

FILED

APR 06 2009

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
ATT: HONORABLE JUDGE DENNIS L. BECK

JOHN ALLEN

PLAINTIFF,

✓

HENSE, ET AL,

DEFENDANTS

CASE NO: 1:08-CV-00917 DLB PC
MOTION FOR RECONSIDERATION

(PC) Allen v. Hense et al

THE PLAINTIFF IS A STATE PRISONER PROCEEDING PRO SE AND IN FORMA PAUPERIS IN THIS CIVIL RIGHTS ACTION PURSUANT TO 42 U.S.C. § 1983. ON OR ABOUT FEBRUARY 3RD THE COURT DISMISSED THE COMPLAINT FOR FAILURE TO STATE ANY CLAIMS UPON WHICH RELIEF MAY BE GRANTED AND ORDERED PLAINTIFF TO FILE AN AMENDED COMPLAINT WITHIN 30 DAYS. ON MARCH 23, 2009 THE HONORABLE JUDGE DENNIS L BECK FILED AN ORDER DISMISSING ACTION FOR FAILURE TO OBEY A COURT ORDER AND FAILURE TO STATE A CLAIM...

THE PLAINTIFF PETITIONS THE COURT TO RECONSIDER THE MOTION TO DISMISS BASED ON THE 2 FOLLOWING POINTS.

I

THE PLAINTIFF COMPLIED WITH THE ORDER TO FILE AN AMENDED COMPLAINT AND STATE A CLAIM (PLEASE SEE EXHIBIT A)

Doc. 10 Att. 1

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HOWEVER AS SEEN THE PLAINTIFF MISTAKEN FORGOT TO ADDRESS THE AMENDED COMPLAINT WITH THE CASE NO: 1:08-CV-00917 DLB PC AND THE NAME OF THE HONORABLE JUDGE DENNIS L. BECK, CAUSING IT TO BE SENT TO JUDGE SANDRA M. SNYDER AND PROCESSED AS A NEW COMPLAINT AND ASSIGNED A CASE NO: 1:09-CV-00433-SMS (PC) SEE ATTACHED (EXHIBIT A)

II

THE NEGLECTING TO ADDRESS THE AMENDED COMPLAINT WITH THE INITIALS OF THE HONORABLE JUDGE DENNIS L. BECK AND CASE # NO: WAS AN HONEST LAYMAN OF THE LAW MISTAKE...

FROM THE ABOVE MENTIONED INFORMATION THE PLAINTIFF PLEAS TO THE COURT TO REINSTATE THE PLAINTIFF CIVIL RIGHTS ACTION PURSUANT TO 42 U.S.C § 1983 OR PROVIDE THE PLAINTIFF WITH THE INFORMATION OR OPPORTUNITY TO REMEDY THE ORDER OF DISMISSAL...

Plaintiff's Name JOHN ALLEN
Inmate No. 191136
Address C.S.P. SAC IV B-2-131^U
P.O. Box 2900-66
REPRESA CA 95671

FILED

MAR 09 2009

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

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

JOHN ALLEN
(Name of Plaintiff)

1:09-cv-433-SMS-PC
(Case Number)

vs.

AMENDED COMPLAINT

Civil Rights Act, 42 U.S.C. § 1983

LYDIA G. HENSE
c/o J. LOPEZ
c/o R. SHAW
c/o M. HICKS
c/o P. BASKIN
c/o T. YORK

(Names of all Defendants)

RECEIVED

MAR 09 2009

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

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
- B. If your answer to A is yes, how many? _____
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 _____
Defendants _____

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

3. Docket Number _____ 4. Assigned Judge _____

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

6. Filing date (approx.) _____ 7. Disposition date (approx.) _____

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.

~~INCIDENT ON 9-10-2006 INFORMAL - BY PASSED; FORMAL - BY PASSED;
SECOND LEVEL - P. GRANTED; DIRECTOR'S REVIEW - DENIED; INCIDENT ON 9-12-06
INFORMAL - BY PASSED; FORMAL - BY PASSED; SECOND LEVEL - P. GRANTED; DIRECTOR'S
REVIEW - DENIED.~~

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 Lydia C. HENSE is employed as WARDEN
at NORTH KERN STATE PRISON

B. Additional defendants CORRECTIONAL OFFICER J. LOPEZ - CORRECTIONAL OFFICER - NORTH KERN STATE PRISON.

R. SHAW - CORRECTIONAL OFFICER - NORTH KERN STATE PRISON.
M. HICKS - CORRECTIONAL OFFICER - NORTH KERN STATE PRISON.
P. WASKIN - CORRECTIONAL OFFICER - NORTH KERN STATE PRISON.
T. YORK - CORRECTIONAL OFFICER - (S-) - NORTH KERN 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.)

