

Plaintiff's Name RUSSELL MARTIN
Inmate No. E-67269
Address 124 SALINAS VALLEY STATE
PRISON. P.O. BOX 1050
SOLEDAD CALIFORNIA 93960

FILED

AUG 27 2007

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY J. HELLINGS
DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RUSSELL MARTIN
(Name of Plaintiff)

1:06-CV-00906-AWI-WMW*PC
(Case Number)

vs.

AMENDED COMPLAINT FIRST

W. J. SULLIVAN, WARDEN
BRYANT
DOES 1 THROUGH 5

Civil Rights Act, 42 U.S.C. § 1983

RECEIVED

AUG 27 2007

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY CE
DEPUTY CLERK

(Names of all Defendants)

I. Previous Lawsuits (list all other previous or pending lawsuits on back of this form):

A. Have you brought any other lawsuits while a prisoner? Yes No
(PC) Martin v. Sullivan et al

Doc. 22 Att. 2

B. If your answer to A is yes, how many? TWO
Describe previous or pending lawsuits in the space below:
(If more than one, use back of paper to continue outlining all lawsuits.)

1. Parties to this previous lawsuit:

Plaintiff RUSSELL MARTIN

Defendants STUART J. RYAN, WARDEN

2. Court (if Federal Court, give name of District; if State Court, give name of County)

SUPERIOR COURT OF CALIFORNIA, COUNTY OF IMPERIAL

3. Docket Number ACL07400

4. Assigned Judge CHRISTOPHER W. YEAGER

5. Disposition (For example: Was the case dismissed? Was it appealed? Is it still pending?)

PENDING

6. Filing date (approx.) JAN 24/2005

7. Disposition date (approx.) UNKNOWN

P.O. BOX 1050
SOLEDAD, CALIFORNIA
93960

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RUSSELL MARTIN
PLAINTIFF.

V.

W. J. SULLIVAN, WARDEN
BRYANT.
DEFENDANTS.

CASE NO. 1:06-CV-00906-AWI-WMW "PC"
FIRST AMENDED COMPLAINT, INJUNCTION
RELIEF AND DAMAGES, DEMAND FOR
JURY TRIAL.

JURISDICTION

1. THIS ACTION IS BROUGHT PURSUANT TO 42 U.S.C. § 1983 THEREFORE JURISDICTION IS PROPER UNDER 28 U.S.C. 1331 AND 1343.

VENUE

2. ALL THE EVENTS GIVING RISE TO THE CLAIM ALLEGED IN THIS COMPLAINT AROSE IN KERN COUNTY, CALIFORNIA. THEREFORE VENUE IS PROPER UNDER 28. U.S.C. 1391(b)(2)

INTRODUCTION

3. THIS IS A CLAIM FOR DAMAGES AND INJUNCTION RELIEF BROUGHT UNDER 42 U.S.C. § 1983 AGAINST PRISON OFFICIALS FOR VIOLATION OF PLAINTIFF EIGHTH AMENDMENT RIGHTS TO BE FREE FROM CRUEL AND UNUSUAL PUNISHMENT AS PROTECTED BY THE EIGHTH AMENDMENT OF THE UNITED STATES CONSTITUTION. SPECIFICALLY AT ISSUE ARE PLAINTIFF RIGHTS TO BE FREE FROM UNNECESSARY INFLICTION OF WANTON PAIN AND SUFFERING AND TO HAVE PERSONAL SAFETY. PLAINTIFF PRAYS FOR DAMAGES AND INJUNCTION RELIEF. HE HAS EXHAUSTED THE ADMINISTRATIVE REMEDIES FOR INJUNCTION RELIEF AND HAS NOT UTILIZED THE ADMINISTRATIVE PROCEDURES FOR DAMAGES BASED ON FUTILITY.

PARTIES

Case 1:06-cv-00906-MAT-TMM Document 18 Filed 08/27/07 Page 3 of 7
4. PLAINTIFF RUSSELL MARTIN, A 47 YEAR OLD MEXICAN AMERICAN RESIDENT OF THE STATE OF CALIFORNIA, CURRENTLY INCARCERATED BY THE CALIFORNIA DEPARTMENT OF CORRECTIONS ("CDC") AT SALINAS VALLEY STATE PRISON ("SVSP") IN MONTEREY COUNTY, SOLEDAD, CALIFORNIA. AT ALL TIMES MENTIONED IN THIS COMPLAINT PLAINTIFF IS A PRISONER WITHIN THE CDC SYSTEM.

