

1 MR. ROBERT TREVINO J-64367  
2 P.O. BOX- 450A  
3 COALINGA, CA 93210

**FILED**

OCT 29 2008

*md*

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

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

11 ROBERT TREVINO  
12 Plaintiff  
13 vs.  
14 MC BRIDE  
CANO AND ROBERTS  
15 Defendants

CASE No.  
*1:08-cv-1649 DLB(LPC)*  
42 - USC § 1983  
CIVIL - COMPLAINT

(PC) Trevino v. Mc Bride et al

Doc. 8 Att. 1

I - INTRODUCTION

18 PLEASE TAKE NOTICE, the exact date will be supplemented.  
19 1. On or about \_\_\_\_\_ 2007, defendants ROBERTS,  
20 and CANO, pulled out the Plaintiff and his former cell-mate Rudy Maes, to conduct a  
21 cell search, placing the Plaintiff in the shower, and Rudy Maes took a seat in the  
22 day-room right in front of the cell. Therefore Rudy Maes observed defendants CANO,  
23 and ROBERTS going through all the personal property inside the cell. The Plaintiff had  
24 some of his legal property inside a laundry bag with some other books, under the Plaintiff's  
25 bottom bunk. Rudy Maes observed defendant ROBERTS, sling this laundry bag with said  
26 legal property, and books into a laundry cart.  
27 2. On or about \_\_\_\_\_ 2007, the Plaintiff filed a

1 602/APPEAL grievance regarding this property issue, and on \_\_\_\_\_, 2007.  
2 the Plaintiff exhausted his administrative remedies to the 3rd level, which is the  
3 director's level in Sacramento, CA, on \_\_\_\_\_, 2007.

4 II VENUE

5 3. Venue is proper in that one or more of the defendants reside  
6 in the EASTERN DISTRICT OF CALIFORNIA and this case arose in the EASTERN  
7 DISTRICT OF CALIFORNIA. Therefore this COURT has jurisdiction over the subject  
8 matter of this civil rights complaint hereof.

9  
10 III JURISDICTION

11 4. Jurisdiction is proper, because the cause of action was  
12 committed in the Eastern District of California. Therefore this civil rights complaint  
13 is binding in this COURT, and therefore has territorial jurisdiction over the subject  
14 matter of this civil rights complaint under 42-usc § 1983

15 IV DEFENDANTS

16 5. On \_\_\_\_\_, 2007, defendant Mc Bride was  
17 employed by the department of corrections in Coalinga, California at  
18 Pleasant Valley State Prison, and executed the duties of a Correctional  
19 Sergeant in A-Facility.

20 At all times mentioned herein defendant Mc Bride  
21 is being sued in his individual and official capacity under 42-usc § 1983  
22 civil rights action.

23 6. On \_\_\_\_\_, 2007 defendant CANO was employed  
24 by the department of corrections in Coalinga, California at Pleasant Valley  
25 State Prison, and executed the duties of a correctional officer in A-Facility,  
26 2-Block.

27 7. At all times mentioned herein defendant CANO is being  
28

1 sued in his individual and official capacity under 42-usc § 1983 civil rights action  
2 8. On \_\_\_\_\_ 2007, defendant ROBERTS was  
3 employed by the department of corrections in Coalinga, CA, at Pleasant Valley  
4 State Prison, and executed the duties of a Correctional officer in A-Facility  
5 2-Block.

6 9. At all times mentioned herein defendant ROBERTS is  
7 being sued in his individual and official capacity under 42-usc § 1983 civil  
8 rights action.

9 **V PARTIES**

10 10. I ROBERT TREVINO am the Plaintiff in the above  
11 referenced matter. Plaintiff is a natural citizen of the United States, and  
12 an ex-tax payer. Plaintiff is incarcerated in Pleasant Valley State Prison,  
13 P.O. Box - 8504, zip code 93210. Plaintiff's prison number is J-64367.

14 11. MR Yates is the Warden of Pleasant Valley  
15 State Prison, and the Legal custodian of Plaintiff.  
16 \_\_\_\_\_ is the Director of the California  
17 Department of Corrections (CDC) and is responsible for the operation  
18 of each of its state prisons, including the operation of Pleasant Valley State  
19 Prison.

