

FILED

JAN 13 2017

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

1 Hollie JONES

2 F 28383

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6 UNITED STATES DISTRICT COURT

7 EASTERN DISTRICT OF CALIFORNIA

8

9 Hollie JONES

NO. 1:15-CV-01897-DAD-MJS(PC)

10 PLAINTIFF,

SECOND AMENDED Civil Rights

11 V. Y. Magallon, CORRECTIONAL OFFICER

COMPLAINT

12 S. THOMAS, NURSE, L. MERRIT NP, N.

(DAMAGES FOR PERSONAL

13 KANDKHOROV DR., JANE DOE DR.

INJURY, DECLARATORY AND

UNLIMITED Civil Case

14 DEFENDANTS.

RECEIVED

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18 INTRODUCTION

19 1. PLAINTIFF ALLEGES HE SUFFERED DAMAGES WHILE AT CSATF

20 FOR VIOLATIONS OF HIS EIGHTH AND FOURTEENTH AMENDMENT

21 RIGHTS OF THE UNITED STATES CONSTITUTION. BOTH MEDICAL

22 AND CORRECTIONAL PERSONEL IN A SERIES OF RELATED EVENTS

23 CONTRIBUTED TO THE VIOLATION OF PLAINTIFFS FOURTEENTH

24 AMENDMENT RIGHT TO REFUSE MEDICAL TREATMENT.

25

26 2. AS A RESULT OF PLAINTIFFS DEPRIVATION HE WAS

27 EXPOSED TO EXCESSIVE USE OF FORCE VIOLATING THE 8TH

28 AMENDMENT, ASWELL AS VIOLATION OF 14TH AMENDMENTS

1 EQUAL PROTECTION CLAUSE. PLAINTIFF ALLEGES HE SUFFERED SAID
2 VIOLATIONS IN RETALIATION FOR EXERCISING HIS 14TH AMEND-
3 MENT RIGHT TO REFUSE MEDICAL TREATMENT.

4
5 3. PLAINTIFF SEEKS MONETARY DAMAGES (COMPENSATORY, NOMINAL
6 AND PUNITIVE) AS WELL AS DECLARATORY RELIEF AGAINST THE
7 DEFENDANTS.

8 I. JURISDICTION

9 4. PLAINTIFF BRINGS THIS LAWSUIT PURSUANT TO 42 U.S.C.
10 § 1983. THIS COURT HAS JURISDICTION UNDER 28 U.S.C.
11 §§ 1331 & 1343. PLAINTIFF ALSO SEEKS A DECLARATORY JUDGE-
12 MENT PURSUANT TO 28 U.S.C. § 2201.

13 II. VENUE

14 5. THE EASTERN DISTRICT OF CALIFORNIA - FRESNO IS AN
15 APPROPRIATE VENUE UNDER 28 U.S.C. § 1391 (b)(2) BECAUSE
16 A SUBSTANTIAL PART OF THE EVENTS OR OMISSIONS GIVING RISE
17 TO THE CLAIMS OCCURRED IN THIS DISTRICT.

18 III. PARTIES

19 6. PLAINTIFF HOLLIE JONES WAS AT ALL TIMES RELEVANT TO
20 THIS ACTION A PRISONER INCARCERATED A CORCORAN STATE
21 PRISON, WHICH IS LOCATED IN THE STATE OF CALIFORNIA;
22 FRESNO EASTERN DISTRICT.

23
24 7. DEFENDANT Y. MAGALLON A CORRECTIONAL OFFICER WAS AT
25 ALL TIMES RELEVANT TO THE ALLEGATIONS MADE HEREIN, A
26 MEDICAL OFFICER ASSIGNED TO THE CLINIC WHERE THE VIOLATION
27 TOOK PLACE, RESPONSIBLE FOR SECURITY, AND CARE & CUSTODY
28 OF INMATES AT THE FACILITY CLINIC. SUED INDIVIDUAL CAPACITY

1 8. DEFENDANT JANE DOE WAS AT ALL TIMES RELEVANT TO THE
2 ALLEGATIONS MADE HEREIN, MEDICAL DOCTOR AT CSATF THE FACILITY
3 WHERE THE VIOLATIONS TOOK PLACE, AND WAS RESPONSIBLE FOR THE
4 MEDICAL CARE OF THE INMATES AT CSATF. SUEO INDIVIDUAL CAPACITY

5
6 9. DEFENDANT S. THOMAS WAS AT ALL TIMES RELEVANT TO THE
7 ALLEGATIONS MADE HEREIN, NURSE AT CSATF AND THE FACILITY
8 WHERE THE VIOLATIONS TOOK PLACE, AND WAS RESPONSIBLE FOR ALL
9 MATTERS RELATING TO NURSING. SUEO INDIVIDUAL CAPACITY.

