UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

RUSSELL L. SANFORD, JR.,

Plaintiff,

v. **Case No. 8:20-cv-2659-MSS-CPT**

SHERIFF GRADY JUDD, *et al.*,

Defendants.
_____/

ORDER

Sanford sues Sheriff Judd, Sergeant Harris, and Deputy Dillworth in a federal civil rights complaint. (Doc. 49) Sanford, who is a pretrial detainee in the Polk County jail, asserts that the Defendants violated his federal right to vote. (Doc. 49) The Defendants move for summary judgment. (Doc. 67)[1] After reviewing the third amended complaint (Doc. 49), the answer (Doc. 56), the motion, Sanford's response (Doc. 69), and the relevant record submitted by the parties, the Court **GRANTS** in part and **DENIES** in part the Defendants' motion (Doc. 67) for summary judgment.

BACKGROUND

Judicially noticed records from state court show that, on December 31, 2012, police arrested Sanford for a bank robbery. Arrest Affidavit, *State v. Sanford*, No. 13-CF-17 (Fla. 10th Jud. Cir.). An information charged Sanford with three counts of robbery with a firearm and one count of driving with a suspended license. Information, *Sanford*, No. 13-CF-17 (Fla. 10th Jud. Cir.). In another case, the prosecutor charged Sanford with burglary and grand theft.

[1] Also, Sanford files a *pro se* demand for a jury trial. (Doc. 65)

Information, *State v. Sanford*, No. 13-CF-134 (Fla. 10th Jud. Cir.). Because the trial judge adjudicated Sanford incompetent to proceed in his state criminal cases, Sanford remained for the past twelve years either detained in the Polk County jail or committed to a hospital under the care of Florida Department of Children and Families. (Doc. 66-4 at 14–15) Dockets, *Sanford*, Nos. 13-CF-17 and 13-CF-134 (Fla. 10th Jud. Cir.).[2]

FACTS[3]

Sanford, who is not a convicted felon and is interested in politics, wanted to vote in the general elections in 2020 and 2022. (Docs. 66-4 at 18–19 and 70-6 at 1) Records from the Polk County Supervisor of Elections show that, in 2014, 2016, and 2018, while detained in jail, Sanford voted in the general election with an absentee ballot. (Doc. 66-2 at 154)

Inmate Mail Policy

Before the election in 2020, the Polk County jail implemented a new policy in response to an odorless and invisible toxic substance that appeared on mail delivered to inmates. (Doc. 66-1 at 2) Inmates suffered serious illness, including convulsions and seizures, after touching the mail laced with the toxic substance. (Doc. 66-1 at 2) In an affidavit, Michael Allen, the chief of detention at the jail, states that the jail implemented the new policy in July 2017 but also states that the jail implemented a new directive that codified the policy in March 2019. (Doc. 66-1 at 2–3)

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[2] Sanford filed a petition for a writ of habeas corpus under 28 U.S.C. § 2241 and asserted that the state court violated his federal rights by failing to hold an evidentiary hearing on competency and by failing to appoint counsel who would challenge the incompetency determination at a hearing. *Sanford v. Judd*, No. 8:19-cv-611-CEH-AAS (M.D. Fla.), ECF No. 71. Judge Charlene Honeywell dismissed the petition as moot. *Sanford*, No. 8:19-cv-611-CEH-AAS (M.D. Fla.), ECF No. 117.

[3] The following facts derive from the relevant record submitted by the parties. The summary acknowledges any disputed material fact.

The directive, which contains an effective date of May 27, 2022, codifies the new policy as follows (Doc. 70-4 at 17–20):

> 2. Incoming Mail
>
> > a. Mailing Address: All inmate mail shall have the inmate's name and booking number written on the outside of the mail which is to be delivered. Any mail which does not have this information shall be returned. All inmate mail shall be addressed to:
> >
> > PCSO-CO SC
> > Inmate Name — ID Number
> > P.O. Box 1848
> > Pinellas Park, Florida, 33780
> >
> > b. Types of Mail:
> >
> > 1. Letters are acceptable forms of incoming mail;
> > and
> > 2. Electronic correspondence.
> >
> > c. Acceptable items shall be at the discretion of the Security Division Manager.
> >
> > . . .
> >
> > f. Delivery — Mail: All incoming and outgoing mail shall be processed through the Department of Detention mailroom without delay to ensure that the correct inmate receives the mail and that money received in the mail is intercepted and deposited in that inmate's account.
> >
> > 1. Inmate mail shall be delivered daily to the mailroom, Monday through Friday, by MailGuard.
> >
> > 2. The mail clerk shall sort the mail using the Jail Management System and mark the envelope with the inmate's location.
> >
> > 3. Mail for inmates not housed in agency detention facilities shall be marked appropriately and placed in the outgoing mail.

4. The mail clerk shall place mail for each detention facility in a mail container and deliver it for distribution.

5. The 1800-0600 squad sergeant shall ensure distribution of mail to each housing area.

6. The officer in charge (OIC) of each housing area shall assign a detention deputy to deliver mail to inmates.

7. The delivering detention deputy shall sort each housing area's mail according to cells or dorms and deliver it to the inmates.

8. Privileged mail shall be delivered to inmates as follows:

> a. Privileged mail:
>
> 1. The delivering detention deputy shall call out the inmate's name.
>
> 2. The inmate shall respond and be identified by showing the delivery detention deputy the inmate ID card.
>
> 3. The delivering detention deputy shall match the race, sex, and age on the ID card to the wearer and match the name to the mail. Inmates not wearing an ID card shall not have their mail delivered.
>
> . . .
>
> b. Privileged mail shall not be opened for inspection unless there is reasonable suspicion of a prohibited act. Privileged mail shall not be read. If privileged mail is to be opened, it shall be opened only in the presence of the inmate to whom the mail is addressed, and only the signature and letterhead may be read.

9. Electronic Correspondence:

> a. Electronic Mail and Messaging:
>
> 1. Inmates are allowed electronic correspondence through kiosks located in the housing units.