20 **VI CAUSE OF ACTION**

21 12. Plaintiff is bringing this action against all the defendants under  
22 the First, Eighth and Fourteenth Amendments of the State and Federal Constitutions, and the  
23 United States Constitution.

24 13. Defendants CAND and ROBERTS' cell search amounted to  
25 "calculated harassment" unrelated to prison needs, and may constitute cruel and  
26 unusual punishment in violation of the Eighth Amendment, and also may constitute  
27 deprivation of procedural due process.

1 14. Procedures are designed to prevent improper  
2 deprivation of property rather than to remedy them later with damages. After  
3 "Hudson v. Palmer" 465 U.S. 517, 104 S.Ct. 3194 (1984)

4 15. Defendants CANO and ROBERTS did more with unconstitu-  
5 tional intent and seized personal property from the Plaintiff (with aforeknowledge  
6 that some of it was legal documents, and that Plaintiff was litigating a civil-  
7 rights action against California Department of Corrections (C.D-C)) and they  
8 both intentionally failed to provide the Plaintiff with a confiscation receipt for  
9 the seized property, on \_\_\_\_\_, 2008, and disposed of said property,  
thus violating the Due Process Clause, because of the following reasons:

- 11 (1) They failed to leave Plaintiff a property receipt.
- 12 (2) They denied the Plaintiff the right to be heard.
- 13 (3) Because some of the property was legal, it denied  
14 the Plaintiff adequate access to the courts, because he could not pursue his  
litigation effectively.

15 16. (4) The post-deprivation remedy was unfair, and  
16 inadequate, because it failed to restore the Plaintiff with his legal  
17 property, and other items.

18 The Courts have cited the Due Process Clause, the  
19 Equal Protection Clause, the First Amendment, and the Privileges and Immunities  
20 Clause of Article IV of the Constitution as the bases for the right.

21  
22 **VII STATEMENT OF THE FACTS**

23 17. On \_\_\_\_\_, 2008, defendants CANO and ROBERTS  
24 pulled the Plaintiff, and his former cell mate "Rudy Maes" out of their cell  
25 (in A-Facility, 2-Block, cell-131) to conduct a cell search. The Plaintiff  
26 believes that it was done out of retaliation, because it was the 2nd cell search  
27 in one (1) week, both times the cell was tore-up, i.e. leaving everything  
28 thrown around, and out of place, and because all the personal property

1 property that was confiscated was not contraband, and some of the property  
2 inside the Laundry bag was legal property pertaining<sup>ing</sup> to two (2) active case, which  
3 Plaintiff had at the present time

4 18. The Plaintiff was placed inside the shower, during the  
5 cell search; however Rudy Maes was seated on a table directly in front  
6 of the party's cell. Therefore he has first-hand knowledge of the events that  
7 transpired.

8 19. Rudy Maes stated that both defendants entered the  
9 party's cell, i.e. the Plaintiff's cell and were going through everything (like  
10 a fine-tooth comb) throwing everything around, making a big mess.

11 20. The Plaintiff had the bottom bunk, and had a lot of property  
12 under his bunk. Rudy Maes observed defendants CANO and ROBERTS going through  
13 the property under the bunk, and observed defendant ROBERTS grab the Laundry  
14 bag, which weighted about 35 to 40 pounds and slung it into a Laundry cart that was  
15 in front of the cell.

16 21. The defendants cannot say that they did not know the contents  
17 of what was inside the Laundry<sup>bag</sup> because it was like a netted see-through bag.

18 22. The cell-search took about 1/2 hour, and thereafter  
19 the Plaintiff and Rudy Maes, was placed, or replaced in their cell, which was  
20 like a disaster area

21 23. Thereafter Rudy Maes informed the Plaintiff that  
22 he observed defendant ROBERTS going through the Plaintiff's legal property  
23 under his bunk, as if he was reading it, and throwing it back into the Laundry  
24 bag.

25 24. The Laundry cart and defendant ROBERTS was  
26 still in front of Plaintiff's cell, when he confronted defendant ROBERTS, as to  
27 why he confiscated his personal property, that it was legal property that  
28 pertain to a pending case, and requested numerous times to return it, with  
negative results.