10
11 10. DEFENDANT L. MERRIT WAS AT ALL TIMES RELEVANT TO THE
12 ALLEGATIONS MADE HEREIN, NURSE PRACTITIONER AT CSATF
13 AND THE FACILITY THE VIOLATIONS TOOK PLACE ON, RESPONSIBLE
14 FOR MEDICAL CARE WITHIN THE SCOPE OF A PRACTITIONER.
15 SUEO INDIVIDUAL CAPACITY.

16
17 11. DEFENDANT N. KANDKHOROV WAS AT ALL TIMES RELEVANT
18 TO THE ALLEGATIONS MADE HEREIN, MEDICAL DOCTOR RESPONSIBLE
19 FOR MEDICAL CARE AT CSATF. SUEO INDIVIDUAL CAPACITY.

20
21 12. PLAINTIFF IS IGNORANT OF THE TRUE NAME OF AND CAPACITY
22 OF THE DEFENDANT SUEO HEREIN AS JANE AND JANE DOE,
23 AND THUS SUES THE DEFENDANT UNDER THIS FICTITIOUS NAME
24 PLAINTIFF WILL AMEND THIS COMPLAINT TO ALLEGE THE TRUE
25 NAME ONCE ASCERTAINED. THUS PLAINTIFF SUES THESE DEFENDANTS
26 UNDER THE PROVISION OF PER C.C.P. § 474.

27
28 13. AS TO ALL DEFENDANTS, AT ALL TIMES RELEVANT TO THE

1 ALLEGATIONS MADE HEREIN ACTED AND CONTINUE TO ACT UNDER
2 COLOR OF STATE LAW AND FEDERAL LAW AND HAD A DUTY TO
3 PLAINTIFF PROVIDED BY THE UNITED STATES CONSTITUTION.

4 IV. EXHAUSTION OF ADMIN. REMEDY

5 14. PLAINTIFF SOUGHT TO EXHAUST ADMINISTRATIVE REMEDY AND TO
6 COMPLY WITH THE PLRA, HOWEVER PLAINTIFF'S APPEAL WAS UNDUPLY
7 AND ARBITRARILY OBSTRUCTED IN AN EFFORT TO PREVENT EXHAUSTION
8 RENDERING ADMINISTRATIVE REMEDY UNAVAILABLE.

9 V. FACTUAL ALLEGATIONS

10 15. IN SEPTEMBER OF 2014 PLAINTIFF WAS PRESCRIBED BLOOD
11 PRESSURE AND DIABETES MEDICATIONS BY DEFENDANT DR.
12 KANDKHOROV, TO WHICH PLAINTIFF STATED HE DID NOT WISH
13 TO TAKE THEM EXERCIZING HIS RIGHT TO REFUSE MEDICAL
14 TREATMENT.

15
16 16. ON JANUARY 27, 2015 PLAINTIFF HAD AN APPOINTMENT
17 WITH DEFENDANT MERRIT, TO WHICH HE TOLD HER HE DIDNT
18 WANT TO TAKE THE BLOOD PRESSURE AND DIABETES
19 MEDICATION PRESCRIBED BY DR. KANDKHOROV

20
21 17. DEFENDANT MERRIT DISREGARDED PLAINTIFFS WISHES
22 AND SIGNED DOCUMENTATION BY PLAINTIFF REFUSING THE
23 MEDICATIONS LEGALLY AND PRESCRIBED HIM THE MEDICATIONS
24 ANYWAY.

