

ORIGINAL

Plaintiff's Name Gregory McClellan  
Inmate No. AI-6066  
Address P.O. Box 8103  
G-25-30 Low (CMC-West Facility)  
San Luis Obispo, CA. 93403

RECEIVED

MAR 17 2014

FILED

MAR 17 2014

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA  
BY [Signature] DEPUTY CLERK

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

Gregory McClellan

1:10-cv-00386-LJO-MJS

(Name of Plaintiff)

(Case Number)

vs.

FOURTH

AMENDED COMPLAINT

Kern County Sheriff's Office,  
Donny Youngblood - Sheriff,  
W. Hakker - Deputy Sheriff,  
W. Smallwood - Deputy Sheriff,  
S. Lozano - Parole Agent I-CDCR,  
L. Wood - B.P.D. - Officer  
K. Perkins - B.P.D. Officer, et. al.,  
(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? 5  
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 Gregory McClellan

Defendants John Marshall, et. al.,

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

3. Docket Number 11-5207

4. Assigned Judge Nine Court Justices

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

6. Filing date (approx.) July 2011

7. Disposition date (approx.) Pending

II.

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 Not applicable.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

C. Is the process completed?

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

Denied. Kern County Jail facilities have a single level of administrative review. Plaintiff fully exhausted his administrative remedies.  
\_\_\_\_\_  
\_\_\_\_\_

No  If your answer is no, explain why not.

Not applicable.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**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 Donny Youngblood is employed as Kern County Sheriff  
at Bakersfield, CA. (Kern County)

B. Additional defendants Kern County Sheriff's Office, an entity; William R. Hakker - Deputy Sheriff in Kern County; William G. Smallwood - Deputy Sheriff in Kern County; S. Lozano - Parole Agent I in Bakersfield, CA.:a California Department of Corrections and Rehabilitation employee; Louis Wood - Bakersfield Police Department Officer; Kenneth Perkins - Officer for Bakersfield Police Department; T. Rodriguez - Deputy Officer at Kern County Jail Lerdo Facility; Jane and John Does 1-7 that are Deputies/ Officers employed at Kern County Jail Lerdo Pre-trial Facility; Joel Lueck - Deputy Public Defender at Kern County Public Defender's Office.; Deputy John Doe Contreras (Kern Sheriff's Office)

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.) ASSAULT AND BATTERY WHILE "USING EXCESSIVE FORCE"

(FIRST CAUSE OF ACTION)

1. Plaintiff was initially arrested on a parole violation only (CA. Pen.Code section 3056) by defendants S. LOZANO, L. WOOD, and K. PERKINS on 8-17-2009. B.P.D. Sergeant Leonard Larson (Badge #573) informed defendants WOOD and PERKINS to not file any charges because "excessive force" was used at the 8-17-2009 arrest near Union Avenue and California Avenue in Bakersfield, California.

Factual Details of Action:

2. Plaintiff was slammed "face-first" to the street island pavement by state parole agent (defendant) S. LOZANO on 8-17-2009. Bakersfield Police Officer (hereafter, "B.P.D.") (See continuation 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. \$4,950,000.00 in compensatory damages (\$50,000.00 per day);
2. Penitive damages according to proof;
3. Injunctive relief: to prevent any retaliation against Plaintiff for seeking legal redress.
4. Any further appropriate actions fo the Honorable Court.

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

Date March 7th, 2014

Signature of Plaintiff Gregory McClellan /s/ Gregory McClellan In Propria Persona

(revised 2/10/2006)

1 3. LOUIS WOOD (Badge No. 991) and B.P.D. Officer KENNETH PERKINS (Badge No. 1086),  
2 these two defendant Bakersfield Police Officers did assist in violent twisting  
3 of Plaintiff's arms behind his back, and placing knees in his back as well.  
4 Plaintiff suffered a busted and bloody nose, black eyes, painful facial abra-  
7 5 sions, and the aggravation of his lower back degenerative disc disease, and  
6 also suffered three (3) breaks in his lumbar vertebrae (at L3, L4, and L5).  
7 See Exhibit "A" for arrest picture, (Attachment-A)

8 4. Plaintiff's injuries are more than de minimus. Plaintiff saw medical  
9 staff and was treated for headaches, back pain, black eyes, and the painful  
10 facial bruising. The officers applied pressure to stop the bleeding nose, which  
11 bled violently on impact to hard concrete street island pavement on 8-17-2009,  
12 at the scene of the violent assault by defendants LOZANO, WOOD, and PERKINS.

