

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
CENTRAL DIVISION at LEXINGTON

CIVIL ACTION NO. 10-217-KSF

T.S., *et al.*

PLAINTIFFS

v.

ORDER

MITCHELL GABBARD, individually, and
REBECAA HARVEY, individually

DEFENDANTS

This matter is before the Court *sua sponte*. The parties have filed cross motions for summary judgment [DE #27 and 34] which the Court has reviewed. Essentially, the parties' dispute centers on the policy of the Breathitt Regional Juvenile Detention Center ("BRJDC") providing for the Body ID process wherein juvenile detainees are subjected to a visual, unclothed examination upon intake to the facility. Based on preliminary research, the Court believes that this policy is unconstitutional and the individual defendants are not entitled to qualified immunity because the law in this circuit was clearly established at the time of the Plaintiffs' intake into BRJDC. *See Masters v. Crouch*, 872 F.2d 1248 (6th Cir. 1989). Instead of naming those responsible for promulgating the policy as defendants, however, the Plaintiffs are proceeding against the individual officers who were required, as a function of their employment at BRJDC, to execute this policy. Accordingly, the Court will allow the Plaintiffs additional time to amend their Complaint to assert additional defendants. For these reasons, **IT IS HEREBY ORDERED** that the Plaintiffs may file an Amended Complaint **WITHIN 10 DAYS** of entry of this Order.

This December 8, 2011.



Signed By:

Karl S. Forester KSF

United States Senior Judge