

2

Todd Evans  
Name

PO Box 1989 E.S.P Ely NV. 89301  
Address

#47605  
Prison Number

<input checked="" type="checkbox"/> FILED	<input type="checkbox"/> RECEIVED
<input type="checkbox"/> ENTERED	<input type="checkbox"/> SERVED ON
COUNSEL/PARTIES OF RECORD	
<div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;">           SEP - 9 2009         </div>	
CLERK US DISTRICT COURT DISTRICT OF NEVADA	
BY: _____	DEPUTY _____

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

Todd Evans,  
Plaintiff,

vs.

Mc DANIALS E K,

DR Bishop,

DR MILNER,

S/cp Bradford,

S/cp ROMERO,  
Defendant(s).

**CASE NO. 309-CV-00319**  
(To be supplied by the Clerk)

**CIVIL RIGHTS COMPLAINT  
PURSUANT TO  
42 U.S.C. § 1983**

**A. JURISDICTION**

1) This complaint alleges that the civil rights of Plaintiff, Todd Evans,  
(print Plaintiff's name)

who presently resides at PO Box 1989 Ely Nevada 89301 E.S.P, were  
(mailing address or place of confinement)

violated by the actions of the below named individuals which were directed against

Plaintiff at Ely State Prison - Ely, Nevada. on the following dates  
(institution/city where violation occurred)

Fifth Amendment, Eight Amendment, and fourteenth Amendment  
(Count I) (Count II) (Count III)

**Make a copy of this page to provide the below  
information if you are naming more than five (5) defendants**

- 2) Defendant EK MC DANIALS resides at 4569 N SR 490 ELY NV 89301,  
(full name of first defendant) (address of first defendant)  
and is employed as WARDEN E.S.P. This defendant is sued in his/her  
(defendant's position and title, if any)

individual  official capacity. (Check one or both). Explain how this defendant was acting under color of law: WARDEN OF THESE OFFICERS AND DOCTORS OF THE NEVADA STATE PRISON ELY. RUNS THE PRISON.

- 3) Defendant DR MULNER resides at 4569 N SR 490 ELY NV 89301,  
(full name of first defendant) (address of first defendant)  
and is employed as Psychologist. This defendant is sued in his/her  
(defendant's position and title, if any)

individual  official capacity. (Check one or both). Explain how this defendant was acting under color of law: the psychologist here at E.S.P and responsible for MENTAL HEALTH AND WELFARE OF INMATES.

- 4) Defendant DR Bishop resides at 4569 N SR 490 ELY NV 89301,  
(full name of first defendant) (address of first defendant)  
and is employed as psychiatrist. This defendant is sued in his/her  
(defendant's position and title, if any)

individual  official capacity. (Check one or both). Explain how this defendant was acting under color of law: The psychiatrist here at Ely State Prison and is responsible to make decisions concerning mental health welfare of inmates.

- 5) Defendant S c/o Romero resides at 4569 N SR 490 ELY NV 89301,  
(full name of first defendant) (address of first defendant)  
and is employed as AN OFFICER AT E.S.P. This defendant is sued in his/her  
(defendant's position and title, if any)

individual  official capacity. (Check one or both). Explain how this defendant was acting under color of law: WORKS AT E.S.P IN UNIT #7 DURING 2007 WHILE MY CIVIL RIGHTS WERE VIOLATED.

6) Defendant 5 of Bradford resides at 4569 ASR 490 ELY NV 89301,  
(full name of first defendant) (address of first defendant)  
and is employed as officers 5 of unit #17 2 shift. This defendant is sued in his/her  
(defendant's position and title, if any)

individual  official capacity. (Check one or both). Explain how this defendant was acting under color of law: 3 of officers for the NEVADA STATE PRISON ELY. FAULTS Reports and conspired to violate my Constitutional Rights. 5th, 8th, 14th Amendment.

7) Jurisdiction is invoked pursuant to 28 U.S.C. § 1343(a)(3) and 42 U.S.C. § 1983. If you wish to assert jurisdiction under different or additional statutes, list them below.

JURY TRIAL Demanded

**B. NATURE OF THE CASE**

1) Briefly state the background of your case.

