No. 17-14141

IN THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

EDGAR QUINTANILLA,
Plaintiff-Appellant,
v.
OTIS STANTON *et al.*,
Defendants-Appellees.

On Appeal from the United States District Court for the Southern District of Georgia in Case No. 6:17-cv-00004-JRH (Hon. J. Randal Hall)

CORRECTED OPENING BRIEF OF PLAINTIFF-APPELLANT EDGAR QUINTANILLA

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CERTIFICATE OF INTERESTED PERSONS

Pursuant to Rule 26.1 of the Federal Rules of Appellate Procedure and Eleventh Circuit Rule 26.1-1, Plaintiff-Appellant Edgar Quintanilla, by and through undersigned counsel, hereby states that, to the best of his knowledge, the following individuals and entities have an interest in the disposition of this case:

1. Akowuah, Kwaku (Esq.)
2. U.S. Magistrate Judge R. Stan Baker, S.D. Ga.
3. Bryson, Homer
4. Carr, Christopher Michael (Esq.)
5. Cranford, Lauren (Esq.)
6. Dozier, Gregory C.
7. Georgia Department of Corrections
8. Godfrey, Deric
9. Greenfield, Daniel (Esq.)
10. U.S. District Court Judge J. Randal Hall, S.D. Ga.
11. Quintanilla, Edgar
12. Roderick and Solange MacArthur Justice Center
13. Sidley Austin LLP
14. Smokes, Eric
15. Stanton, Otis

16. Toole, Robert

17. Watkins, FNU

18. Williams, Doug

19. Wright, Scherika

STATEMENT REGARDING ORAL ARGUMENT

Appellant Edgar Quintanilla respectfully moves the Court pursuant to Federal Rule of Appellate Procedure 34(a) for addition of this case to the argument calendar. This case raises important questions about the pleading standards applicable to prisoners seeking relief on constitutional grounds from conditions of solitary confinement—treatment that inflicts an extreme physical and psychological toll on prisoners subjected to it. Counsel for Mr. Quintanilla respectfully submit that oral argument would aid the Court in its consideration of these important questions, and further submit that this appeal is not frivolous and that the dispositive issues raised in this appeal have not been recently or authoritatively decided.

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INTRODUCTION

Plaintiff-Appellant Edgar Quintanilla spends nearly every hour of every day in total isolation—and has for the last twenty months. His meager prison cell is infested with rats, mosquitoes, and spiders. He lacks access to even a mirrored surface in which to see his own image. When he is permitted to exercise, which is infrequently, he does so in an enclosed cage approximately the size of his cell. For essentially all of the last 600-plus days, Mr. Quintanilla has seen nothing, done nothing, and interacted with no one. He is deteriorating physically and psychologically as a result. By all current signs, his already protracted solitary confinement will stretch on indefinitely, and without justification.

Consigned to solitary confinement for nearly two years after a prison fight in which he did not participate, Mr. Quintanilla's only hope for relief comes and goes every 90 days, when he is supposed to receive a "review" that, in theory, could provide him notice of the justification for his prolonged stay in solitary confinement, and afford him an opportunity to be heard as to why he should be released to general population. But in place of the "meaningful" reviews to which he is entitled, Mr. Quintanilla has received empty formalities. The few "reviews" he has received have been quite literally a check-the-box exercise, in which he has not been given any notice of the reasons why prison officials continue to hold him

in isolation, and thus, has been deprived of every meaningful opportunity to contest those decisions.

Neither the Due Process Clause nor the Eighth Amendment tolerates this treatment. Mr. Quintanilla's complaint contains allegations more than sufficient to state a claim that these constitutional rights have been violated. The district court's contrary decision should be reversed and this case remanded for further proceedings.

STATEMENT OF SUBJECT MATTER AND APPELLATE JURISDICTION

The District Court had jurisdiction under 28 U.S.C. § 1331, 28 U.S.C. § 1343, and 42 U.S.C. § 1983.

On August 31, 2017, the district court adopted the magistrate judge's Report and Recommendation (DE 20), dismissed the Complaint (DE 22), and entered final judgment. (DE 24.) Mr. Quintanilla timely filed his Notice of Appeal (DE 27) on September 15, 2017. This Court therefore has jurisdiction over this appeal from the district court's final order of dismissal under 28 U.S.C. § 1291.

STATEMENT OF THE ISSUES

1. Whether the district court erred in concluding that Mr. Quintanilla, an incarcerated prisoner, had failed to allege facts sufficient to state a procedural due process claim challenging his continuing stay in solitary confinement where Mr. Quintanilla alleged, citing clear documentary proof, that prison officials have

refused to provide any reason or explanation for why his initial March 2016 placement into solitary confinement has been repeatedly extended for nearly two years, and apparently indefinitely.

2. Whether the district court erred in holding that the specific and detailed facts alleged by Mr. Quintanilla regarding the conditions of his apparently indefinite solitary confinement were insufficient to state a plausible allegation that his treatment at the hands of Georgia prison officials constitutes a violation of the Eighth Amendment's prohibition against cruel and unusual punishment.

3. Whether the district court erred in holding that the specific and detailed facts alleged by Mr. Quintanilla regarding the conditions of his apparently indefinite solitary confinement were insufficient to state a plausible allegation that his treatment at the hands of Georgia prison officials constitutes a violation of substantive due process.

4. Whether the district court erred in dismissing the claims against Defendant Homer Bryson on the ground that Mr. Bryson was not personally involved in the allegations of wrongdoing while failing to address (a) that Mr. Quintanilla's complaint raised an official-capacity injunctive relief claim against Mr. Bryson; (b) that Federal Rule of Civil Procedure 25(d) provides for the "automatic[]" substitution of an official's successor when "a public officer who is a party in an official capacity . . . ceases to hold office while the action is pending";

and (c) that controlling Circuit precedent permits individual-capacity damages claims to proceed against officials responsible for creating unconstitutional policies.

STATEMENT OF THE CASE

A. Nature of the Case

Plaintiff-Appellant Edgar Quintanilla has been housed in "administrative segregation"—more commonly known as solitary confinement—for more than twenty months at Georgia's Smith State Prison ("Smith"). He spends at least 23 hours of every day in total isolation. (DE 1 ¶ 32.)