5. AT ALL TIMES MENTIONED IN THIS COMPLAINT DEFENDANT W. J. SULLIVAN, IS EMPLOYED BY THE CDC AND IS WORKING AS THE WARDEN OF TEHACHAPI STATE PRISON ("CCI") AND IS RESPONSIBLE FOR THE CARE AND TREATMENT OF PRISONERS.

6. AT ALL TIMES MENTIONED IN THIS COMPLAINT DEFENDANT BRYANT, IS EMPLOYED BY THE CDC AND IS WORKING AS A CORRECTIONAL OFFICER LIEUTENANT ("LT."). AT CCI

7. AT ALL TIMES MENTIONED IN THIS COMPLAINT DEFENDANTS DOES IS EMPLOYED BY THE CDC AND IS WORKING AS CORRECTIONAL OFFICERS AT CCI. DOES 1 THROUGH 5

NOW COMES, PLAINTIFF, RUSSELL MARTIN, WHO ALLEGES AS FOLLOWS :

STATEMENT FOR CLAIMS

8. ON NOVEMBER 14/2005 PLAINTIFF SPOKE TO BUILDING 4B SERGEANT ("SGT") A FEMALE WHO'S NAME IS UNKNOWN TO PLAINTIFF, PLAINTIFF INFORMED HER HE AND HIS CELLMATE WASN'T GETTING ALONG AND NEEDED TO BE SEPARATED THE SGT NEVER CAME BACK TO ADDRESS THE SITUATION. AT 2:00 AM PLAINTIFF PACKED HIS PERSONAL PROPERTY WHEN THIRD WATCH OFFICERS CAME TO PLAINTIFF CELL DOOR FOR SHOWERS PLAINTIFF INFORMED THE OFFICERS HE AND CELLMATE NEEDED TO BE SEPARATED IMMEDIATELY AND THAT I WAS NOT GOING BACK INTO THE CELL. PLAINTIFF WAS PLACED INSIDE ONE OF THE HOLDING CAGES INSIDE THE HOUSING UNIT SECTION. APPROXIMATELY (30) MINUTES LATER I WAS TAKEN TO THE PROGRAM OFFICE, I SPOKE TO SGT ALIPAZ, PLAINTIFF ASKED SERGEANT ALIPAZ TO ALLOW ME TO HAVE MY OWN CELL DUE TO MEDICAL CONDITION. I EXPLAINED TO SERGEANT ALIPAZ THAT I HAVE REAL BAD