> 2. Inmates must set up an account through the kiosks located in the housing units by establishing a personal identification number (PIN).
>
> 3. All electronic correspondence shall be reviewed by mailroom and/or administrative staff for approval before being delivered to the inmate. If any electronic correspondence is rejected, the inmate shall receive a notice explaining why the correspondence was rejected. Electronic correspondence shall be screened the same way as correspondence delivered by MailGuard.
>
> 4. All inmates shall receive two free electronic correspondence credits every Saturday morning. Any unused free electronic correspondence credits shall be cancelled at midnight on Saturday.
>
> . . .
>
> 10. Any mail that cannot be delivered shall be handled as follows:
>
> > a. If the inmate is at another agency facility, the mail shall be returned to the squad sergeant. The squad sergeant shall ensure that the mail is sent to the appropriate facility for distribution.
> >
> > b. If the inmate is not at any of the agency's facilities, the mail shall be returned to the mail room marked "NIJ" for return to the post office.
>
> 11. The mail clerk shall complete an incident report any time mail received or returned has been unsealed or any other irregularities are noted. The report shall be forwarded to the respective bureau captain.

The directive defines "privileged mail" as "[m]ail to and from attorneys, the courts, the news media, and public officials." (Doc. 70-4 at 22)

In an affidavit, Chief Allen describes the written directive. (Doc. 66-1) Chief Allen's description materially differs from the written directive (Doc. 66-1 at 3–4):

> General, non-privileged mail for all inmates is sent to inmates at P.O. Box 1848, Pinellas Park, Florida, 33780, regardless of which facility the inmate resides in. The mail is opened and inspected for contraband, then scanned into the Smart Mail system by Smart Communications staff. However, legal mail, mail from government agencies, or mail that is otherwise privileged, is sent to the Central County Jail mailroom located at the facility at 2390 Bob Phillips Road. Those items are then forwarded unopened to the facility where the inmate is located, to be hand-delivered to the inmate. At each facility, a deputy is in charge of circulating legal mail. That deputy traverses the jail with the legal mail and a legal mail cart. Inmates are handed their unopened legal mail. The inmates open the legal mail in the presence of the deputy to ensure that no contraband is contained within the sealed envelope. The inmate is able to read their legal mail and has to scan the legal mail into the computer system themselves. When they scan the legal mail, it is available for them to access at a later date via a kiosk or tablet, similar to general mail. The inmate then has the option of having the physical mail placed into their personal property or to shred the mail at a shredder available on the cart. If the inmate chooses to shred the mail, they do so themselves at that time. The inmate also has the option to not scan their legal mail, at which point they still have the option of shredding the legal mail without scanning it or having it placed into their personal property, where it will be available to them upon release. Throughout the entirety of this process, the inmate is in control of the mail item, the scanner, the computer, and the shredder. The deputy is not able to see the computer display. In the event an inmate needs to fill out or sign legal mail, they are permitted to do so in the presence of a deputy, who then collects the executed form and places it in the outgoing mail.

Also, a mail policy on the sheriff's website materially differs from the written directive (Doc. 70-5 at 2–3):

> The Polk County Sheriff's Office contracts with Smart Jail Mail [ ], which involves kiosks in all housing units for inmates to use, to send and receive written communications with loved ones. This digital mail system further streamlines PCSO operations and ensures the safety and well-being of inmates and staff, for a nominal fee.
>
> . . .

> Inmates will no longer receive postal mail (with the exception of legal mail — see below)[.] [H]owever, if postal mail is your only option (if you do not have a computer [ ] with which to setup a Smart Jail Mail account), you may send postal mail to the following address, and it will be scanned and then emailed to the inmate via Smart Jail Mail:
>
> PCSO-CO SC
> Inmate Name — ID Number
> P.O. Box 1848
> Pinellas Park, Florida 33780.
>
> The inmate's name and ID number must be clearly printed on the outside of the envelope or postcard to ensure the mail is posted to the current account. All inmate postal mail, with the exception of legal mail, will be scanned into the system and available to the inmates to view via the inmate Smart Jail Mail kiosks.
>
> Legal mail from an inmate's attorney on record shall be clearly identifiable and marked appropriately as legal mail. All legal mail shall be mailed to the following address:
>
> 2390 Bob Phillips Road
> Bartow, FL 33830.

In an affidavit, Sanford states that the jail's inmate handbook requires all inmate mail to be sent to the address in Pinellas Park, Florida, 33780. (Doc. 70-6 at 2) Sanford contends that the inmate handbook does not require legal mail, or "privileged" mail, to be sent to a different address. (Doc. 70-6 at 2) During his deposition, Chief Allen testified that the inmate handbook requires any mail that is not "regular mail," such as a package or legal mail, to be sent to the address in Bartow, Florida. (Doc. 66-2 at 27–28) Sheriff Judd did not provide a copy of the inmate handbook in discovery.

During his deposition, Sanford testified that, after the jail implemented the paperless policy, he still received hand-delivered legal mail as follows (Doc. 66-4 at 26–28):

> [Sheriff's counsel:] Okay. So, your legal mail was also still being sent to the jail at that time?

[Sanford:] Yes. But they have a — a different system. They also scan our legal mail into a computer system, but it's based here in the jail. An officer would come in with a cart and a computer attached to a scanner. Any legal mail, they will scan it into your personal account. You have a personal legal mail account on the Smart Jail Mail system, and it's password-protected. Supposedly, nobody can see it.

[Sheriff's counsel:] And that policy, as far as the legal mail goes, that was also after the paperless policy was implemented?

[Sanford:] That was part of — that was their policy, yes, for legal mail.

[Sheriff's counsel:] Were you ever able to retain physical copies of documents sent to you by your lawyers as part of legal mail?

[Sanford:] No. They don't take — if you need documentation like that, they will take you down to the sergeant's office and run it through a photocopier and give you a photocopy of it.

[Sheriff's counsel:] If you needed to sign something and send it back to your lawyer, is that something that you could have accomplished at the jail?

[Sanford:] Photocopies, yes. I've had certain sergeants, whether I was doing the process for what we're — the stages we're at now, some sergeants would allow me to keep the originals and fill them out. Some sergeants will make me have photocopies made. Depends on the officer working.

. . .

[Sheriff's counsel:] Yeah. I'm sorry. I'm just trying to make sure I understand the process. So if, you

	know, for a legal document or something you needed to fill out physically with paper and pen, you could do that and — and then the sergeants would take it and send it where it needed to go, the documents?
[Sanford:]	No. Not — if I had, let's say, some form sent from the court that needed to be filled out and returned, either they would give me — allow me to run it through — they would — not me, they would run it through a photocopier and have photocopies made and then give me the photocopies and destroy the original, or have it sent to my property, or certain officers who are performing that task — or sergeants who are performing the task for that duty at the night, at time — at that time will give me the originals. Some will, some won't. It depends on the officer.
[Sheriff's counsel:]	Okay. And then when you keep — would you be allowed to keep the original.
[Sanford:]	I — I would be able to take it back to the dorm, fill it out, then put it in the mail.
[Sheriff's counsel:]	Okay. And, again, that's after the implementation of the paperless policy, correct?
[Sanford:]	Yes. It was totally arbitrary upon the officer working.