13 5. Plaintiff was kneeling down with his hands behind his back, attempting  
14 to surrender without being harmed, when defendant S. LOZANO, maliciously and  
15 sadistically used 'excessive force' that caused the broken vertebrae, busted and  
16 bloody nose, aggravation to the degenerative disc disease in Plaintiff's lower  
17 back, and the painful facial abrasions ("road rash"). Defendant S. LOZANO,  
18 himself, states that Plaintiff was turned away from him when he "tackled  
19 Plaintiff". As stated in Paragraph #1, Sergeant Leonard Larson (Badge #573)  
20 informed defendants LOZANO, WOOD, and PERKINS, to not file any charges because  
21 'excessive force' was used. Plaintiff heard the conversation between the  
22 arresting defendants and Sergeant Larson. Thus the charges were not filed  
23 until 11-12-2009, at least the Plaintiff was not arraigned until 11-13-2009.  
24 Plaintiff, again, was taken out to court from Avenal State Prison on 11-12-2009  
25 (See Exhibit "B").

26 6. Plaintiff continues to suffer excruciating back pain, pain from his hip  
27 to his foot on his right side of his body as well. Plaintiff received tylenol  
28 3 with codeine to ease the pain in Kern County Jail, however, prison policies

1 do not allow 'narcotics' for pain even by prescription (now it does, as of  
2 this date). Also as a result of the 'excessive force', Plaintiff needs a  
3 right hip replacement. Plaintiff, however, is hypertensive (high blood  
4 pressure), and most other medications do aggravate his hypertension. There  
5 was no need for the force applied by defendants S. LOZANO, L. WOOD, and K.  
6 PERKINS, as is evidenced by Sergeant Larson and late case filing.

7 **SECOND CAUSE OF ACTION: MALICIOUS PROSECUTION**

8 7. Plaintiff was sent to Wasco State Prison on 8-20-2009 for a parole  
9 violation only, and then transferred to Avenal State Prison on 10-19-2009 to  
10 serve out the parole violation. On 11-12-2009, Plaintiff was transported to  
11 Kern County Jail by two of [defendant's] YOUNGBLOOD's agents. The Plaintiff  
12 was then arraigned on 11-13-2009 in case no. BF-129568A, on crimes he did not  
13 commit and could not have committed, a 'moving violation'. An alleged failure  
14 to report a change of address, and false information on an update form.  
15 Defendants HAKKER and SMALLWOOD conducted an investigation and determined that  
16 Plaintiff violated Cal.Pen.Codes §§290(b), 290.013(a), and 290.018(j).

17 8. Defendants YOUNGBLOOD, HAKKER, and SMALLWOOD, detained the Plaintiff  
18 without color of legal authority. The arrest and transportation of Plaintiff  
19 from Avenal State Prison (Avenal, CA.) to Kern County Jail was done without  
20 probable cause that Plaintiff committed any crime. The Plaintiff has documents  
21 to prove his claim of 'no probable cause' beyond a 'preponderance of the  
22 evidence' level or standard. Thus the defendants acted without color of legal  
23 authority by the continued prosecution in Kern County Jail from 11-12-2009 to  
24 2-18-2010. This 42 U.S.C §1983 does not challenge the Plaintiff's current  
25 conviction, and Plaintiff appreciates being allowed an opportunity to  
26 proceed on this civil rights claim. The four elements of 'malicious prosecution' here  
27 met:(1)case initiated without probable cause; (2) thus malice per se, (3) favorable termination on  
28 2-18-2010, and (4) Injury - intentional infliction of severe emotional stress ("distress").