IT WOULD BE BEST FOR ME TO HAVE MY OWN CELL, AND AFTER I EXPLAINED MY MEDICAL PROBLEMS TO ANY INMATE LOOKING FOR A CELL MATE AND THEY CHOOSE TO CELL UP WITH PLAINTIFF THAT WOULD BE ARIGHT WITH ME. SERGEANT (SGT) ALIPAZ, JUST GOT MAD AND ORDERED BUILDING TO ILLEGALLY CONFISCATE MY PERSONAL PROPERTY BECAUSE PLAINTIFF REFUSED TO BE FORCED INTO THE SAME SITUATION. AT NO TIME DID SERGEANT SGT. ALIPAZ, EXPLAIN ANY THING TO PLAINTIFF HE TOOK MY TV. BECAUSE HE WANTED TO PUNISH ME THATS HOW INMATES IS TREATED AT (CCZ) BECAUSE VERY FEW PEOPLE HAVE A TV. PLAINTIFF WAS THEN MOVED TO HOUSING UNIT 4B-1C-209 AND PLACED IN A CELL BY MYSELF WITHOUT ANY OF MY SHU ALLOWABLE PROPERTY THAT HAD ALREADY BEEN ISSUED TO ME TWO MONTHS PRIOR. PLAINTIFF REQUESTED TO SPEAK TO A LT. WHICH I SPOKE TO DEFENDANT LT. BRYANT, PLAINTIFF EXPLAINED THE SITUATION TO DEFENDANT BRYANT, AND HE SAID SO WHAT YOU NOT GETTING YOUR PROPERTY. WHEN THE BLACK INMATES IN B-11 HEARD THIS STATEMENT. THEY ALL AGREED TO BLOCK UP THEIR CELL DOOR WINDOW WITH PLAINTIFF TO GET A CAPTAIN OR ASSOCIATE WARDEN OVER TO THE BUILDING. UNDER THE ORDERS OF LT. BRYANT ALL THE OFFICERS STARTED PUTING ON RIOT GEAR AND ORDERING US TO REMOVE THE WINDOW COVERING SGT. E GIVAN, AND OFFICER PAPILLION, CAME TO PLAINTIFF CELL DOOR AND TALKED TO ME, I AGREED TO REMOVE MY WINDOW COVERING AND SGT. GIVAN, AGREED TO TALK TO THE CAPTAIN THE FOLLOWING DAY TO GET MY PROPERTY BACK, ALL OF US REMOVED OUR WINDOW COVERING APPROXIMATELY (TEN) MINUTES LATER LT. BRYANT CAME TO PLAINTIFF CELL DOOR AND ASK ME TO CUFF UP BECAUSE THE WATCH COMMANDER WANTED TO SPEAK TO ME I COMPLIED WITH LT. BRYANT, I WAS PLACED IN HANDCUFFS AND LEG RESTRAINTS AND PLACED IN ONE OF THE HOLDING CAGES INSIDE THE SECTION DAYROOM I WAS THEN ORDERED BY DEFENDANT BRYANT, TO TAKE OFF ALL MY CLOTHING OR GET PEPPER SPRAYED IN FRONT OF APPROXIMATELY 10 TO 15 CORRECTIONAL

OFFICERS AND MEDICAL STAFF MALE AND FEMALE. PLAINTIFF REFUSED TO REMOVE HIS CLOTHING IN FRONT OF THE FEMALE OFFICERS AND MEDICAL. LT. BRYANT, ORDERED OFFICERS TO REMOVE PLAINTIFF FROM THE HOLDING CAGE AND STRIP ME NAKED IN FRONT OF FEMALE OFFICERS PLAINTIFF WAS EXAMINED BY A FEMALE MEDICAL M. J. A. L. WRIGHT. OFFICERS THEN PROCEEDED TO TAKE THE LINEN OUT OF PLAINTIFF CELL, I WAS THEN WALKED NAKED BACK UP THE STAIRS AND PLACED BACK IN THE CELL AND GIVEN ONE PAIR OF PAPER UNDERWARE. WHERE PLAINTIFF HAD TO SLEEP ON THE STEEL BUNK OR FLOOR WITHOUT ANY CLOTHING NO MATTRESS, NO SHEETS, NO BLANKET, NO TOWEL, NO SOAP, NOT EVEN TOILET PAPER. THE CELL WAS SO DIRTY PLAINTIFF COULD LITERALLY PICK DUST UP OFF THE FLOOR WITH HIS HANDS. PLAINTIFF REMAINED IN THIS UNSANITARY LIVING CONDITIONS FOR (THREE) DAYS PLAINTIFF WAS ALSO DEPRIVED OF HIS HIGH BLOOD PRESSURE MEDICATION FOR (THREE) DAYS BECAUSE IT WAS SEIZED WITH MY PROPERTY. WHICH MEDICAL STAFF REISSUE THE FORTH DAY. PLAINTIFF ALSO RECEIVED PAIN MEDICATION FOR BACK, NECK, AND SEVERE HEADACHES AS A RESULT OF SLEEPING ON THE STEEL BUNK. PLAINTIFF DID SPEAK TO A WATCH COMMANDER. AFTER ALL THE ABOVE EVENTS TOOK PLACE. PLAINTIFF EXPLAINED EVERYTHING TO HIM I HAVE IN THIS COMPLAINT AND HE STATED NEXT TIME COMPLY WITH HIS OFFICERS AND WALKED AWAY FROM MY DOOR. PLAINTIFF WAS NOT GIVEN ANY KIND OF (RVA) BECAUSE KNEW THEY WAS WRONG. PLAINTIFF FILED A GRIEVANCE ON DECEMBER 21 2005. AGAINST DEFENDANTS LT. BRYANT, AND ALIPAL REQUESTING AN INVESTIGATION FOR THEIR MISCONDUCT AND THE ABOVE FACTS COMPLAINED OF IN THE GRIEVANCE DATED DECEMBER 21 2005.