Defendant Homer Bryson was named as the Commissioner of the Georgia Department of Corrections ("GDOC" or the "Department"), and thus as the officer "legally responsible for the overall operation of the Department and each institution under its jurisdiction." (DE 1 ¶ 5.)[1] Defendants Robert Toole and Otis Stanton are officials and employees of the GDOC responsible for operations in the Department's "Southern region." (DE 1 ¶¶ 6-7.) Defendant Doug Williams is the

[1] The magistrate judge described Mr. Bryson as the "*former* Commissioner." (DE 20 at 5 (emphasis added).) Though that factual assertion comes from outside the pleadings, it appears to be correct. *See* https://gov.georgia.gov/press-releases/2016-10-17/deal-announces-leadership-changes. As described in Part D of the Argument, *infra*, however, the district court erred in dismissing Mr. Quintanilla's claims against Mr. Bryson and, at a minimum, should be required to substitute the current Commissioner as the defendant on Mr. Quintanilla's official-capacity claims, per the requirements of Federal Rule of Civil Procedure 25(d).

warden at Smith. (DE 1 ¶ 8.) Defendants Eric Smokes, Deric Godfrey, "Mrs. Watkins," and Scherika Wright are officials and employees of the GDOC with additional responsibility for Mr. Quintanilla's solitary confinement. (DE 1 ¶¶ 4-11; DE 11-1 ¶¶ 6–8; DE 14-1 ¶¶ 6–8.)[2]

Prior to his current incarceration at Smith, Quintanilla was housed at Wheeler Correctional Facility in Alamo, Georgia ("Wheeler"). (DE 1 ¶ 14.) At Wheeler, Mr. Quintanilla was housed in general population (DE 1 ¶ 13) and had not earned a disciplinary ticket in years. (DE 1-2.) After prison officials at Wheeler concluded (contrary to available video footage, *see* DE 1-2) that Mr. Quintanilla had participated in a fight involving many prisoners, they placed Mr. Quintanilla in solitary confinement.[3] (DE 1 ¶¶ 16–19). Prior to doing so, officials did not conduct a hearing or otherwise provide Mr. Quintanilla with notice and an opportunity to respond. (DE 1 ¶ 16.) Nor did a disciplinary report issue. (*Id.*)

Mr. Quintanilla was subsequently transferred from Wheeler to Smith. (DE 1 ¶¶ 14–17.) At Smith, Mr. Quintanilla was immediately placed in the Tier II

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[2] For the sake of brevity, Defendants-Appellees will be described hereinafter collectively as "Defendants," and individually by name where specification is appropriate.

[3] Mr. Quintanilla's verified complaint makes clear his allegation that he did not participate in the fight, an assertion allegedly corroborated by video footage. (DE 1 ¶¶ 14–15.)

Segregation Housing Unit, a solitary confinement wing. (DE 1 ¶ 18.) Once again, officials did not conduct a hearing or provide substitute process before placing Mr. Quintanilla in solitary confinement. (*Id.*)

It was not until Mr. Quintanilla had already spent ten days in Smith's solitary confinement unit when Defendant Smokes provided him with an "Appeal Assignment Form" stating that Mr. Quintanilla purportedly had been "placed in the Administrative Segregation: Tier II Program" due to "Participation in a Disturbance/Disruptive Event@Wheeler [sic] Correctional Facility." (DE 1-2; *see also* DE 1 ¶ 20.) Mr. Quintanilla appealed that determination, making clear his assertion that he in fact had not participated in any such disturbance, and that video footage would confirm his account. *Id.* Defendant Stanton denied that appeal without addressing Mr. Quintanilla's contention that he had not participated in the fight. Stanton stated, without describing the basis for his determination, that "Inmate Quintanilla has met [the] criteria for" solitary confinement. (DE 1-2 at 1.)

Over the course of his twenty-month segregation, Defendants have extended his solitary confinement on several occasions. (*See, e.g.*, DE 1 ¶ 55; DE 11-1 ¶ 14; DE 14-1 ¶ 12.) But the so-called "reviews" Mr. Quintanilla has received in conjunction with these extensions have failed to meet the state's obligation to provide Mr. Quintanilla with notice and an opportunity to be heard regarding the reasons that supposedly justify Mr. Quintanilla's prolonged, continued, and

indefinite detention in solitary confinement. (*See, e.g.*, DE 14-1 ¶ 13.) To the extent that prison officials possess any such justifying reasons, they have concealed them from Mr. Quintanilla, thus depriving him of due process. (*See, e.g.*, *id.*)

Moreover, while Defendants have described Mr. Quintanilla's isolation as "administrative segregation," it is hard to see what separates the treatment he has endured from punishment. Mr. Quintanilla was initially placed in solitary confinement because he (supposedly) took part in a prison fight. His physical and mental condition has deteriorated as a result of near-constant migraines, heartburn, and stomach cramps. His back, neck, and joints are stiff and rigid from infrequent use. Mr. Quintanilla is lethargic and depressed, as he spends every moment of his time in a tiny cell he shares with vermin and insects. And, as above, Defendants have never identified any "administrative" rationale for holding Mr. Quintanilla in solitary confinement for month after month with no end in sight.

Neither the Eighth Amendment nor the Due Process Clause should be held to tolerate the protracted, indefinite solitary confinement of a prisoner under these circumstances.

B. Factual Background

Since March 2016, Mr. Quintanilla has spent at least 23 hours of every day in solitary confinement—on most days there is no interruption to his complete

isolation. (DE 1 ¶ 32.) Welded metal plates cover the window and door, preventing him from seeing beyond his own four walls. (DE 1 ¶ 33.) There is no desk or surface on which to sit. (DE 1 ¶ 32.) Vermin and insects, including rats, mosquitoes, and spiders, abound. (DE 1 ¶ 58.) Mr. Quintanilla is deprived of even the sight of his own image, as he lacks access to a mirrored surface. (DE 1 ¶ 34.)

On the rare occasions when he is permitted to exercise, Mr. Quintanilla remains confined in a concrete and steel cage barely larger than his cell. (DE 1 ¶ 35.) Because of his infrequent ability to exercise, Mr. Quintanilla suffers from depression and several physical ailments, including migraines and severe neck and back pains. (DE 1 ¶ 38.)

Day in and day out, Mr. Quintanilla "sees nothing, does nothing and interacts with no one." (DE 1 ¶ 63.) These grim conditions have comprised his reality for nearly two years. He has not been told when he will be released from solitary confinement. Defendants have told him only that his isolation will continue until "further notice." (DE 1 ¶¶ 30–31; DE 22 at 8–9.)

So far as Mr. Quintanilla has been told, this prolonged isolation stems from a single incident on March 23, 2016. On that date, a fight broke out between a number of black and Hispanic prisoners at Wheeler (where Mr. Quintanilla was then confined). (DE 1 ¶¶ 13–14.) Mr. Quintanilla did not participate in the fight; nonetheless, prison officials placed Mr. Quintanilla in segregation at Wheeler—

because, he was told, he is Hispanic. (DE 1 ¶ 16; *see also* DE 1 ¶ 15 (alleging that video footage will confirm that Mr. Quintanilla did not participate in the altercation).)

Two days later, on March 25, 2016, Mr. Quintanilla was transferred from Wheeler to Smith. Upon transfer, Mr. Quintanilla was immediately placed in the Tier II Segregation Unit ("Tier II" or the "Tier II Program"). (DE 1 ¶ 17; Georgia Dept. of Corrections Standard Operating Procedures, *Administrative Segregation – Tier II* 209.08, GA IIB09-0003 ("GA IIB09-0003").) As publicly available Georgia regulations explain, "[t]he Tier II program is established to protect staff, offenders, and the public from offenders, who commit or lead others to commit violent, disruptive, predatory, or riotous actions, or who otherwise pose a serious threat to the safety and security to the institutional operation." GA IIB09-0003 at 1.