This case involves numerous violation from the Fifth Amendment to the Eight Amendment, and the Fourteenth Amendment. This case starts with a series of different type of harassment from staff, from using the mail and phones, to taking of property and cell shake downs to taking of legal work for the use of fraud. Destruction of personal property in cells. If you say anything, the use of loud pitch noises to harass and bother inmates. Then you file grievances they retaliate against you by passing grievances around the cbs and they harass and play games. Court transcripts being taking out of cells, legal books and discovery. using Faults mental health Reports to violate due process. USE OF ARJTD HAS NO EFFECT HERE AT ELY STATE PRISON. Whether reviewed by ARJTD OR the warden, using the Grievance program takes 4 and 5 months to receive AN INFORMAL BACK IS NOT THERE policy. the procedure is (\$5) per level. The Destruction of property and theft of property during roll ups UNSEPARABLE.

6) Defendant Sgt. Hunt resides at 4569 NSR 490 ELY NV 89301,  
(full name of first defendant) (address of first defendant)  
and is employed as Property Sgt. This defendant is sued in his/her  
(defendant's position and title, if any)

   individual  official capacity. (Check one or both). Explain how this defendant was  
acting under color of law: Acting Property Sgt at Ely State Prison. Transcripts

(1) Box Legal Research and Numerous items came up missing Fifth Amendment violation

7) Jurisdiction is invoked pursuant to 28 U.S.C. § 1343(a)(3) and 42 U.S.C. § 1983. If you wish  
to assert jurisdiction under different or additional statutes, list them below.

Jury trial Demanded

**B. NATURE OF THE CASE**

1) Briefly state the background of your case.

items of property are taken out during roll ups and not listed on the DOC 1793  
OR Doc 1517. property Broken, Glasses Broken, then taken to a strip cell and try to make  
hang yourself by way of using SPEAKER in the cell and was told to take medication or  
this type of Harassment wont stop. If you file Grievances they break my property and  
lose legal work. Well 1800 pages of transcripts came up missing from criminal  
trial. Death penalty case legal work was taken out of writ #4 During 2005-2006  
which this was Denied my Rights of access to the courts During the 1 year statute  
of limitation and 1 year tolling of time. Research folder and case law came up  
missing. All behind Harassment for Filing on the Grievance programs.  
The warden and I-95 office fail to investigate these complaints and to turn  
around and say NO wrong doing of staff. ss out of the question. which I  
consider these violation of my constitutional Rights. 5th, 8th, 14th Amendments.

(B page # 2)

## C. CAUSE OF ACTION

## COUNT I

The following civil right has been violated: UNDER the Constitution Guaranteed by the Fourteenth Amendment WAS VIOLATED. Violations of the Fifth Amendment Denial of access to courts.

Supporting Facts: [Include all facts you consider important. State the facts clearly, in your own words, and without citing legal authority or argument. Be sure you describe exactly what each specific defendant (by name) did to violate your rights].