Neither the address in Bartow nor the address in Frostproof appears in the written directive. Also, the written directive does not contain a rule that requires an inmate to receive an election ballot or a package at a particular address or a rule that requires an inmate to scan, shred, photocopy, or place in a property locker legal mail hand-delivered to the inmate.[4]

[4] Chief Allen agreed that the jail does not have a policy governing an inmate's receipt of a ballot in the mail. (Doc. 66-2 at 10) In March of 2024, after meeting with the Supervisor of Elections, Chief Allen drafted and submitted to Sheriff Judd for review a new rule. (Doc.

Request for a Ballot in 2020

On August 23, 2020, Sanford, who was detained at the facility in Frostproof, Florida, sent a message to the mailroom asking if he should request delivery of his ballot to the address in Bartow, Florida (Doc. 70-4 at 24): "[I] am wondering about having a mail-in voters ballot sent. [I] have done so last election[.] [W]ill you guys have a problem with me having it sent to me here through the 2390 Bob Phillips address[?]" A person named M. Dreyer who worked in the mailroom responded (Doc. 70-4 at 24): "The mailroom supervisor approved for you to have the ballot come through the physical mail." In an affidavit, Sanford states that, during his detention at the jail, he received physical mail delivered to the address in Frostproof, Florida. (Doc. 70-6 at 2) In June 2024, Sanford received from his attorney two books delivered to the address in Frostproof, Florida. (Doc. 70-7 at 1–3) Also, during his deposition, Sanford testified that he received his ballot for the election in 2016 delivered to the address in Frostproof, Florida. (Doc. 66-4 at 20)

On October 8, 2020, Sanford sent a message to the mailroom advising that his "ballot is on the way." (Doc. 70-4 at 25) Deputy Dillworth responded (Doc. 70-4 at 25): "Okay! If you receive any mail, it will be distributed to you immediately."

On October 12, 2020, Sanford sent a message to the mailroom requesting the address for the Polk County Supervisor of Elections. (Doc. 70-4 at 26) Deputy Dillworth responded (Doc. 70-4 at 26): "I am no longer permitted to look up addresses. Please have someone with which you communicate on the message system do that for you."

66-2 at 7–8) Chief Allen denied that he drafted the new rule because of Sanford's lawsuit. (Doc. 66-2 at 8, 10) In any event, a subsequent remedial measure is not admissible to prove culpable conduct. Fed. R. Evid. 407.

On October 12, 2020, an employee at the Supervisor of Elections completed three forms after Sanford requested to change his address over the telephone. (Docs. 66-2 at 152 and 70-9 at 1–2) In the first form, the employee updated Sanford's "legal residence address" to 2390 Bob Phillips Road, Bartow, Florida, 33831. (Doc. 70-9 at 1) In the second and third forms, the employee updated Sanford's "mailing address" to 1103 U.S. Highway 98, Frostproof, Florida, 33843. (Docs. 66-2 at 152 and 70-9 at 2)[5]

On October 25, 2020, Sanford sent a message to the mailroom stating (Doc. 70-4 at 27): "I, Russell Sanford, was told that the order for [an] absentee ballot was sent a week ago to this jail's address[,] just wondering about it." Deputy Dillworth responded (Doc. 70-4 at 27): "If you receive any mail, it will be distributed to you immediately." During his deposition, Sanford testified that, at the end of October 2020 or the beginning of November 2020, he received a property receipt that showed that a person who worked at the jail had placed an envelope addressed to Sanford in the property locker. (Doc. 66-4 at 46) The property receipt did not state that the envelope contained his ballot for the election in 2020. (Doc. 66-4 at 46) Neither Chief Allen nor Sergeant Harris knows who placed the envelope in the property locker. (Docs. 66-2 at 37, 62, 71 and 66-3 at 48)

The general election occurred on November 3, 2020. *See* Florida Department of State, Division of Elections, *available at* https://results.elections.myflorida.com/Index.asp?ElectionDate=11/3/2020. On December 11, 2020, Sanford sent the following message to a detention detective (Doc. 70-4 at 28): "Throughout October, I repeatedly told the mailroom

[5] During his deposition, Sanford testified that he believed that his mother had called the Supervisor of Elections to request the delivery of the ballot to Sanford in jail. (Doc. 66-4 at 35–38) However, one of the forms filled out by the employee at the Supervisor of Elections contains a box titled "Person Other than Voter Making Request," and the box is empty. (Doc. 66-2 at 152)

that I was having a ballot sent[.] Two days before the vote, I received a notice saying that I had [an] envelope sent to property. The Sheriff through this jail denied me my constitutional right to vote." (Doc. 70-4 at 28) Sergeant Harris responded (Doc. 70-4 at 28): "The envelope sent to property may not have been a ballot."

On December 15, 2020, Sanford replied (Doc. 70-4 at 29): "[Sergeant] Harris[,] it [claims] on my property list on [the] kiosk that it was my ballot." Sergeant Harris responded (Doc. 70-4 at 29): "I was able to find the ballot. It was sent to the property room because you are a felon and are not eligible to vote, obtain social security[,] or obtain tax returns while being incarcerated." A property receipt from the sheriff's office shows that, on April 19, 2021, when the jail transferred Sanford to a hospital, the jail gave to Sanford all items that belonged to him, including the ballot and a voter card. (Doc. 70-4 at 30–31) When Sanford returned to the jail from the hospital, Sanford asked a lieutenant if his ballot returned with him, and the lieutenant responded as follows (Doc. 70-4 at 30):

> Your property left with you on [April 19, 2021]. Specifically, a voter card and ballot envelope were listed. Upon your return on [June 3, 2021], these specific items are not listed by the transporting officer. I looked in your bag and can see the items listed that you can see on the kiosk. I have not opened your sealed bag or your sealed returned legal mail. Small paper items may or may not get listed individually. You will have to look upon your release. But these specific items were not listed individually upon your return.