On April 4, 2016, Defendant Eric Smokes, Smith's Tier II Unit Manager, informed Mr. Quintanilla in his cell that he had been assigned to Tier II Program for "fighting another inmate" at Wheeler. (DE 1 ¶¶ 9, 19.) At that time, approximately ten days after his placement in solitary confinement, Mr. Smokes gave Mr. Quintanilla a Tier II Program Assignment Memo and a form entitled "Administrative Segregation: Tier II Program Assignment Appeal Form." (DE 1 ¶ 20.) Both described the solitary confinement placement as based on Mr.

Quintanilla's supposed "Participation in a Disturbance/Disruptive Event@Wheeler [sic] Correctional Facility." (*See, e.g.*, DE 1-2 at 1.)

Mr. Quintanilla initially was placed into Phase One of the Tier II Program. (DE 14-1 ¶ 11.) Phase One is the most restrictive of three phases, and "[a]n offender assigned to the Tier II Program is given the opportunity to progress through Phases 1, 2, and 3 of the program based upon his or her behavior and ability to adjust." GA IIB09-0003 at 3.

Mr. Quintanilla timely submitted the appeal form on April 6, 2016, and provided, in support of his appeal, a full page of details about the video and testimonial evidence that would demonstrate that he in fact did not participate in the Wheeler fight. (DE 14-1, Exhibit A.) Nevertheless, the "Review of Appeal" decision issued by Defendant Stanton on April 12, 2016 states in its entirety:

> Appeal denied. Inmate Quintanilla has met criteria for Tier II. [Defendants] Warden Williams and SE Region Director Toole advised.

(DE 1-2 at 1.) Mr. Stanton thus left unstated whether his decision rested on a determination that Mr. Quintanilla did participate in the fight (his denial notwithstanding), or whether it instead rested on some other ground.

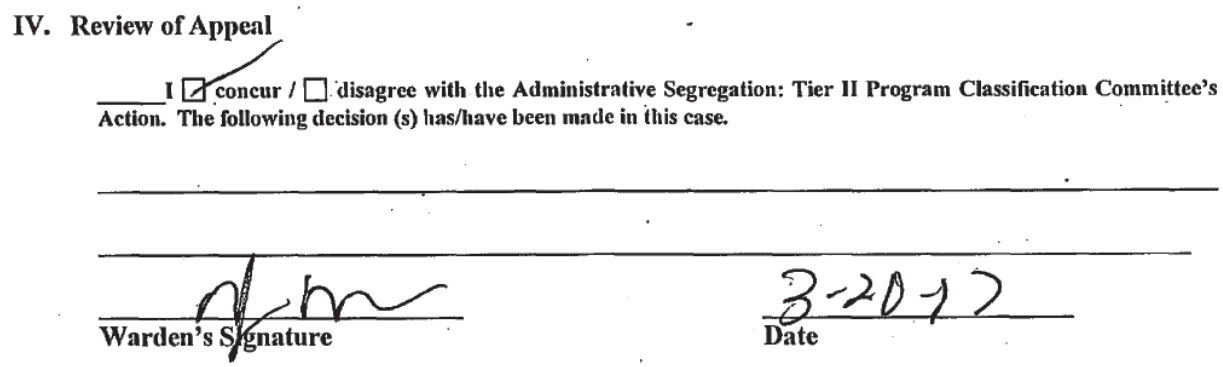
Despite his belief that he should not have been consigned to solitary confinement in the first place, Mr. Quintanilla sought to secure his release back into general population by participating in the Tier II Program. On July 1, 2016,

Mr. Quintanilla was advanced to Phase Two of the Tier II Program, and on September 28, 2016, he was advanced to the Program's third Phase. (DE 11-1 ¶¶ 12, 13.) On December 28, 2016, Mr. Smokes informed Mr. Quintanilla that he had "successfully completed" the Tier II Program, thereby meriting a recommendation for transfer to general population. (DE 11-1 ¶ 14.) After this purported 90 day review, Mr. Smokes did not provide an appeal form. (DE 11-1 ¶ 22.)

Mr. Quintanilla's completion of the Tier II program did not secure his release from solitary confinement, however. Mr. Smokes told Mr. Quintanilla he would remain in solitary confinement "until further notice." (DE 11-1 ¶ 14.) Mr. Smokes did not provide any rationale for Mr. Quintanilla's continued and indefinite solitary confinement in contravention of GDOC policy. (DE 11-1 ¶¶ 1, 18.)

On March 16, 2017, Mr. Smokes informed Mr. Quintanilla—without providing a reason—that he would once again have to repeat Phase Three of the Tier II Program and provided him a form entitled "Tier II Program 90 Day Review Assignment Appeal Form." (DE 14-1 ¶¶ 12, 13.) Mr. Quintanilla timely appealed, contending that "[t]he [March 16, 2017] 90 day review did not specify . . . any reason(s) for the denial of [his] reassignment to general population." (DE 14-1, Exhibit A.) Defendants still did not provide a reason, however. They simply

checked a box stating that the signatory "concur[s] with the Administrative Segregation: Tier II Program Classification Committee's Action," and left blank the space that could have been used to provide some justification for that conclusion.



IV. Review of Appeal

I ☑ concur / ☐ disagree with the Administrative Segregation: Tier II Program Classification Committee's Action. The following decision (s) has/have been made in this case.

Warden's Signature

3-2017
Date

(DE 14-1, Exhibit A).

As a result of these repeated, unexplained extensions of his solitary confinement assignment, and in contravention of Georgia regulations, Mr. Quintanilla continues to languish in solitary confinement, despite having met the requirements of the Tier II program, and with no end in sight. (*See* DE 14-1 ¶ 17; GA. COMP. R. & REGS. 125-3-1-.05(a) (providing that an assignment of indefinite duration must be fully documented and reviewed routinely).)

C. Procedural History

Mr. Quintanilla, proceeding *pro se* before the district court, filed a handwritten complaint on January 9, 2017, seeking both damages and injunctive relief pursuant to 42 U.S.C. § 1983. (DE 1.) He advanced claims that his

prolonged and continued solitary confinement violates his constitutional rights under the Eighth and Fourteenth Amendments.[4] (*Id.*)

Mr. Quintanilla subsequently filed two supplemental handwritten complaints. (DE 11, 14 (filed February 15, 2017 and April 3, 2017, respectively).) In each, Mr. Quintanilla reiterated his constitutional claims and provided additional facts material to those claims.[5]

On August 7, 2017, a magistrate judge issued a Report and Recommendation ("Recommendation") in which he concluded that all of Mr. Quintanilla's claims should be dismissed. (DE 20.) Because Mr. Quintanilla is an incarcerated prisoner who filed *in forma pauperis*, the magistrate judge applied the screening standards of 28 U.S.C. § 1915(e)(2)(B), which direct the district court to dismiss an action without requiring an answer or other response from the defendant in the action if (as relevant) the district court finds that the complaint fails to state a claim upon

[4] Mr. Quintanilla also alleged that his solitary confinement constitutes a violation of 18 U.S.C. § 2340, a statute directed to the actions of persons who commit torture outside the United States. He does not pursue that claim on this appeal.