25 The Plaintiff also requested a confiscation



1 receipt from both defendants ROBERTS AND CANO, and both refuse to do so.

2 26. The Plaintiff observe defendant ROBERTS Bell the  
3 Laundry cart into the hot-trash room, which is inside the Block.

4 27. About ten(10) minutes thereafter the Plaintiff also  
5 confronted defendant CANO, as to why they confiscated his personal property  
6 which wasnt contraband, and that he wanted<sup>x</sup> returned, or a property receipt,  
7 and defendant CANO failed to give the Plaintiff a straight answer, or reason  
8 as to why it was confiscated, and Plaintiff informed defendant CANO that  
9 they didnt have a right to confiscate it, because it pertained to an active case.  
and he just ignored the Plaintiff, as if he could not hear.

11 28 Two (2) or three(3) days Later the Plaintiff confronted  
12 a sergeant, he believes it was sergent Mc BRIDE. The Plaintiff notified defendant  
13 MCBRIDE that the defendants ROBERTS and CANO had disposed of his personal  
14 property, which consisted of personal books, magazines, and Legal property, which  
15 pertained to a pending case, that defendant ROBERTS had placed it in a Laundry  
16 cart inside the "Hot-trash" room (which is inside the unit) and if he could return  
it to the Plaintiff.

17 29 Defendant Mc BRIDE refused to check inside the  
18 Hot-trash room, and he just disregarded the Plaintiffs' request, by stating  
19 that such kind of property would not be there, and did not want to discuss the  
20 matter, and stated by brushing the Plaintiff off, "file a 602/APPEAL", which is  
21 a grievance.

22 30 It should be noted that this was the second time  
23 that the PLarntiff had Legal property missing out of his cell, which was done  
24 out of Retaliation because of the Plaintiffs civil Law suits against CDC.

25 31 The Plaintiff even dropped one (1) Law-suit where  
26 he was stabbed twice in his right arm, which was filed in this court, and  
the Retaliatory acts have not abated to this day.

27 32 This is the second time that the Plaintiff was  
28

1 placed in the hole for things he did not do, or for things he was not involved in,  
2 and they all know it, but the <sup>of the evidence</sup> preponderance is being disregarded, and now they  
3 have the Plaintiff up for transfer, which is unwarranted, and the Plaintiff has  
4 filed a 602/Appeal grievance which is now pending in Sacramento, while the  
5 Plaintiff is stuck in the hole for no valid reason.

### 7 VIII LEGAL CLAIM

8 33 The Supreme Court also suggested that cell searches  
9 amounting to "calculated harassment unrelated to prison needs" may constitute  
10 cruel and unusual punishment in violation of the Eighth Amendment. *Hudson*  
11 *v. Palmer*, 468 U.S. at 530

12 34. The defendants MCBRIDE, ROBERTS AND CAND, deprived  
13 the Plaintiff from obtaining certain parts of his legal property, which had an  
14 adverse affect on one (1) of his cases, which he could not litigate efficiently  
15 and the defendants were granted summary judgment, and now, with the case  
16 that is pending, he has documents that are completely missing, or missing pages,  
17 and Plaintiff has to write to the deputy attorney general Mr. Lee, requesting  
18 certain documents "in the interest of justice."

19 35 The Plaintiff has been in the "Hole" for six (6) months  
20 and has barely been given access to legal materials to file this civil rights  
21 action, otherwise he would have filed this action alot earlier.

22 36 When inmates are afforded the opportunity to  
23 possess property, they enjoy a protected interest in that property that cannot  
24 be infringed without due process. *Mc Crae v. Hankins*, 720 F.2d 863, 869  
25 (5th Cir. 1983); accord, *Abbott v. Mc Cotter*, 13 F.3d 1439, 1443 (10th Cir. 1984);  
26 *Bryant v. Barbara*, 11 Kan. App. 2d 165, 717 P. 2d 522, 524 (Kan App. 1986)

27 37. Other constitutional provisions may protect prisoner  
28 against the confiscation of certain types of property, such as legal  
materials,