1 9. Defendant JOEL LUECK, Deputy Public Defender, is linked in the  
2 following way: LUECK refused to hand over crucial documents to clear Plaintiff  
3 at his 11-13-2009 felony arraignments (3 counts). Plaintiff then requested  
4 these documents by mail and not only that but in person on 12-01-2009 (in open  
5 court). Plaintiff wrote defendant LUECK again after his 12-1-2009 court date  
6 with negative results. Thus Plaintiff filed a motion to proceed in the  
7 criminal action (BF-129568A) in propria persona. Judge Colette M. Humphrey  
8 granted that motion on 1-15-2010. After a review of crucial documents, the  
9 Plaintiff's suspicions were confirmed, Plaintiff had not committed any crime,  
10 and definitely not the crimes that HAKKER, SMALLWOOD, and YOUNGBLOOD, had  
11 accused Plaintiff of. This defendant, JOEL LUECK, Deputy Public Defender, is  
12 not immune from liability under 42 U.S.C. §1983 for his intentional misconduct  
13 under color of authority, by virtue of his conspiratorial actions with defen-  
14 dants YOUNGBLOOD, HAKKER, and SMALLWOOD. His actions or inactions, deprived  
15 Plaintiff of his federal constitutional rights when Plaintiff was 'maliciously  
16 prosecuted'.

17 10. Defendant JOEL LUECK knew or should have known of the lack of  
18 probable cause in BF-129568A to prosecute Plaintiff, and did not do anything  
19 to remedy or prevent the violations. Defendant LUECK participated in  
20 the constitutional violations by failing to act - by not presenting  
21 the proper documents to the Kern County Superior Court. Those  
22 documents would have and could have exonerated the Plaintiff  
23 in BF-129568A. Thus defendant JOEL LUECK conspired with HAKKER,  
24 SMALLWOOD, and YOUNGBLOOD, to 'maliciously prosecute' the Plaintiff  
25 in Kern County Superior Court case no. BF-129568A, which was then  
26 dismissed on 2-18-2010 for lack of probable cause.

27 //

28 //

11. Plaintiff also filed a habeas corpus in Kern County Superior Court (NO. HC-011616A, denied) on 2-01-2010, and also filed a motion for a probable cause hearing. Judge Colette M. Humphrey had granted this 'motion for release' (probable cause hearing), however, moved it to 2-18-2010, over the Plaintiff's objections. The arrest on 11-12-2009 was arguably illegal because of the alleged crimes, and the fact that the documents speak for themselves. Moreover, the provocation, motive, and good faith of the three Kern County Sheriff Office defendants in this action for malicious prosecution (with the injury of 'severe distress') do not constitute material elements. Since, in this action for 'malicious prosecution' and it is clearly based on an illegal arrest, there is nothing that can occur subsequent to the arrest to legalize it (See Singleton v. Perry (1955) 45 Cal.2d 489, 494-495). ('Malicious Prosecution' caused Plaintiff's injuries).

12. Plaintiff states the following probable cause declaration by defendant HAKKER verbaton:

"GREGORY McCLELLAN is required to register as a sexual offender pursuant to P.C. §290 on two (2) separate convictions (SC)42967A - Felony and BM 623155A - misdemeanor). GREGORY McCLELLAN is on CDC parole and on GPS monitoring. McCLELLAN removed his GPS monitor and State Parole issued a "Parolee-at-large" warrant for McCLELLAN's arrest. McCLELLAN registered on July 24, 2009, as living at 1008 S. Union, #7. When McCLELLAN was arrested on August 17, 2009, he said his address was 1108 S. Union Avenue, #3. State parole agent Mike PITCHER spoke to the manager of the Sunset Motel (1108 S. Union), BOB PATEL who said McCLELLAN last stayed in room #3, but moved out on July 11, 2009. McCLELLAN did not change his address with Kern County Sheriff's Office within five (5) working days, as required. When McCLELLAN registered on July 24, 2009, he provided false statements on the registration form indicating he was living at 1108 S. Union #7.

13. Plaintiff has certified documents to prove he registered his change of address to "TRANSIENT" on 7-13-2009 in person at 1415 Truxtun Avenue in Bakersfield, CA. 93301 (K.C.S.O. Records Department). Plaintiff also has official certified documents to prove he registered "TRANSIENT" on 7-24-2009). The two (2) certified documents exonerate Plaintiff. Yet the defendants still detained Plaintiff from 11-12-2009 to 2-18-2010. K.C.S.O. is liable because it has a custom and usage policy of detaining and transporting (by "REMOVAL ORDER") parolees from state prison without any judicial determination of probable cause.