9. PLAINTIFF IS INFORMED AND BELIEVES AND BASED THEREON ALLEGES THAT AT ALL TIMES MENTIONED HEREIN, ALL DEFENDANTS, AND EACH OF THEM WERE THE AGENTS, ADVISORS, SERVANTS, PARTNERS, JOINT VENTURES, AND/OR EMPLOYEES OF THEIR CO-DEFENDANTS AND WERE ACTING WITHIN THE SCOPE OF THEIR AUTHORITY AS SUCH AGENTS, ADVISORS SERVANTS PARTNERS JOINT VENTURES AND EMPLOYEES WITH THE PERMISSION

AND CONSENT OF THE PLAINTIFFS. THE PLAINTIFFS ARE NOT EMPLOYED BY DEFENDANTS AND WAS ACTING AS A PRINCIPAL AND WAS INVOLVED IN THE SELECTION CONSULTATION AND OR HIRING OF EACH AND EVERY OTHER PARTICIPANT IN THE EVENTS RELEVANT HEREIN..

10.. AS A PROXIMATE RESULT OF DEFENDANTS, AND EACH OF THEIR CONSPIRACY, AND THE FACT HEREIN ALLEGED AT ALL TIMES MENTIONED IN THE COMPLAINT EACH INDIVIDUAL DEFENDANT WAS ACTING UNDER COLOR OF STATE LAW AND IN THE SCOPE AND COURSE OF THEIR EMPLOYMENT. AND EACH DEFENDANT IS SUED IN THEIR INDIVIDUAL CAPACITIES FOR THE CLAIMS ALLEGED IN THIS COMPLAINT.

11. PLAINTIFF IS INFORMED AND BELIEVES AND ON THE BASIS OF SUCH INFORMATION AND BELIFE ALLEGES THAT EACH OF DOES 1 THROUGH 5 IS RESPONSIBLE IN SOME MANNER FOR THE INJURIES ALLEGED IN THIS COMPLAINT. THE TRUE NAMES AND CAPACITIES OF SAID DOES 1 THROUGH 5 ARE PRESENTLY UNKNOWN TO PLAINTIFF WHO THEREFORE SUES SAID DOES BY SUCH FICTITIOUS NAMES AND WILL SEEKS LEAVE TO AMEND THIS COMPLAINT TO ADD THEIR TRUE NAMES AND CAPACITIES WHEN THEY BECOME KNOWN TO PLAINTIFF..

FIRST CLAIM FOR RELIEF

VIOLATION OF PLAINTIFF'S EIGHTH AMENDMENT RIGHT TO BE FREE FROM CRUEL AND UNUSUAL PUNISHMENT IN THE FORM OF MALICIOUS AND UNNECESSARY INFLECTION OF WANTON PAIN AND SUFFERING,

12.. PLAINTIFF HEREBY INCORPORATES BY REFERENCE ALL OF THE PARAGRAPHS OF THE STATEMENT FOR CLAIMS 8 THROUGH 11 AND MAKES THEM A PART OF THIS FIRST CAUSE OF ACTION OF THIS COMPLAINT AS THOUGH FULLY SET FORTH HEREAT.

13. DEFENDANTS, AND EACH OF THEM, MALICIOUSLY, AND SARDISTICALLY VIOLATED PLAINTIFF'S EIGHTH AMENDMENT RIGHT TO BE FREE FROM CRUEL AND UNUSUAL PUNISHMENT IN THE FORM OF MALICIOUS AND UNNECESSARY WANTON INFLECTION OF PAIN AND SUFFERING INCLUDING INSURY TO PLAINTIFF'S BACK, NECK, AND STOMACH AND PERMANENT PSYCHOLOGICAL AND EMOTIONAL DISTRESS AS HEREIN ALLEGED..

