

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

<b>PATRICIA A. POWERS-BUNCE,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Civil Action No. 06-1586 (RMC)</b>
	)	
<b>DISTRICT OF COLUMBIA, <i>et al.</i>,</b>	)	
	)	
<b>Defendants.</b>	)	

**ORDER**

For the reasons stated in the Memorandum Opinion filed separately and contemporaneously herewith, it is hereby

**ORDERED** that Defendants’ Motions to Dismiss, or in the Alternative, for Summary Judgment [Dkt. #s 12, 13, & 14], are **GRANTED IN PART AND DENIED IN PART**, as follows:

1. With respect to Count I (violation of civil rights):
  - a. Plaintiff’s claims based on the Eighth Amendment are **DISMISSED WITH PREJUDICE**;
  - b. Plaintiff’s claims based on the Fourteenth Amendment are **DISMISSED WITH PREJUDICE**;
  - c. Plaintiff’s claims based on alleged “unlawful search and seizure” and “excessive force” are **DISMISSED WITHOUT PREJUDICE**;
  - d. Plaintiff’s claim based on the Fifth Amendment against the individual District Defendants in their official capacities is **DISMISSED WITH**

**PREJUDICE** as redundant to the Fifth Amendment claim against the District of Columbia;

- e. Plaintiff's claim based on the Fifth Amendment against the Federal Defendants in their official capacities is **DISMISSED WITH PREJUDICE**;
- f. The individual Defendants' motion to dismiss Plaintiff's Fifth Amendment claims against them in their personal capacities is construed as a motion for a more definite statement under Fed. R. Civ. P. 12(e) and, so construed, is **GRANTED**. Plaintiff is **ORDERED** to provide a more definite statement with respect to her Fifth Amendment claims against the individual Defendants no later than April 16, 2007. Plaintiff is cautioned that if she fails to meet this deadline, the Court may dismiss her Fifth Amendment claim against the individual Defendants;
- g. The District of Columbia's motion to dismiss Plaintiff's Fifth Amendment claims against it is **DENIED**;

2. With respect to Count II (intentional infliction of emotional distress) and Count III (gross negligence):

- a. Counts II and III against the Federal Defendants are **DISMISSED WITHOUT PREJUDICE**;
- b. Counts II and III against the individual District Defendants are **DISMISSED WITHOUT PREJUDICE**;
- c. The District of Columbia's motion to dismiss Counts II and III is **DENIED**.

3. With respect to Count IV (survival action), the Motions are **GRANTED**, and Count IV is **DISMISSED WITH PREJUDICE** as to all Defendants;

4. With respect to Count V (wrongful death), the Motions are **GRANTED**, and Count V is **DISMISSED WITH PREJUDICE** as to all Defendants;

5. With respect to Count VI (direct liability to the District of Columbia for failure to train and supervise), the Motions are **DENIED**.

**SO ORDERED.**

Date: March 28, 2007

/s/  
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ROSEMARY M. COLLYER  
United States District Judge