14. This custom and usage policy stems from since parolees are being held on parole violations, some facing 'pending' criminal charges, therefore, it is not necessary "for a reasonably prompt judicial determination by a neutral magistrate as to whether there is probable cause" that a person, like [Plaintiff, GREGORY McCLELLAN] committed the crime with which he has been charged, "as a prerequisite to an extended restraint on liberty following arrest." (quoting Gerstein v. Pugh (1975) 95 S.Ct. 854. Since parolees have been given an extended restraint on their liberty following arrests on parole violations, defendants YOUNGBLOOD, HAKKER, and SMALLWOOD, EXECUTED the policy aforementioned that violated the Plaintiff's Fourth Amendment rights. Defendants YOUNGBLOOD, HAKKER, and SMALLWOOD, did ignore the Fourth Amendment mandates that all citizens (even parole violators) be free from unreasonable seizures (one that lacks 'probable cause'). Despite these three defendants (YOUNGBLOOD, HAKKER, and SMALLWOOD) not having probable cause to prosecute Plaintiff, they did so from 11-12-2009 to 2-18-2010 (some 99 days).

**THIRD CAUSE OF ACTION**

(INTENTIONAL INFLICTION OF SEVERE EMOTIONAL STRESS)

15. Defendants YOUNGBLOOD, HAKKER, and SMALLWOOD, acted knowingly and maliciously (no probable cause to prosecute Plaintiff) and with intent to vex, harass, irritate, and with the specific intent to inflict mental duress and suffering on Plaintiff from 11-12-2009 to 2-18-2010. The charges were dismissed (BF-129568A) on 2-18-10, and Plaintiff stated in the 'probable cause' hearing that K.C.S.O. had no probable



1 cause to detain him on the case (BF-129568A). The Plaintiff was ordered discharged  
2 at approximately 9:30 a.m. on 2-18-2010. When defendants YOUNGBLOOD, HAKKER, and  
3 SMALLWOOD, maliciously and unlawfully prosecuted Plaintiff from 11-12-2009 to 2-18-10  
4 not having probable cause, these three defendants YOUNGBLOOD, HAKKER, and SMALL-  
5 WOOD, did cause Plaintiff to suffer paranoia, nervousness, humiliation, severe men-  
6 tal suffering, extreme stress, and duress.

7 16. One who [like defendants here] knowingly presses a baseless criminal charge  
8 acts without probable cause and is guilty of malice per se (Jackson v. Beckham) 1963  
9 31 Cal.Rptr. 739). This is true since the only justification for a criminal procee-  
10 ding is the bringing of an offender to justice (1962) 23 Cal.Rptr. 855. Defendants  
11 YOUNGBLOOD, HAKKER, and SMALLWOOD, are liable here for prosecuting Plaintiff without  
12 probable cause.

13 17. As a proximate result of the intentional, malicious, and unreasonable conduct  
14 of defendants YOUNGBLOOD, HAKKER, and SMALLWOOD, and each of them, Plaintiff is now  
15 paranoid, upset, nervous and still humiliated by being forced to be in jail (without  
16 probable cause to be there) and continues to suffer extreme and severe mental suf-  
17 fering and duress (during the 11-12-2009 to 2-18-2010 ~~malicious prosecution~~) and even to  
18 this date. Specifically, YOUNGBLOOD, HAKKER, and SMALLWOOD, inflicted severe  
19 emotional stress by their actions of pressing a baseless criminal charge and holding  
20 Plaintiff on it for 99 days in county jail.

21 FOURTH CAUSE OF ACTION

22 (ABUSE OF PROCESS BY SHERIFF OFFICIALS)

23 18. Actionable abuse of process is defined as follows in 3 Restatement of Torts  
24 (1938) section 682, page 464:

25 "One who uses legal process, whether criminal or civil to accomplish a purpose  
26 for which it is not designed is liable to the other for the pecuniary loss caused  
27 thereby."

28 The compilers of the Restatement added the following 'Comment'; The gravaman

1 of the misconduct for which the liability stated in this section is imposed is  
2 not the wrongful procurement of legal process or the wrongful initiation of  
3 criminal or civil proceedings, it is misuse of process, no matter how properly  
4 obtained, for any purpose other than which it was designed for. (97 Cal.Rptr.  
5 at pages 577, 578). Therefore, it is immaterial that the process was properly  
6 issued, that it was obtained in the course of proceedings which were brought  
7 with probable cause, like in most cases in court. Here defendants YOUNGBLOOD,  
8 HAKKER, and SMALLWOOD, used the 'prosecution process' without having probable  
9 cause to pursue the criminal charge against Plaintiff in BF-129568A, and thus  
10 abused the process per se.

