

**FILED**

NOV 19 2007

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

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

JOHN THOMAS  
(Name of Plaintiff)  
CALIFORNIA CORRECTIONAL INSTITUTION  
(Address of Plaintiff)  
P.O. BOX 1031 TEHACHA, CA. 93581

1:07-CV-01165  
(Case Number)

vs.

*Amended*  
COMPLAINT

CA DEPARTMENT OF CORRECTIONS  
AND REHABILITATION, ET AL

(PC) Thomas v. CA Dept. of Corrections and Rehabilitation et al.

Doc. 19 Att. 2

SERGEANT R. COX  
(Names of Defendants)

I. Previous Lawsuits:

A. Have you brought any other lawsuits while a prisoner:  Yes  No

B. If your answer to A is yes, how many?: \_\_\_\_\_ Describe the lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper using the same outline.)

1. Parties to this previous lawsuit:

Plaintiff JOHN THOMAS  
Defendants SGT. R. COX C/A CARRILLO C/O A. DIZA-ALBARRAN, KTS. SIMPSON  
ST. DONALD SCHROEDER, WARDEN A. HEDGECOCK A.W. G. KAYS, MTA L. GARCIA

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

UNITED STATES DISTRICT COURT - EASTERN DISTRICT OF CALIFORNIA FRESNO, CA 93721

3. Docket Number 1:07-CV-01165-AWI-GSA

4. Name of judge to whom case was assigned MAGISTRATE JUDGE GRAY S. AUSTIN

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

Pending

6. Approximate date of filing lawsuit 8-10-07

7. Approximate date of disposition \_\_\_\_\_

II. Exhaustion of Administrative Remedies

A. Is there a grievance procedure available at your institution?

Yes

No

B. Have you filed a grievance concerning the facts relating to this complaint?

Yes

No

If your answer is no, explain why not \_\_\_\_\_

C. Is the grievance process completed?

Yes

No

III. Defendants

(In Item A below, place the full name of the defendant in the first blank, his/her official position in the second blank, and his/her place of employment in the third blank. Use item B for the names, positions and places of employment of any additional defendants.)

A. Defendant Sergeant R. Cox is employed as CORRECTIONS, OFFICIAL  
California Department of Corrections, RA at Delano, CALIFORNIA 93216

B. Additional defendants C/O Carrillo, Warden A. Hedgpeth, AW, S.H. KAYS  
Captain J. D. Spitz, Lieutenant Donald S. H. Roder, Lieutenant S.  
Simpson, Medical Technician Assistant L. Garcia, Correctional Officer  
A. Diaz-Albaran

IV. Statement of Claim

(State here as briefly as possible the facts of your case. Describe how each defendant is involved, including dates and places. Do not give any legal arguments or cite any cases or statutes. Attach extra sheets if necessary.)

ON 4-2-07 I was release for morning yard at Delano prison upon later the institution yard I tried to put my shoe on before stepped to the yard but cp carrillo stated to me to take it to the yard but I waited for a minute to put my shoe on once I did cp carrillo stated for me to take it back to my cell for know at all I was thru cut and taken to B-Program and pke in this holding cell search, and pepper spray by Sgt. RICK for no reason at all I was torture by these official with know help for these administrative because it life doot mean nothing

V. Relief.

(State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.)

I wanted the COURT to let these California Department of corrections and Rehabilitation employce to know that there or not about this nation law, I was torture for no reason. I would like to be compensation=monetary and the court that will not let these correctional officin that the united states law will not let you get away with these act.

Signed this 7 day of Tuesday 2007

John Thomas (Signature of Plaintiff)

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

11-7-07 (Date)

John Thomas (Signature of Plaintiff)

**INFORMATION TO PRISONERS SEEKING LEAVE TO  
PROCEED WITH A CIVIL ACTION IN FEDERAL COURT  
IN FORMA PAUPERIS PURSUANT TO 28 U.S.C. § 1915**

In accordance with 1996 amendments to the in forma pauperis (IFP) statute, as a prisoner you will be obligated to pay the full filing fee of \$150.00 for a civil action. If you later file an appeal, the filing fee for the appeal is \$105.00.

If you have the money to pay the filing fee, you should send a cashier's check or money order to the court with your complaint, petition, or notice of appeal and, if appropriate, your IFP application.

If you do not have enough money to pay the full filing fee when your action is filed, you can file the action without prepaying the filing fee. However, the court will assess an initial partial filing fee at the time your action is filed. The initial partial filing fee will be equal to 20 percent of the average monthly deposits to your prison or jail account for the six months immediately preceding the filing of the lawsuit, or 20 percent of the average monthly balance in your prison or jail account for that same six month period, whichever is greater. The court will order the agency that has custody of you to take that initial partial filing fee out of your prison or jail account as soon as funds are available and to forward the money to the court.

After the initial partial filing fee has been paid, you will owe the balance of the filing fee. Until the amount of the filing fee is paid in full, each month you will owe 20 percent of your preceding month's income toward the balance. The agency that has custody of you will collect that money and send payments to the court any time the amount in the account exceeds \$10.00. The balance of the filing fee may be collected even if the action is later dismissed, summary judgment is granted against you or you fail to prevail at trial.

In order to proceed with an action in forma pauperis you must complete the attached form and return it to the court with your complaint. You must have a prison or jail official complete the Certification section on the back of the form and attach to the form a certified copy of your prison or jail account statement for the last six months. If you submit an incomplete form or do not submit a prison or jail account statement with the form, your request to proceed in forma pauperis will be denied.

Regardless of whether some or all of the filing fee has been paid, the court is required to screen your complaint and to dismiss the complaint if (1) your allegation of poverty is untrue; (2) the action is frivolous or malicious; (3) your complaint does not state a claim on which relief can be granted; or (4) you sue a defendant for money damages and that defendant is immune from liability for money damages.

If you file more than three actions or appeals while you are a prisoner which are dismissed as frivolous or malicious or for failure to state a claim on which relief can be granted, then you will be prohibited from bringing any other actions in forma pauperis unless you are in imminent danger of serious physical injury.