

Plaintiff's Name LEO CIENFUEGOS
 Inmate No. T44477
 Address P.O. BOX : 3481
CORCORAN, CA. 93212

FILED

AUG 21 2014

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

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

LEO CIENFUEGOS

1:14-cv-00215 AWI DLB PC

(Name of Plaintiff)

(Case Number)

VS.

CONNIE GIPSON, ET AL.,

R. REIFSCHNEIDER; I.G.I.;

RICHARD NADEAU, S.S.U.; AND

DAVID PEREZ, S.S.U.

AMENDED CIVIL RIGHTS COMPLAINT UNDER:

42 U.S.C. 1983 (State Prisoner)

Bivens Action [403 U.S. 388 (1971)] (Federal Prisoner)

*** DEMAND FOR JURY TRIAL ***

(Names of all Defendants)

I. Previous Lawsuits (list all other previous or pending lawsuits on additional page):

A. Have you brought any other lawsuits while a prisoner? Yes ___ No X

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

Describe previous or pending lawsuits in the space below. (If more than one, attach additional page to continue outlining all lawsuits in same format.)

1. Parties to this 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 (Was the case dismissed? Appealed? Is it still pending?)

RECEIVED

AUG 21 2014

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

II. Exhaustion of Administrative Remedies

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). Prior to filing suit, inmates are required to exhaust the available administrative remedy process, *Jones v. Back*, 549 U.S. 199, 211, 127 S.Ct. 910, 918-19 (2007); *McKinney v. Carey*, 311 F.3d 1198, 1999 (9th Cir. 2002), and neither futility nor the unavailability of money damages will excuse the failure to exhaust, *Porter v. Nussle*, 534 U.S. 516, 524, 122 S.Ct. 983, 988 (2002). If the court determines that an inmate failed to exhaust prior to filing suit, the unexhausted claims will be dismissed, without prejudice. *Jones*, 549 U.S. at 223-24, 127 S.Ct. at 925-26.

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

Yes X No _____

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

Yes X No _____

C. Is the process completed?

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

ON JULY 12, 2011, THE FIRST LEVEL WAS BYPASSED AND DENIED

AT THE SECOND LEVEL. ON DECEMBER 22, 2011, THE APPEAL WAS DENIED AT THE THIRD AND FINAL LEVEL OF REVIEW.

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

III. Defendants

List each defendant's full name, official position, and place of employment and address in the spaces below. If you need additional space please provide the same information for any additional defendants on separate sheet of paper.

A. Name R. REIFSCHEIDER is employed as INSTITUTIONAL GANG INVESTIGATOR
Current Address/Place of Employment AVENAL STATE PRISON

B. Name RICHARD NADEAU is employed as SPECIAL SERVICE UNIT AGENT

Current Address/Place of Employment OFFICE OF CORRECTIONAL SAFETY

C. Name DAVID PEREZ is employed as SPECIAL SERVICE UNIT AGENT

Current Address/Place of Employment OFFICE OF CORRECTIONAL SAFETY

D. Name N/A is employed as _____

Current Address/Place of Employment _____

E. Name N/A is employed as _____

Current Address/Place of Employment _____

IV. Causes of Action (You may attach additional pages alleging other causes of action and the facts supporting them if necessary. Must be in same format outlined below.)

Claim 1: The following civil right has been violated (e.g. right to medical care, access to courts, due process, free speech, freedom of religion, freedom of association, freedom from cruel and unusual punishment, etc.):

DUE PROCESS. ON SEPTEMBER 26, 2011, DEFENDANTS, NADEAU AND PEREZ APPROVED AND VALIDATED PLAINTIFF BASED ON EVIDENCE DEFENDANT REIFSCHNEIDER APPROVED AND SUBMITTED TO THEM ON FEBRUARY 22, 2011, WHICH WAS OVER A DECADE-OLD AS WELL AS PREVIOUSLY DISMISSED BY A CALIFORNIA SUPERIOR COURT IN 2001, INCLUDING OTHER INSUFFICIENT, UNRELIABLE EVIDENCE THEY

Supporting Facts (Include all facts you consider important to Claim 1. State what happened clearly and in your own words. You need not cite legal authority or argument. Be certain to describe exactly what each defendant, *by name*, did to violate the right alleged in Claim 1.):

