

VIRGINIA: IN THE UNITED STATES DISTRICT COURT OF THE WESTERN ROANOKE DIVISION

CLERK'S OFFICE U.S. DIST. COURT AT ROANOKE, VA FILED

JUN 14 2017

JULIA C. DUDLEY, CLERK BY: [Signature] DEPUTY CLERK

NAME: XAVIA T. MOODWYN

NUMBER: 1016577

PLACE OF CONFINEMENT: RED UNION STATE PRISON. P.O. BOX 1900 POUND VA 24279.

XAVIA T. MOODWYN

PLAINTIFF

v.

Civil Action No. 717CV00271

CORRECTIONAL OFFICER ROOP; K-Q UNIT CORRECTIONAL OFFICER AT RED UNION STATE PRISON. E-T-ALLII;

UN-KNOWN RESPONDING OFFICER #1 CORRECTIONAL OFFICER AT RED UNION STATE PRISON

UN-KNOWN RESPONDING OFFICER #2 CORRECTIONAL OFFICER AT RED UNION STATE PRISON

UN-KNOWN RESPONDING OFFICER #3 CORRECTIONAL OFFICER AT RED UNION STATE PRISON

UN-KNOWN ESCORTING OFFICER #1 CORRECTIONAL OFFICER AT RED UNION STATE PRISON

UN-KNOWN ESCORTING OFFICER #2 CORRECTIONAL OFFICER AT RED UNION STATE PRISON

LIEUTENANT J. W. KISER LIEUTENANT AT RED UNION STATE PRISON

DEFENDANT (S)

42 U.S.C SECTION 1983 COMPLAINT

I

JURISDICTION

- (1) JURISDICTION OF THIS COURT IS INVOKED PURSUANT TO 28 U.S.C SECTION 1331 (1) AND 1343 (a) (3)
- (2) JURISDICTION OF THIS COURT IS INVOKED PURSUANT TO 28 U.S.C SECTION 1367 IN THAT THIS COURT HAS SUPPLEMENTAL JURISDICTION OVER THE PLAINTIFFS STATE LAW TORT CLAIM.
- (3) JURISDICTION OF THIS COURT IS INVOKED PURSUANT TO 28 U.S.C SECTION 2201 AND 2202 SEEKING DECLARATORY RELIEF IN THIS ACTION TO REDRESS DEPRIVATION OF PLAINTIFFS RIGHTS.
- (4) JURISDICTION OF THIS COURT IS INVOKED PURSUANT TO 28 U.S.C SECTION 1391 (b) (2) BECAUSE THE WESTERN DISTRICT IS WHERE THE EVENT GIVING RISE TO THIS CLAIM OCCURRED.

II

PLAINTIFF

(5) PLAINTIFF XAVIA T. CLOODWYN #1016577 IS AND WAS AT ALL TIMES MENTIONED HEREIN A PRISONER OF THE STATE OF VIRGINIA IN THE CUSTODY OF THE VIRGINIA DEPARTMENT OF CORRECTIONS. HE IS CURRENTLY CONFINED AT RED UNION STATE PRISON IN POUND VIRGINIA

III

DEFENDANTS

(6) DEFENDANT K-9 OFFICER ROOP WAS AT ALL RELEVANT TIMES A CORRECTIONAL OFFICER EMPLOYED AT RED UNION STATE PRISON P.O. BOX 1900 POUND VA 24279

(7) DEFENDANT UNKNOWN RESPONDING OFFICER #1 WAS AT ALL RELEVANT TIMES A CORRECTIONAL OFFICER EMPLOYED AT RED UNION STATE PRISON P.O. BOX 1900 POUND VA 24279

(8) DEFENDANT UNKNOWN RESPONDING OFFICER #2 WAS AT ALL RELEVANT TIMES A CORRECTIONAL OFFICER EMPLOYED AT RED UNION STATE PRISON P.O. BOX 1900 POUND VA 24279