Request for Ballot in 2022

During his deposition, Sanford testified that he requested a ballot from the Supervisor of Elections to vote in the election in 2022. (Doc. 66-4 at 52) On September 22, 2022, the Supervisor of Elections received from Sanford a letter requesting a ballot delivered to the address in Bartow, Florida. (Doc. 66-2 at 153) The letter is marked "incomplete." (Doc. 66-2

at 153) Sanford testified that he did not receive the ballot and did not communicate with anyone at the jail about the ballot. (Doc. 66-4 at 52–53)

In the third amended complaint, Sanford sues Sheriff Judd in an official capacity, Deputy Dillworth in an individual capacity, and Sergeant Harris in an individual capacity. (Doc. 49) He asserts that Sheriff Judd implemented an official policy that violated his right to vote. (Doc. 49 at 7–10) Sanford alleges that the official policy prohibited him from receiving paper mail, including a ballot. (Doc. 49 at 9–10) Sanford asserts that Deputy Dillworth and Sergeant Harris knew or should have known that refusing to deliver the ballot and instead placing the ballot in a property locker would violate Sanford's right to vote. (Doc. 49 at 10–13) Sanford demands declaratory, monetary, and injunctive relief. (Doc. 49 at 14–15)

STANDARD OF REVIEW

"Summary judgment is appropriate where 'there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.'" *Ireland v. Prummell*, 53 F.4th 1274, 1286 (11th Cir. 2022) (quoting Fed. R. Civ. P. 56(a)). "'A genuine issue of material fact exists when the evidence is such that a reasonable jury could return a verdict for the non[-]moving party.'" *Ireland*, 53 F.4th at 1286 (quoting *Quigg v. Thomas Cty. Sch. Dist.*, 814 F.3d 1227, 1235 (11th Cir. 2016)). "A district court should grant summary judgment when, 'after an adequate time for discovery, a party fails to make a showing sufficient to establish the existence of an essential element of that party's case.'" *Ireland*, 53 F.4th at 1286 (quoting *Nolen v. Boca Raton Cmty. Hosp., Inc.*, 373 F.3d 1151, 1154 (11th Cir. 2004)). "In reviewing the grant of summary judgment, [a court] view[s] the evidence in the light most favorable to the nonmoving party [ ] and draw[s] all reasonable inferences in his favor." *Ireland*, 53 F.4th at 1286 (citing *Burton v. City of Belle Glade*, 178 F.3d 1175, 1187 (11th Cir. 1999)).

"The nonmoving party must show more than the existence of a 'metaphysical doubt' regarding the material facts." *Ireland*, 53 F.4th at 1286 (citing *Matsushita Elec. Indus. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586 (1986)). "[T]he nonmoving party must either point to evidence in the record or present additional evidence sufficient to withstand a directed verdict motion at trial based on the alleged evidentiary deficiency." *Ireland*, 53 F.4th at 1286. "But '[a] mere scintilla of evidence in support of the nonmoving party will not suffice to overcome a motion for summary judgment.'" *Ireland*, 53 F.4th at 1286 (quoting *Young v. City of Palm Bay*, 358 F.3d 859, 860 (11th Cir. 2004)).

ANALYSIS

As-Applied Challenge to Jail Policy and *Monell* Claim against Sheriff Judd

Sheriff Judd asserts that the undisputed material facts demonstrate that, under *Turner v. Safley*, 482 U.S. 78 (1987), the jail's policy is reasonably related to the legitimate penological interest of safety and security in the jail. (Doc. 67 at 9–17) Sanford responds that *Turner* does not apply, that a balancing test under *Anderson v. Celebrezze*, 460 U.S. 780 (1983), and *Burdick v. Takushi*, 504 U.S. 428 (1992), applies, and that the evidence demonstrates that the policy violates Sanford's constitutional rights. (Doc. 69 at 12–15)

In the complaint, Sanford asserts that the jail's policy is "unconstitutional as applied to [Sanford], an eligible Florida voter detained in the 'paperless' Polk County jail system," and that the policy "affirmatively denied" Sanford his right to vote. (Doc. 49 at 7) He contends that Sheriff Judd "knew, or should have known, that his policy, practice, or procedure of utilizing a 'paperless mail' system would result in the deprivation of a pretrial detainee's right to vote by mail based on the circumstances and clearly established law." (Doc. 49 at 9–10) He demands an order declaring that "[Sheriff Judd's] paperless jail policy, which does not provide

eligible pretrial inmates the right to vote and to receive a paper vote-by-mail ballot and official election mail and instead affirmatively denies inmates the right to vote violates [Sanford's] First Amendment right to vote and Fourteenth Amendment right to equal protection of the law." (Doc. 49 at 14)

"In an as-applied challenge, a plaintiff seeks to vindicate only [his] own constitutional rights." *McGuire v. Marshall*, 50 F.4th 986, 1003 (11th Cir. 2022). "In evaluating an as-applied challenge, a court 'addresses whether a statute is unconstitutional on the facts of a particular case' or in its application 'to a particular party.'" *McGuire*, 50 F.4th at 1003 (quoting *Harris v. Mexican Specialty Foods, Inc.*, 564 F.3d 1301, 1308 (11th Cir. 2009)).

Sanford contends that the test in *Anderson* and *Burdick* applies to his claim. (Doc. 69 at 12–15) *Anderson*, 460 U.S. at 782, addressed "whether Ohio's early filing deadline [for a candidate in the election for the office of the President of the United States] placed an unconstitutional burden on the voting and associational rights of Anderson's supporters." *Burdick*, 504 U.S. at 430, addressed "whether Hawaii's prohibition on write-in voting unreasonably infringe[d] upon its citizens' rights under the First and Fourteenth Amendments." *Burdick*, 504 U.S. at 434 (citations omitted), applied a balancing test implemented in *Anderson*, to analyze whether a state election law violated the constitution.

Sheriff Judd contends that the test in *Turner* applies to Sanford's claim. (Doc. 67 at 13–17) *Turner*, 482 U.S. at 81, addressed whether "regulations promulgated by the Missouri Division of Corrections relating to inmate marriages and inmate-to-inmate correspondence" violated the constitution. *Turner*, 482 U.S. at 89 (citations omitted), held that "when a prison regulation impinges on inmates' constitutional rights, the regulation is valid if it is reasonably related to legitimate penological interests."

In his complaint, Sanford does not challenge a state election law. Sanford instead challenges a policy implemented by the jail. Both *Anderson* and *Burdick* review a challenge to a state election law. *Turner* instead reviews a challenge to a prison regulation. Because Sanford challenges a jail policy and the test in *Turner* applies to a constitutional challenge to a jail or a prison regulation, this Court applies *Turner* when reviewing Sanford's as-applied claim.[6]

"Undeniably the Constitution of the United States protects the right of all qualified citizens to vote, in state as well as in federal elections." *Reynolds v. Sims*, 377 U.S. 533, 554 (1964). Because the right to vote is "a fundamental matter in a free and democratic society" and "exercis[ing] the [right] in a free and unimpaired manner is preservative of other basic civil and political rights, any alleged infringement of the right of citizens to vote must be carefully and meticulously scrutinized." *Reynolds*, 377 U.S. at 562. *See also* Op. Att'y Gen. Fla. 75-187 (1998) ("[P]retrial detainees or convicted misdemeanants who are otherwise legally qualified to register and vote should not be denied the right to register and vote pursuant to the absentee provisions of §§ 97.063 and 101.62, Fla. Stat.") (citing *O'Brien v. Skinner*, 414 U.S. 524 (1974)).