ON July 5-06 I ISSUED NOC For MCH4. ON August 4<sup>th</sup> 2006, I WAS Found Guilty Without ANY notice of charges AND ANY hearing. CR # 2006-24-12858. Due process WAS violated. AFTER changing the disciplinary appeal AND winning. I WAS RETALIATED AGAINST FOR THE NEXT 2 YEARS 9 MONTHS. Retaliation AND Harassment For use of Grievance program (AR 740) NRS 209.131, NRS 209.246, AR 740 1.7.2.2 AR 740 1.4.1.3. UNDER AR 342 NOTHING WAS INVESTIGATED AND I WAS MADE TO LOOK A MENTAL HEALTH PATIENT. (JOHN DOE #1) WOULD TAKE PAPERWORK, LEGAL WORK, GRIEVANCES PERSONAL PROPERTY (JOHN DOE #2) WOULD MONITOR PHONE CONVERSATION AND USE INFORMATION OUT OF THE INCOMING AND OUTGOING MAIL (JOHN DOE #3) WOULD DO UNLOGGED CALL SEARCHES TAKE ADDRESS BOOKS GIVE TO OTHER RIVAL GANGS ALONG WITH LETTERS AND PICTURES OF FAMILY MEMBERS (JOHN DOE #4) WOULD CLIMB INTO PIPE CHASES HARASS INMATES BY USE FEAR TACTICS AND SLEEP DEPRIVATION (JOHN DOE #5) WOULD USE THE SPEAKERS SYSTEM TO PUT RIVAL GANG MEMBERS ON SPEAKERS (JOHN DOE #6) WOULD PUT ALL TELEPHONE CALL ON SPEAKERS FOR RIVAL GANGS TO LISTEN TO. (JOHN DOE #7) JOHN DOE #7 WOULD ALLOW OTHER INMATES TO READ LEGAL DOCUMENT DISCOVERY WHILE ON RECYCLE. (JOHN DOE #8) WOULD RETALIATE BY WALKING AROUND THE FIRE COLLING RATS, PUNKS, BITCHES. (JOHN DOE #9) WOULD WALK AROUND THE TIER SAYING THEY WERE PUTTING HIV IN FOOD AND HEPATITIS C. (JOHN DOE #10) WAS A SUPERVISOR FOR THE UNIT AND WAS DIRECTING OFFICERS TO DO UNLOGGED SHAKE DOWNS TAKE PROPERTY AND LOOK FOR INFORMATION. (JOHN DOE #11) FAILED TO DO JOB ON DISCIPLINARY HEARING AND NOTICE OF CHARGES. (JOHN DOE #12) WOULD USE INFORMATION OFF VISITING FILES AND BRING BACK TO UNIT FOR RIVAL GANGS (JOHN DOE #13) GIVE INFORMATION TO RIVAL GANGS OUT OF FILES TO RETALIATE FOR USE OF THE GRIEVANCE PROGRAM. (JOHN DOE #14) RUNS NO HANDS POLICYS AND SWITCH AND BITCH PROGRAMS. THESE ARE COMMON

## COUNT I

The following civil rights has been violated: under the Constitution guaranteed by the Fourteenth amendment was and are being violated. The violation of the Fifth Amendment and the eight amendments.

Supporting Facts: [Include all fact you consider important. State the facts clearly, in your own words, and without citing legal authority or argument. Be sure you describe exactly what each specific defendant (by name) did to violate your rights].

And was done by A officer a person acting under his and her official duty as a Correctional officer at Elly State Prison. Acting under the color of State Law. The defendants acted with deliberate indifference towards, Coxs of ethnic violations, Destructing personal property, theft of property. The eight amendment guarantees Freedom from cruel and unusual punishment. The right to access to the courts. The objective Becknesses standard should apply. These correctional officers each and every one were acting pursuant to official policy and are Municipality liable. As A PARTNER in a conspiracy, they acted as the agent of the state official. They all work in unit #4 thru July 07 and August 07. The Research of these incidents Dates and times of occurrences were taking out of my property, which was stored in the property Room out of Retaliation, For Filing Grievances and being placed on programs such as (No Award policies) Constant Harassment on speakers from staff and inmates which are rewarded by doing the Harassment For officers which want to keep there hands clean so to speak. Switch and Bitch programs that use the same kind of torture tactics also used For Debriefing inmates For gangs. officers using these torture tactics are criminally liable. Specifically threatening to poison someone Food to make inmates file grievances to make them look like switches and bitches. Then grievances, shown all over the tiers to further Humiliate inmates.

## COUNT II

The following civil right has been violated: Constitutional violations of Eight Amendment, and the Constitutional violations of the Fifth Amendment, and Due process violations of the Fourteenth Amendment.

Supporting Facts: [Include all facts you consider important. State the facts clearly, in your own words, and without citing legal authority or argument. Be sure you describe exactly what each specific defendant (by name) did to violate your rights].