III

DEPENDANTS CONT...III

- (9) DEFENDANT UN-KNOWN RESPONDING OFFICER #3 WAS AT ALL RELEVANT TIMES A CORRECTIONAL OFFICER EMPLOYED AT RED UNION STATE PRISON. P.O. BOX 1900 POUND VA 24279
- (10) DEFENDANT UN-KNOWN RESPONDING K-9 OFFICER WAS AT ALL RELEVANT TIMES A K-9 OFFICER EMPLOYED AT RED UNION STATE PRISON P.O. BOX 1900 POUND VA 24279
- (11) DEFENDANT UN-KNOWN ESCORTING OFFICER #1 WAS AT ALL RELEVANT TIMES A CORRECTIONAL OFFICER EMPLOYED AT RED UNION STATE PRISON P.O. BOX 1900 POUND VA 24279
- (12) DEFENDANT UN-KNOWN ESCORTING OFFICER #2 WAS AT ALL RELEVANT TIMES A CORRECTIONAL OFFICER EMPLOYED AT RED UNION STATE PRISON P.O. BOX 1900 POUND VA 24279
- (13) DEFENDANT LIEUTENANT S. W KISER WAS AT ALL RELEVANT TIMES A LIEUTENANT EMPLOYED AT RED UNION STATE PRISON P.O. BOX 1900 POUND VA 24279
- (14) ALL DEFENDANTS AFORMENTIONED ACTED UNDER COLOR STATE LAW ARE BEING SUED IN THEIR INDIVIDUAL AND OFFICIAL CAPACITIES.

IV

STATEMENTS OF FACTS

1. ON DECEMBER 17, 2015 AT APPROXIMATELY 7:17 AM DURING BREAKFAST TIME CHOW, I WAS INVOLVED IN AN ALTERCATION WITH OTHER INMATES. AT THE CONCLUSION OF THIS INCIDENT, RESPONDING K-9 OFFICER ROOP MADE THE DEMAND TO GET DOWN AT WHICH TIME I DISCARDED MY WEAPON AND LAYED DOWN ON THE FLOOR IN A NON-THREATENING PRONE POSITION.
2. AFTER I WAS IN THIS NON-THREATENING PRONE POSITION, UN-KNOWN RESPONDING OFFICER #1 SPRAYED ME WITH O.C. GAS...PEPPER SPRAY.
3. AFTER I WAS SPRAYED AFTER ALREADY BEING IN A NON-THREATENING PRONE POSITION, UN-KNOWN RESPONDING OFFICER #2 STOOD ON TOP OF ME. ONE FOOT WAS PLACED IN THE CENTER OF MY BACK. THE OTHER FOOT WAS PLACED ON THE RIGHT SIDE OF MY HEAD.
4. WHILE ALREADY BEING IN A PRONE NON-THREATENING POSITION, BEING SPRAYED AND HAVING UN-KNOWN RESPONDING OFFICER #2 STANDING ON TOP OF ME, RESPONDING K-9 OFFICER ROOP ENGAGED HIS K-9 DOG ON MY LEFT LEG.

STATEMENTS OF FACTS... CONTINUED IV

5. WHEN [REDACTED] UNKNOWN RESPONDING OFFICER #2 REMOVED FROM MY BACK. I WAS PLACED IN HANDCUFFS. AFTER WHICH... RESPONDING K-9 OFFICER ROOP LITERALLY PICKED UP HIS K-9 DOG AND PLACED HIM ON TOP OF MY BACK WHILE MY ANKLES WERE BEING STRACKLED.
6. I WAS PICKED UP OFF THE FLOOR, THATS WHEN UNKNOWN RESPONDING OFFICER #3 BEGIN KICKING ME IN MY RIGHT ANKLE AND STOMPING MY RIGHT FOOT.
7. I WAS THEN TAKEN OUT OF A BUILDING LOWSIDE AND INTO A BUILDING HIGH SIDE WHERE I WAS TREATED FOR BY NURSE WOODS FOR DOG BITE WOUNDS ON MY LOWER LEFT LEG. I COMPLAINED THAT I COUDNT BREATHE AND THAT MY FACE WAS BURNING... SHE TOLD ME THAT IT WAS THE EFFECTS OF THE CHEMICALS OF THE PEPPER SPRAY. THAT IT WILL WASH OFF WHEN I SHOWER.
8. I WAS INTERVIEWED BY THE INSTITUTIONAL INVESTIGATOR MS. MURPHY. AFTER WHICH I WAS TOLD TO GET ON MY KNEE'S AND FACE THE WALL AND UNKNOWN ESCORTING OFFICER #1 STATED. "THE ONLY PERSON WHO CAN SAVE YOU JUST LEFT!"... SPEAKING OF INVESTIGATOR MS. MURPHY.

