

**UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
NORTHERN DIVISION**

ROBERT BLAZER,

File 1:16-cv-1046

vs.

WALWORTH COUNTY, SOUTH DAKOTA;  
CORSON COUNTY, SOUTH DAKOTA;  
KEITH GALL, IN HIS INDIVIDUAL AND  
OFFICIAL CAPACITY;  
JOSH BOLL, IN HIS INDIVIDUAL AND  
OFFICIAL CAPACITY;  
ALAN DALE, IN HIS INDIVIDUAL AND  
OFFICIAL CAPACITY;  
JUSTIN TVEDT, IN HIS INDIVIDUAL  
AND OFFICIAL CAPACITY;  
MIKE VARILEK, IN HIS INDIVIDUAL  
AND OFFICIAL CAPACITY;  
KYLEE FRANKLIN, IN HER INDIVIDUAL  
AND OFFICIAL CAPACITY;  
KIMBERLY LONGBRAKE, IN HER  
INDIVIDUAL AND OFFICIAL CAPACITY;  
JUSTIN JUNGWIRTH, IN HIS  
INDIVIDUAL AND OFFICIAL CAPACITY;  
MARRISA MICKELSON, IN HER  
INDIVIDUAL AND OFFICIAL CAPACITY;  
HEATHER KROONJE, IN HER  
INDIVIDUAL AND OFFICIAL CAPACITY;  
PATTY DUNWOODY, IN HER  
INDIVIDUAL AND OFFICIAL CAPACITY;  
JEREMY JOHNSON, IN HIS INDIVIDUAL  
AND OFFICIAL CAPACITY;  
LANCE SCHNAIBLE, IN HIS INDIVIDUAL  
AND OFFICIAL CAPACITY;  
TRAVIS BENTZ, IN HIS INDIVIDUAL  
AND OFFICIAL CAPACITY;  
RONNIE DUCHENEAX, IN HIS  
INDIVIDUAL AND OFFICIAL CAPACITY;  
GLENN BISSETT, IN HIS INDIVIDUAL  
AND OFFICIAL CAPACITY;  
TAMMY RICHARDS, IN HER  
INDIVIDUAL AND OFFICIAL CAPACITY;

**SECOND AMENDED COMPLAINT  
WITH REQUEST FOR JURY TRIAL**

AND CINDY STRONGHEART, IN HER  
INDIVIDUAL AND OFFICIAL CAPACITY;

Defendants.

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Robert Blazer, as and for his Second Amended Complaint against Defendants, Walworth County, South Dakota, Corson County, South Dakota, Keith Gall, Josh Boll, Alan Dale, Justin Tvedt, Mike Varilek, Kylee Franklin, Kimberly Longbrake, Justin Jungwirth, Marris Mickelson, Heather Kroonje, Patty Dunwoody, Jeremy Johnson, Lance Schnaible, Travis Bentz, Ronnie Ducheneaux, Glenn Bissett, Tammy Richards, and Cindy Strongheart, states and alleges as follows:

**Jurisdiction and Venue**

1. This action is brought pursuant to 42 U.S.C. §§ 1983 and 1988, and the Fourteenth Amendment to the United States Constitution. Jurisdiction is conferred upon this Court by 28 U.S.C. §§ 1331 and 1343, this being an action seeking redress for the violation of Plaintiff's constitutional and civil rights.

2. Venue is proper under 28 U.S.C. § 1391(b) and (c) in that multiple defendants reside in the District of South Dakota, Northern Division, and that the events giving rise to this claim occurred within the boundaries of the District of South Dakota, Northern Division.

**The Parties**

3. Plaintiff Robert Blazer ("Blazer") is a resident of Sioux Falls, South Dakota, who was detained by Corson County, South Dakota, on or about October 15, 2015 until June 20, 2016. Because Corson County does not have a jail to house pretrial detainees, Blazer was jailed at the Walworth County Jail.

4. Defendant Corson County, South Dakota (“Corson County”), is and was at all times relevant herein a governmental body formed under the laws of the State of South Dakota.

5. Defendant Walworth County, South Dakota (“Walworth County”), is and was at all times relevant herein a governmental body formed under the laws of the State of South Dakota.

6. All individually-named defendants, upon information and belief, are residents of South Dakota and, at all times relevant herein, were duly appointed and acting officers, servants, employees and agents of either Corson County or Walworth County. They are being sued individually and in their official capacities.