The facts alleged in the complaint must support each element, I WAS DENIED ACCESS to the court which these rights are protected by Federal Law. I WAS PUNISHED AND NOT OF DELIBERATE INDIFFERENCE WAS DONE BY SEVERAL CORRECTIONAL OFFICERS AT ELY STATE PRISON. THESE EMPLOYEES WERE ACTING IN PURSUANT TO THESE OFFICIAL POLICIES ACTING UNDER THE COLOR OF STATE LAW. SOME OF THE DATES AND TIMES WERE STOLEN OUT OF MY CELL AND HAVE CAUSED MOST OF THIS COMPLAINT TO BE VAIN. HARASSMENT FROM UNIT #7 S/CB WHICH WERE RUNNING THE SWITCH & BITON PROGRAMS. NO ~~NO~~ HAND POLICY. THIS PARTICULARLY IS A POLICY WHERE THE OFFICERS PLAY GAMES, THROW LOUD NOISES ON SPEAKERS, CLIMB INTO PIPE CHASES BEAT ON PIPES AND TOILETS, RETURN TO SENDER YOUR MAIL, OUT GOING MAIL IS HELD AND MARK RETURN FOR SENDER. YOUR MAGAZINES DESCRIPTIONS RETURNED TO SENDER. YOUR MAIL IS SCREEN FOR INFORMATION AND PUT ON THE TIRES TO ENEMYS SO YOUR FRONT UPON. MIND GAMES 24 HOURS A DAY COMPLETED WITH SLEEP DEPRIVATIONS KEPT A WAKE FOR 2 TO 3 DAYS AT A TIME AND THEN WHEN YOU SLEEP THEY DENIE YOU. YOUR FOODS GIVE YOU SMALL PORTIONS OF FOOD AS PUNISHMENTS. CLEARLY EIGHT AMENDMENT VIOLATIONS. THE DATES OF OCCURRENCE ARE OUT LINED IN THE GRIEVANCES, JULY 10-07 THRU AUGUST 27-08 HARASSMENT CONTINUED TO UNIT #7 FOR RETALIATIONS ON THE (AR 740 1722) AND (AR 740 1713) WHICH THE GRIEVANCE WERE FILED UNDER AR 340 AND WHICH YOUR GRIEVANCE COMES BACK AS YOUR UNDER MENTAL HEALTH CARE THERE NO WRONGS DONE BY STAFF. CONSTANT HARASSMENT AND THE TAKING OF PERSONAL PROPERTY ON 5-11-08 % CAVIDRA CAME TO DO A CELL SHAKE DOWN AND A OFFICERS FROM UNIT # 4 (JOHN DOE #1) APPROXIMATELY 12:30 PM CAME OUT OF CELL AND 2 ENVELOPES WERE MISSING ONE ENVELOPE WITH PICTURES AND ADDRESS OF PAST PALS, AND ADDRESS OF MY CHILDREN AND FAMILY.

## COUNT II

The following civil right has been violated: Constitutional Violations enclosed the eight Amendment and the constitutional violation of Fifth Amendment, and Due process violation of the Fourteenth Amendment.

Supporting Facts: [Include all facts you consider important. State the facts clearly, in your own words, and without citing legal authority or argument. Be sure you describe exactly what each specific defendant (by name) did to violate your rights].

When confronted officers laugh like that is not there problem. Conflicts and harassment over guard exercising there Authority, using exercising yard time to do unlogged shake downs, climbing inside pipe chases to play Games, (John Doe #2) Taking legal Briefs out cells, legal Research folders, case laws, (John Doe #3) personal information taken out of cases 50# and DOBS, conflict between S of officers Bradford and Mullins led to a altercation and a Report was written for mental health officers playing Games on speaker and acting they don't have control of them, saying I putting on our list to harass when I follow all the procedure concerning talking with the day shift supervisor and (case worker CCW2 mas large) to let them know there was a problem and tryed to resolve it through them. S of Romero said there was no problems don't worrie about it. Around 8:30 Am the psychic doctor showed up and was questioning me like I was some nut job started getting agitated and told her to leave my door she went to the caseworker and got a provider order for a seclusion, being agitated doesn't constitute any violent behavior. Squad came and took me too a strip cell, then for the next 7 days I was told to hang myself with my tennis shoes or take the medication these officers are using there authority and writing Faults mental health Reports to cover retaliation, and harassment. Destruction of personal property and taking personal property to the property room searching it and inventoring it. All kinds of property turns up missing. Attach to this complaint with Have six Grievances with exhaust administrative remedies the GR #s 2006-2467333 GR #s 2006-27 74330 GR #2006-27-81828 GR 2006-24-18021 GR #2006-28-54988 GR # 2006-24-70006 And finally this Grievance is still being exhausted GR # 2006 27 73869. This is a.