"Prison walls do not form a barrier separating prison inmates from the protections of the Constitution." *Turner*, 482 U.S. at 84. "'[W]hen a prison regulation or practice offends a fundamental constitutional guarantee, federal courts will discharge their duty to protect constitutional rights.'" *Turner*, 482 U.S. at 84 (citation omitted). However, "'courts are ill equipped to deal with the increasingly urgent problems of prison administration and reform.'"

[6] *Bell v. Wolfish*, 441 U.S. 520, 535 (1979), held that "[i]n evaluating the constitutionality of conditions or restrictions of pretrial detention that implicate only the protection against deprivation of liberty without due process of law, we think that the proper inquiry is whether those conditions amount to punishment of the detainee." Because Sanford's claim asserts a violation of the right to vote, the test in *Bell* does not apply.

Turner, 482 U.S. at 84 (citation omitted). "Running a prison is an inordinately difficult undertaking that requires expertise, planning, and the commitment of resources, all of which are peculiarly within the province of the legislative and executive branches of government." *Turner*, 482 U.S. at 84–85. Therefore, as explained above, "when a prison regulation impinges on inmates' constitutional rights, the regulation is valid if it is reasonably related to legitimate penological interests." *Turner*, 482 U.S. at 89.

Turner, 482 U.S. at 89–91, identified the following factors relevant to whether a prison regulation is reasonably related to legitimate penological interests:

> First, there must be a "valid, rational connection" between the prison regulation and the legitimate governmental interest put forward to justify it. Thus, a regulation cannot be sustained where the logical connection between the regulation and the asserted goal is so remote as to render the policy arbitrary or irrational. Moreover, the governmental objective must be a legitimate and neutral one. We have found it important to inquire whether prison regulations restricting inmates' First Amendment rights operated in a neutral fashion, without regard to the content of the expression.
>
> A second factor relevant in determining the reasonableness of a prison restriction [ ] is whether there are alternative means of exercising the right that remain open to prison inmates. Where "other avenues" remain available for the exercise of the asserted right, courts should be particularly conscious of the "measure of judicial deference owed to corrections officials . . . in gauging the validity of the regulation."
>
> A third consideration is the impact accommodation of the asserted constitutional right will have on guards and other inmates, and on the allocation of prison resources generally. In the necessarily closed environment of the correctional institution, few changes will have no ramifications on the liberty of others or on the use of the prison's limited resources for preserving institutional order. When accommodation of an asserted right will have a significant "ripple effect" on fellow inmates or on prison staff, courts should be particularly deferential to the informed discretion of corrections officials.

> Finally, the absence of ready alternatives is evidence of the reasonableness of a prison regulation. By the same token, the existence of obvious, easy alternatives may be evidence that the regulation is not reasonable, but is an "exaggerated response" to prison concerns. This is not a "least restrictive alternative" test: prison officials do not have to set up and then shoot down every conceivable alternative method of accommodating the claimant's constitutional complaint. But if an inmate claimant can point to an alternative that fully accommodates the prisoner's rights at *de minimis* cost to valid penological interests, a court may consider that as evidence that the regulation does not satisfy the reasonable relationship standard.

A district court does not balance the factors in *Turner* to determine whether some factors outweigh other factors. *Rodriguez v. Burnside*, 38 F.4th 1324, 1331 (11th Cir. 2022) ("To be quite clear, we do not balance these factors to see if some outweigh the others.") (citing *Beard*, 548 U.S. at 532–33). "The last three factors are valuable because they provide more angles from which to view the fundamental inquiry: whether the prison regulation is reasonably related to legitimate penological interests." *Rodriguez*, 38 F.4th at 1331 (citing *Turner*, 482 U.S. at 89). "If that rational connection is missing, 'the regulation fails, irrespective of whether the other factors tilt in its favor.'" *Rodriguez*, 38 F.4th at 1331 (quoting *Shaw*, 532 U.S. at 229–30). "And if the connection exists, the policy will stand." *Rodriguez*, 38 F.4th at 1331 (citing *Beard*, 548 U.S. at 533).

Sheriff Judd contends that the need to protect the inmates from mail laced with toxic substances justified the jail's paperless policy in Detention Directive 9.2. (Doc. 67 at 14) (first factor under *Turner*) Sheriff Judd contends that the jail's policy provides Sanford an alternative means to exercise his right to vote by permitting him to receive a ballot from the Supervisor of Elections at the address in Bartow, Florida. (Doc. 67 at 14–15) (second factor under *Turner*) Also, Sheriff Judd contends that the jail's policy is reasonably related to the interest in safety and security at the jail because, despite the requirement that an inmate electronically receive

personal mail, the policy permits Sanford to sign the ballot in the presence of a jail deputy who will place the ballot in the outgoing mail. (Doc. 67 at 16) (fourth factor under *Turner*)

However, viewed in the light most favorable to Sanford, the evidence fails to indisputably demonstrate that the jail's paperless policy permitted Sanford to receive a ballot in jail. Records from the Supervisor of Elections show that, in 2014, 2016, and 2018, Sanford voted while pretrial detained. (Doc. 66-2 at 154) Sanford testified that, before the election in 2020, the jail implemented the paperless policy. (Doc. 66-4 at 24) In an affidavit, Chief Allen states that the paperless policy "was instituted in or around July 2017" (Doc. 66-1 at 2) and concludes that "it appears that [Sanford] was able to successfully vote in 2018, at which time the paperless mail policy was in effect." (Doc. 66-1 at 5) However, in the affidavit, Chief Allen also states that the paperless mail policy was "codified in PCSO Department Directive 9.2, which was implemented in March 2019." (Doc. 66-1 at 3) If the jail implemented Detention Directive 9.2 — the directive that contains the paperless policy — in March 2019, the jail had not implemented the paperless policy when Sanford voted in 2018.[7]

In his affidavit, Chief Allen states that Detention Directive 9.2 requires general, non-privileged mail to be sent to the address in Pinellas Park, Florida. (Doc. 66-1 at 3) He further states that the directive requires legal mail, mail from a government agency, or mail that is privileged to be sent to the address in Bartow, Florida. (Doc. 66-1 at 3) However, the written copy of Detention Directive 9.2 that Sheriff Judd provided in discovery does not contain this separate requirement for legal mail, mail from a government agency, or mail that is privileged. The directive states that "[a]ll inmate mail shall be addressed to: PCSO-CO SC, Inmate Name

[7] Further confusing the factual issue, Detention Directive 9.2 contains an effective date of May 22, 2022. (Doc. 66-2 at 112)

— ID Number, P.O. Box 1848, Pinellas Park, Florida, 33780." (Doc. 66-2 at 112) The written directive does not mention at all the address in Bartow, Florida.