1 38 Because the Constitution protects an inmates access  
2 to the courts, prison officials may not retaliate against those who seek or  
3 obtain such access, whether the retaliation takes the form of withholding  
4 property or privileges does not matter. (Wright v. Newsome, 795 F.2d 964, 968  
5 (11th Cir. 1986) (seizure of property); Martin v. Ezerger, 816 F. Supp. 20, 24,  
6 (D.D. 1993) ("ongoing pattern of harassment and arbitrary exclusion from Law  
7 Library")

8 39 Seizure or deprivation of Plaintiffs' Legal papers  
9 may also violate the Constitution. Browell v. Conine, 957 F.2d 353, 354 (7th Cir.  
10 1992); and cases cited; But see Chavers v. Abrahamson, 803 F. Supp. 1512, 1514  
11 (E.D. Wis. 1992) (deprivation of legal materials denies court access only if  
12 they are "crucial or essential to a pending or contemplated appeal"

13 As stated in paragraph 34 the deprivation of said  
14 legal property did cause a prejudicial effect on the Plaintiffs' litigation, to the  
15 extent he could not oppose the defendants' motion for summary judgment effectively  
16 in case no. 05-cv-0966 or 07-1771, (Plaintiff gets these cases confused), e.g. he did  
17 not know that his case no. 97-01771 was filed timely in the 9th Circuit, and other  
18 information that demonstrated how the defendants interfered with the Plaintiffs'  
19 access to the courts.

20 If the confiscation of prisoners' legal papers obstruct  
21 access to court the Plaintiff may seek redress in federal court without regard to  
22 the existence of state remedies; the matter is not treated simply as a property  
23 claim. Zilich v. Lucht, 981 F.2d 694, 696 (3d Cir. 1992); Morello v. James, 810  
24 F.2d 344, 347-48 (2d Cir. 1987)

25 In some instances this burden of proof may be met  
26 by circumstantial evidence such as the time sequence of the Plaintiffs' legal action  
27 and the alleged retaliation. Smith v. Maschner, 399 F.2d 940, 947-49 (10th Cir. 1990)  
28 and cases cited.

Deprivations of property that are "authorized" or



1 result from an "established procedure" may deny the Plaintiffs due process  
2 regardless of whether there is a post-deprivation remedy. Logan v. Zimmerman  
3 Brush Co. 455 U.S. 422, 436 (1982) accord, Farid v. Smith, 850 F.2d 917, 925.

4 Some older cases held that when prison officials  
5 intentionally seized property, they must give the Plaintiff a receipt for the  
6 seized property, a statement of reason for the seizure, the right to be heard in  
7 opposition to the seizure, and a decision with reasons if the seizure is upheld,  
8 United States ex-rel. Wolfish v. Levi, 428 F. Supp. 333, 342 (S.D.N.Y. 1977)  
9 supplemented, 439 F. Supp. 114, 151

10 One court recently stated that due process requires that  
11 the Plaintiff receive a reasonable opportunity to be heard on the issue of whether  
12 seized property is contraband, and that a disciplinary hearing on contraband  
13 charges provide that opportunity Stewart v. McGinnis, 5 F.3d 1031, 1037 (7th Cir. 1993)  
14 cert. denied, 114 S.Ct. 1675 (1994). In that case prison procedures required that  
15 receipts be given. In Watson v. Caton, 984 F.2d 537, 541 (1st Cir. 1993), the court  
16 held that if prison policy calls for receipts, an officers' failure to provide the  
17 Plaintiff with one did not deny due process because it was a deviation from  
18 established procedure. Accord, Stewart v. McGinnis, 5 F.3d at 1036.

19 Plaintiff think this holding is wrong.  
20 If the officer is authorized to take Plaintiffs' property, the deprivation  
21 of property is not "random and unauthorized". The failure to follow due process  
22 requirements does not make the deprivation "random and unauthorized" as those  
23 words are used in Hudson. It is only a seizure of property by an officer who is  
24 not authorized to make the seizure that is considered "random and unauthorized".

25 In the instant case defendants CAND and ROBERTS  
26 were authorized to make the seizure, and according to "Operational Procedure"  
27 (O.P.) they were required to provide the Plaintiff with a property receipt,  
28 especially because the property that was confiscated was not contraband.

