENCE (Scientific or otherwise) to PROVE the existence of "alcohol / fermented beverage" by any party. Nothing more than "opinion" or "belief" which does not meet definition of evidence. And fruit punch did not meet visual observations of "hooch" or fermented beverage as alleged. As and for compensation for violations of due process I am seeking the sums of $3,000 per day for a total of $15,000 in damages which I intend to pursue in Court as soon as this appeal is declined by SOT in charge.

Inmate Signature: _____ Date: 1/26/21 (month/day/year)

Received by Officer / Unit #: _____ Date: 1-26-21 Time: 1835

Assigned to Officer / Unit #: _____ Date: _____ Time: _____

EXHIBIT 1B

INMATE COPY

Incident Report

Incident: 2021-00000434

Print Date/Time: 01/28/2021 12:27
Login ID: kcad\djarvela
Report Template: Prisoner Notification

Kenosha County Sheriff's Department
ORI Number: WI0300000

Details

Incident Type:	Discipline	**Reporting Officer:**	12135 - Rairie	**Assigned To:**	
Incident Date/Time:	01/24/2021 03:07 AM	**Reported Date/Time:**	01/24/2021 05:17 AM	**Assigned Date:**	
Incident Location:	PTF - G-BLOCK				
Description:	Inmates Dukes, Rojas, Garcia, Mentek, and Luitze were all found to have an unauthorized fermented beverage in their cells in G Block during a security inspection.				

Violations

Seq Number:	5	**Violator:**	MENTEK, JAMES ALLEN	**Violation:**	309A POSS/MANUF UNAUTH BEVERAGE
Location:				**Requires Reclassification:**	N
Seq Number:	6	**Violator:**	MENTEK, JAMES ALLEN	**Violation:**	202A REMOVE I.D. BRACELET
Location:				**Requires Reclassification:**	N

Violation Notification

Seq Number: 5 **Violator:** MENTEK, JAMES ALLEN

Notification Type	Notification Date/Time	Notified By
Verbal	01/24/2021 04:00 AM	12135 - Rairie

Seq Number: 6 **Violator:** MENTEK, JAMES ALLEN

Notification Type	Notification Date/Time	Notified By
Verbal	01/24/2021 04:00 AM	12135 - Rairie

Violation Investigation

Seq Number: 5 **Violator:** MENTEK, JAMES ALLEN **Investigation Date/Time:** 01/24/2021 11:06 PM

Prehearing Segregation: No

Inmate's Statement: MENTEK STATED THE LIQUID IN HIS BOTTLE WAS NOT ALCOHOL. HE SAID IT WAS LEMONADE, APPLE JUICE AND FRUIT PUNCH. MENTEK SAID HE DOES NOT WEAR HIS WRIST BAND AT NIGHT BECAUSE IT SCRATCHES HIS FACE.

Violation Hearing

Seq Number: 5 **Violator:** MENTEK, JAMES ALLEN **Hearing Officer:** 1439 - Dobbs

Hearing Date/Time: 01/24/2021 11:11 PM **End Date/Time:** **Inmate Plea:** Not Guilty

Hearing Subject	Subject Type	Recorded By

Seq Number: 6 **Violator:** MENTEK, JAMES ALLEN **Hearing Officer:** 1439 - Dobbs

Hearing Date/Time: 01/24/2021 11:11 PM **End Date/Time:** **Inmate Plea:** Guilty

Hearing Subject	Subject Type	Recorded By

EXHIBIT 2A

INMATE COPY

Incident Report

Incident: 2021-00000434

Print Date/Time: 01/28/2021 12:27
Login ID: kcad\djarvela
Report Template: Prisoner Notification

Kenosha County Sheriff's Department
ORI Number: WI0300000

Violation Discipline

Discipline Type: DISMISSED **Start Date/Time:** 01/27/2021 04:00 PM **End Date/Time:**
Violator: MENTEK, JAMES ALLEN **Event Type:** **Disposition:** DISMISSED **Officer:** 1517 - Schroeder
Comments: Violation dismissed as part of an appeal decision.