Count #11 PAGE #2 (A)



## COUNT III

The following civil rights has been violated: The Constitutional violations covered the Fifth Amendment and Eight Amendments and the Fourteenth of the United States Constitution.

Supporting Facts: [Include all fact you consider important. State the facts clearly, in your own words, and without citing legal authority or argument. Be sure you describe exactly what each specific defendant (by name) did to violate your rights].

ON going problem the last few units I have been in. units #4 and units #5 and units #7 and unit #9. This problem is going on in every unit and inmates Right are being trampled on. The lack of training of staff and the lack of accountability to the warden. Gang members being crossed out on a regular basis. And for the entertainment of staff. The pipe chases are a form of Recreation officers to drop down into and play Games for entertainment. Having inmates assault each other for entertainment. wrongs and violate cruel and unusual punishment of the eight amendment this is a issue of deliberate indifference with objective Recklessness standard. This case should be granted summary Judgement for the reason of these officers were acting pursuant to official duty and are violating policies they sworn to which code of ethic mean nothing here. the municipality is found and they are liable.

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**D. PREVIOUS LAWSUITS AND ADMINISTRATIVE RELIEF**

- 1) Have you filed other actions in state or federal courts involving the **same or similar facts** as involved in this action?  Yes  No. If your answer is "Yes", describe each lawsuit. (If more than one, describe the others on an additional page following the below

outline).

- a) Defendants: None
- b) Name of court and docket number: N/A
- c) Disposition (for example, was the case dismissed, appealed or is it still pending?):  
N/A
- d) Issues raised: N/A
- e) Approximate date it was filed: N/A
- f) Approximate date of disposition: N/A

2) Have you filed an action in federal court that was **dismissed because it was determined to be frivolous, malicious, or failed to state a claim upon which relief could be granted?**  
 \_\_\_ Yes  No. If your answer is "Yes", describe each lawsuit. (If you had more than three actions dismissed based on the above reasons, describe the others on an additional page following the below outline.)

Lawsuit #1 dismissed as frivolous, malicious, or failed to state a claim:

- a) Defendants: N/A
- b) Name of court and case number: N/A
- c) The case was dismissed because it was found to be (check one): N/A frivolous  
\_\_\_ malicious or \_\_\_ failed to state a claim upon which relief could be granted.
- d) Issues raised: N/A
- e) Approximate date it was filed: N/A
- f) Approximate date of disposition: N/A

Lawsuit #2 dismissed as frivolous, malicious, or failed to state a claim:

- a) Defendants: N/A
- b) Name of court and case number: N/A

- c) The case was dismissed because it was found to be (check one): N/A frivolous  
 \_\_\_ malicious or \_\_\_ failed to state a claim upon which relief could be granted.
- d) Issues raised: N/A
- e) Approximate date it was filed: N/A
- f) Approximate date of disposition: N/A

Lawsuit #3 dismissed as frivolous, malicious, or failed to state a claim:

- a) Defendants: N/A
- b) Name of court and case number: N/A
- c) The case was dismissed because it was found to be (check one): N/A frivolous  
 \_\_\_ malicious or \_\_\_ failed to state a claim upon which relief could be granted.
- d) Issues raised: N/A
- e) Approximate date it was filed: N/A
- f) Approximate date of disposition: N/A

3) Have you attempted to resolve the dispute stated in this action by seeking relief from the proper administrative officials, e.g., have you exhausted available administrative grievance procedures?  Yes \_\_\_ No. If your answer is "No", did you not attempt administrative relief because the dispute involved the validity of a: (1) \_\_\_ disciplinary hearing; (2) \_\_\_ state or federal court decision; (3) \_\_\_ state or federal law or regulation; (4) \_\_\_ parole board decision; or (5) \_\_\_ other \_\_\_\_\_

If your answer is "Yes", provide the following information. Grievance Number 6 different  
 Date and institution where grievance was filed GRIEVANCE NUMBERS 2006 22-24330/pg #5 (2)