14. DEFENDANTS, AND EACH OF THEM, SUBJECTED PLAINTIFF TO THE MALICIOUS, AND UNNECESSARY WANTON INFLICTION OF PAIN AND SUFFERING, AND MENTAL ABUSE, UNDER CIRCUMSTANCES WHICH DID NOT REQUIRE SUCH TREATMENT WHATSOEVER.

Case 1:06-cv-00906-AWI-WMW Document 18 Filed 08/27/2007 Page 7 of 11

15. DEFENDANTS, AND EACH OF THEM, AS HEREIN ALLEGED, ACTIONS WERE DESPICABLE, MALICIOUSLY AND SADISTICALLY AND CARRIED OUT WANTONLY AND RECKLESSLY DISREGARDS FOR PLAINTIFF'S FEDERALLY PROTECTED RIGHTS.

16. IN *WRIGAT V. McMANN*. THE COURTS RULED THAT EVEN IF THE WARDEN DIDN'T KNOW ABOUT THE PRISONER'S SITUATION HE SHOULD HAVE KNOWN SINCE HE HAS LEGAL RESPONSIBILITY FOR THE TREATMENT OF PRISONERS.

17. AS A PROXIMATE RESULT OF DEFENDANTS, AND EACH OF THEIR CONSPIRACY, AND THE FACTS HEREIN ALLEGED, PLAINTIFF WAS INJURED IN HIS HEALTH, STRENGTH, AND ACTIVITY, SUSTAINED INJURY TO HIS BODY AND MIND, SHOCK AND INJURY TO HIS NERVOUS SYSTEM AND PERSON, ALL OF WHICH INJURIES HAVE CAUSED PLAINTIFF TO SUFFER EXTREME AND SEVERE PHYSICAL AND MENTAL PAIN AND ANXIETY. THESE INJURIES INCLUDE, BUT ARE NOT LIMITED TO, MEMORY LOSS, AND POST TRAUMATIC STRESS DISORDER WHICH HAVE RESULTED INTO PERMANENT PSYCHOLOGICAL DISABILITY TO PLAINTIFF ALL TO HIS GENERAL DAMAGES IN A SUM ACCORDING TO PROOF.

18. DEFENDANTS, AND EACH OF THEIR CONDUCT, AS HEREIN ABOVE ALLEGED, WAS DESPICABLE, AND INTENDED BY DEFENDANTS AND EACH OF THEM TO CAUSE INJURY TO PLAINTIFF AND WAS DONE BY DEFENDANTS, AND EACH OF THEM WITH A WILLFUL, AND CONSCIOUS DISREGARDS OF PLAINTIFF'S FEDERAL RIGHTS, AND WAS COMPRISED OF, IN PART, INTENTIONAL, MISREPRESENTATIONS, FALSE HOOD AND/OR CONCEALMENT OF MATERIAL FACTS BY DEFENDANTS, CALCULATED TO DEPRIVE PLAINTIFF OF PROPERTY, LEGAL AND PRIVACY RIGHTS, OR TO OTHERWISE CAUSE INJURY, SUCH AS TO CONSTITUTE MALICE, FRAUD, AND/OR OPPRESSION ENTITLING PLAINTIFF TO PUNITIVE DAMAGES IN AN AMOUNT APPROPRIATE TO PUNISH AND SET AN EXAMPLE OF DEFENDANTS.

SECOND CLAIM FOR RELIEF

VIOLATION OF PLAINTIFF'S EIGHTH AMENDMENT RIGHT TO BE FREE FROM CRUEL AND UNUSUAL PUNISHMENT IN THE FORM OF DEPRIVATION OF PERSONAL SAFETY.

19. PLAINTIFF HEREBY INCORPORATES BY REFERENCE ALL OF THE PARAGRAPHS OF THE STATEMENT FOR CLAIMS 8 THROUGH 11 AND PARAGRAPHS 12 THROUGH 18 OF THE FIRST CAUSE OF ACTION OF THIS COMPLAINT AND MAKES THEM A PART OF THIS SECOND CAUSE OF ACTION AS THOUGH FULLY SET FORTH HEREAFT.

