

July 1, 2010

FILED

United States District Court
Eastern District of California
Office Of The Clerk.

JUL 09 2010

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY [Signature]
DEPUTY CLERK

2500 Tulare Street, Rm 1-505
Fresno, California, 93721-2200

RECEIVED

JUL 09 2010

re: Brammer vs. Yates et al

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY [Signature]
DEPUTY CLERK

Case No. 1:07-CV-01350-SKO

re: Last Minute Filing, Lost Documents

Dear Clerk,

I hope this letter finds you in good spirits
and health.

(PC) Brammer v. Yates et al

Doc. 45 Att. 1

Approximately ten (10) days ago I sent out
my admended complaint to be typed and
mailed to your Court.

Two (2) days ago it was determined
that the document had never arrived
at its destination. So I had to rewrite
the complaint and mail the original to
the Court.

I have no ability to make the required
copies for your Court or defendants,

nor for myself.

Had I been informed sooner of the lost envelopes I could have made some arrangements.

However, with just a day or two left to meet my deadline, I had to proceed in this manner.

Could you please advise Magistrate Judge of this fact. I also have my other complaint to be mailed tomorrow. I do not want any chance of confusion because of numerous envelopes.

I have numbered the envelopes in order to simplify the process of constructing the complaint.

Sincerely Yours,
James Brammer

James Brammer, No. 2204964
P.O. Box 86164

Los Angeles, California

90086-0161

Plaintiff's Name James Brammer
Inmate No. 2204964
Address P.O. Box 86164
Los Angeles, California
90086

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

James Brammer
(Name of Plaintiff)

1:07-CV-01350-SKO
(Case Number)

vs.

2nd AMENDED COMPLAINT

R. Chadnick, MD, Chief
Medical Officer, N.
Kushner, MD;

Civil Rights Act, 42 U.S.C. § 1983

(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 X No ___

B. If your answer to A is yes, how many? One
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 previous lawsuit:

Plaintiff James Brammer

Defendants Sylvia Garcia, Warden; Mr. Roberts,
Captian, et al.

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

U.S. District Court, Eastern District

3. Docket Number CV-03-1176

4. Assigned Judge WBS-(DAD)-P

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

Transferred to Southern District, Dismissed

6. Filing date (approx.) May 2003

7. Disposition date (approx.) 9th Cir 05-56296
2005

II. Exhaustion of Administrative Remedies

A. Is there an inmate appeal or administrative remedy process available at your institution?

Yes ☐ No ☒

B. Have you filed an appeal or grievance concerning ALL of the facts contained in this complaint?

Yes ☒ No ☐

If your answer is no, explain why not _____

C. Is the process completed?

Yes ☒ If your answer is yes, briefly explain what happened at each level.

All administrative appeals have been denied
(See Appendix A.)

No ☐ If your answer is no, explain why not.

NOTICE: Pursuant to the Prison Litigation Reform Act of 1995, "[n]o action shall be brought with respect to prison conditions under [42 U.S.C. § 1983], or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." 42 U.S.C. § 1997e(a). If there is an inmate appeal or administrative remedy process available at your institution, you may not file an action under Section 1983, or any other federal law, until you have first completed (exhausted) the process available at your institution. You are required to complete (exhaust) the inmate appeal or administrative remedy process before filing suit, regardless of the relief offered by the process. Booth v. Churner, 532 U.S. 731, 741 (2001); McKinney v. Carey, 311 F.3d 1198, 1999 (9th Cir. 2002). **Even if you are seeking only money damages and the inmate appeal or administrative remedy process does not provide money, you must exhaust the process before filing suit.** Booth, 532 U.S. at 734.

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 R. Chapnick is employed as Chief Medical Officer at Pleasant Valley State Prison

B. Additional defendants N. Kushner, M.D. Pleasant Valley
State Prison

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.)

Defendant R. Chadnick has been aware of plaintiff's sustained injury to his right hand while working in a kitchen facility at P.V.S.P. Plaintiff had been referred to C.M.D. for authorization for orthopedic specialist. The referral was from defendant N. Kushner. As previously alleged in prior complaint, this defendant actions by refusing treatment for plaintiff's injury caused plaintiff to suffer additional injury to left wrist resulting in an additional surgery and causing further injury to right-hand by his forced compliance to continue to work with sustained injury. Plaintiff has two (2) separate operations to right-hand and left-wrist. Chadnick was aware that plaintiff was in
(See: Additional Pages, 1-5.)

V. Relief.

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

Compensatory damages for pain and suffering of \$150,000.00 from both defendants. Punitive damages of \$250,000.00 from both defendants. Award plaintiff costs of this suit and reasonable attorney fees and litigation expenses.

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

Date July 1, 2010

Signature of Plaintiff

James Brummer

severe pain and continued to suffer because of refusal to provide adequate medical care. (See Appendix A, at pages 4-5, 4th paragraph, pages 10-13 and 15.) Chadnick as a medical practitioner knew that his refusal to provide plaintiff with orthopedic specialist who has ability to ascertain and treat a serious injury that was beyond capacity of general medical practitioner was erroneous and constituted cruel and unusual punishment contrary to the Eight + Fourteenth Amendments to United States Constitution.

Prison officials (doctors) are deliberately indifferent to plaintiff's serious medical needs when they deny or delay and/or intentionally interfere with medical treatment. Serious medical needs exist where the failure to treat a condition could result in further significant injury or the unnecessary and wanton infliction of pain. Plaintiff has adequately demonstrated: (1) That he suffered injury and was denied treatment (2) That the refusal to provide adequate medical care resulted in further aggravated injury.

Plaintiff had sustain tendon damage in his right-hand and in his work duties had to transfer weight to left-hand causing an additional injury to left-