

Pro SE

MARRITTE FUNCHES

Name

P.O. Box 650

Address

Indian Springs, NV. 89070

Prison Number

37050

FILED	RECEIVED
ENTERED	SERVED ON
COUNSEL/PARTIES OF RECORD	
MAR - 8 2010	
CLERK US DISTRICT COURT	
DISTRICT OF NEVADA	
BY: <u>DM</u>	DEPUTY

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

MARRITTE FUNCHES

Plaintiff,

vs.

E.K. McDaniel

Bill Doner

Dwight Neven

Mike Stolk

Martin Sorenson

Defendant(s).

CASE NO. 3:09-cv-0343-LRH-VPC

(To be supplied by the Clerk)

FIRST AMENDED

CIVIL RIGHTS COMPLAINT

PURSUANT TO

42 U.S.C. § 1983

Jury Trial Demanded

A. JURISDICTION

- 1) This complaint alleges that the civil rights of Plaintiff, MARRITTE FUNCHES,  
(print Plaintiff's name)

who presently resides at HDSP-P.O.B. 650 Indian Springs, NV. 89070, were  
(mailing address or place of confinement)

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

Plaintiff at ESP - HDSP - NSP - NNCC on the following dates  
(institution/city where violation occurred)

9-25-07, 4-19-04 to 6-21-09, and 9-6-07 to 10-3-07.  
(Count I) (Count II) (Count III)

1-16-08 10-2-08 to 1-2-09.  
(COUNT IV) (COUNT V)

( See additional page for defendants)

Gerald Thompson  
Troy Willis  
TERRI CURTO  
Gene Christensen  
STEVEN MacARTHUR  
JAMES Stogner  
Adam Endel  
Terrance Deeds  
Sean Donahue  
Tom Stubbs  
Richard Ashcraft  
Glenn Perkins  
Adam Watson  
JAMES Baca  
Randall Nixon  
Rick Stalnaker  
Janice Daniel  
Kathy King  
Delmar Snider

Susana Tayler  
Kay Long  
JAMES BENEDETTI  
John Doe 1-17  
Jane Doe 1-3  
Howard Skolnik  
Bruce Bannister

Make a copy of this page to provide the below  
information if you are naming more than five (5) defendants P.O. Box 7011

- 2) Defendant GERALD THOMPSON resides at CARSON CITY, NV. 89702,  
(full name of first defendant) (address of first defendant)  
and is employed as Investigator. 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: AS an employee of the NDOC, office of  
the inspector general.

- 3) Defendant Martin Sorenson resides at 1785 Great Basin Blvd.  
(full name of first defendant) Ely, NV. 89301,  
(address of first defendant)  
and is employed as DETECTIVE. 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: AS a STATE EMPLOYEE of NEVADA, and  
DETECTIVE WITH THE WHITE PINE COUNTY SHERIFFS DEPARTMENT.

- 4) Defendant MIKE STOLK resides at 1785 Great Basin Blvd.  
(full name of first defendant) Ely, NV. 89301,  
(address of first defendant)  
and is employed as DETECTIVE. 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: AS a STATE EMPLOYEE of NEVADA, and DETECTIVE  
WITH THE WHITE PINE COUNTY SHERIFFS DEPARTMENT

- 5) Defendant JAMES BENEDETTI resides at P.O. Box 7000  
(full name of first defendant) CARSON CITY, NV. 89702,  
(address of first defendant)  
and is employed as WARDEN. 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: AS an employee of the NDOC, and warden  
of the Northern Nevada Correctional Center.

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

- 2) Defendant Glenn Perkins resides at P.O. Box 607, Elko, NV. 89301,  
(full name of first defendant) (address of first defendant)  
and is employed as Corrections Officer. 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: AS A NDOC EMPLOYEE, AND CORRECTIONS  
OFFICER AT ELKO STATE PRISON.

- 3) Defendant Rick Stalnaker resides at P.O. Box 607  
(full name of first defendant) (address of first defendant)  
and is employed as Corrections Officer. 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: AS A NDOC EMPLOYEE, AND CORRECTIONS  
OFFICER AT NEVADA STATE PRISON.

- 4) Defendant Delmar Smider resides at P.O. Box 607  
(full name of first defendant) (address of first defendant)  
and is employed as Doctor. 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: AS A NDOC EMPLOYEE, AND DOCTOR AT  
NEVADA STATE PRISON.