CLAIMED WAS INDICATIVE OF PRISON GANG ASSOCIATION WITHOUT GIVING PLAINTIFF ANY MEANINGFUL OPPORTUNITY TO PRESENT HIS VIEWS TO THE CRITICAL DECISION MAKER (REIFSCHNEIDER). AS A RESULT OF SUCH SUBSTANTIVE AND PROCEDURAL DUE PROCESS VIOLATIONS, INCLUDING DEFENDANT NADEAU AND PEREZ' RUBBER STAMPING/ APPROVAL OF SUCH INSUFFICIENT "EVIDENCE", PLAINTIFF HAS BEEN GIVEN AND KEPT IN ISOLATED AND SEGREGATED CONFINEMENT IN THE S.H.U. SINCE FEBRUARY 10, 2011, AND WILL NOT BE CONSIDERED FOR RELEASE FROM THE S.H.U. UNTILL FEBRUARY 4, 2017.
SUPPORTING FACTS:

ON FEBRUARY 10, 2011 PLAINTIFF WAS REMOVED FROM THE GENERAL POPULATION AT AVENAL STATE PRISON AND PLACED IN SOLITARY / SEGREGATED CONFINEMENT (AD. SEG.) BASED ON ALLEGATIONS OF PRISON GANG ASSOCIATION WITH THE MEXICAN MAFIA. AT THAT TIME PLAINTIFF WAS GIVEN COPIES OF THE

ALLEGED "EVIDENCE" WHICH WERE LATER DISMISSED BY THE SUPERIOR COURT IN 2001 (SEE, PEOPLE V. CIENFUEGOS, L.A.CO.SUP.COURT CASE NO.YA047569 PRELIMINARY HEARING OF 10/11/20010; A 2001 L.A.CO.VISIT; A 1991 CULTURAL/HERITAGE TATTOO; AND A DRAWING OF THE MEXICAN FLAG, BOTH OF WHICH ARE NOT EXCLUSIVE TO THE MEXICAN MAFIA NOR LISTED BY C.D.C. AS SUCH.

THE VERY NEXT DAY, ON FEBRUARY 11, 2011, DEFENDANT REIFSCHEIDER SENT HIS "ASSISTANT" (A PRISON GUARD-NOT AN I.G.I.) TO GIVE PLAINTIFF A PRE-WRITTEN FORM TO FILL OUT AS A "REBUTTAL" TO WHICH HE WOULD GIVE TO DEFENDANT REIFSCHEIDER. AT THAT TIME, PLAINTIFF REQUESTED TO HAVE A PERSONAL INTERVIEW WITH REIFSCHEIDER IN ORDER TO PRESENT HIS VIEWS AND ASK SOME QUESTIONS REGARDING THE ALLEGATIONS. SAID ASSISTANT/GUARD (R. CLATON) SAID NO, "THAT'S NOT GOING TO HAPPEN, JUST WRITE IT DOWN AND I'LL GIVE IT TO HIM".

ON FEBRUARY 22, 2011, DEFENDANT REIFSCHEIDER SUBMITTED HIS REPORT AND ALLEGED "EVIDENCE" TO DEFENDANTS NADEAU AND PEREZ (SPECIAL SERVICE UNIT AGENTS OF THE OFFICE OF CORRECTIONAL SAFETY) FOR THEIR REVIEW AND APPROVAL. ON SEPTEMBER 26, 2011, THEY DID. AS SUCH, PLAINTIFF WAS THEREAFTER SENTENCED TO AN INDEFINITE SOLITARY/SEGREGATED S.H.U. CONFINEMENT TERM WHEREIN HE WILL NOT BE ELIGIBLE FOR CONSIDERATION FOR RELEASE UNTILL FEBRUARY 4, 2017.

Claim 2: The following civil right has been violated (e.g. right to medical care, access to courts, due process, free speech, freedom of religion, freedom of association, freedom from cruel and unusual punishment, etc.):

N/A

Supporting Facts (Include all facts you consider important to Claim 2. State what happened clearly and in your own words. You need not cite legal authority or argument. Be certain to describe exactly what each defendant, *by name*, did to violate the right alleged in Claim 2.):

N/A

V. Relief

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

- 1.) ISSUE A DECLATORY JUDGMENT THAT THE DEFENDANTS' ACTS AND FAILURES TO ACT AS DESCRIBED HEREIN, VIOLATED RIGHTS UNDER THE UNITED STATES CONSTITUTION AND AS OTHERWISE ALLEGED HEREIN ;
- 2.) AWARD PLAINTIFF MONETARY DAMAGES , COMPENSATORY AND PUNITIVE , IN THE AMOUNT DETERMINED AT TRIAL;
- 3.) AWARD PLAINTIFF THE COST OF SUIT AND REASONABLE ATTORNEY'S FEES;
- 4.) GRANT PLAINTIFF A TRIAL BY JURY ; AND
- 5.) GRANT PLAINTIFF SUCH OTHER RELIEF AS THE COURT DEEMS JUST AND PROPER.

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

Date: AUGUST 18, 2014

Signature of Plaintiff:



(Revised 4/4/14)