Response to grievance: you were under mental health care

NOTICE OF LAWSUIT AND REQUEST  
FOR WAIVER OF SERVICE OF SUMMONS

<input type="checkbox"/> FILED <input type="checkbox"/> ENTERED	<input checked="" type="checkbox"/> RECEIVED <input type="checkbox"/> SERVED ON COUNSEL/PARTIES OF RECORD
SEP - 9 2009	
CLERK US DISTRICT COURT DISTRICT OF NEVADA	
BY: _____ DEPUTY	

TO:

A lawsuit has been commenced against you (or the entity you are addressed). A copy of the complaint is attached to this notice. It has been filed in the United States District Court for the District of Nevada and has been assigned docket number 3:09-cv-0319-LRH-VPC.

This is not a formal summons or notification from the court, but rather my request that you sign and return the enclosed waiver of service in order to save the cost of serving you with a judicial summons and an additional copy of the complaint. The cost of service will be avoided if I receive a signed copy of the waiver within 30 days after the date designated below as the date on which this Notice and Request is sent. I enclose a stamped and addressed envelope for your use. An extra copy of the waiver is also attached for your records.

If you comply with this request and return the signed waiver, it will be filed with the court and no summons will be served on you. The action will then proceed as if you had been served on the date the waiver is filed, except that you will not be obligated to answer the complaint before 60 days from the date designated below as the date on which this Notice is sent.

If you do not return the signed waiver within the time indicated, I will take appropriate steps to effect formal service in a manner authorized by the Federal Rules of Civil Procedure and will then, to the extent authorized by those Rules, ask the court to require you (or the party on whose behalf you are addressed) to pay the full costs of such service. In that connection, please read the statement concerning the duty of parties to waive service of the summons, which is set forth on the reverse side of the waiver form.

I affirm that this Request is being sent to you on behalf of the plaintiff, this 13 day of August, 2009

  
Signature Of Plaintiff

WAIVER OF SERVICE OF SUMMONS

TO:

I acknowledge receipt of your request that I waive service of a summons in action TODD EVANS V. ERIC MC DANIELS & SGT HUNT, which is case number 3:09-CV-00319, in the United States District Court for the District of Nevada. I have also received a copy of the complaint in the action, two copies of this instrument, and a means by which I can return the signed waiver to you without cost to me.

I agree to save the cost of service of summons and an additional copy of the complaint in this lawsuit by not requiring that I (or the entity on whose behalf I am acting) be served with judicial process in the manner provided by Rule 4.

I (or the entity on whose behalf I am acting) will retain all defenses or objections to the lawsuit or to the jurisdiction or venue of the court except for objections based on a defect in the summons or in the service of the summons.

I understand that a judgment may be entered against me (or the party on whose behalf I am acting) if an answer or motion under Rule 12 is not served upon you within 60 days after \_\_\_\_\_.  
(date request was sent)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed/Typed Name

[as \_\_\_\_\_]

[of \_\_\_\_\_]

[ See Reverse Side ]

DUTY TO AVOID UNNECESSARY COSTS  
OF SERVICE OF SUMMONS

Rule 4 of the Federal Rules of Civil Procedure requires certain parties to cooperate in saving unnecessary costs of service of the summons and complaint. A defendant located in the United States who, after being notified of an action and asked by a plaintiff located in the United States to waive service of summons, fails to do so will be required to bear the cost of such service unless good cause be shown for its failure to sign and return the waiver.

It is not good cause for a failure to waive service that a party believes that the complaint is unfounded, or that the action has been brought in an improper place or in a court that lacks jurisdiction over the subject matter of the action or over its person or property. A party who waives service of the summons retains all defenses and objections (except any relating to the summons or the service of the summons), and may later object to the jurisdiction of the court or to the place where the action has been brought.

A defendant who waives service must within the time specified on the waiver form serve on the plaintiff's attorney (or unrepresented plaintiff) a response to the complaint and must also file a signed copy of the response with the court. If the answer or motion is not served within this time, a default may be taken against that defendant. By waiving service, a defendant is allowed more time to answer than if the summons had been actually served when the request for waiver of service was received.

(Added April 22, 1993, eff. Dec. 1, 1993.)