- 5) Defendant Susan Taylor resides at P.O. Box 607  
(full name of first defendant) (address of first defendant)  
and is employed as NURSE. 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: AS A NDOC EMPLOYEE, AND NURSE  
AT NEVADA STATE PRISON.

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

- 2) Defendant TERRANCE DEEDS resides at P.O. Box 1989 Elko, NV. 89301,  
(full name of first defendant) (address of first defendant)  
and is employed as CORRECTIONS OFFICER. 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: AS A NDOC EMPLOYEE, AND CORRECTIONS  
OFFICER AT THE STATE PRISON.

- 3) Defendant KAY LONG resides at P.O. Box 607  
(full name of first defendant) (address of first defendant)  
and is employed as NURSE. 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: AS A NDOC EMPLOYEE, AND A NURSE  
AT NEVADA STATE PRISON.

- 4) Defendant ADAM ENDELL resides at 1677 Old Hot Springs Rd, Ste. A  
(full name of first defendant) (address of first defendant)  
and is employed as ASSOCIATE WARDEN. 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: AS A NDOC EMPLOYEE, AND ASSOCIATE  
WARDEN OF THE STATE PRISON.

- 5) Defendant STEVEN MACARTHUR resides at William B. Rritz Hospital  
(full name of first defendant) (address of first defendant)  
and is employed as DOCTOR. 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: AS A EMPLOYEE OF THE NDOC, CONTRACTED  
BY AND FOR THE STATE PRISON.

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

- 2) Defendant Stan Donahut resides at P.O.B. 1989 Ely, NV. 89301,  
(full name of first defendant) (address of first defendant)  
and is employed as Corrections officer. 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: AS A NDOC EMPLOYEE, and CORRECTIONS  
OFFICER AT ELY STATE PRISON.

- 3) Defendant Troy Willis resides at P.O.B. 1989 Ely, NV. 89301,  
(full name of first defendant) (address of first defendant)  
and is employed as NURSE. 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: AS AN NDOC EMPLOYEE, and a NURSE AT  
ELY STATE PRISON.

- 4) Defendant TERRI CURTO resides at P.O.B. 1989 Ely, NV. 89301,  
(full name of first defendant) (address of first defendant)  
and is employed as NURSE. 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: AS A NDOC EMPLOYEE, and a NURSE  
AT ELY STATE PRISON.

- 5) Defendant Bill Doner resides at P.O.B. 607 Carson City, NV.,  
(full name of first defendant) (address of first defendant) 89702  
and is employed as Warden. 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: AS A NDOC EMPLOYEE, and WARDEN  
OF NEVADA STATE PRISON.

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

- 2) Defendant E.K. McDannel resides at P.O. Box 1989 Elko, NV. 89301,  
(full name of first defendant) (address of first defendant)  
and is employed as Warden. 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: As a NDOC Employee, and Warden  
at Elko State Prison.

- 3) Defendant Dwight Neven resides at P.O. Box 650  
(full name of first defendant) (address of first defendant)  
and is employed as Warden. 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: As a NDOC Employee, and Warden  
at High Desert State Prison.

- 4) Defendant John Doe #1 resides at \_\_\_\_\_  
(full name of first defendant) (address of first defendant)  
and is employed as Transport Officer. 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: As a NDOC Employee, and Transport  
Officer.

- 5) Defendant John Doe #2 resides at \_\_\_\_\_  
(full name of first defendant) (address of first defendant)  
and is employed as Transport Officer. 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: As a NDOC Employee, and Transport  
Officer.

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

- 2) Defendant John Doe #3 resides at \_\_\_\_\_,  
(full name of first defendant) (address of first defendant)  
and is employed as Transport officer. 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: AS a NDOC Employee, and Transport  
officer.

- 3) Defendant John Doe #4 resides at \_\_\_\_\_,  
(full name of first defendant) (address of first defendant)  
and is employed as Transport officer. 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: AS a NDOC Employee, and Transport  
officer.

- 4) Defendant John Doe #5 resides at P.O. Box 607  
(full name of first defendant) Carson City, NV. 89702,  
(address of first defendant)  
and is employed as Correctional officer. 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: AS a NDOC Employee, and Corrections  
officer at Nevada State Prison.

- 5) Defendant John Doe #6 resides at P.O. Box 607  
(full name of first defendant) Carson City, NV. 89702,  
(address of first defendant)  
and is employed as Corrections officer. 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: AS a NDOC Employee and a  
Corrections officer at Nevada State Prison.