Discipline Type: SEGREGATION **Start Date/Time:** 01/24/2021 03:07 AM **End Date/Time:** 01/27/2021 03:07 AM
Violator: MENTEK, JAMES ALLEN **Event Type:** **Disposition:** SUSTAINED **Officer:** 1439 - Dobbs
Comments: MENTEK WAS AFFORDED A DISCIPLINARY HEARING. BASED ON THE INMATES STATEMENTS AND THE OFFICERS REPORT, VIOLATIONS 309 A AND 202A SUSTAINED. 8 DAYS OF DISCIPLINARY CONFINEMENT IMPOSED WITH THE LOSS OF ALL AFFORDED PRIVILEGES. Based on an appeal decision the 309A violation was dismissed due to a due process issue. Inmate has been released from segregation time served for the one 202A violation.

Violation Appeals

Seq Number: 5 **Violator:** MENTEK, JAMES ALLEN

Appeal Reason	Appeal Date/Time	Entered By	Hearing Date/Time	Heard By
Inmate Request	01/27/2021 11:07 AM	1517 - Schroeder		

Review History

Date/Time:	Level:	Type:	Reviewer's ID:	Comments:
01/24/2021 06:26 PM	1	1 - SUBMITTED FOR APPROVAL	kcad\mrairie	
01/24/2021 07:21 PM	2	2 - APPROVED	kcad\ldobbs	
01/24/2021 11:25 PM	3	3 - COMPLETED	kcad\ldobbs	
01/27/2021 05:00 PM	3	3 - COMPLETED	kcad\jschroed	

If this is a discipline, grievances must be submitted within seven (7) days of the precipitating incident. You may appeal grievance results within seventy-two (72) hours of a disposition to the grievance appeal committee. Disciplinary appeals must be submitted within ten (10) days of the hearing officer's decision. Disciplinary appeals will be addressed by the grievance appeal committee. See your handbook or electronic postings for details. This shall also serve as a written order for administrative segregation placement pending a due process hearing.

EXHIBIT 2B

Request Report - CLOSED

Printed: 01/27/2021 4:53:23PM

Request Number: 26516
Submitted: 1/27/21 1:39 am
Inmate Number: 123210
Type: GRIEVANCES
Inmate Secondary Number:
Sub Type: PTF DISCIPLINE GRII
Inmate Name: MENTEK, JAMES ALLEN
Initial Location: PT ZONE 13 W-BLOCK 03 LOWER 3
Current Location: PT ZONE 04 A-BLOCK 06 LOWER 3

Stamp	Action / Detail	User
01/27/2021 1:39:32AM	[MANUAL ENTRY] ORIGINAL REQUEST: Inmate James Mentek #123210 is appealing the procedural handling and an alleged violation of due process related to the disciplinary hearing completed by Corporal Dobbs on January 24, 2021 for a violation of facility rules, as listed in Incident Report #2021-00000434. Inmate Mentek has handwritten a lengthy appeal that has been scanned and attached to this disciplinary appeal. See attached document for further information.	SHIFTSGT
01/27/2021 1:54:10AM	USER ASSIGNED CHANGED FROM <UNASSIGNED> TO [jschroeder] Schroeder, Jason	SHIFTSGT
01/27/2021 4:52:38PM	CLOSED: Appeal status: Sustained During my appeal hearing regarding incident 2021-434 Inmate admitted to violation 202A for removal of his issued ID bracelet. Inmate disputed the 309A violation claiming that the beverage in his possession was commissary items and not a fermented unauthorized beverage as was alleged. Additionally, the inmate also claims a due process violation in that he was not provided his initial notification within 24 hours and was forced to participate in a disciplinary hearing unprepared. I was able to verify that the inmate did not receive his intended notification for the violations he was being alleged to have violated. I am therefore dismissing the 309A violation and releasing the inmate from segregation. The 202A violation was sustained and the inmate has served his disciplinary time for that violation already. The inmate will be released from disciplinary segregation time served. This is the final decision on the discipline appeal. Corr. Sgt. Schroeder #1517 Corr. Cpl. Jarvela #1407 Lt. Gilley #200	jschroeder

EXHIBIT 3A