11 19. The defendants YOUNGBLOOD, HAKKER, and SMALLWOOD, in this action did  
12 bring (brought) case No. BF-129568A, a baseless criminal charge, and held  
13 and 'maliciously prosecuted Plaintiff in jail for some 99 days' without proba-  
14 ble cause to prosecute. Abuse of process is obvious.

15 FIFTH CAUSE OF ACTION

16 (PUNISHMENT WITHOUT DUE PROCESS OF LAW)

17 20. ON 7-15-2011, PLAINTIFF, was taken by force to Wasco State Prison. He  
18 was forced into shackles on both hands, feet, and around his waist. Deputy  
19 John Doe Contreras awoke (hispanic officer) Plaintiff from his jail cell and  
20 forced Plaintiff to pack all of his property at approximately 1:00 a.m., and  
21 set the illegal actions in motion.

22 21. Deputy Jane Doe (hispanic) and John Doe Sergeant (hispanic) refused to  
23 even listen to Plaintiff's request to not be sent to prison because he was not  
24 committed (no prison sentence - no judgment) and/or on active parole. John  
25 Doe Sergeant said Plaintiff would be held on his old parole number (T89457),  
26 despite Plaintiff informing this defendant that he 'discharged parole'. Both  
27 these defendants and John Doe Contreras (defendant CONTRERAS), known or should  
28 have known Plaintiff could not be 'housed in prison' and thus 'punished' with

1 OUT DUE PROCESS OF LAW. Locking the Plaintiff up with sentenced prisoners in  
2 prison, without Plaintiff even being sentenced or committed to CDCR, is indeed  
3 "punishment per se". The law is clear that being in prison requires due  
4 process of law (i.e., sentence, parole revocation, or parole revocation that's  
5 pending).

6 22. K.C.S.O., defendant YOUNGBLOOD, and the other defendants mentioned in  
7 this cause of action (John Doe Contreras, Jane Doe Officer and Joen Doe Ser-  
8 geant) by forcing Plaintiff against his will, put Plaintiff's life in peril  
9 and jeopardy...from a bus crash, race riot, and any number of dangerous  
10 scenarios due to the extremely violent/volatile environment of prison. Riots  
11 are routine and a dangerous fact of life for inmates. The Plaintiff was then  
12 held inside a prison cell, prison inmates threatening Plaintiff, and assuming  
13 he was a 'rat' (snitch or informant), when Plaintiff was separated from other  
14 prisoners after the painful and very stressful, being forced under duress in  
15 the shackles (hands, feet, and waist), ride to state prison in Wasco, California.

16 23. Despite the 'normal process' for punishing individuals by prison sen-  
17 tence, the defendants K.C.S.O., YOUNGBLOOD, CONTRERAS, JANE DOE DEPUTY, and  
18 JOHN DOE SERGEANT, ignored deliberately the legal process of sentence with an  
19 abstract of judgment. Plaintiff was denied all of his medication for his pre-  
20 existing medical conditions (hypertension, chronic back pain, and sleepless-  
21 ness). Plaintiff's lower back injury consistently hurt the entire ordeal (the  
22 bus ride in shackles for about two and a half hours for the round trip) from  
23 Bakersfield to Wasco and back, and the long grueling hours in jail holding  
24 cells needlessly on 7-15-2011.

25 SIXTH CAUSE OF ACTION

26 24. PLAINTIFF'S parole violation ended on 12-31-2009, so the Plaintiff did  
27 spend some forty-nine (49) days unable to associate with his family members due  
28 the 'malicious prosecution' on BF-129568A and being held in Kern County Jail.