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

2) Defendant John Doe #7 resides at P.O.B. 607 Carson City, NV. 89702.  
(full name of first defendant) (address if first defendant)  
and is employed as corrections officer. This defendant is sued in his/her  
(defendant's position and title, if any)  
x individual x official capacity. (Check one or both). Explain how this defendant was  
acting

under color of law: As a NDOC employee, and corrections  
officer, at Nevada State Prison.

3) Defendant John Doe #8 resides at \_\_\_\_\_  
(full name of first defendant) (address if first defendant)  
and is employed as transportation officer. This defendant is sued in his/her  
(defendant's position and title, if any)  
x individual x official capacity. (Check one or both). Explain how this defendant was  
acting

under color of law: As a NDOC employee, and transportation  
officer.

4) Defendant John Doe #9 resides at \_\_\_\_\_  
(full name of first defendant) (address if first defendant)  
and is employed as transportation officer. This defendant is sued in his/her  
(defendant's position and title, if any)  
x individual x official capacity. (Check one or both). Explain how this defendant was  
acting

under color of law: As a NDOC employee, and transportation  
officer.

5) Defendant John Doe #10 resides at \_\_\_\_\_  
(full name of first defendant) (address if first defendant)  
and is employed as transportation officer. This defendant is sued in his/her  
(defendant's position and title, if any)  
x individual x official capacity. (Check one or both). Explain how this defendant was  
acting

under color of law: As a NDOC employee, and transportation  
officer.

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

- 2) Defendant John Doe # 11 resides at \_\_\_\_\_,  
(full name of first defendant) (address of first defendant)  
and is employed as Transportation officer. 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: AS A NDOC EMPLOYEE, AND  
TRANSPORTATION OFFICER.

- 3) Defendant John Doe # 12 resides at P.O. Box 7000  
(full name of first defendant) (address of first defendant)  
and is employed as CORRECTIONS OFFICER. 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: AS A NDOC EMPLOYEE, AND CORRECTIONS  
OFFICER AT NNCC.

- 4) Defendant John Doe # 13 resides at P.O. Box 7000  
(full name of first defendant) (address of first defendant)  
and is employed as CORRECTIONS OFFICER. 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: AS A NDOC EMPLOYEE, AND CORRECTIONS  
OFFICER AT NNCC.

- 5) Defendant John Doe # 14 resides at P.O. Box 7000  
(full name of first defendant) (address of first defendant)  
and is employed as CORRECTIONS OFFICER. 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: AS A NDOC EMPLOYEE, AND CORRECTIONS  
OFFICER AT NNCC.

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

- 2) Defendant John Doe # 15 resides at P.O. Box 7000 Carson City, NV. 89702,  
(full name of first defendant) (address of first defendant)  
and is employed as Corrections officer. 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: As a NDOC employee, and corrections  
officer at NNCC.

- 3) Defendant John Doe # 16 resides at P.O. Box 7000 Carson City, NV. 89702,  
(full name of first defendant) (address of first defendant)  
and is employed as Corrections officer. 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: As a NDOC employee, and corrections  
officer at NNCC.

- 4) Defendant John Doe # 17 resides at P.O. Box 7000 Carson City, NV. 89702,  
(full name of first defendant) (address of first defendant)  
and is employed as Corrections officer. 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: As a NDOC employee, and corrections  
officer at NNCC.

- 5) Defendant Jane Doe # 1 resides at P.O. Box 7000 Carson City, NV. 89702,  
(full name of first defendant) (address of first defendant)  
and is employed as Doctor. 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: As a NDOC employee, and doctor  
at NNCC.

Make a copy of this page to provide the below

information if you are naming more than five (5) defendants

P.O. Box 7000

- 2) Defendant JANE DOE #2 resides at CARSON CITY, NV. 89702.  
(full name of first defendant) (address of first defendant)

and is employed as NURSE. 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: AS A NDOC EMPLOYEE, and NURSE  
at NNCC.

- 3) Defendant JANE DOE #3 resides at CARSON CITY, NV. 89702.  
(full name of first defendant) (address of first defendant)

and is employed as CORRECTIONS OFFICER. 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: AS A NDOC EMPLOYEE, and CORRECTIONS  
OFFICER at NNCC.