7. At all times relevant to this action, each defendant was acting under color of law and with the badges and indices of their governmental authority.

8. At all times relevant to this action, Defendant Keith Gall was the Sheriff of Corson County and Defendant Josh Boll was the Sheriff of Walworth County.

9. At all times relevant to this action, Defendants Alan Dale, Justin Tvedt, and Mike Varilek were duly appointed and acting officers, servants, employees, and/or agents of Corson County. Together, Defendants Corson County, Keith Gall, Alan Dale, Justin Tvedt, and Mike Varilek will be referred to as “Corson County Defendants.”

10. At all times relevant to this action, Defendants Kylee Franklin, Kimberly Longbrake, Justin Jungwirth, Marris Mickelson, Heather Kroonje, Patty Dunwoody, Jeremy Johnson, Lance Schnaible, Travis Bentz, Ronnie Ducheneaux, Glenn Bissett, Tammy Richards, and Cindy Strongheart were duly appointed and acting officers, servants, employees, and/or agents of Walworth County. Together, Defendants Walworth County,

Josh Boll, Kylee Franklin, Kimberly Longbrake, Justin Jungwirth, MARRISA Mickelson, Heather Kroonje, Patty Dunwoody, Jeremy Johnson, Lance Schnaible, Travis Bentz, Ronnie Ducheneaux, Glenn Bissett, Tammy Richards, and Cindy Strongheart will be referred to as “Walworth County Defendants.”

11. Defendants were responsible for providing for the safety, health care, and serious medical needs of Blazer while he was detained in the Walworth County Jail.

### **Factual Background**

12. On or about October 14, 2015, Blazer was taken into custody in North Dakota for criminal charges pending in Corson County, South Dakota.

13. Blazer had a medical history significant for, among other things, diabetes, anxiety, depression, bipolar disorder, and post-traumatic stress disorder.

14. He had been prescribed, among other medications, insulin syringe along with insulin detemir (Levemir) and insulin aspart (NovoLog), alprazolam (Xanax), and metformin (Glucophage); Blazer was also taking pain medications to alleviate symptoms relating to a shoulder injury.

15. After being taken into custody in North Dakota, Blazer was transported to the Walworth County Jail by Corson County Deputy Sheriff Alan Dale, arriving at the Walworth County Jail on or about October 16, 2015.

16. Walworth County contracts with and is paid by Corson County to provide custodial care for adults who are committed to custody through judicial order.

17. Blazer was held at the Walworth County Jail as a pretrial detainee from on or about October 16, 2015, until June 20, 2016.

18. At the time of his booking into the Walworth County Jail, Blazer reported his health problems directly to Walworth County personnel and on a Preliminary Health

Screening Form, explicitly noting he suffers from, among other things, diabetes and post-traumatic stress disorder.

19. According to Walworth County Jail records, Blazer did not have his diabetes medication on his person at the time of booking.

20. Despite reporting his health issues shortly after arriving at the Walworth County Jail and despite not having his diabetes medication on his person, Blazer was not seen by a medical provider until October 27, 2015, eleven days after first reporting his serious medical conditions.

21. Following his October 27, 2015 medical appointment, Blazer was prescribed duloxetine (for depression), gabapentin (for seizures and pain), levemir flextouch (for diabetes), Lisinopril (for high blood pressure), lorazepam (for anxiety and insomnia), metformin (for diabetes), oxycodone (for pain), and polyethylene glyco (antacid and antihistamine).

22. Two days later, Defendants provided Blazer his diabetes medication. Blazer received his diabetes medication from on or about October 29, 2015, until on or about February 17, 2016.

23. After on or about February 17, 2016, Defendants refused to provide Blazer any diabetes medication for the remainder of his detention at the Walworth County Jail, which amounts to 120 days during which Blazer was denied diabetes medication.

24. Over the course of his detention, Defendants also refused to provide Blazer medications for his anxiety, depression, and pain.

25. Blazer made several requests to Defendants that he be provided his medications.

26. Walworth County Defendants retaliated against Blazer for requesting his medications by putting him in solitary confinement.

27. Furthermore, Defendants withheld Blazer's medications in an attempt to coerce him to plead guilty to the criminal charges pending in Corson County.

28. Certain Walworth County Defendants told Blazer that he no longer had diabetes. These Walworth County Defendants were not Blazer's medical providers, nor, upon information and belief, did they have expert medical training or knowledge.