[5] Mr. Quintanilla initially moved for leave to file these pleadings, but the magistrate judge ruled that because he had "filed his Motions to Supplement/Amend prior to service of his Complaint," he was entitled to "amend as a matter of right," "without filing a Motion," and accordingly dismissed the motions as moot. (DE 18.)

which relief may be granted under the standards applicable to a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6). (DE 20 at 3, 12–13.)

In the Recommendation, the court determined that Mr. Quintanilla "plausibly alleges" "sufficient facts to support his claim that conditions in Tier II segregation impose the type of atypical and significant hardship to trigger a state-created liberty interest" (DE 20 at 7), but also found that Mr. Quintanilla had received constitutionally adequate process. That conclusion was grounded in the view that Mr. Smokes had "conducted at least two separate reviews of Plaintiff's assignment to Tier II." (DE 20 at 8.) These "reviews" were the December 28, 2016 instance where Mr. Quintanilla was told he "would remain in Phase Three of the Tier II program," (DE 20 at 8 (citing DE 14-1 at ¶ 11) and March 26, 2017, when he was likewise told, without further elaboration, that he "would again 'repeat' phase three of the Tier II program." (DE 14-1 at ¶ 12.) The magistrate judge thus recommended dismissal of Mr. Quintanilla's procedural due process claims. (DE 20 at 8.)

The Recommendation likewise concluded that the district court should dismiss Mr. Quintanilla's claims brought under the Eighth Amendment, i.e., that the conditions of his confinement, including its impact on his physical and mental health, constitute a deprivation of "the minimal civilized measure of life's necessities." (DE 1 ¶ 1.) Despite acknowledging that the court must accept Mr.

Quintanilla's allegations in the light most favorable to him—allegations including that Defendants "arbitrarily placed him in administrative confinement, conditions are significantly different from the general population, and hygiene and sanitation of the segregation cells are poor"—the magistrate judge concluded that Mr. Quintanilla had not "plausibly allege[d] that the conditions of his confinement in administrative segregation fall below this [minimal civilized measure of life's necessities] standard." (DE 20 at 10–11.) But in reaching this conclusion, the magistrate judge failed to discuss the very factors that together demonstrate Mr. Quintanilla's confinement fell below the Eighth Amendment's standards. Specifically, the Recommendation did not discuss the duration of Mr. Quintanilla's confinement, any of the specific allegations raised in the complaint regarding the conditions of the solitary confinement cell, the physical and mental toll that isolation has exacted from Mr. Quintanilla, or the excessive and arbitrary nature of the restriction. (*See, e.g.*, DE 1 ¶ 38.)

The magistrate judge also recommended dismissal of Mr. Quintanilla's substantive due process claims. (DE 20 at 10–11.) The Recommendation characterized Mr. Quintanilla's complaint as claiming "a fundamental right to be free from administrative segregation from the prison's general population" and concluded that no such right is "objectively, deeply rooted" in the United States' history so as to form the basis on which relief could be granted. (DE 20 at 9–10.)

Finally, the magistrate judge recommended that the district court dismiss the claims against Mr. Bryson in their entirety and noted that Bryson is the former Commissioner of the GDOC. (DE 20 at 5.) Mr. Quintanilla purportedly failed to allege facts to indicate Bryson's personal involvement in the violation of Mr. Quintanilla's constitutional rights. (DE 20 at 9–10.)

Mr. Quintanilla timely filed an extensive statement of objections to the magistrate judge's Recommendation on August 22, 2017. (DE 22.)

On August 31, 2017, the district court overruled Mr. Quintanilla's extensive objections without comment, adopted the Recommendation in full, and directed the entry of a judgment of dismissal. (DE 24.)

Mr. Quintanilla remains in solitary confinement.

D. Standard of Review

This Court "review[s] the district judge's dismissal of an *in forma pauperis* complaint for failure to state a claim under 28 U.S.C. § 1915(e)(2)(B)(ii) *de novo* and take[s] the well-pleaded factual allegations in the complaint as true." *Thompson v. Rundle*, 393 F. App'x 675, 678 (11th Cir. 2010). A dismissal pursuant to § 1915(e)(2)(B)(ii) is governed by the same standard as that for dismissal under Federal Rule of Civil Procedure 12(b)(6). *Mitchell v. Farcass*, 112 F.3d 1483, 1490 (11th Cir. 1997). This Court must determine whether the facts as

pleaded state a claim for relief that is "plausible on its face." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009).

Pleadings of an unrepresented party, as Mr. Quintanilla was before the district court, are held to a less stringent standard than those drafted by attorneys and, therefore, must be liberally construed. *Haines v. Kerner*, 404 U.S. 519, 520 (1972); *Boxer X v. Harris*, 437 F.3d 1107, 1110 (11th Cir. 2006).

SUMMARY OF THE ARGUMENT

Mr. Quintanilla remains in prolonged, indefinite solitary confinement. His clear and specific allegations regarding the harsh conditions that he has been forced to endure, in near-total isolation, for almost two years, without any justification or indication of when or why that isolation might end, are more than sufficient to state viable claims that Defendants violated Mr. Quintanilla's rights under the Eighth and Fourteenth Amendments. The district court erred in concluding otherwise.

First, Mr. Quintanilla alleged a core procedural due process violation. He has not been given notice of the *reasons* that Defendants have continued to hold him in solitary confinement and thus, *a fortiori*, has not been given any opportunity to contest those conclusions. What Mr. Quintanilla does know is that he is being held in solitary confinement "until further notice" even though he has already successfully completed the Tier II program that Georgia has created, ostensibly to

provide a pathway out of solitary confinement. Empty, justification-free proclamations that a prisoner will continue to be locked away from human contact in a rat-infested cell do not come anywhere close to satisfying the constitutional imperative that periodic review of solitary confinement must be "meaningful," *e.g.*, *Hewitt v. Helms*, 459 U.S. 460, 477 n.9 (1983), *abrogated on other grounds by Sandin v. Conner*, 515 U.S. 472 (1995).

Second, Mr. Quintanilla's complaint more than adequately alleged that his treatment by Defendants—a two-year period of near-total isolation in a vermin-infested cell that apparently began as a disciplinary measure and now persists without any semblance of rationale or justification—violates the Eighth Amendment by depriving Mr. Quintanilla of "the minimal civilized measure of life's necessities," *Rhodes v. Chapman*, 452 U.S. 337, 347 (1981), without any legitimate penological basis, *see Gregg v. Georgia*, 428 U.S. 153, 183 (1976). The scientific literature confirms what common experience suggests: humans suffer severe mental and physical injury when deprived of contact with others. Here, Mr. Quintanilla alleges that the unsanitary conditions of isolation that he has been forced to endure have already caused such injuries. Those allegations, particularly when properly read as a whole and construed in the best light for Mr. Quintanilla, are more than sufficient to state a claim that Defendants have violated the Eighth Amendment.