- 4) Defendant ADAM WATSON resides at CARSON CITY, NV. 89702.  
(full name of first defendant) (address of first defendant)

and is employed as ASSOCIATE WARDEN. 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: AS A NDOC EMPLOYEE, and ASSOCIATE  
WARDEN of NSP.

- 5) Defendant RANDALL NIXON resides at CARSON CITY, NV. 89702.  
(full name of first defendant) (address of first defendant)

and is employed as DOCTOR. 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: AS A NDOC EMPLOYEE, CONTRACTED by  
and for NNCC.

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

- 2) Defendant Richard Ashcraft resides at P.O. Box 1989 Ely, NV. 89301,  
(full name of first defendant) (address of first defendant)  
and is employed as Corrections Officer. 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: As a NDOC Employee, and Corrections  
Officer at ESP.

- 3) Defendant James Sroogner resides at P.O. Box 1989 Ely, NV. 89301,  
(full name of first defendant) (address of first defendant)  
and is employed as Chaplain. 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: As a NDOC Employee, and Chaplain  
at ESP.

- 4) Defendant James Baca resides at P.O. Box 607  
(full name of first defendant) (address of first defendant)  
and is employed as Associate Warden. 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: As a Employee of The NDOC, and  
Associate Warden of NSP.

- 5) Defendant Gene Christensen resides at William B. Ririe Hospital  
(full name of first defendant) (address of first defendant)  
and is employed as 6 Steptoe Circle. 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: As a NDOC Employee, contracted by  
and for ESP.

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

- 2) Defendant TOM Stubbs resides at P.O. Box 1989 Elko, NV. 89301,  
(full name of first defendant) (address of first defendant)  
and is employed as Corrections officer. 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: AS a NDOC employee, and corrections  
officer at ESP.

- 3) Defendant Janice Daniel resides at P.O. Box 607  
(full name of first defendant) (address of first defendant)  
and is employed as NURSE. 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: AS a NDOC employee, and nurse at  
NSP.

- 4) Defendant Kathy King resides at P.O. Box 607  
(full name of first defendant) (address of first defendant)  
and is employed as NURSE. 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: AS a NDOC employee, and nurse at  
NSP.

- 5) Defendant Howard Skolnik resides at P.O. Box 7011/5500 Snyder Ave.  
(full name of first defendant) (address of first defendant)  
and is employed as Director of Prisons. 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: AS a employee for the State of Nevada  
and director of prisons with the NDOC.

P.O. Box 7011 / 5500 Snyder Ave.

6) Defendant Bruce Bannister resides at Carson City, NV. 89701  
(full name of first defendant) (address of first defendant)

and is employed as Medical Director. This defendant is sued in his/her  
(defendant's position and title, if any)

   individual   x   official capacity. (Check one or both). Explain how this defendant was

acting under color of law: AS A NDOC EMPLOYEE, AND DIRECTOR

OF THE MEDICAL FOR THE NDOC.

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.

28 U.S.C. SECTION 1367 - PENDANT JURISDICTION 28 U.S.C. 1343,

and 42 U.S.C. § 1983.

#### B. NATURE OF THE CASE

1) Briefly state the background of your case.

Defendants, acting under color of law, willfully and wantonly  
violated plaintiffs rights. Subjecting plaintiff to an unyielding  
systematic pattern of abuse and harassment spanning over five  
years, three counties, and four prisons. Including conspiracy,  
deliberate indifference to plaintiffs serious medical needs, den  
ial of due process, false arrest, malicious prosecution, cruel  
and unusual punishment, assault, deprivation of property with  
no due process - just cause - or compensation. Further defend  
ants intentionally discriminated against plaintiff for his  
religious and political beliefs.

## C. CAUSE OF ACTION

### COUNT I

The following civil right has been violated: Defendants herein have violated plaintiffs 1<sup>ST</sup>, 4<sup>TH</sup>, 5<sup>TH</sup>, 8<sup>TH</sup>, and 14<sup>TH</sup> amendment rights to the U.S. Constitution.

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].