25
26 18. THE SAME DAY PLAINTIFF WAS SEEN BY DEFENDANT
27 JANE DOE DOCTOR OF AFRICAN AMERICAN DECENT AND
28 STATED TO HER HE DIDNT WANT TO TAKE THE BLOOD

1 PRESSURE MEDICATION OR DIABETES MEDICATIONS. HE HAD BEEN
2 PRESCRIBED BECAUSE THEY MADE PLAINTIFF SICK. DEFENDANT JANE
3 DOE REFUSED TO DISCONTINUE PLAINTIFFS PRESCRIPTIONS.
4

5 19. BETWEEN SEPTEMBER 2014 AND MARCH 20, 2015, PLAINTIFF
6 SIGNED SEVERAL FORMS INDICATING HIS REFUSAL TO TAKE THE
7 MEDICATIONS.
8

9 20. BETWEEN THE SAME TIME PERIOD PLAINTIFF WAS HARRASSED
10 BY MEDICAL STAFF AND TARGETED BY THEM DUE TO MY CANE
11 A MEDICAL APPLIANCE. I OVERHEARD CONVERSATIONS WHILE IN
12 THE MEDICAL CLINIC BY DEFENDANT THOMAS ABOUT MY CANE.
13

14 21. PLAINTIFF HAD BEEN TAKEN OFF HIS MEDICATIONS, PRIOR
15 BY DEFENDANT THOMAS, WHO HAD A HAND IN THE CHANGE
16 OF MY DIABETES AND BLOOD PRESSURE MEDICATIONS BEING
17 TO STRONG.
18

19 22. DEFENDANT THOMAS HAD A ATTITUDE TOWARDS BLACK
20 INMATES DUE TO 602 APPEALS AGAINST HER AND HER
21 INVOLVEMENT WITH ANOTHER DR.'S DECISION TO TAKE BLACK
22 INMATES MEDICAL APPLIANCES (CANES, WHEEL CHAIRS ect.).
23 STATING THAT THE BLACK INMATES HAD TOO MANY WEAPONS
24 ON THE YARD.
25

26 23. DEFENDANT THOMAS INTERRUPTED A CONVERSATION I
27 WAS HAVING WITH A DOCTOR AND STATED SHE HOPED THAT
28 ALL INMATES KILLED THEY DAMED SELVES.

1 24. ON MARCH 20, 2015, PLAINTIFF SIGNED A FORM HE WOULD
2 REFUSE ALL MEDICAL TREATMENT UNTIL FURTHER NOTICE.

3
4 25. ON MARCH 23, 2015, DEFENDANT MAGALLON AND THOMAS
5 CALLED PLAINTIFFS BUILDING SEVERAL TIMES ATTEMPTING TO HAVE MY
6 BUILDING STAFF FORCE ME TO REPORT TO THE MEDICAL CLINIC.

7
8 26. WHEN PLAINTIFF ARRIVED BOTH DEFENDANTS WERE WAITING.
9 PLAINTIFF IMMEDIATELY TOLD DEFENDANT MAGALLON THAT HE HAD
10 ALREADY SIGNED A FORM STATING THAT HE DIDNT WANT ANY
11 MEDICAL TREATMENT, TO STOP HARRASSING HIM.

12
13 27. MAGALLON BECAME AGGRESSIVE, AND TRAPPING PLAINTIFF,
14 TRIED TO LOCK THE PLAINTIFF INSIDE THE CLINIC, BLOCKING
15 PLAINTIFF FROM LEAVING.

16
17 28. DEFENDANT MAGALLON HIT PLAINTIFF WITH ^{HER} ARM IN
18 THE LEFT SIDE OF HIS REB CAGE REPEATEDLY, KNOCKING
19 THE WIND OUT OF HIM.

20
21 29. PLAINTIFF CONTINUED TO TRY TO LEAVE BUT MAGALLON
22 PUSHED AND CHOKED PLAINTIFF SHOVING THE BACK OF PLAINTIFFS
23 HAND INTO THE CELL BARS, AND TOLD HIM TO GET YOUR
24 "BLACK ASS" DOWN.

25
26 30. AT THAT TIME PLAINTIFF OBSERVED NURSE THOMAS
27 APPROACHING FROM THE BACK WITH AN OBJECT TELLING
28 MAGALLON TO LOCK THE DOOR. FEARING FOR MY LIFE

1 31. PLAINTIFF PLACED HIS CAIN IN THE DOORWAY AND MANAGED
2 TO SQUEEZE MY RIGHTSIDE BODY OUT WHEN MAGALLON TACKLED
3 ME TO THE GROUND. I WAS STRADDLED BRIEFLY AND TAKEN TO
4 ADSEG CHARGED WITH BATTERY ON A p/o WITH A WEAPON.