Third, Mr. Quintanilla's solitary confinement violates the substantive component of the Due Process Clause. The district court addressed this claim by asking, in the abstract, whether "there is a 'deeply rooted' history and practice to be free of" solitary confinement, and concluding that no such right exists. (DE 20 at 9.) But Mr. Quintanilla's complaint did not pose any such 50,000-foot question. It asks whether an *arbitrary*, *unjustified* and *repeated* decision to extend a prisoner's stay in solitary confinement, for a period of nearly two years, in vermin-infested conditions harmful to the prisoner's body and mind, is consistent with due process. The answer to that question is "no": "The principle that states may not act arbitrarily against prison inmates or felons has been repeatedly recognized in a variety of conte[x]ts." *Parker v. Cook*, 642 F.2d 865, 873 n.6 (5th Cir. 1981) (citing, *e.g.*, *Bell v. Wolfish*, 441 U.S. 520 (1979)). Mr. Quintanilla has a protected liberty interest in freedom from administrative segregation of an indeterminate length, *see Hewitt*, 459 U.S. at 477 n.9 ("[A]dministrative segregation may not be used as a pretext for indefinite confinement of an inmate."), and that interest simply cannot be destroyed without justification, as it has been in this case.

Fourth, the district court erred in two respects in dismissing Mr. Quintanilla's claims against Defendant Homer Bryson. First, the district court seems to have overlooked that Mr. Quintanilla raised an official-capacity claim for injunctive relief claim against Mr. Bryson, who is (or was) the Commissioner of

the Georgia Department of Corrections. Official-capacity injunctive relief claims may, of course, by raised against supervisory officials, and if Mr. Bryson has left his former post, Federal Rule of Civil Procedure 25(d) provides for the "automatic[]" substitution of his successor. Second, controlling Circuit precedent permits individual-capacity damages claims to proceed against officials responsible for creating unconstitutional policies. Mr. Quintanilla alleged that Mr. Bryson had done just that; the district court erred in asking only whether *respondeat superior* liability lies in general, while failing to address the actual gravamen of Mr. Quintanilla's liability claim against Mr. Bryson.

ARGUMENT

A district court may not dismiss a complaint unless the plaintiff has failed to aver "enough facts to state a claim to relief that is plausible on its face." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). In conducting that inquiry, the court must also accept all well-pleaded factual allegations as true and construe the complaint in the light most favorable to the plaintiff. *Id.* Here, Mr. Quintanilla alleges that Defendants failed to provide even a modicum of justification for his continued segregation, robbing him both of notice as to the reasons why he is being held in isolation and a meaningful opportunity to contest Defendants' decision. He lays out particularized allegations demonstrating that the conditions of his confinement fall below those necessary to constitute the "the minimal civilized

measure of life's necessities," *Rhodes v. Chapman*, 452 U.S. 337, 347 (1981), and that he suffered physical and emotional injury as a result.

These allegations are more than sufficient to state a claim that Defendants treatment of Mr. Quintanilla violates the Eighth and Fourteenth Amendments. The district court erred in concluding otherwise. It further erred in dismissing Mr. Quintanilla's official-capacity injunctive relief claims against Mr. Bryson without discussion, and in dismissing the individual capacity damages claim without addressing case law that makes clear, contrary to the district court's sweeping assertion, that supervisory officials may indeed be held liable for promulgating or adopting unconstitutional policies that harm a person subjected to those policies.

A. Mr. Quintanilla's Pleadings State A Claim That Defendants Committed a Clear and Quintessential Violation of Procedural Due Process.

Because Mr. Quintanilla's complaint plausibly alleges that Defendants have not provided Mr. Quintanilla with notice of the reasons he continues to be held in solitary confinement or given him a meaningful opportunity to demonstrate that he should be released from solitary confinement, the district court's dismissal of Mr. Quintanilla's procedural due process claim was improper.

An adequately alleged procedural due process violation consists of three elements: "deprivation of a constitutionally-protected liberty or property interest; state action; and constitutionally-inadequate process." *Cryder v. Oxendine*, 24

F.3d 175, 177 (11th Cir. 1994). The first two elements are not at issue here, as the district court correctly concluded that Defendants' activities in operating the Georgia prison system qualify as state action, and that Mr. Quintanilla "alleges sufficient facts to support his claims that the conditions in Tier II segregation impose the type of atypical and significant hardship to trigger a state-created liberty interest." (DE 20 at 6–7.)

The only yardstick against which Mr. Quintanilla's procedural due process claim must be measured, then, is the adequacy of the process he received. As pleaded, Mr. Quintanilla was denied any semblance of constitutionally-sufficient process.

Where, as here, a prisoner's solitary confinement constitutes an atypical and significant hardship, he is entitled to periodic reviews of his segregation status. *Magluta v. Samples*, 375 F.3d 1269, 1279 n.7 (11th Cir. 2004); *Hale v. Sec'y for Dep't of Corr.*, 345 F. App'x 489, 493 (11th Cir. 2009) (citing *Sheley v. Dugger*, 833 F.2d 1420, 1426 (11th Cir. 1987)). That "review must be meaningful; it cannot be a sham or a pretext." *Toevs v. Reid*, 685 F.3d 903, 912 (10th Cir. 2012) (citing cases discussing the "meaningful review" standard); *see also Wilkinson v. Austin*, 545 U.S. 209, 225–26 (2005) (describing "[n]otice of the factual basis for . . . placement and a fair opportunity for rebuttal" by the prisoner as "among the most important procedural mechanisms for purposes of avoiding erroneous

deprivations"); *Fuentes v. Shevin*, 407 U.S. 67, 80 (1972) ("For more than a century the central meaning of procedural due process has been clear: 'Parties whose rights are to be affected are entitled to be heard; and in order that they may enjoy that right they must first be notified'" (quoting *Baldwin v. Hale*, 1 Wall. 223, 233 (1863))); *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) ("The fundamental requirement of due process is the opportunity to be heard at a meaningful time and in a meaningful manner.") (quotation marks omitted). This is so because meaningful reviews are critical to ensure that "administrative segregation [is not] used as a pretext for indefinite [solitary] confinement of an inmate." *Hewitt*, 459 U.S. at 477 n.9; *see also, e.g.*, *Proctor v. LeClaire*, 846 F.3d 597, 611-12 (2d Cir. 2017) ("The validity of the government's interest in prison safety and security as a basis for restricting the liberty rights of an inmate subsists only as long as the inmate continues to pose a safety or security risk."); *Isby v. Brown*, 856 F.3d 508, 527-28 (7th Cir. 2017) (same); *Williams v. Sec'y Pa. Dep't of Corrs.*, 848 F.3d 549, 575-76 (3d Cir. 2017) ("Without such protections, the Constitution's guarantee of due process would be 'a tale . . . full of sound and fury, signifying nothing.'").