29. Also, certain Walworth County Defendants informed Blazer that because Corson County was refusing to pay for any further medications, Blazer would not receive any more medications.

30. As a result of not receiving diabetes medication, Blazer began experiencing symptoms of neuropathy and severe physical and emotional pain and suffering.

31. As a result of not receiving medications for his anxiety, depression, and pain, Blazer also experienced severe physical and emotional pain and suffering, anxiety, and depression.

32. Blazer was released from Walworth County Jail on June 20, 2016.

**Count I – Civil Rights Violation under 42 U.S.C. § 1983 – Failure to Provide Medical Care**

33. Blazer re-alleges and incorporates by reference all preceding paragraphs.

34. Blazer suffered from objectively serious medical needs, and Defendants Keith Gall, Josh Boll, Alan Dale, Justin Tvedt, Mike Varilek, Kylee Franklin, Kimberly Longbrake, Justin Jungwirth, Marris Mickelson, Heather Kroonje, Patty Dunwoody, Jeremy Johnson, Lance Schnaible, Travis Bentz, Ronnie Ducheneaux, Glenn Bissett, Tammy Richards, and Cindy Strongheart (together, "Individual Defendants") had actual knowledge of the same.

35. Despite actually knowing of Blazer's objectively serious medical needs, Individual Defendants, acting under color of law, deliberately disregarded said needs and acted or failed to act in a way that deprived Blazer of necessary and adequate medical care in violation of the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983.

36. Individual Defendants' conduct in failing to provide medical care resulted in Blazer experiencing serious and permanent injuries and damages, including extreme physical and mental pain and suffering, emotional distress, disability, lost enjoyment of life, and the need for future medical treatment greater than he would have required had he received appropriate medical treatment and his prescribed medications.

**Count II – Civil Rights Violation under 42 U.S.C. § 1983 – Unlawful Policy and Custom**

37. Blazer re-alleges and incorporates by reference all preceding paragraphs.

38. Defendants Corson County and Walworth County (together, "County Defendants") developed and maintained policies, practices, and/or customs that exhibited deliberate indifference to the constitutional rights of persons in custody and being detained, which caused a violation of Blazer's constitutional rights.

39. It was and continues to be the policy, practice, and/or custom of Walworth County to fail to exercise reasonable care in training and supervising its jail staff with respect to the provision of medical care to detainees, thereby failing to adequately prevent constitutional violations by its jail staff.

40. It was and continues to be the policy, practice, and/or custom of Walworth County not to pay for the medical care of its detainees which are being detained on behalf of another county, thereby failing to adequately provide medical care to its detainees.

41. These policies, practices, and/or customs demonstrate a deliberate indifference on the part of Walworth County to Blazer's constitutional rights, and were a cause of the violations to Blazer's constitutional rights.

42. Moreover, it was the policy, practice, and/or custom of Corson County not to pay for the medical care of its detainees housed in the Walworth County Jail.

43. Such policy, practice, and/or custom demonstrates a deliberate indifference on the part of Corson County to Blazer's constitutional rights, and was a cause of the violations to Blazer's constitutional rights.

44. County Defendants were acting under color of law in establishing and implementing said policies and customs.

45. County Defendants' conduct deprived Blazer of necessary and adequate medical care in violation of the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983.

46. County Defendants' conduct resulted in Blazer experiencing serious and permanent injuries and damages, including extreme physical and mental pain and suffering, emotional distress, disability, lost enjoyment of life, and the need for future medical treatment.

WHEREFORE, Plaintiff, Robert A. Blazer, prays for the following relief:

1. For judgment in Plaintiff's favor declaring that the conduct of the Defendants was unconstitutional and a violation of Plaintiff's rights under the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983;

2. For judgment in Plaintiff's favor and against Defendants, jointly and severally, in a monetary amount to be proven at trial to compensate Plaintiff for Defendants' violation of



his constitutional rights and the damages he suffered and will suffer as a result as well as to punish Defendants for their conduct and to deter similar conduct from happening;

3. For Plaintiff's costs and disbursements as allowed by law, including reasonable attorneys' fees pursuant to 42 U.S.C. § 1988; and

4. For such other relief as deemed just and equitable by the Court.

**DEMAND FOR JURY TRIAL**

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

Dated this 25th day of June, 2018.

DAVENPORT, EVANS, HURWITZ &  
SMITH, L.L.P.

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