5
6 32. AS AFOREMENTIONED IN LINES 20, 21, 22 PLAINTIFFS CAIN
7 CAME BACK UP DEFENDANT THOMAS WAS THERE TO CONFISCATE
8 MY CAIN UNDER THE GUISE AND FALSE CHARGE OF BATTERY ON
9 p/o WITH A WEAPON, CONVENIENTLY PLAINTIFFS CAIN.

10 V. CAUSES OF ACTION
11 COUNT 1.

12 ~~PLAINTIFF~~ WAS DENIED DUE PROCESS IN VIOLATION OF THE
13 FOURTEENTH AMENDMENT TO THE CONSTITUTION.

14
15 33. DEFENDANTS VIOLATED PLAINTIFFS 14TH AMENDMENT RIGHT
16 UNDER THE EQUAL PROTECTION CLAUSE BY DISCRIMINATING
17 AGAINST HIM ON THE BASIS OF HIS MEMBERSHIP IN A
18 PROTECTED CLASS, UNDER 42 U.S.C. § 12101 PLAINTIFF IS
19 CLASSIFIED AS A DIEBETIC AND IS ADA.

20
21 34. ADOPTING BY REFERENCES LINES 15-32 PLAINTIFFS FACTUAL
22 ALLEGATIONS DESCRIBE THE DISCRIMINATORY ACTIONS OF THE
23 DEFENDANTS CONTINUED HARRASSMENT, STEMMING FROM HIS
24 CONSTITUTIONALLY PROTECTED RIGHT TO REFUSE MEDICAL
25 TREATMENT, WHICH SAID DEPRIVATION DID CAUSE EXPOSURE TO
26 EXCESSIVE UNAUTHORIZED USE OF FORCE VIOLATING THE 8TH
27 AMENDMENT.

28

COUNT II.

PLAINTIFF WAS DENIED DUE PROCESS OF THE UNITED STATES
CONSTITUTION AMENDMENT 14TH

35. DEFENDANTS VIOLATED PLAINTIFFS 14TH AMENDMENT RIGHT
TO REFUSE MEDICAL TREATMENT COMPELLING HIM TO BE
TREATED DISPIE EVIDENCE OF SEVERAL CLEAR REFUSALS AS
ADOPTED BY REFERENCE LINES 15-32 OF FACTUAL ALLEGATIONS
PLAINTIFF WAS HARRASSED, DENIED EQUAL PROTECTION BY DISCRIM-
INATION AND EXPOSED TO EXCESSIVE UNAUTHORIZED FORCE WHICH
IS NOT BODILY INTRUSION, OR FORCEFUL ADMINISTRATION OF
MEDICATION BUT DEMONSTRATING CONDUCT RISING TO THE LEVEL OF
COMPULSION VIOLATING A CONSTITUTIONALLY PROTECTED RIGHT.

COUNT III.

PLAINTIFF WAS EXPOSED TO VIOLATIONS OF THE 8TH AMEND-
MENT OF THE UNITED STATES CONSTITUTION.

36. PLAINTIFF WAS EXPOSED TO CRUEL AND UNUSUAL PUNISHMENT
BY DEFENDANTS MERRIT AND THOMAS IN RETALIATION FOR
EXERCIZING A CONSTITUTIONALLY PROTECTED RIGHT TO
REFUSE MEDICAL TREATMENT AS ADOPTED BY INCORPORATION
OF LINES 15-32

VII PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF RESPECTFULLY PRAYS THAT THIS COURT &
A. DECLARE THAT THE ACTS AND OMISSIONS DESCRIBED
HEREIN VIOLATED PLAINTIFFS RIGHTS UNDER THE CONSTITUTION
AND LAWS OF THE UNITED STATES

1 ~~BORDER~~ DEFENDANTS TO pay COMPENSATORY, PUNITIVE
2 ~~AND~~ NOMINAL DAMAGES;
3

4 C. ORDER DEFENDANTS TO pay REASONABLE ATTORNEYS FEES
5 AND COSTS;
6

7 D. GRANT OTHER JUST AND EQUITABLE RELIEF THAT
8 THIS HONORABLE COURT DEEMS NECESSARY.
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21

22 Respectfully Submitted
23 x ~~Hollie Jones~~
24 Hollie JONES
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28