STATEMENTS OF FACTS... CONTINUES IV

9. I WAS TOLD BY UN-KNOWN [REDACTED] ESCORTING OFFICER #1 THAT WHEN I GET UP, IF I TURN MY HEAD IN EITHER OFFICERS (ESCORTING OFFICER) DIRECTION. I WILL BE STAMPED TO THE GROUND ON MY FACE.
10. I WAS LIFTED-UP AND ESCORTED OUT OF A-BUILDING HIGH SIDE BACK TO A-BUILDING LOW SIDE AND READY TO BE PLACED IN A SEPARATION CELL IN A-3-PAD. INSTITUTIONAL INVESTIGATOR L.T. FANNIN ASKED ME IF I HAD A WEAPON. I SAID "YES". HE ASK WHAT KIND OF WEAPON. I SAID "SOAP IN A SOCK". HE SAID "YOUR ASS WILL NEVER GET OUT THE HOLE".
11. I WAS PLACED ON MY KNEES IN FRONT OF A CELL PREPARED FOR THE SHACKLES TO BE REMOVED. I ASKED FOR A SHOWER AND COMPLAINED THAT MY FACE WAS BURNING AND I COULDN'T BREATHE. UN-KNOWN ESCORTING OFFICER #2 ON MY RIGHT SAID "THAT'S GOOD."

STATEMENTS OF FACTS CONTINUED IV

12. I WAS THE LIFTED BACK TO MY FEET BY UN-KNOWN ESCORTING OFFICERS #1 AND UN-KNOWN ESCORTING OFFICER #2 AND ESCORTED OUT OF A-3 POD. AS READY TO EXIT OUT OF A-BUILDING LOW SIDE. MY HEAD WAS RAMMED INTO THE STEEL DOOR FRAME. UN-KNOWN ESCORTING OFFICER #1 WAS BENDING MY LEFT WRIST BACK, MAKING RACIAL REMARKS AND THREATS. THE RIGHT SIDE OF MY FACE WAS HELD TO THE WALL BY UN-KNOWN ESCORTING OFFICER #1 ON MY LEFT WITH HIS HAND ON THE BACK OF MY HEAD. AT WHICH TIME UN-KNOWN RESPONDING K-9 OFFICER ENGAGED THE K-9 DOG ON MY RIGHT LOWER LEG.

13. WHILE BEING ESCORTED DOWN A-BUILDING SIDEWALK MY ARMS WAS BEING BENT BACKWARDS BY UN-KNOWN ESCORTING OFFICER #1 AND UN-KNOWN [REDACTED] ESCORTING OFFICER #2.

14. I WAS TAKEN TO B-BUILDING B-2 POD AND READY TO BE PLACED IN A CELL. I WAS TOLD TO GET ON MY KNEES IN FRONT OF CELL B-304 I AGAIN COMPLAINED OF MY FACE BURNING AND NOT BEING ABLE TO BREATHE. I ASKED FOR MY SHOWER AND WAS TOLD "IT WILL WEAR OFF ON ITS OWN."

STATEMENTS OF FACTS... CONTINUED IV

15. I WAS STRIPPED OF ALL MY CLOTHING, EVERYTHING EXCEPT MY UNDERSHORTS. I WAS PLACED ON AMBULATORY RESTRAINTS WITHOUT WARRANT AND NO NURSE TO CHECK MY RESTRAINTS. ON AMBULATORY RESTRAINTS WHERE I REMAINED FOR THE NEXT 24 HRS.
16. PERIODICALLY CORRECTIONAL OFFICERS CAME TO MY DOOR. % WILLIAMS... % WELLS... % COMBS AND L-T KISER. I COMPLAINED THAT MY FACE BURNED AND THAT I COULDN'T BREATHE. LT. KISER TOLD ME THAT "YOU WILL BE HERE FOR A WHILE, GET COMFORTABLE"
17. LATER THAT EVENING. INSTITUTIONAL INVESTIGATOR MS. MURPHY CAME INTO THE POD AND OTHER INMATES BEAT ON THEIR DOOR TO GET HER ATTENTION. TO SEND MRS MURPHY TO MY CELL, MS. MURPHY CAME TO MY CELL AND I SHOWED HER MY NEW DOG BITE WOUND. MY WRIST AND ANKLE, SHE (MS. MURPHY) IMMEDIATELY CALLED THE NURSE TO AID MY WOUNDS. AND INJURIES