A few courts have held that if an item is contraband

1 the Plaintiff has no "property interest" in it, and it can therefore be taken without  
 2 due process. *Lyon v. Farrie*, 730 F.2d at 527; *McWhorter v. Jones*, 573 F.  
 3 Supp. 33, 34-35 (E.D. Tenn. 1983); *Bryant v. Barbara*, 11 Kan App. 2d 165, 717  
 4 P.2d 522, 524 (Kan. App. 1986)

5 SUBSTANTIVE CONSTITUTIONAL RIGHTS; Some  
 6 deprivation of property infringe on constitutional rights such as religious freedom  
 7 or access to the courts. *Smith v. Smith*, 578 F. Supp. 1372, 1375 (E.D. Pa. 1984)

8 Under extreme circumstances, a property deprivation  
 9 might constitute cruel and unusual punishment. *Hudson v. Palmer*, 468 U.S. 517, 530, 104  
 10 S.Ct. 3194 (1984). A claim based on one of these rights is not a procedural due  
 11 process claim at all, so it doesn't matter whether there is an adequate post deprivati-  
 12 tion remedy or not.

13 The post-deprivation remedy rule applies only to  
 14 deprivations of procedural due process. It has no relevance to issues of substantive  
 15 due process or to other substantive constitutional violations. *Zimmerman v. Burch*,  
 16 494 U.S. at 125-27

17 If Plaintiff has been unlawfully beaten up, deprived  
 18 of religious rights, denied medical care, or access to courts, subjected to an unlaw-  
 19 ful search etc., it doesn't matter what remedies the state provides. The Plaintiff is  
 20 entitled to bring a civil rights suit in federal court. *Williams-El v. Johnson*, 872  
 21 F.2d 224, 229 (8th Cir. use of force) cert. denied, 493 U.S. 971 (1989); *Love v.*  
 22 *Sheffield*, 777 F.2d 1453, 1454 (11th Cir. 1985) (inmate assault and denial of  
 23 medical care); *Augustine v. Doe*, 740 F.2d 322, 325-27 (5th Cir. 1984) (unlawful  
 24 search). This is true even if part of Plaintiff's damages include a loss of  
 25 property. *Zilich v. Lucht*, 981 F.2d 694, 695 (3d Cir. 1992) (deprivation of legal  
 26 materials); *Morelle v. James*, 810 F.2d 344, 347-48 (2d C.A. 1987) (same);  
 27 *Simmons v. Dickhaut*, 804 F.2d 182, 184-85 (1st Cir. 1986) (same); *Mann v.*  
 28 *City of Tucson, Dept. of Police* 782 F.2d 790, 793 (9th Cir. 1986) (unlawful  
 search resulting in property loss).

1 According to the Plaintiffs "out-dated" Litigation book it  
2 states that courts have not yet developed firm rules for deciding when a post-  
3 deprivation remedy is inadequate, but it is clear that Plaintiff must show either  
4 that the procedure is unfair, that it was not really available to Plaintiff, or that it  
5 failed to address the merits of Plaintiff's claim. One court has stated that if relief  
6 is denied for any reason other than the lack of merit of the claim, due process is  
7 denied and the matter can be heard by a federal court. *Leffin v. Thomas*, 681 F.2d  
8 364, 365 (5th Cir. 1982)

9 The Courts have cited the Due Process Clause, the  
10 Equal Protection Clause, the First Amendment, and the Privileges and Immunities  
11 Clause of Article IV of the Constitution as the basis of the right to Access to the  
12 courts. *Murray v. Giarratano*, 492 U.S. 1, 11 n. 6 109 S.Ct. 2765 (1989)

13 In the instant case such deprivation of legal-  
14 property infringed also on (Substantive Constitutional Rights) because the  
15 constitutional deprivation interfered with reasonable access to the courts. *Smith*  
16 *v. Smith*, 578 F. Supp. 1373, 1375 (E.D. Pa. 1984)

### 17 IX RELIEF

18 Plaintiff is without remedy save by this 42 USC § 1983  
19 Civil Rights Complaint.

20 WHEREFORE, Plaintiff respectfully request for the Courts:

- 21 1. Issue the 42 USC § 1983 Complaint
- 22 2. declare the rights of the party
- 23 3. Compensatory and Punitive monetary damages from  
24 defendants Mc Bride, CAND, and ROBERTS in the amount which the jury deems  
25 proper
- 26 4. Instructing CDC to abstain from Retaliating  
27 against Plaintiff for filing this 42-USC § 1983 Civil Rights Law-suit.
- 28 5. appoint counsel award reasonable attorney fees and

1 to grant any other and further relief the Court  
2 deems proper.