In his affidavit, Chief Allen states that Detention Directive 9.2 requires an inmate to open privileged mail in the presence of a deputy who inspects the mail for contraband. (Doc. 66-1 at 3) He further states that the inmate may read the privileged mail, scan the privileged mail into a computer, place the privileged mail for safekeeping in a property locker, or shred the privileged mail. (Doc. 66-1 at 3) The written directive defines "privileged mail" as "mail to and from attorneys, the courts, the news media, and public officials." (Doc. 66-2 at 117) The written directive requires a detention deputy to hand-deliver privileged mail to an inmate and prohibits a deputy from opening privileged mail for inspection "unless there is reasonable suspicion of a prohibited act." (Doc. 66-2 at 113–14) The written directive authorizes a deputy to open privileged mail only in the presence of the inmate and permits the deputy to read only the signature and the letterhead. (Doc. 66-2 at 114) The written directive does not require an inmate to relinquish possession of privileged mail by scanning the mail, shredding the mail, or placing the mail in a property locker.[8]

In his affidavit, Chief Allen states that Detention Directive 9.2 requires an inmate to fill out or sign "legal mail" in the presence of a deputy who collects and places the mail in an outgoing mailbox. (Doc. 66-1 at 3–4) The written directive contains no such requirement. The written directive only prohibits a deputy from opening outgoing privileged mail. (Doc. 66-2 at 116–17)

[8] Sanford testified that, after the jail implemented the paperless mail policy, he continued to only receive hand-delivered legal mail, but he could not always keep the original legal document mailed to him. (Doc. 66-4 at 25–28)

In his affidavit, Chief Allen contends that Sanford did not receive his ballot in 2020 because Sanford directed the Supervisor of Elections to deliver his ballot to the address of the jail in Frostproof, Florida, where he was detained, instead of the address in Bartow, Florida. (Doc. 66-1 at 4) He contends that "[b]ecause of his request, the ballot was not processed through the proper or regular procedures as dictated by Directive 9.2." (Doc. 66-1 at 4) However, Detention Directive 9.2 does not require mail from a government agency to be sent to the address in Bartow, Florida. (Doc. 66-2 at 119) The written directive requires all inmate mail to be sent to the address in Pinellas Park. (Doc. 66-2 at 112) As stated above, the written directive does not mention at all the address in Bartow, Florida.

Further confusing the factual issue, a policy published on the Polk County Sheriff's Office website states that "[i]nmates will no longer receive postal mail (with the exception of legal mail [ ])." (Doc. 70-5 at 2) The policy requires all inmate mail, except legal mail, to be sent to the address in Pinellas Park, Florida. (Doc. 70-5 at 2–4) The policy states that an inmate may view the mail sent to the address in Pinellas Park, Florida, on a kiosk in jail after the mail is scanned into a computer. (Doc. 70-5 at 2–3) The policy states that legal mail may be sent to the address in Bartow, Florida. (Doc. 70-5 at 3) The policy does not state that a ballot or mail from a government agency must be sent to the address in Bartow, Florida. (Doc. 70-5 at 2–4)

During his deposition, Chief Allen testified that the inmate handbook requires any mail that is not "regular mail," such as a package or legal mail, to be sent to the address in Bartow, Florida. (Doc. 66-2 at 27–28) In an affidavit, Sanford states that an inmate handbook, available only on a kiosk in jail, requires all inmate mail to be sent to the address in Pinellas Park, Florida. (Doc. 70-6 at 1–2) He contends that the inmate handbook does not state that a

ballot, legal mail, mail from a government agency, or privileged mail must be sent to the address in Bartow, Florida. (Doc. 70-6 at 1–2)

During his deposition, Chief Allen testified that sometimes if an inmate receives legal mail or mail from a government agency at the address in Pinellas Park, Florida, the company that opens and scans inmate mail will forward the legal mail or the mail from a government agency to the jail. (Doc. 66-2 at 39) Chief Allen denied knowing whether the jail had specifically instructed the company to forward a ballot or mail from a government agency to the jail. (Doc. 66-2 at 39)

Viewed in the light most favorable to Sanford, the evidence demonstrates that the written directive and the inmate handbook require all inmate mail to be sent to the address in Pinellas Park, Florida. (Docs. 70-4 at 17 and 70-6 at 1–2) The policy on the website requires all inmate mail, except legal mail, to be sent to the address in Pinellas Park, Florida. (Doc. 70-5 at 2–4) Not one of these policies requires mail from a government agency or a ballot to be sent to the address in Bartow, Florida. Viewing this evidence in the light most favorable to Sanford, the jail's paperless mail policy does not provide Sanford a method to receive a ballot in the mail.

During his deposition, Chief Allen testified that he agreed that an inmate who qualifies to vote should be able to vote by mail. (Doc. 66-2 at 19–20) Chief Allen testified that he did not know of any other method for an inmate to vote. (Doc. 66-2 at 56–57)

Viewed in the light most favorable to Sanford, the evidence demonstrates that the jail's paperless mail policy failed to provide Sanford a method to receive a ballot in the mail while detained in jail, that no alternative means to exercise his right to vote while detained in jail existed, and that the administrative burden on the jail to provide Sanford a ballot sent in the

mail is minimal. The jail may respond to the need to protect inmates from mail laced with toxic substances by instituting a paperless mail policy. (the first factor under *Turner*) However, by not providing an inmate a method to receive a paper ballot in the mail, even though a method to provide an inmate is available and imposes a minimal administrative burden, the jail's paperless policy is an "exaggerated response" to the concern. *Rodriguez*, 38 F.4th at 1332. (the second, third, and fourth factors in *Turner*). Consequently, the Defendants fail to present indisputable evidence that demonstrates that the jail's paperless mail policy is reasonably related to legitimate penological interests. *Turner*, 482 U.S. at 89.