- (1.) Due to the conspiratorial actions, Manufactured Evidence, and false reports of the defendants. On Sept. 18, 2007 plaintiff stood falsely accused at trial on charges of 1<sup>ST</sup> degree Murder, and possession/control of a dangerous weapon.
- (2.) On 9-25-07 plaintiff was proved "NOT GUILTY" on all counts.
- (3.) The false arrest and malicious prosecution of plaintiff began 4-19-04 when fellow inmate Carl Green was stabbed at ESP, and later died at the William BEE Ririe Hospital.
- (4.) On 4-19-04 at ESP plaintiff was interrogated by defendants Martin Sorenson and Mike Stolk (hereinafter Sorenson and Stolk), who informed plaintiff that he had murdered Carl Green. But prior to his death the victim identified plaintiff as his killer. Plaintiff then stated his innocence and requested an attorney. Whereupon Stolk and Sorenson read plaintiff his rights and placed him under arrest.
- (5.) The conspiracy to falsely arrest and maliciously prosecute plaintiff began when defendants Sorenson, Stolk, and Gerald Thompson (hereinafter Thompson) lied in their reports and testimony under oath that the victim had identified plaintiff as his killer.
- (6.) On 4-19-04, and in the days after, Thompson did solicit false testimony from medical staff. To which defendants Troy Willis and Terri Curto did perjure themselves under oath at trial, in furtherance of the conspiracy against plaintiff. Both testified that



## CONTINUATION OF COUNT I

When asked who stabbed him, the victim identified his attacker. But this encounter was both video and audio recorded. And when played in open court showed no such occurrence took place.

(7.) While conducting interviews of potential witnesses, defendants Sorenson, Stolk, and Thompson, in furtherance of their conspiracy to bring false charges on plaintiff, did ignore and refuse to take statements from witnesses who could have exonerated plaintiff of guilt.

(8.) Defendants Stolk, Sorenson, and Thompson each maliciously and intentionally ignored and failed to investigate other credible leads.

(9.) Witness Keith Edwards gave statements that he saw two men attack the victim, that plaintiff was not among them. This witness gave direct testimony identifying who the assailants were, and which was supported by statements of corrections officers who were present. But in furtherance of their conspiracy against plaintiff, defendants ignored this evidence and attempted to coerce Keith Edwards to change his testimony and lie under oath at trial to identify plaintiff.

(10.) Defendants Stolk, Sorenson, and Thompson did seek payment for known jailhouse informant, James Beverly # 18099, to lie under oath against plaintiff.

(11.) As warden of ESP, defendant E.K. McDaniel (herein after McDaniel) must approve any such payments, first ensuring the information is credible. Failing to do so McDaniel played an active role in the malicious prosecution of plaintiff.

(12.) On 11-4-04 defendants Sorenson, Stolk, and Thompson used false statements from a confidential informant who did not exist, in order to further their conspiracy to maliciously prosecute plaintiff, and thus did cause plaintiff to face trial, and the death penalty, for crimes he did not commit.

CONTINUATION OF COURT I

- (13.) On 12-9-04 defendant Thompson did COMMIT perjury at plaintiff's preliminary hearing, by stating the victim had identified plaintiff as his lone attacker, and by changing his previous reports and statements, to further incriminate and continue the malicious prosecution of plaintiff.
- (14.) On 12-9-04 defendant Gene Christensen, did COMMIT perjury, to cover the fact the victim's initial stab wounds had been stabalized and were "NOT" life threatening. The death of Carl Green was caused by a botched surgery, performed by Gene Christensen himself.
- (15.) Defendant Steven MacArthur did conspire to cover up the botched surgery of Carl Green. By submitting false reports.
- (16.) On 3-17-05 defendant James Stogner did willfully, and maliciously discriminate against plaintiff for his religious beliefs during a security hearing, where the prosecution wanted excessive and incriminating security measures to be taken.
- (17.) Defendant James Stogner claimed under oath that due to plaintiff's charitable contributions of religious literature etc. and due to plaintiff's religious beliefs, plaintiff was a suicide risk. He further stated that he'd been allowed to read plaintiff's institutional files in years prior, which caused him to fear for his safety while in plaintiff's presence when he was unrepresented. And thus perjured himself under oath.
- (18.) The false and discriminatory statements of James Stogner caused plaintiff to be forced to wear a 50,000 shock belt over his kidneys, along with full wrist and leg restraints AT all for their hearings, causing plaintiff great physical pain and psychological distress.
- (19.) By and through the unlawful acts of the above named defendants, plaintiff was denied rights reserved for other similarly situated individuals, forced to face trial, and

### CONTINUATION OF COURT I

imposed the death penalty, for a crime he did not commit. Plaintiff was not allowed to confront his accusers, as defendants created a witness who did not exist, and used statements from this non-existent witness to have plaintiff bound over for trial.