ON 9-10-2006 CORRECTIONAL OFFICER M. HICKS ACTING IN A SUFFICIENTLY CULPABLE STATE OF MIND DENIED THE PLAINTIFF HIS MORNING MEAL AND LUNCH AS A FORM OF DISCRIMINATION AND PUNISHMENT BASED ON THE PLAINTIFF RELIGIOUS FAITH (ISLAM). DISCRIMINATORY AND DEROGATORY STATEMENTS WERE AIMED AT THE PLAINTIFF SUCH AS HOW C/O M. HICK DIDNT GIVE A FICK ABOUT THE PLAINTIFFS RELIGIOUS DIET NEEDS. THE PLAINTIFF MADE SEVERAL NUMEROUS ATTEMPTS TO EXPLAIN TO C/O M. HICK THAT BEING A SINCERE AND FIRM MUSLIM, THE PLAINTIFF IS STRICTLY FORBIDDEN UNDER THE PRECEPTS OF THE HOLY QURAN AND THE AUTHENTIC SAYINGS OF THE PROPHET MUHAMMAD TO CONSUME ANY MEAT PRODUCTS THAT HAS NOT BEEN SLAUGHTER ACCORDING TO ISLAMIC METHODS IN RESPONSE, C/O M. HICK MAILED THE PLAINTIFF WITH STATEMENTS SUCH ISLAM WASNT AN AU LIKE THE JEWS, HOW MUSLIMS WERE A BUNCH OF STUPID BLACKS PLAYING TO A MONKEY, AND THAT MUSLIMS WERE NOTHING BUT TERRORISTS AND IF SHE /O M. HICKS HAD HER WAY THE PLAINTIFF WOULD STARVE TO DEATH ... PLEASE CONTINUE ON ADDITIONAL PAGES;

V. Relief.

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

1. REMOVAL OF DEFENDANTS FROM THEIR POSITIONS OF EMPLOYMENT
2. DEFENDANTS PAY ALL COURT FEES AND EXPENSES
3. DEFENDANTS PAY FOR DAMAGES TO PLAINTIFF FOR PAIN AND SUFFERING AND THE DENIAL OF PLAINTIFF RIGHTS
4. THAT COURT AWARDS THE PLAINTIFF IN ANY OTHER WAY IT DEEMS FIT...

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

Date 3-3-2009

Signature of Plaintiff John Allen

C/O M. HICKS ACTING INTENTIONALLY WITH MALICE DENIED THE PLAINTIFF FOOD KNOWING THAT
WOULD LIKELY INFLECT PAIN AND SUFFERING ON THE PLAINTIFF AND DEPRIVED THE PLAINTIFF
OF A SINGLE IDENTIFIABLE HUMAN NEED...

ON 9.12.2006 IN RETALIATION FOR FILING A GRIEVANCE AGAINST FELLOW OFFICER M. HICKS
CORRECTIONAL OFFICER J. LOPEZ ACTING WITH A SUFFICIENTLY CULPABLE STATE OF MIND
LEFT THE PLAINTIFF HANDCUFFED BEHIND HIS BACK FOR APPROXIMATELY 7 TO 8 HOURS WITHOUT
ACCESS TO WATER OR REGULAR BATHROOM BREAKS. THE ACTIONS OF C/O J. LOPEZ
CAUSED THE PLAINTIFF PHYSICAL PAIN, CONTINUOUS MUSCLES ACHES TO BOTH SHOULDERS
AND INJURY TO BOTH WRISTS, DISCOMFORT AND STOMACH PAINS FOR NOT BEING ABLE
TO RELIEVE HIMSELF. C/O J. LOPEZ RETALIATORY ACTIONS WERE INTENTIONALLY
DONE WITH MALICE THAT ROSE TO THE LEVEL OF CRUEL AND UNUSUAL PUNISHMENT
AND WAS AN ATYPICAL SITUATION THAT CAUSED A SIGNIFICANT HARDSHIP...

ON 9.12.2006 CORRECTIONAL OFFICERS R. SHAW, P. GASKIN AND T. YORK ALL
PARTICIPATED IN THE RETALIATORY ACTIONS AGAINST THE PLAINTIFF FOR FILING
GRIEVANCES AGAINST FELLOW OFFICERS, BY REFUSING TO PROTECT THE PLAINTIFF
FROM VIOLENT TREATMENT BY OTHER GUARDS IN PARTICULAR THE ACTIONS OF C/O J. LOPEZ

MIME-Version: 1.0 From: caed_cmecf_helpdesk@caed.uscourts.gov
To: caed_cmecf_nef@localhost.localdomain Message-Id: Subject: Activity in Case 1:09-cv-00433-SMS
(PC) Allen v. Hense et al Prisoner Civil Rights Complaint Content-Type: text/html

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U.S. District Court

Eastern District of California – Live System

Notice of Electronic Filing

The following transaction was entered on 3/11/2009 at 9:59 AM PDT and filed on 3/9/2009

Case Name: (PC) Allen v. Hense et al

Case Number: 1:09-cv-433

Filer: John Allen

Document Number: 1

Docket Text:

(1983) PRISONER CIVIL RIGHTS COMPLAINT against Lydia C. Hense, J. Lopez, R. Shaw, M. Hicks, P. Gaskin, T. York by John Allen. (Jessen, A)

1:09-cv-433 Electronically filed documents will be served electronically to:

1:09-cv-433 Electronically filed documents must be served conventionally by the filer to:

John Allen
J-91136
CALIFORNIA STATE PRISON, SACRAMENTO (REPRESA-29)
P.O. BOX 290066
REPRESA, CA 95671-0066

The following document(s) are associated with this transaction:

John Allen J-91136
CALIFORNIA STATE PRISON, SACRAMENTO (REPRESA-29)
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