The district court failed to consider whether Mr. Quintanilla ever received a review that was "meaningful." It instead asked only whether *anything* that could be characterized as a "review" occurred. (DE 20 at 8, stating that the "periodic

review" requirement was satisfied because "Defendant Smokes conducted at least two separate reviews of Plaintiff's assignment to Tier II.") That cursory analysis elevated form over substance, and essentially disregarded the constitutional requirement that a periodic review of solitary confinement must be "meaningful." In the "reviews" that took place, Mr. Smokes simply "*informed*" Mr. Quintanilla on December 28, 2016 that he "would remain in phase three of the Tier II program," and on March 26, 2017, he said flatly that Mr. Quintanilla "would again 'repeat' phase three of the Tier II program." (DE 20 at 8 (citing DE 14-1 at ¶¶ 11-12).) Mr. Quintanilla himself pointed out the problem that the district court overlooked: These so-called reviews "did not specify . . . any reason(s) for the denial of [his] reassignment to general population." (DE 14-1, Exhibit A.) Here was Defendants' response to Mr. Quintanilla's plea:

IV. Review of Appeal

_____I ☑ concur / ☐ disagree with the Administrative Segregation: Tier II Program Classification Committee's Action. The following decision (s) has/have been made in this case.

_____

_____

Warden's Signature 3-2017 Date

(DE 14-1, Exhibit A.) Defendants told him nothing. This "review" did not provide Mr. Quintanilla the process he was due. *Wilkinson*, 545 U.S. at 226.

The district court's acceptance of these empty "reviews" compounded its failure to squarely address whether the initial process given to Mr. Quintanilla upon placement in solitary confinement was "meaningful." It plainly was not. Mr. Quintanilla alleged that the forms handed to him at that time merely described the Tier II Program placement rationale as "Participation in a Disturbance/Disruptive Event@Wheeler [sic] Correctional Facility." (DE 1 ¶ 20; DE 1-2 at 1.) As the district court acknowledged, no hearing preceded that determination. (DE 20 at 2.) Mr. Quintanilla's detailed appeal of that decision—which casts considerable doubt upon the stated rationale for his solitary confinement—was all but ignored. The officials' substance-free response, *i.e.*, that Mr. Quintanilla "met criteria for Tier II," failed to identify *any* factual basis for that conclusion. (DE 1-2 at 1.)

The district court appeared to accept that this initial process had been insufficient. (*See* DE 20 at 8 (acknowledging Mr. Quintanilla's allegation "that . . . no initial placement hearing was conducted").) But it then concluded that the subsequent "reviews" cured any initial failing. (DE 20 at 8.) That was error because, as demonstrated above, the later "reviews" were, if anything, even more hollow than the initial process—they were shams that provided no justification for his initial or continued isolation. As such, the later "reviews" did not cure Defendants' failure to provide an initial placement hearing, and are not sufficient to constitute periodic post-deprivation process. Put succinctly, "administrative

segregation cannot be used as a pretext for indefinite [solitary] confinement of an inmate." *Hewitt*, 459 U.S. at 477 n.9.

To be sure, prison officials may conduct "an informal, nonadversary evidentiary review" of administrative segregation. *Id*. at 476. But Mr. Quintanilla's core objection is not to the lack of formality in those reviews.[6] It is that Defendants failed to provide him with *any* "opportunity to be heard at a

[6] That said, Defendants do not appear to have complied with the procedures that GDOC regulations put in place. *First*, when compared to the purpose underlying Tier II administrative segregation, Mr. Quintanilla's allegations demonstrate that his segregation is more akin to disciplinary or punitive segregation than to administrative segregation. *See* GA IIB09-0003 at 1 (Tier II program intended for inmates conducting "violent, disruptive, predatory, or riotous actions, or who otherwise pose a serious threat to the safety and security to the institutional operation."). There has been no showing that Mr. Quintanilla meets this profile—rather, Defendants placed him in solitary confinement after a single, discrete violation in which he alleges he did not participate (DE 1 ¶ 15) and after he was moved to a completely separate facility from anyone with whom he was allegedly fighting. *Second*, each of the purported "reviews" afforded Mr. Quintanilla fell far short of the reviews contemplated by GDOC in connection with administrative segregation. *See, e.g.*, GA. COMP. R. & REGS. 125-3-1-.03 (inmate may only be assigned to an indefinite period of administrative confinement if the necessity is "fully documented"); GA ADC 125-3-1.03; GA IIB0901 at 5 (warden must provide a formal hearing within 96 hours after placement in administrative segregation, and the inmate must be advised in writing of the reasons for administrative segregation at least 24 hours prior to the hearing). Defendants' bare review forms reveal that no such review considered whether Mr. Quintanilla's solitary confinement was at any point in keeping with the objective of administrative segregation.

meaningful time and in a meaningful manner," *Mathews*, 424 U.S. at 319, most fundamentally because they did not identify any factual basis or practical rationale that supports Defendants' decision to keep holding Mr. Quintanilla in solitary confinement. (DE 14-1 ¶¶ 11–16.) Mr. Quintanilla was thus deprived of the core guarantee of procedural due process— a meaningful opportunity to contest the government's rationale for stripping him of a protected liberty interest. *See Wilkinson*, 545 U.S. at 226 ("[A] short statement of reasons . . . provid[es] the inmate a basis for objection before the next decision-maker [and] serves as a guide for future behavior."). The unreasoned decision-making evidenced by this lack of review is the very harm procedural due process safeguards are intended to guard against.

GDOC policies require more process than was received by Mr. Quintanilla and the Georgia penal system recognizes that any decision to put a prisoner in solitary confinement is a serious business that requires deliberation—deliberation totally absent here. But irrespective of whether Defendants' conduct violates GDOC policies, their actions do not pass constitutional muster. Due process requires reasoned decision-making and an opportunity for the prisoner to meaningfully engage with the decisional process. *See Wilkinson*, 545 U.S. at 226. But here, contrary to established law, Defendants failed to comply with their fundamental duty to inform Mr. Quintanilla of the reasons why they have

continued to hold him in solitary confinement, and thus failed to meet the obligations of constitutional due process.

B. Mr. Quintanilla's Detailed Pleadings Regarding The Conditions of Solitary Confinement That He Has Endured For Nearly Two Years, Without Justification, Stated An As-Applied Claim That Defendants' Conduct Violated the Eighth Amendment.

An Eighth Amendment claim contains both objective and subjective components. *Farmer v. Brennan*, 511 U.S. 825, 834 (1994). To satisfy the objective component, Mr. Quintanilla was required to allege that conditions deprived him of "the minimal civilized measure of life's necessities," *Rhodes*, 452 U.S. at 347, or failed to serve a legitimate penological interest, *see Gregg*, 428 U.S. at 183. Mr. Quintanilla satisfied that pleading burden by alleging that he endures his indefinite solitary confinement in a decrepit, unsanitary, and severely isolating cell from which he is afforded virtually no respite, causing him myriad physical and psychological injuries. Further, his complaint makes clear that there is no penological interest served by these restrictions—Defendants are unable to identify a rationale for his continued solitary confinement in an unhygienic cell. As to the subjective component, Quintanilla need only allege that these deprivations were inflicted with "deliberate indifference"—that is with disregard for a risk to a prisoner's health or safety. *Farmer*, 511 U.S. at 834, 837. Deliberate indifference to the risks posed—here by unhygienic conditions, deprivation of exercise, and extreme isolation for an indefinite duration—is adequately pleaded where, as here,

"a factfinder may conclude that a prison official knew of a substantial risk from the very fact that the risk was obvious." *See id*. at 842.