20. IN DOING THE ACTS AS HEREIN ABOVE ALLEGED, DEFENDANTS, ACTED WITH "DELIBERATE INDIFFERENCE" TO PLAINTIFF'S PERSONAL SAFETY, AND SUBJECTED HIM TO MALICIOUS, AND UNNECESSARY WANTON INFLECTION OF PAIN AND SUFFERING INCLUDING INJURY, AND PERMANENT PSYCHOLOGICAL, AND EMOTIONAL DISTRESS IN VIOLATION OF HIS RIGHTS UNDER THE EIGHTH AMENDMENT. SPECIFICALLY, DEFENDANTS, WERE DELIBERATELY INDIFFERENT TO PLAINTIFF'S RIGHTS TO HAVE PERSONAL SAFETY WHEN THEY INTENTIONALLY, KNOWINGLY, MALICIOUSLY, AND SADISTICALLY INFLECTED INJURY, AND HUMILIATION ON PLAINTIFF BY STRIPPING PLAINTIFF NAKED IN FRONT OF FEMALE OFFICIALS AND MEDICAL STAFF. PLACING PLAINTIFF IN A ISOLATION CELL WITHOUT ANYTHING BUT A PAIR OF PAPER UNDERWARE, WHERE PLAINTIFF HAD TO SLEEP ON A STEEL BUNK WITHOUT ANY CLOTHING. NO MATTRESS, NO SHEETS, NO BLANKET, NO TOWEL, NO SOAP, NO TOILET PAPER, FOR THREE DAYS. "WITHOUT PRIOR APPROVAL FROM DEFENDANT W. J. SULLIVAN, WARDEN. DEFENDANTS, KNEW THEIR ACTIONS WOULD AND DID OFFEND CONTEMPORARY STANDARDS OF DECENCY.

21. DEFENDANTS, AND EACH OF THEM, SUBJECTED PLAINTIFF TO THE MALICIOUS, AND UNNECESSARY WANTON INFLECTION OF PAIN AND SUFFERING, AND MENTAL ABUSE, UNDER CIRCUMSTANCES WHICH DID NOT REQUIRE SUCH TREATMENT WHATSOEVER.

22. DEFENDANTS, AND EACH OF THEM, AS HEREIN ALLEGED, ACTIONS WERE DESPICABLE, MALICIOUSLY, AND SADISTICALLY, AND CARRIED OUT WANTONLY, AND RECKLESSLY DISREGARDS FOR PLAINTIFF'S FEDERALLY PROTECTED RIGHTS.

23. IN WRIGHT V. MCMANN. THE COURTS RULED THAT EVEN IF THE WARDEN DIDN'T KNOW ABOUT THE PRISONER'S SITUATION HE SHOULD HAVE KNOWN SINCE HE HAS LEGAL RESPONSIBILITY FOR THE TREATMENT OF PRISONERS.

Case 1:06-cv-00906-AWI-WMW Document 18 Filed 08/27/2007 Page 9 of 11

24. AS A PROXIMATE RESULT OF DEFENDANTS AND EACH OF THEIR CONSPIRACY, AND THE FACTS HEREIN ALLEGED, PLAINTIFF WAS INJURED IN HIS HEALTH, STRENGTH, AND ACTIVITY, SUSTAINING INJURIES TO HIS BODY AND MIND, SHOCK AND INJURY TO HIS NERVOUS SYSTEM AND PERSON, ALL OF WHICH INJURIES HAS CAUSED PLAINTIFF TO SUFFER EXTREME AND SEVERE PHYSICAL AND MENTAL PAIN AND ANGUISH. THESE INJURIES INCLUDE, BUT ARE NOT LIMITED TO, MEMORY LOSS, AND POST TRAUMATIC STRESS DISORDER WHICH HAVE RESULTED INTO PERMANENT PSYCHOLOGICAL DISABILITY TO PLAINTIFF ALL TO HIS GENERAL DAMAGES IN A SUM ACCORDING TO PROOF.