1 without probable cause (again, this case was dismissed due to lack of probable  
2 cause on 2-18-2010). The lack of probable cause can be easily shown to not  
3 exist in this case (BF-129568A). Defendants YOUNGBLOOD, HAKKER, and SMALLWOOD,  
4 held Plaintiff without probable cause and the parole violation ended on 12-31-  
5 2009. Plaintiff would have been on the streets, from 12-31-2009 to 2-18-2010,  
6 **were it not for the baseless criminal Charges (BF-129568A)** that defendants  
7 K.C.S.O., YOUNGBLOOD, HAKKER, and SMALLWOOD held and 'maliciously prosecuted'  
8 the Plaintiff on. This claim of denial of familial association does not deal  
9 with prison/jail visitation issues, as in Dunn v. Castro (9th Cir. 2010) 621  
10 F.3d 1196 and Kentucky Department of Corrections v. Thompson (1989) 490 U.S.  
11 454, 460 [109 S.Ct. 2162; 156 L.Ed.2d 506]. (See Exhibit 'B')('Attachment-B)

12 25. The allegations contained in paragraphs one (1) through six (6), are  
13 incorporated by reference. Defendants S. LOZANO, L. WOOD, and K. PERKINS, are  
14 sued in their individual and official capacities. Defendants S. LOZANO, L.  
15 WOOD, and K. PERKINS, **violated Plaintiff's right to be secure in his person**  
16 **against unreasonable seizures (U.S.C.A. Const. Amends 4 and 14).**

17 26. The allegations contained in paragraphs seven (7) through fourteen  
18 (14) are hereby incorporated by reference. Defendants D. YOUNGBLOOD, W. HAKKER,  
19 W. SMALLWOOD, and J. LUECK, are sued in their individual and official capaci-  
20 ties. Defendants D.YOUNGBLOOD, W. HAKKER, W. SMALLWOOD, and J. LUECK, **violated**  
21 **Plaintiff's constitutional rights to be free of 'malicious prosecution'**. (U.S.C.A.  
22 **Const. Amends. 4,5, and 14).**

23 27. The allegations contained in paragraphs fifteen (15) through seven-  
24 teen (17), are hereby incorporated by reference, Defendants YOUNGBLOOD, HAKKER,  
25 SMALLWOOD, and LUECK, are sued in their individual and official capacities.  
26 These four defendants, YOUNGBLOOD, HAKKER, SMALLWOOD, and LUECK, **violated the**  
27 **Plaintiff's right to be free from unreasonable seizure which caused the inflic-**  
28 **tion of severe emotional stress ("distress") (U.S.C.A. Const. Amendment 4). The**

1 **infliction of psychological injuries satisfy a 4th Amendment claim (See Mesa**  
2 **v. Prejean (2008) 543 F.3d 264,272.**

3 **28.** The allegations contained in paragraphs eighteen (18) and nineteen(19),  
4 are hereby incorporated by reference. Defendants YOUNGBLOOD, SMALLWOOD, and  
5 HAKKER, are sued in their individual and official capacities. Defendants  
6 YOUNGBLOOD, SMALLWOOD, and HAKKER, **violated Plaintiff's right to be free from**  
7 **unlawful/unreasonable seizures of his person (U.S.C.A. Const. Amend. 4).**

8 **29.** The allegations contained in paragraphs twenty (20) through twenty-  
9 three (23), are hereby incorporated by reference. Defendants YOUNGBLOOD,  
10 JOHN DOE CONTRERAS, JANE DOE OFFICER, and JOHN DOE SERGEANT, are sued in their  
11 individual and official capacities. YOUNGBLOOD, JOHN DOE CONTRERAS, JANE DOE  
12 OFFICER, and JOHN DOE SERGEANT, **violated Plaintiff's right to be secure in his**  
13 **person against unreasonable seizures (U.S.C.A. Const. Amend. 4) and to have**  
14 **Due Process of Law before being punished (U.S.C.A. Const. Amends. 4, 5, and**  
15 **14).**

16 **30.** The allegations contained in paragraphs twenty-four (24), are hereby  
17 incorporated by reference. Defendants YOUNGBLOOD, HAKKER, and SMALLWOOD,  
18 are sued in their individual and official capacities. Defendants YOUNGBLOOD,  
19 HAKKER, and SMALLWOOD, **violated Plaintiff's rights to be free from unlawful/**  
20 **unreasonable seizures of his person. (U.S.C.A. Const. Amend. 4)**

21 **31.** The allegations contained in paragraphs seven(7) through twenty-four  
22 (24), are hereby incorporated by reference. The Kern County Sheriff's Office  
23 (or the Kern County Sheriff's Department) is headed by Defendant DONNY YOUNG-  
24 BLOOD (Sheriff), defendant DONNY YOUNGBLOOD is the final policymaker. As the  
25 Sheriff, YOUNGBLOOD establishes what particular cases will be initiated for  
26 prosecution and sets the "probable cause" declaration policy in effect in  
27 regards to these law enforcement decisions. It is the policies of K.C.S.O.,  
28 headed by Defendant YOUNGBLOOD that caused the Plaintiff's injuries. Thus

1 county (Kern County Sheriff's Office) is directly liable for constitutional  
2 violations carried out under their own regulations, policies, customs, or  
3 usages by persons having "final policymaking authority" over the actions at  
4 issue. (See Venegas v. County of Los Angeles (2004) 32 Cal.4th 820.