Mr. Quintanilla's allegations are more than sufficient at the pleading stage to state an Eighth Amendment claim in at least three respects.

First, Mr. Quintanilla alleged that the conditions of his confinement are unconstitutionally unhygienic. He alleges that his solitary confinement unit is crawling with "an excessive vermin and insect infestation," including rats, mosquitoes, and spiders. (DE 1 ¶ 58.) Despite Mr. Quintanilla's continuing confinement with this vermin, Defendants deny him adequate opportunities to sanitize his cell. *Id*. Further, the showers provided to Mr. Quintanilla are decrepit and flooded. (DE 1 ¶ 59.) And he is not given utensils with which to eat or drink his food. (DE 1 ¶ 60.) Because Mr. Quintanilla is in solitary confinement and cannot leave his cell, his exposure to these unsanitary conditions is nearly constant.

These allegations of near-constant exposure to unhygienic conditions state an Eighth Amendment violation because they allege a serious deprivation of Mr. Quintanilla's basic human needs. *See Budd v. Motley*, 711 F.3d 840, 843 (7th Cir. 2013) (per curiam) ("[A]llegations of unhygienic conditions, when combined with the jail's failure to provide detainees with a way to clean for themselves with running water or other supplies, state a claim for relief."); *see also Gaston v. Coughlin*, 249 F.3d 156, 166 (2d Cir. 2001) (allegations of a rodent infestation

supported an Eighth Amendment claim). The risks posed to Mr. Quintanilla's health and safety by these conditions were "obvious." *Farmer*, 511 U.S. at 842 ("[A] factfinder may conclude that a prison official knew of a substantial risk from the very fact that the risk was obvious."); *see also Gray v. Hardy*, 826 F.3d 1000, 1009 (7th Cir. 2016) (finding "the risk of both physical and psychological harm" was obvious where inmate confined in unsanitary conditions with cockroaches and mice and not given adequate access to cleaning supplies"); *Thomas v. Illinois*, 697 F.3d 612, 615 (7th Cir. 2012) (noting that "psychological harm from living in a small cell infested with mice and cockroaches is pretty obvious" and that cohabitating with vermin also presents physical risks); *Gaston*, 249 F.3d at 165–66 (allegations that defendants had "actual knowledge" of inhumane conditions including pests and freezing temperatures sufficient to plead Eighth Amendment violation).

Second, Mr. Quintanilla's complaint states an Eighth Amendment claim that he has been *arbitrarily* deprived of human contact through Defendants' unexplained and unjustified decision to hold him in solitary confinement for nearly two years.

The district court also failed to appreciate the import of Mr. Quintanilla's allegation that his treatment has been *arbitrary* and unjustified. (*See* DE 20 at 10 (acknowledging but failing to discuss Mr. Quintanilla's "assertion[] that

Defendants arbitrarily placed him in administrative confinement").) That was error, because controlling precedents establish that prison deprivations imposed "without any penological purpose" violate the Eighth Amendment. *Rhodes*, 452 U.S. at 347. "[A] sanction imposed cannot be so totally without penological justification that it results in the gratuitous infliction of suffering." *Gregg*, 428 U.S. at 183; *see also Hewitt*, 459 U.S. at 478 n.9 (noting that "administrative segregation may not be used as a pretext for indefinite confinement."). And as explained in Part A of the Argument, *supra*, Mr. Quintanilla has clearly alleged that Defendants have refused to provide any explanation for why he continues to be held in solitary confinement, nearly two years after the fight that ostensibly led to his initial isolation.

Mr. Quintanilla has thus alleged that his continuing, arbitrary confinement to these unsanitary conditions, devoid of human contact, has resulted in the "gratuitous infliction of suffering." *Gregg*, 428 U.S. at 183. Mr. Quintanilla is confined at almost all times to quarters infested with vermin, denied opportunity to exercise, and has suffered migraines, severe back and neck pains, and depression. (DE 1 ¶¶ 35, 38, 58.) There should be no doubt that, at a minimum, the Eighth Amendment protects prisoners from being *arbitrarily* subjected to such treatment. "Cutting an individual off from all meaningful human contact after the reasons for

such segregation no longer exist offends in a fundamental way contemporary standards of decency." *Morris v. Travisono*, 549 F. Supp. 291 (D.R.I. 1982).

The district court also ignored the "obvious" risks to health that are posed by solitary confinement—risks that the Supreme Court pointedly identified more than one hundred years ago. *See In re Medley*, 134 U.S. 160, 168 (1890) (describing how prisoners subjected to solitary confinement fell into a "semi-fatuous condition," "became violently insane," "committed suicide," and "did not recover sufficient mental activity to be of any subsequent service to the community"). More recently, Justice Kennedy observed that the "the penal system has a solitary confinement regime that will bring you to the edge of madness, perhaps to madness itself." *Davis v. Ayala*, 135 S. Ct. 2187, 2209 (2015) (Kennedy, J., concurring). Justice Breyer also recently commented on harms caused by solitary confinement. *See Glossip v. Gross*, 135 S. Ct. 2726, 2765 (2015) (Breyer, J., dissenting) (observing that "it is well documented that . . . prolonged solitary confinement produces numerous deleterious harms"). These statements find overwhelming empirical support in the scientific literature. In fact, "'[n]early every scientific inquiry into the effects of solitary confinement over the past 150 years has concluded that subjecting an individual to more than 10 days of involuntary segregation results in a distinct set of emotional, cognitive, social, and physical pathologies.'" Kenneth Appelbaum, *American Psychiatry Should Join the*

Call to Abolish Solitary Confinement, 43 J. Am. Acad. Psychiatry & L. 406, 410 (2015) (quoting David H. Cloud, et al., *Public Health and Solitary Confinement in the United States*, 105(1) Am. J. Pub. Health 18, 18–26 (2015)) (alteration in original); *see also* Craig Haney, *Mental Health Issues in Long-Term Solitary and "Supermax" Confinement*, 49 Crime & Delinquency 124, 130 (2003) ("Empirical research on solitary and supermax-like confinement has consistently and unequivocally documented the harmful consequences of living in these kinds of environments.").

Third, the district court also failed to consider the cumulative impact of these conditions, all of which directly relate to Mr. Quintanilla's health. Courts "consider the conditions of confinement as a whole because several deprivations in combination may constitute a constitutional violation when they have a mutually enforcing effect that produces the deprivation of a single, identifiable human need." *Mitchell v. Maynard*, 80 F.3d 1433, 1441–42 (10th Cir. 1996); *see also Wilson v. Seiter*, 501 U.S. 294, 304 (1991) ("*Some* conditions of confinement may establish an Eighth Amendment violation 'in combination' . . . when they have a mutually enforcing effect that produces the deprivation of a single, identifiable human need.").