(20.) Plaintiff has endured many years of humiliation and harassment. And remains in segregation to this day deprived of numerous privileges he would otherwise have. And locked in a cell 24 hours a day, which has caused plaintiff to suffer both mental and physical harm.

(21.) Court / criminal proceedings are not subject to the prison grievance process. This action under 42 U.S.C. § 1983 is plaintiff's only available recourse / remedy.

## COUNT II

The following civil right has been violated: Defendants herein have violated plaintiffs 5<sup>TH</sup>, 8<sup>TH</sup>, and 14<sup>TH</sup> amendment rights under the U.S. Constitution.

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].

- (1) On 4-19-04 plaintiff was removed from general population at ESP and placed in administrative segregation pending investigation for the stabbing of Carl Green. Another inmate who later died.
- (2) On 4-20-04 defendant McDaniel, as warden of ESP, classified plaintiff as a High Risk Potential (HRP): threat to the safety and security of the prison, staff, and other inmates. Without a hearing or any opportunity for plaintiff to speak or present evidence on his behalf.
- (3) Though plaintiff has not received a write up for the stabbing of Carl Green in over five years. And in fact stood trial and was proved "NOT Guilty" at court on 9-25-07. McDaniel has used his position as warden, to arbitrarily and maliciously punish plaintiff without due process. Keeping plaintiff on HRP to the present date, with no explanation, in a cell 23-24 hours a day more than five years.
- (4) Unlike the administrative segregation classification, which is not meant to be a punishment. Inmates classified as HRP are not allowed certain property items, are subject to canteen and other restrictions, loss of privileges such as hobby craft etc. And are forced to take visits behind glass, while in full wrist and leg restraints. Excessive searches, mail monitoring etc.
- (5). Due to Plaintiff's HRP classification normal procedures and policies governing plaintiff's movement and medical care were and are subject to the approval of E.K. McDaniel alone.

## CONTINUATION OF COUNT II

- (6.) Due to the policies set forth by McDaniel plaintiff was forced to miss medical appointments on numerous occasions, causing confusion and interfering in plaintiff's medical care. As well as causing plaintiff's condition to get worse, and causing plaintiff to endure unnecessary pain, each to the present date.
- (7.) As the sole decider whether or not plaintiff could be transferred outside the prison, due to his HRP status. McDaniel did deny doctors recommendations for plaintiff to be transferred or to see an outside specialist to treat plaintiff's serious medical needs, not only at ESP, but also while housed at HDSP.
- (8.) As part of the ACLU investigation into the medical conditions and practices at ESP, on 1-16-08 plaintiff was transferred to H.D.S.P., where defendant Dwight Neven is the warden.
- (9.) While housed at HDSP defendant Neven too used plaintiff's HRP status to deny doctors recommendations for plaintiff to be transferred or seen by a specialist to address plaintiff's serious medical needs. Here plaintiff again was forced to miss numerous medical appointments, causing pain and untold harm.
- (10.) In spite of the associate warden of HDSP Jim Henson, willingness to remove me from HRP status and release me to the general population. Allowing plaintiff to program and receive medical care without the restraints of plaintiff's HRP classification as any other inmate would. Defendant Neven would not allow this without approval of McDaniel, and McDaniel refused, causing plaintiff to suffer till this day.
- (11.) Plaintiff has suffered untold psychological and physical harm due to actions of the defendants detailed above.
- (12.) Plaintiff has exhausted available remedies.
- (13.) Plaintiff has suffered great psychological stress and harm due to being locked in a cell 23-24 hours a day for no wrong of his own.

continuation of count II

(14.) As plaintiff did write numerous letters to defendant Howard Skolnik, informing him of each and all violations against plaintiff described herein. And as defendant is the director of prisons, and last in the line of available remedies, and with ultimate authority to investigate and put an end to any abuses within the NDOC. This defendant did, by his failure to investigate plaintiffs claims and complaints, and failure to ensure the enforcement of the practices and policies of the NDOC. Allow plaintiff to languish and suffer each of the claims detailed herein, without recourse, and unnecessarily, causing undue harm and pain. As well as mental anguish.

(15.) As director of medical for the NDOC, defendant Bruce Bannister, who has the authority and responsibility to investigate all serious medical claims. Plaintiff did write numerous letters to this defendant, begging for help.