5 **32.** As a result of all the defendants' actions herein alleged, Plaintiff  
6 suffered, and continues to suffer, physical injury, Plaintiff is entitled to  
7 an award of compensatory and punitive damages for injuries suffered.

8 **33.** As a further direct and proximate result of all the defendants' actions  
9 herein alleged, Plaintiff suffered, and continues to suffer, severe emotional  
10 and psychological distress ("stress"). Plaintiff is entitled to an award of  
11 compensatory and punitive damages for injuries suffered.

12 **34.** Defendants' acts, as alleged herein, were knowing, willful, malicious,  
13 and/or carried out with reckless disregard for Plaintiff's federally protected  
14 rights as mentioned in this action. (U.S.C.A. Const. Amends. 4, 5, and 14)

15 **35.** Plaintiff is entitled to injunctive relief to prevent further harm  
16 only; and a 'gag order" on this case.

17 **PRAYER FOR RELIEF**

18 WHEREFORE, PLAINTIFF, GREGORY McCLELLAN, prays for the following  
19 relief:

- 20 1. Injunctive relief;
- 21 2. Compensatory Damages of \$4,950,000.00 U.S. Dollars;
- 22 3. Punitive damages according proof;
- 23 4. Costs of suit; and
- 24 5. Such further relief as the Court deems proper.

25 **DEMAND FOR JURY TRIAL**

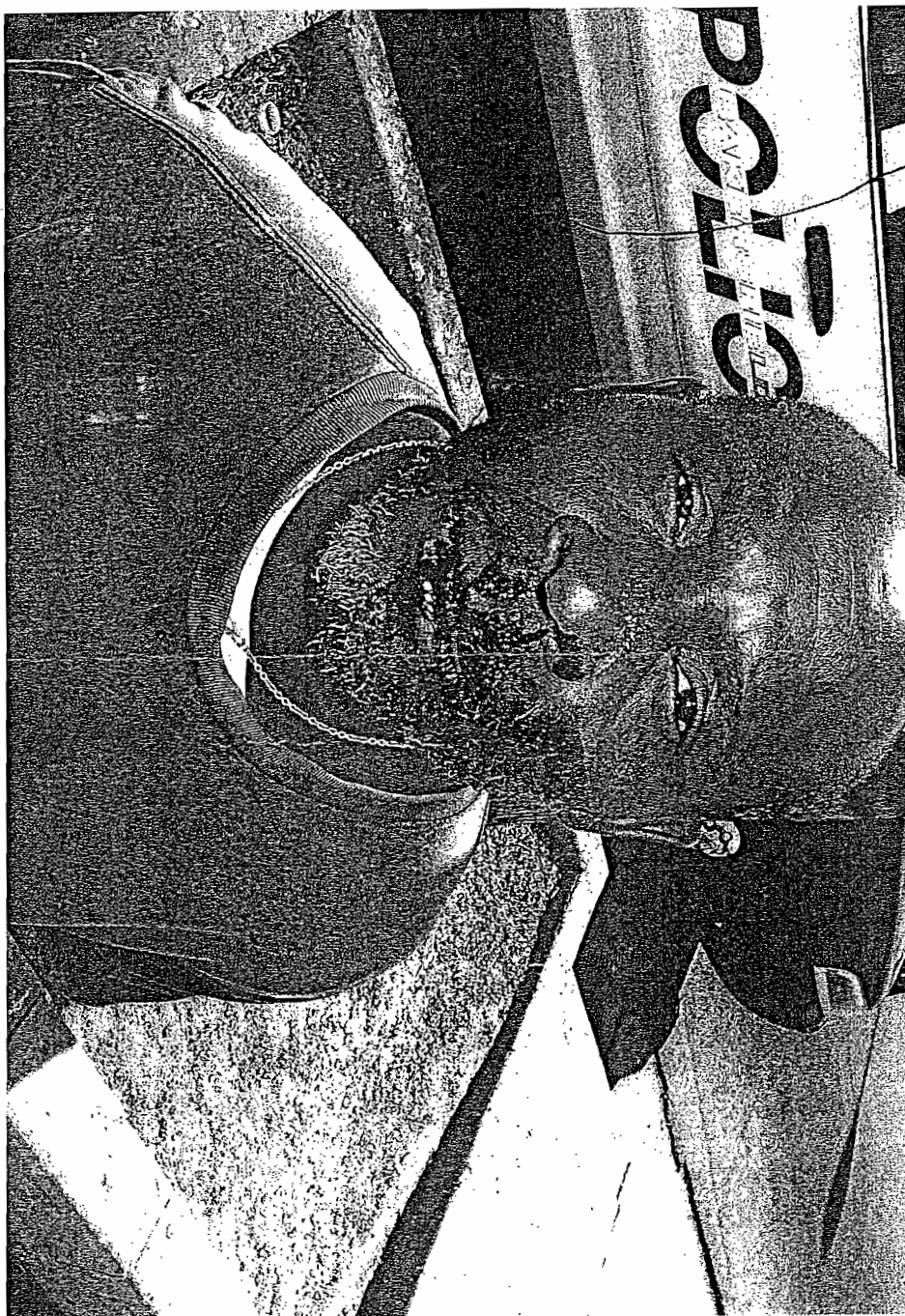
26 PLAINTIFF, GREGORY MCCLELLAN, HEREBY DEMANDS A JURY TRIAL IN THIS  
27 CIVIL MATTER.