Here, the cumulative effect of these conditions is this: Mr. Quintanilla endures unhygienic conditions in unrelenting solitude with no end in sight. These

deprivations are mutually reinforcing. Constant isolation results in unrelenting exposure to the unsanitary conditions in which Mr. Quintanilla is held; for 23 or 24 hours a day, he is confined in a dangerous and unsanitary environment. Together, these conditions present a serious and obvious risk to Mr. Quintanilla's physical health. And, indeed, Mr. Quintanilla alleges that he sustained physical and psychological injury as the result of the conditions of his confinement, allegations the district court further erred in failing entirely to consider. For example, Mr. Quintanilla plainly alleges physical ailments such as migraines and severe back and neck pains. (DE 1 ¶ 38.) He suffers from depression as a result. (*Id.*) His allegations regarding the deteriorating physical and mental condition occasioned by his harsh setting are more than adequate to state a claim for relief. *See Mitchell*, 80 F.3d at 1442. As such, the magistrate judge also erred in disregarding the cumulative risk posed by Mr. Quintanilla's allegations that he was forced to endure these unsanitary conditions while in solitary confinement. Because the lower court erred in failing to follow controlling precedent in its evaluation of whether any or all of Mr. Quintanilla's allegations are sufficient to demonstrate an Eighth Amendment violation, the dismissal should be reversed.

C. Mr. Quintanilla's Detailed Pleadings Regarding The Conditions of Solitary Confinement That He Has Endured For Nearly Two Years, Without Justification, Stated An As-Applied Claim That Defendants' Conduct Violated Substantive Due Process.

Mr. Quintanilla's protracted, indefinite solitary confinement, absent any justification, also violates substantive due process guarantees. The Recommendation rejected this claim, concluding that there is no "deeply rooted" "fundamental right to be free from administrative segregation from the prison's general population." (DE 20 at 9.) But that was not Mr. Quintanilla's claim, nor was it the proper analysis. Mr. Quintanilla does not assert a fundamental right to be free from administrative segregation. Rather, he asserts a right to be free from continuing confinement in deplorable conditions and apart from human contact *for no reason*. The Recommendation thus missed the central premise of Mr. Quintanilla's substantive due process claim: that Mr. Quintanilla has been confined in these uncivilized conditions and deprived of human contact absent any justification, at all. Indeed, Mr. Quintanilla has been told only that his isolation will continue until "further notice." (DE 1 ¶¶ 30, 31; DE 22 at 8–9.) Defendants have not been able to provide any excuse for continuing to hold Mr. Quintanilla under these conditions. (*See* DE 14-1, Exhibit A.)

Society has long recognized "serious objections" to the practice of solitary confinement. *See In re Medley*, 134 U.S. at 168 (discussing that solitary confinement was repeatedly rejected as too harsh a punishment both in Britain and

the U.S.). And the principle that states may not act arbitrarily against prison inmates or felons has been repeatedly recognized in a variety of conte[x]ts." *Parker v. Cook*, 642 F.2d 865, 873 n.6 (5th Cir. 1981) (citing, *e.g.*, *Bell v. Wolfish*, 441 U.S. 520 (1979)). Indeed, even a prisoner "retains those [constitutional] rights that are not inconsistent with his statutes as a prisoner or with the legitimate penological objectives of the corrections system." *Turner v. Safley*, 482 U.S. 78, 95 (1987). Further, due process requires that the government have a legitimate purpose to infringe upon a person's liberty interest. *Bell*, 441 U.S. at 538-39; *see Parker*, 642 F.2d at 873 n.6. Here, Mr. Quintanilla has alleged that his indefinite detention in a vermin-infested cell, by himself, for nearly two years has been arbitrary and unjustified—elements that render illegitimate a restriction of his protected liberty interest. *Bell*, 441 U.S. at 538–39 & n.20 (noting that confining a detainee in a "dungeon may . . . preserve the security of the institution" but would nevertheless be unconstitutional because those "objectives [] could be accomplished [by] so many alternative and less harsh methods"); *see also* DE 1 (Mr. Quintanilla "sees nothing, does nothing and interacts with no one."). The district court's contrary conclusion constitutes reversible error.

D. The District Court Erred in Dismissing Mr. Quintanilla's Claims Against Defendant Homer Bryson.

The district court erred twice over in dismissing Mr. Quintanilla's claims against Mr. Bryson, who is (or was) the Commissioner of Georgia's Department of

Corrections. The district court's analysis centered on the proposition that supervisory officials may not be sued under § 1983 unless "personal involvement" in the underlying violations is alleged. (DE 20 at 5.)

But that analysis overlooked what Mr. Quintanilla expressly pointed out in his statement of objections to the Recommendation. Mr. Quintanilla asserted an official-capacity injunctive relief claim against Mr. Bryson. (DE 1 ¶¶ 5, 12.) And "[p]ersonal action by defendants individual is not a necessary condition of injunctive relief against state officers in their official capacity." *Luckey v. Harris*, 860 F.2d 1012, 1015 (11th Cir. 1998) (citing *Ex parte Young* doctrine); *see also* DE 22 at 11 (citing cases). As Mr. Quintanilla also pointed out, to the extent the district court was concerned that Mr. Bryson may have vacated the post of Commissioner, the proper response, mandated by Rule 25 of the Federal Rules of Civil Procedure, was to substitute Mr. Bryson's successor, not dismiss the claims. (DE 22 at 11 (quoting the Rule's automatic substitution provision).)

Mr. Quintanilla also advanced a viable claim for individual liability against Bryson, and the Recommendation erred in its sweeping statement that there can be no supervisory liability in Mr. Quintanilla's case. (*See* DE 20 at 5.) Mr. Quintanilla alleged that the GDOC standard operating procedures ("SOPs"), as written, function to deprive prisoners of their due process rights. (DE 1 ¶¶ 47–48, 61, 62, 66.) He likewise alleged that Bryson, as the SOPs' author, is responsible

for this unconstitutional system. (DE 1 ¶¶ 5, 62); *see also Valdes v. Crosby*, 450 F.3d 1231, 1237 (11th Cir. 2006) ("Supervisory liability under § 1983 occurs when the supervisor personally participates in the alleged constitutional violation or when there is a causal connection between the actions of the supervising official and the alleged constitutional deprivation.") (internal quotation marks omitted). The district court erred in concluding otherwise. To the extent Mr. Quintanilla's *pro se* complaint would benefit from further clarification, he should be granted leave to amend his claims against Mr. Bryson on remand. *See* Fed. R. Civ. P. 15.

CONCLUSION

For the reasons set forth above, Plaintiff-Appellant Edgar Quintanilla respectfully requests that the Court reverse the district court's decision and remand for further proceedings.

DATED: January 19, 2018

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CERTIFICATE OF COMPLIANCE

This document complies with the word limit of Rule 32.1 of the Federal Rules of Appellate Procedure because, excluding the parts of the document exempted by FRAP 32(f), this document contains 8638 words.

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **CORRECTED BRIEF OF PLAINTIFF-APPELLANT EDGAR QUINTANILLA** was served on the following parties this 19th day of January, 2018 in the manner indicated below:

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