Also, viewed in the light most favorable to Sanford, the evidence demonstrates that the paperless mail policy caused a constitutional violation. *Underwood v. City of Bessemer*, 11 F.4th 1317, 1333 (11th Cir. 2021) ("[A] municipality cannot be found liable under a theory of respondeat superior. Instead, the plaintiff must demonstrate the municipality's policy or custom was the 'moving force' behind the alleged constitutional violation.") (citing *Monell v. Dep't of Social Servs. of City of New York*, 436 U.S. 658, 694 (1978)).

During his deposition, Sanford testified that, before the election in 2020, he learned that the jail implemented the paperless policy. (Doc. 66-4 at 21–22) Sanford testified that, even after the jail implemented the paperless mail policy, he continued to receive hand-delivered legal mail, but he could not always keep the original legal document mailed to him. (Doc. 66-4 at 25–28) Some deputies provided Sanford a photocopy if he needed to fill out and return a legal document to his attorney or a court. (Doc. 66-4 at 26–27) Other deputies permitted Sanford to keep, fill out, and mail the original legal document. (Doc. 66-4 at 28) Sanford described this process, which applied only to legal mail, as "totally arbitrary [depending] upon the officer working." (Doc. 66-4 at 28)

Knowing that the jail implemented the paperless mail policy requiring all mail to be sent to the address in Pinellas Park, Florida for scanning, Sanford sent a message to the mailroom to ask for clarification. (Doc. 66-4 at 24–26) He asked whether he could receive the ballot if the Supervisor of Elections sent the ballot to the address in Bartow, Florida. (Doc. 70-4 at 24) A deputy responded that "[t]he mailroom supervisor approved for [Sanford] to have the ballot come through the physical mail." (Doc. 70-4 at 24)

Sanford complied with the deputy's instructions and asked the Supervisor of Elections to send the ballot to the address in Frostproof, Florida, where he was incarcerated and where he had received physical mail and a ballot for the election in 2016. (Docs. 66-4 at 20, 70-6 at 2, and 70-9 at 1–2) When the jail received the ballot at the address in Frostproof, Florida, a person who worked at the jail did not deliver the ballot to Sanford and instead likely placed the ballot in his property locker. (Doc. 70-4 at 29–31)

Viewed in the light most favorable to Sanford, the evidence demonstrates that the jail's paperless policy was the "moving force" behind the deprivation of Sanford's right to vote. Sanford had received a ballot by mail and had voted in elections before the jail implemented the paperless policy. (Doc. 66-2 at 154) The paperless policy required all inmate mail to be sent to the address in Pinellas Park, Florida, where a company scans and electronically delivers the mail to an inmate. (Doc. 66-4 at 21–22, 25–28) After the jail implemented the paperless mail policy, Sanford continued to receive only legal mail by hand delivery, and he could not always keep the original legal document mailed to him. (Doc. 66-4 at 25–28) Because the new paperless policy prohibited Sanford from receiving physical mail, except legal mail, and the jail did not provide Sanford an alternative means to receive a ballot to vote in an election, Sanford requested permission to receive a ballot by mail. After following the

instructions to send the ballot to the address where Sanford received packages, a person who worked in the mailroom did not deliver the ballot to Sanford and instead likely placed the ballot in the property locker. Viewed in the light most favorable to Sanford, the evidence demonstrates a "direct causal link" between the policy and the deprivation of Sanford's right to vote. *Bd. of Cty. Comm'rs of Bryan Cty., Olka. v. Brown*, 520 U.S. 397, 404 (1997) ("The plaintiff must also demonstrate that, through its *deliberate* conduct, the municipality was the 'moving force' behind the injury alleged. [A] plaintiff must show that the municipal action was taken with the requisite degree of culpability and must demonstrate a direct causal link between the municipal action and the deprivation of federal rights.") (italics in original and citations omitted).

Sheriff Judd argues that Sanford's failure to properly request a ballot for the election in 2022 was a superseding and intervening cause. (Doc. 67 at 20) On September 9, 2022, the Supervisor of Elections received the following written request from Sanford for a ballot by mail (Doc. 66-2 at 153):

> To the Office of Supervisor of Elections:
>
> My name is Russell L. Sanford, Jr.
> Voter ID #113749045
>
> I have been moved to the Polk County Jail and need [an] absentee, early voters ballot sent to:
>
> 2390 Bob Phillips Rd.
> Bartow, FL 33830.
>
> Sorry for the inconvenience.

The Supervisor of Elections marked the written request as "incomplete." (Doc. 66-2 at 153)

Sanford needed to submit a new request to vote by mail in the general election in 2022. § 101.62(1)(a), Fla. Stat. ("One request is deemed sufficient to receive a vote-by-mail ballot

for all elections through the end of the calendar year of the next regularly scheduled general election, unless the voter [ ] indicates at the time the request is made the elections within such period for which the voter desires to receive a vote-by-mail ballot.").

"A request may be made in person, in writing, by telephone, or through the supervisor's website." § 101.62(1)(a), Fla. Stat. Because Sanford requested delivery of his ballot for the election in 2020 to the address in Frostproof, Florida (Doc. 7-9 at 1–2) and requested delivery of his ballot for the election in 2022 to the address in Bartow, Florida (Doc. 66-2 at 153), the Supervisor of Elections required Sanford to submit a written request with certain specified particulars. §101.62(1)(b), Fla. Stat. ("If the ballot is requested to be mailed to an address other than the voter's address on file in the Florida Voter Registration System, the request must be made in writing.").

"A written request must be signed by the voter and include the voter's Florida driver license number, the voter's Florida identification card number, or the last four digits of the voter's social security number." § 101.62(1)(b), Fla. Stat. Because Sanford failed to write his driver license number, his identification card number, or the last four digits of his social security number on his request for his ballot for the election in 2022, his request was deficient.

Because Sanford's deficient request prevented Sanford from receiving a ballot for the election in 2022, his claim based on his failure to receive a ballot in 2022 fails. *See Swann v. Sec'y, Ga.*, 668 F.3d 1285, 1288–89 (11th Cir. 2012) ("We need not determine whether Swann suffered an injury when he did not receive a ballot or whether a favorable decision would redress this alleged injury because Swann's non-receipt of a ballot was not 'fairly . . . trace[able] to the challenged action of the defendant[s].' . . . Swann's failure to provide the

address of the jail on his application independently caused his alleged injury.") (citations omitted).