28 DATED: 3-7-2014

By: Gregory McClellan s/  
Gregory McClellan,  
In Propria Persona

ATTACHMENT - A

ATTACHMENT - A



8-17-09  
MCCLELLAN T89457



ATTACHMENT - B

ATTACHMENT -B

02/10/2010 DISCHARGED FROM REG1 DCH TYPE: STATMAX  
BOX#N622-23

12/31/2009 STATUS CHANGED TO RETPAR FROM PRTC REL TO REG1 BAK3  
CUSTODY: SO/KER CO: KER  
CASE# BF129568-A/PAR W/OTC

11/12/2009 TEMP RELEASE TO OTC FROM AVE CUSTODY: SO/KER  
DEF CASE# BF129568-A

10/19/2009 TRANSFERRED TO AVE FROM WSPRC

09/01/2009 STATUS CHANGED TO PRTC FROM PENDREV

08/20/2009 RETURNED TO WSPRC  
RET FROM PAROLE RET STATUS PENDREV

PF1---PF2---PF3---PF4---PF5---PF6---PF7---PF8---PF9---PF10---PF11---PF12---  
Next Selec Quit

MHQ1P01: The most recent movement is listed first.

ORIGINAL

# PROOF OF SERVICE BY MAIL

I, THE UNDERSIGNED, CERTIFY THAT I AM OVER THE AGE OF EIGHTEEN (18) YEARS OF AGE. THAT I CAUSED TO BE SERVED A COPY OF THE FOLLOWING DOCUMENT:

ENTITLED: "FOURTH AMENDED COMPLAINT"  
(Sent to Court Only)

BY PLACING THE SAME IN AN ENVELOPE, SEALING IT BEFORE A CORRECTIONAL OFFICER, AND DEPOSITING IT IN THE | UNITED STATES MAIL | AT CMC- STATE PRISON AND ADDRESSED TO THE FOLLOWING:

**U.S. District Court  
Eastern District of California  
Office of the Clerk  
2500 Tulare Street, #1501  
Fresno, CA. 93721**

EXECUTED ON March 12th, 20 14 AT CMC- STATE PRISON, S.L. CALIFORNIA  
In San Luis Obispo County 93403-8103

I, Gregory McClellan DECLARE UNDER THE PENALTY OF PERJURY UNDER THE LAW OF THE STATE OF CALIFORNIA THAT THE FOREGOING IS TRUE AND CORRECT.

Gregory McClellan  
SIGNATURE OF DECLARANT

Gregory McClellan, In Pro Per

Gregory McClellan  
PRINT NAME OF DECLARANT

PRO PER.