STATEMENTS OF FACTS CONTINUES IV

18. MINUTES LATER NURSE S. WOODS ARRIVED. LIEUTENANT J. W. KISER AND SERGEANT DICKENSON CAME TO ASSIST NURSE WOODS IN TREATING MY INJURIES. IN DOING SO NURSE WOODS ASKED ME, WHY I DIDN'T SHOW HER THE WOUNDS ON MY RIGHT LEG THAT MORNING. I TOLD HER THAT THEY WASN'T THERE AT THE TIME SHE TREATED MY FIRST WOUNDS. SHE CHECKED MY RIGHT ANKLE AND CHECKED MY LEFT WRIST. SHE INFORMED LIEUTENANT J. W. KISER AND SERGEANT DICKENSON TO LOOSEN THE RESTRAINTS ON BOTH BECAUSE OF THE SWELLING. SHE SAID THAT SHE WILL REFER ME TO SEE THE M.D THE FOLLOWING MORNING FOR X-RAYS. I WAS PLACED BACK ON AMBULATORY RESTRAINTS FOR THE REMAINDER OF THE 24 HRS.
19. THAT EVENING OF DECEMBER 17, 2015 DURING DINNER TIME, CORRECTIONAL OFFICER WELLS SERVED ME AN EMPTY TRAY FOR DINNER AND STATED "I WILL EAT WHEN HE'S READY FOR ME TO EAT." HE ENDED HIS STATEMENT WITH... "WELCOME TO B-3".

STATEMENTS OF FACTS...CONTINUES IV

20. THE FOLLOWING MORNING ON DECEMBER 18TH/2015. SERGEANT. J. SHEPARD. CORRECTIONAL OFFICER MESSER AND NURSE J. DEEL CAME TO MY CELL TO REMOVE THE RESTRAINTS AND CHECK MY INJURIES... IN DOING SO. NURSE J. DEEL ASKED ME IF I HAD ANY MEDICAL REQUEST I TOLD HER. I WAS IN PAIN AND I WANTED MY ANKLE AND WRIST EXAMINED AND X-RAYED. SHE SAID SHE WILL REFER ME TO THE M.D THAT MORNING.
21. I WAS PULLED AND ESCORTED TO MEDICAL BY (2) UN-KNOWN ESCORTING CORRECTIONAL OFFICERS FOR X-RAYS AND MEDICAL EXAMINATION. BY MS. B. NICHOLS AND M.D. H. SMITH.
22. WHILE I WAS ON THE X-RAY TABLE, K-9 OFFICER ROOP CAME INTO MEDICAL AND REQUESTED TO SEE MY WOUNDS. HE WAS IN THE COMPANY OF 3 OTHER UN-KNOWN CORRECTIONAL OFFICERS.

STATEMENTS OF FACTS... CONTINUES IV

23. ON THE AFTERNOON OF DEC. 18, 2015 I HAD MY 72 HRS NOTICE FOR MY I.C.A HEARING. BY COUNSELOR GIBSON. I WAS ALSO SERVED 3 INSTITUTIONAL INFRACTIONS FOR THE INCIDENT OF THE MORNING OF DEC. 17TH 2015
24. OVER A PERIOD OF 2-WEEKS I REQUESTED INFORMAL COMPLAINTS FROM VARIOUS SERGEANTS AND LIEUTENANTS ON JAN. 16 2016 I SUBMITTED MY COMPLAINT TO TRY TO ADDRESS THE ISSUE OF DEC. 17. 2015.
25. I NEVER RECEIVED A RESPONSE NOR RECEIPT FOR MY COMPLAINT... HOWEVER I MOVED FORWARD WITH MY LEVEL (4) GRIEVANCE ON ON FEB. 8th 2016
26. ON FEB. 10th 2016. I SPOKE TO MR CURTIS PARR THE REGIONAL OMBUDSMAN ABOUT THE ISSUES OF MY COMPLAINT AT MY CELL DOOR.
27. ON THAT VERY SAME EVENING. I RECEIVED MY LEVEL (4) GRIEVANCE ON FEB. 10th 2016, STATING THAT I DIDNT USE THE INFORMAL PROCESS.