(16.) Defendant Bannister's failure to investigate plaintiffs claims and complaints, and his failure to ensure that plaintiffs HRP classification would not be used to deny him vital medical care. Did cause plaintiff to suffer undue harm and pain. As well as mental anguish.

### COUNT III

The following civil right has been violated: Defendants herein have violated plaintiffs 8<sup>TH</sup> and 14<sup>TH</sup> amendment rights to The U.S. Constitution.

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].

- (1.) On or about 9-6-07 defendants John Doe 1-4 did transport plaintiff from ESP to NSP.
- (2.) Defendant McDaniels wrongon misuse of the HRP classification against plaintiff, did cause plaintiff to be treated differently even than other HRP inmates. AS normally all other inmates, except the most extremely violent, are placed in belly chains that allow movement of the hands and arms to eat, drink, and use the toilet.
- (3.) Defendants John Doe #1 and #2 placed plaintiff in handcuffs with a black box, tightly strapped to his waste so plaintiff had no use of his arms or hands. Plaintiff was placed in leg irons, and pad locked inside a tiny steel cage with barely room to sit. Which was built into the transport bus.
- (4.) Plaintiff informed John Doe #1 (lead transport officer) he suffers from medical issues and would need use of the onboard urinal.
- (5.) Plaintiff's request was denied, as he was not allowed to use the toilet or drink any water at any point during the approximately 12 hour trip.
- (6.) Plaintiff endured agonizing kidney and bladder pain, as well extreme thirst. Resulting from this 12 hour bus ride in the lingering summer heat.
- (7.) The excessive restraints themselves did cause plaintiff great pain and suffering, which lingered for weeks after.
- (8.) There were no seat belts or any way for plaintiff to secure himself in case of a traffic accident.
- (9.) Defendants John Doe #2, 3, and 4 were present and party to

## CONTINUATION OF COUNT III

The aforementioned violations of plaintiff's rights.

(10) On or about 10-3-07 defendants John Doe # 1, 2, 3, and 4 did transport plaintiff back to ESP from NSP. Repeating all and each of the same violations described above. Causing plaintiff more of the same pain and humiliations.

(11) Prior to his return to ESP from NSP, plaintiff did inform defendant Bill Doner of all the above mentioned violations. And as warden of NSP this defendant had the authority, and the responsibility, to ensure plaintiff's constitutionally protected rights.

(12.) Due to the pain and suffering of the initial transport conditions, plaintiff did seek medical attention and was diagnosed as having an enlarged prostate.

(13.) Even with this 9-27-07 diagnosis as proof of plaintiff's medical needs. Defendant Bill Doner did nothing to stop any of the previously mentioned violations from occurring a second time.

(14.) In spite of the fact plaintiff exhibited no acts of violence to justify such extreme use of restraints. It was the direct misuse of the classification process by defendant McDaniel, who knew of plaintiff's medical condition, which allowed for plaintiff pain and suffering.

(15.) Plaintiff has been forced to endure these same conditions of transport at least two other times since. With each of the same results, due to McDaniel's refusal to address the problem. Continuing to cause plaintiff great pain and suffering.

(16.) Plaintiff has exhausted all available remedies.



## C. CAUSE OF ACTION

### COUNT IV

The following civil right has been violated: Defendants herein have violated plaintiffs 1<sup>ST</sup>, 4<sup>TH</sup>, 5<sup>TH</sup>, 8<sup>TH</sup>, and 14<sup>TH</sup> amendment rights to the U.S. Constitution.

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].

- (1.) on 1-16-08 defendants Terrance Deeds, Sean Donahue, and Tom Stubbs, arrived at plaintiff's cell (unit 1-A-14) to take him and his property to the property room. for plaintiff to conduct an inventory of, and pack his property for transport, from ESP to HDSP, for Medical.
- (2.) Plaintiff was placed in leg irons, hands cuffed behind his back, with cash.
- (3.) Defendants Deeds and Stubbs loaded plaintiff's property onto a wooden cart. The total weight of which was approximately 250 Lbs.
- (4.) Defendants Stubbs and Donahue walked plaintiff approx 70 Ft. to the unit Sallyport. As Deeds struggled to pull the cart behind.
- (5.) Once inside the Sallyport, complaining of how heavy the cart was, Deeds ordered plaintiff to pull the cart the rest of the approx 100 yards to the property room, up slopes, down hills, around corners etc.
- (6.) Plaintiff informed Deeds that being in full restraints, plus a bad back, and his illness. Made it impossible.
- (7.) Defendant Deeds became verbally abusive, and complained to defendant Adam Endel, associate warden of ESP, who oversaw the entire situation.
- (8.) Defendant Endel also ordered plaintiff to the heavy cart. to which plaintiff again explained why he was unable.
- (9.) under normal circumstances, and with other inmates similarly situated. In accordance with all prevailing policies and procedures, a 3<sup>rd</sup> party corrections officer would be called to transport the

## CONTINUATION OF COUNT IV

INMATES PROPERTY, WITH THE INMATE.