3  
4 **X VERIFICATION**

5 That I am the Plaintiff of this 42-USA § 1983 Civil  
6 Rights Complaint, have read the foregoing Complaint and know the contents thereof. That  
7 the contents of this Complaint are true and correct of my own knowledge, except as  
8 to those matters which are alleged on information and belief; and as to those matters  
9 I do believe them to be true. I declare under penalty of perjury under the Laws of  
10 the United States of America that the foregoing is true and correct and that this  
11 declaration was executed on the 27<sup>th</sup> day of OCTOBER, 2008.

12 **RESPECTFULLY SUBMITTED**

13 *Mr Robert Trevino*

14 **ROBERT TREVINO**

15 **Declarant AND Plaintiff**



PROOF OF SERVICE BY MAIL

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I, ROBERT TREVINO, declare;

I am at least 18 years of age, and a party / and not a party to the attached her  
cause of action. My mailing address is;

PLEASANT VALLEY STATE PRISON  
FACILITY D, BUILDING 4, CELL 225  
POST OFFICE BOX 8504  
COALINGA CALIFORNIA  
93210-8504

On OCTOBER 27<sup>th</sup>, 2008, I delivered to prison officials at Pleasant Val:  
State Prison at the above address the following documents for mailing via the U.  
Postal Service:

- 1. 42-USC § 1983 Complaint
- 2. \_\_\_\_\_
- 3. \_\_\_\_\_
- 4. \_\_\_\_\_

In a sealed envelope(s) with postage fully prepaid, addressed to:

U.S. District Court  
Eastern District of California  
2500 Tulare St. #1501  
Fresno, CA. 93721

- 2. \_\_\_\_\_
- 3. \_\_\_\_\_
- 4. \_\_\_\_\_

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

Executed this 27<sup>th</sup> day of OCTOBER, 2008, at Coalinga, California.

Mr. Robert Trevino  
ROBERT TREVINO

Petitioner / Declarant IN PRO PER

Civil  
East

Plaintiff's Name MR. ROBERT TREVINO  
Inmate No. J-64367  
Address P.O. Box - 8504  
CDALINGA, CA. 93210

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

ROBERT TREVINO  
(Name of Plaintiff)

\_\_\_\_\_  
(Case Number)

vs.

COMPLAINT

MC BRIDE, CAND, Roberts  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(Names of all Defendants)

Civil Rights Act, 42 U.S.C. § 1983

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? 4  
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 TREVINO

Defendants WHITTEN

2. Court (if Federal Court, give name of District; if State Court, give name of County)  
EASTERN DISTRICT IN FRESNO AND SACRAMENTO

3. Docket Number 05-CV-0466 4. Assigned Judge OWW-SMS-P  
07-17171 LKK-DAD-P

5. Disposition (For example: Was the case dismissed? Was it appealed? Is it still pending?)  
This case CV-97-01771 was dismissed after being appealed, and then  
the case No. 07-17171

6. Filing date (approx.) 2005 7. Disposition date (approx.) 2007

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.

At each level they failed to restore the Plaintiff with any of his legal property, or other items.

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 Mc Bride is employed as correctional sergeant at P.V.S.P. at Coalinga, CA.

B. Additional defendants  
Defendant CAND is employed as a correctional officer at P.V.S.P. at COALINGA, CA. I.E. (Pleasant Valley State Prison  
Defendant ROBERTS is employed as a correctional officer at

IV. Statement of Claim P-V-S-P. at COALINGA, CA I.E. Pleasant Valley State Prison

(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.)

PLEASE SEE ATTACHED

V. Relief.

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

PLEASE SEE ATTACHED

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

Date OCTOBER 27<sup>th</sup>

Signature of Plaintiff Mr. Robert Trevino

(revised 9/17/03)