STATEMENTS OF FACTS...CONTINUES IV

28. I RE-SUBMITTED MY INFORMAL COMPLAINT ON FEBRUARY 15/2016.
29. HOWEVER, I MOVED FORWARD WITH THE LEVEL (1) GRIEVANCE THAT WAS NOT PROCESSED AND RETURNED TO ME ON FEB-10th/2016 AND SEEKED AN LEVEL (2) FINDING WHICH WAS DENIED AND UPHHELD THE INTAKES DECISION, WHICH WAS RETURNED ON MARCH 3RD/2016.
30. ON FEB 19 2016 I RECEIVED MY INFORMAL COMPLAINT THAT I ~~RE~~ RE-SUBMITTED ON FEB 15, 2016. I MOVED FORWARD WITH MY LEVEL (1) GRIEVANCE ON MARCH 8th/2016
31. ON MARCH 24th/2016, I RECEIVED MY LEVEL (1) RESPONSE STATING EXPIRED FILING PERIOD.
32. ON MARCH 15th/2016 I MOVED FORWARD WITH MY LEVEL (2) GRIEVANCE TO THE REGIONAL OMBUDSMAN. ON MARCH 31 I RECEIVED THE LEVEL (2) FINDING UP HOLDING THE INTAKES DECISION.

V EXHAUSTION OF ADMINISTRATION REMEDIES

(15) PLAINTIFF YONIA T. CROODWYN #1016577 USED OR ATTEMPTED TO USE THE PRISONER GRIEVANCE PROCEDURE AT RED UNION STATE PRISON TO TRY AND RESOLVE THE PROBLEM DETAILED IN THIS COMPLAINT. PLAINTIFF YONIA T. CROODWYN #1016577 PRESENTED THE FACTS RELATING TO THIS COMPLAINT ON THE DATES AND TIMES PROVIDING IN PARAGRAPHS (24) - (32) OF IV STATEMENTS OF FACTS. PLAINTIFF HAS EXHAUSTED ALL REMEDIES RELATING TO THIS COMPLAINT.

VI LEGAL CLAIM

(16) PLAINTIFF RE ALLEGE AND INCORPORATE BY REFERENCE IN SECTION IV STATEMENT OF FACTS PARAGRAPHS (1) - (32)

CLAIM I: ACCESSIVE FORCE. THE ACTION OF DEFENDANTS K-9 OFFICER ROOP, UNKNOWN RESPONDING OFFICER #1, UNKNOWN RESPONDING OFFICER #2, UNKNOWN RESPONDING K-9 OFFICER, UNKNOWN ESCORTING OFFICER #1, UNKNOWN ESCORTING OFFICER #2, LIEUTENANT S. W. KISER IN USING K-9 AND PHYSICAL FORCE AGAINST THE PLAINTIFF WITHOUT NEED OR PROVOCATION. WERE DONE MALICIOUSLY AND SADISTICALLY AND CONSTITUTED CRUEL AND UNUSUAL PUNISHMENT

VI

LEGAL CLAIM CONTINUES...

CLAIM - I CONTINUES...

IN VIOLATION OF THE 8TH AMENDMENT OF THE UNITED STATE CONSTITUTION AS STATED IN PARAGRAPHS 2-3-4-6-12 AND 13 SECTION **IV** STATEMENT OF FACTS.

CLAIM II: ACCESSIVE USE OF FORCE THE ACTIONS OF DEPENDANT UN KNOWN RESPONDING OFFICER #1 IN USING CHEMICAL AGENT (OC GAS) AGAINST THE PLAINTIFF WHILE COMPLIANT LAYING FACE DOWN IN A NON THREATENING PRONE POSITION WERE DONE MALICIOUSLY AND SADISTICALLY AND CONSTITUTED CRUEL AND UNUSUAL PUNISHMENT IN VIOLATION OF THE 8TH AMENDMENT OF THE UNITED STATE CONSTITUTION AS STATED IN PARAGRAPHS #2 SECTION **IV** STATEMENT OF FACTS.

VII

PRAYER FOR RELIEF:

(17) WHEREFORE, PLAINTIFF RESPECTFULLY PRAYS THAT THIS COURT ENTERS JUDGEMENT GRANTING PLAINTIFF:

VII

PRAYER FOR RELIEF: CONTINUES...