Individual Capacity Claims Against Deputy Dillworth and Sergeant Harris

Sanford asserts individual capacity claims against Deputy Dillworth and Sergeant Harris. (Doc. 49 at 10–13) Deputy Dillworth and Sergeant Harris assert that qualified immunity bars the claims. (Doc. 67 at 21–25) Sanford argues that qualified immunity does not apply. (Doc. 69 at 17–18)

However, viewed in the light most favorable to Sanford, the evidence fails to demonstrate that Deputy Dillworth and Sergeant Harris violated Sanford's federal right to vote. On October 8, 2020, before the election, Sanford advised the mailroom that he requested the Supervisor of Elections to deliver his ballot to the jail, and Deputy Dillworth responded (Doc. 70-4 at 25): "Okay! If you receive any mail, it will be distributed to you immediately." On October 12, 2020, Sanford asked the mailroom for the address of the Supervisor of Elections, and Deputy Dillworth responded that she was "no longer permitted to look up addresses." (Doc. 70-4 at 26) On October 25, 2020, Sanford asked the mailroom about his ballot because his ballot was mailed a week earlier, and Deputy Dillworth responded (Doc. 70-4 at 27): "If you receive any mail, it will be distributed to you immediately."

No other evidence demonstrates any additional act or omission by Deputy Dillworth. During his deposition, Sanford testified that he communicated with Deputy Dillworth only by electronic mail on the kiosk and that that he never met or spoke with Deputy Dillworth. (Doc. 66-4 at 29) The evidence does not demonstrate that Deputy Dillworth received the ballot in the mail, knew that the ballot arrived at the jail, likely placed the ballot in the property locker, or directed another person to place the ballot in the locker. Both Chief Allen and

Sergeant Harris testified that they do not know who placed the ballot in the property locker. (Docs. 66-2 at 37, 62, 71 and 66-3 at 48)

"[S]ection 1983 requires proof of an affirmative causal connection between the official's acts or omissions and the alleged constitutional deprivation." *Zatler v. Wainwright*, 802 F.2d 397, 401 (11th Cir. 1986). Even drawing all inferences from the evidence in the light most favorable to Sanford, a claim against Deputy Dillworth fails. *Ireland*, 53 F.4th at 1286 ("A district court should grant summary judgment when, 'after an adequate time for discovery, a party fails to make a showing sufficient to establish the existence of an essential element of that party's case.'") (quoting *Nolen*, 373 F.3d at 1154).

Also, on December 11, 2020, after the election, Sanford sent a message to the jail's administration advising that he discovered that a person, who placed an envelope addressed to him in the property locker, had violated his right to vote, and Sergeant Harris responded (Doc. 70-4 at 28): "The envelope sent to property may not have been a ballot." On December 15, 2020, Sanford sent a message advising that an inventory showed that his ballot was in the property locker, and Sergeant Harris responded (Doc. 70-4 at 29): "I was able to find the ballot. It was sent to the property room because you are a felon and are not eligible to vote, obtain social security, or obtain tax returns while being incarcerated."

No other evidence shows any additional act or omission by Sergeant Harris. During his deposition, Sergeant Harris testified that, in 2020, he was an administrative sergeant at the jail in Frostproof, Florida. (Doc. 66-3 at 11) Sergeant Harris was not directly responsible for inmate mail. He, communicated with Sanford only by electronic mail on the kiosk, and he never met or spoke to Sanford. (Doc. 66-3 at 26, 29) All acts and omissions by Sergeant Harris occurred over a month after the election.

The evidence does not demonstrate that Sergeant Harris received the ballot in the mail, knew that the ballot arrived at the jail, placed the ballot in the property locker, or directed another person to place the ballot in the property locker. Because the evidence fails to demonstrate a causal connection between any act or omission by Sergeant Harris and a constitutional violation, the claim against Sergeant Harris also fails. *Ireland*, 53 F.4th at 1286 (quoting *Nolen*, 373 F.3d at 1154). *Zatler*, 802 F.2d at 401.

Accordingly, the Defendants' motion (Doc. 67) for summary judgment is **GRANTED** in part and **DENIED** in part. The official capacity claim against Sheriff Judd based on the failure to permit Sanford to receive a ballot for the election in 2022 and the individual capacity claims against Deputy Dillworth and Sergeant Harris are **DISMISSED** with prejudice. The official capacity claim against Sheriff Judd based on the failure to permit Sanford to receive the ballot for the election in 2020 will proceed to trial. A more specific trial date will follow, by separate notice.

Because the Court appointed Sanford counsel, Sanford's *pro se* demand (Doc. 65) for a jury trial is unauthorized. M.D. Fla. L.R. 2.02(b)(3) ("If a lawyer represents a person in an action, the person can appear through the lawyer only."). Also, in his complaint, Sanford demands damages for "mental anguish, pain and suffering, isolation, humiliation, embarrassment, and the loss of other emoluments." (Doc. 49 at 15) Because Sanford did not suffer physical injury, Sanford is barred from recovering compensatory damages. 42 U.S.C. § 1997e(e) ("No federal civil action may be brought by a prisoner confined in a jail, prison, or other correctional facility, for mental or emotional injury suffered while in custody without a prior showing of physical injury or the commission of a sexual act . . . ."). *Hoever v.*

Marks, 993 F.3d 1353, 1358 (11th Cir. 2021) ("[T]he text of § 1997e(e) bars only requests for compensatory damages stemming from purely mental or emotional harms.").

Consequently, Sanford's remaining demand for declaratory and injunctive relief (Doc. 49 at 14–15) does not entitle Sanford to a jury trial. *CBS Broad., Inc. v. EchoStar Commc'ns Corp.*, 450 F.3d 505, 518 n.25 (11th Cir. 2006) ("There is no right to a jury trial, however, when the plaintiffs seek purely equitable relief such as an injunction."); *Wilson v. Bailey*, 934 F.2d 301, 305 n.4 (11th Cir. 1991) ("[S]ection 1983 injunctive and declaratory relief is not triable by jury."). *See also Gulf Life Ins. Co. v. Arnold*, 809 F.2d 1520, 1523 (11th Cir. 1987) ("Suits for declaratory judgment . . . are neither inherently legal nor equitable in nature. When determining whether a declaratory judgment action is legal or equitable, 'courts have examined the basic nature of the issues involved to determine how they would have arisen had Congress not enacted the Declaratory Judgment Act.'") (citations omitted). Sanford's *pro se* demand (Doc. 65) for a jury trial is **STRICKEN**.

DONE AND ORDERED in Tampa, Florida on December 30, 2024.

MARY S. SCRIVEN
UNITED STATES DISTRICT JUDGE