25. DEFENDANTS, AND EACH OF THEIR CONDUCT, AS HEREIN ABOVE ALLEGED, WAS DESPICABLE, AND INTENDED BY DEFENDANTS AND EACH OF THEM TO CAUSE INJURY TO PLAINTIFF AND WAS DONE BY DEFENDANTS, AND EACH OF THEM WITH A WILLFUL, AND CONSCIOUS DISREGARDS OF PLAINTIFF'S FEDERAL RIGHTS, AND WAS COMPRISED OF, IN PART, INTENTIONAL, MISREPRESENTATIONS, FALSE HOOD AND/OR CONCEALMENT OF MATERIAL FACTS BY DEFENDANTS, CALCULATED TO DEPRIVE PLAINTIFF OF PROPERTY, LEGAL AND PRIVACY RIGHTS, OR TO OTHERWISE CAUSE INJURY, SUCH AS TO CONSTITUTE MALICE, FRAUD, AND/OR OPPRESSION ENTITLING PLAINTIFF TO PUNITIVE DAMAGES IN AN AMOUNT APPROPRIATE TO PUNISH AND SET AN EXAMPLE OF DEFENDANTS.

26. DEFENDANTS HAVE DEPRIVED PLAINTIFF OF HIS EIGHTH AMENDMENT RIGHT TO BE FREE FROM CRUEL AND UNUSUAL PUNISHMENT IN THE FORM OF DEPRIVATION OF PERSONAL SAFETY THUS DENYING A BASIC HUMAN NEED GUARANTEED TO PRISONERS BY THE UNITED STATES CONSTITUTION.

PRAYERS FOR RELIEF

1. INJUNCTION RELIEF.
2. FOR GENERAL DAMAGES ACCORDING TO PROOF.
3. COMPENSATORY DAMAGES ACCORDING TO PROOF \$ 2,000⁰⁰.
4. PUNITIVE DAMAGES ACCORDING TO PROOF \$ 5,000⁰⁰.
5. REASONABLE ATTORNEY'S FEE'S PURSUANT TO 42 U.S.C. 1988;

7. APPOINT COUNSEL IMMEDIATELY BASED ON ILLITERACY ACCORDING TO PROOF.
8. SUCH FURTHER RELIEF AS THE COURT DEEMS JUST AND PROPER.

WHEREFORE, PLAINTIFF PRAYS FOR THE ABOVE RELIEF.

DEMAND FOR JURY TRIAL

PLAINTIFF RUSSELL MARTIN, HEREBY RESPECTFULLY REQUEST TRIAL BY JURY.

DATE AUGUST 21/2007

RESPECTFULLY SUBMITTED

Russell Martin
PLAINTIFF IN PRO SE

(C.C.P. SEC. 466 & 2015.5; 28 U.S.C. SEC. 1746)

I, RUSSELL MARTIN declare under penalty of perjury that: I am the PLAINTIFF in the above entitled action; I have read the foregoing documents and know the contents thereof and the same is true of my own knowledge, except as to matters stated therein upon information, and belief, and as to those matters, I believe they are true.

Executed this 21 day of AUGUST, 2007, at Salinas Valley State Prison, Soledad, California 93960-1050.

(Signature) Russell Martin
DECLARANT/PRISONER

PROOF OF SERVICE BY MAIL
(C.C.P. SEC 1013(a) & 2015.5; 28 U.S.C. SEC. 1746)

I, RUSSELL MARTIN, am a resident of California State Prison, in the County of Monterey, State of California; I am over the age of eighteen (18) years and am/am not a party of the above entitled action. My state prison address is: P.O. Box 1050, Soledad, California 93960-1050.

On AUGUST 21, 2007, I served the foregoing: FIRST AMENDED COMPLAINT ON THE CLERK OF THE COURT.

(Set forth exact title of document(s) served)

On the party(s) herein by placing a true copy(s) thereof, enclosed in sealed envelope(s), with postage thereof fully paid, in the United States Mail, in a deposit box so provided at Salinas Valley State Prison, Soledad, California 93960-1050.

(List parties served)

There is delivery service by United States Mail at the place so addressed, and/or there is regular communication by mail between the place of mailing and the place so addressed.

I declare under penalty of perjury that the foregoing is true and correct.

DATED: AUGUST 21, 2007

Russell Martin
DECLARANT/PRISONER