(18) A DECLARATION THAT ACTS AND OMISSIONS DESCRIBE HEREIN VIOLATED PLAINTIFFS RIGHTS UNDER THE CONSTITUTION AND LAWS OF THE UNITED STATES.

(19) A PRELIMINARY AND PERMINININT INJUNCTION ORDERING DEFENDANTS THE DEPARTMENT OF CORRECTIONS TO: (i) TRANSFER PLAINTIFF OUT OF THE SOUTHWEST REGION OF THE VIRGINIA DEPARTMENT OF CORRECTIONS, INCLUDING BUT NOT LIMITED TO: RED OILON STATE PRISON, WALLENS RIDGE, KEEN MOUNTAIN. TO AVOID FURTHER RETALIATION FROM MENTIONED FAMILY AND FRIENDS EMPLOYED BY V. DOC WITHIN THIS REGION.

(ii) AND THE TERMINATION OF EMPLOYMENT OF K-9 OFFICER ROOP, UN-KNOWN RESPONDING OFFICER #1, UN-KNOWN RESPONDING OFFICER #2, UNKNOWN RESPONDING OFFICER #3. UNKNOWN ESCORTING OFFICER #1, UN KNOWN ESCORTING OFFICER #2, LIEUTENANT J. W. KISER FROM THE VIRGINIA DEPARTMENT OF CORRECTIONS.

VII

PRAYER FOR RELIEF: CONTINUES...

- (20) NOMINAL DAMAGES IN THE AMOUNT OF:
\$ 1.00
- (21) COMPENSATORY DAMAGES IN THE AMOUNT
OF: 15,000, AGAINST EACH DEFENDANT
JOINTLY AND SEVERALLY
- (22) PUNITIVE DAMAGES IN THE AMOUNT
OF: 10,000 AGAINST EACH DEFENDANT
- (23) PLAINTIFF COST IN THIS SUITE.
- (24) ANY ADDITIONAL RELIEF THIS COURT
DEEMS, JUST, PROPER, EQUITABLE.

XAVIA T. CROODWYN #1016577
RED UNION STATE PRISON
P.O. BOX 1900
POUND VA 24229

VERIFICATION

I HAVE READ THE FOREGOING COMPLAINT AND HERE BY VERIFY THAT THE MATTERS ALLEGED THEREIN ARE TRUE, EXCEPT AS TO MATTERS ALLEGED ON INFORMATION AND BELIEF. AND, AS TO THOSE, I BELIEVE THEM TO BE TRUE.

EXECUTED: ROUND, VA ON 6/5/17

Franklyn Santos
RESPECTFULLY SUBMITTED

STATE OF VA
CITY / COUNTY OF: WISE

SWORN AND SUBSCRIBE
BEFORE ME ON THIS DATE
6/5/17

MY COMMISSION
EXPIRES 7/31/2020

Franklyn Santos



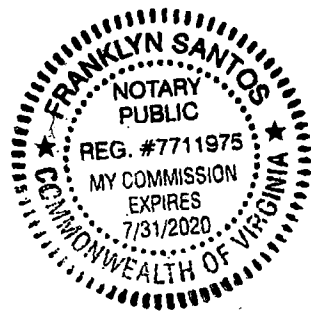
CERTIFICATE OF SERVICE

I XAVIA T. CRODDWYN #1016577 HERE BY CERTIFY
ON JUNE 5, 2017 I SERVE A 42 U.S.C SECTION
1983 COMPLAINT TO THE US DISTRICT COURT
OF THE WESTERN DISTRICT OF VIRGINIA 210
FRANKLIN RD, SUITE 54 ROANOKE, VA 24011 VIA
RED UNION STATE PRISON MAIL PROCESS

RE: ACCESSIVE FORCE/CRUEL
AND UNUSUAL PUNISHMENT

NAMES AND ADDRESSES OF ALL
PARTIES SERVE. US DISTRICT
COURT CLERK.

US DISTRICT COURT OF THE
WESTERN DISTRICT OF VIRGINIA
210 FRANKLIN RD SUITE 54
ROANOKE VA 24011



SUBORN AND SUBSCRIBE
BEFORE ME ON THE OF
JUNE 5, 2017

XAVIA CRODDWYN #1016577
NOTARY PUBLIC Franklyn Santos
MY COMMISSION EXPIRES 7/31/2020