(10.) INSTEAD DEFENDANT ENDEL ORDERED PLAINTIFF BE TAKEN  
BACK TO HIS EMPTY CELL, AND ALL OF PLAINTIFF'S PROPERTY DESTROYED.

(11.) PLAINTIFF DID FILE AN EMERGENCY GRIEVANCE ON 1-16-08, IN  
ATTEMPTS TO RESOLVE THE SITUATION ACCORDING TO THE RULES. BUT  
AS THE DEFENDANTS WERE NOW CONSPIRING TO HARASS PLAINTIFF  
AND DEPRIVE HIM OF HIS PROPERTY. PLAINTIFF WAS INFORMED  
THAT PER ENDEL'S ORDERS HIS PROPERTY WAS CLASSIFIED AS  
UNAUTHORIZED, AND WOULD BE DESTROYED OR SENT OUT.

(12.) ON 1-17-08 PLAINTIFF WAS TRANSFERRED FROM ESP TO HDSP, LEAD  
TO BELIEVE ALL OF HIS PROPERTY HAD BEEN DESTROYED.

(13.) SEVERAL DAYS LATER PLAINTIFF DID RECEIVE SOME PROPERTY,  
BUT MOST OF PLAINTIFF'S MOST IMPORTANT AND PERSONAL ITEMS, LEGAL  
MATERIALS, RELIGIOUS AND POLITICAL LITERATURE, FAMILY PHOTOS AND  
CONTACT INFORMATION WERE ALL MISSING.

(14.) IN FURTHERANCE OF THE CONSPIRACY TO HARASS AND DEPRIVE  
PLAINTIFF OF HIS PROPERTY, PUNISHING PLAINTIFF WITHOUT DUE PROCESS.  
DEFENDANT RICHARD ASHCRAFT DID FALSIFY OFFICIAL DOCUMENTS AND  
CAUSE PLAINTIFF'S PROPERTY TO BE TAKEN AND DESTROYED.

(15.) PLAINTIFF DID PURSUE THIS MATTER VIA THE GRIEVANCE PROC.  
ESS, WHICH AGAIN IN FURTHERANCE OF THE CONSPIRACY AGAINST HIM,  
DEFENDANT ENDEL AND MCDANIEL DENIED PLAINTIFF'S GRIEVANCES,  
IGNORING ALL PREVAILING POLICES AND PROCEDURES.

(16.) AS THE SENIOR CORRECTIONS OFFICER PRESENT AND PARTY TO  
THE ABOVE, DEFENDANT GLENN PERKINS FAILED TO FOLLOW POLICES  
IN NOT CALLING FOR A 3<sup>RD</sup> PARTY CORRECTIONS OFFICER TO TRANSPORT  
PLAINTIFF'S PROPERTY. ALTHOUGH AT THE DIRECTION OF ADAM ENDEL.

(17.) PLAINTIFF HAS EXHAUSTED ALL AVAILABLE REMEDIES.

## COUNT **V**

The following civil right has been violated: Defendants herein have violated plaintiffs 5<sup>TH</sup>, 8<sup>TH</sup>, and 14<sup>TH</sup> amendment rights to the U.S. Constitution.

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].

- (1.) On 10-2-08 plaintiff was transferred from HDSP to NSP, to be placed under the care of urologist Randall Nixon.
- (2.) Defendants Bill Doney, Adam Watson, and James Baca, did intentionally and maliciously create conditions making it impossible for plaintiff to receive proper medical care, unlike other prisoners similarly situated.
- (3.) Plaintiff was housed in the building furthest from medical staff, in a cell with no intercom system, rather than in the infirmary, as would normally occur. Causing plaintiff to languish in pain with no way to contact medical staff.
- (4.) On 10-24-08, instead of being taken to Dr. Nixon's office with all of the equipment to properly examine plaintiff, as would normally occur. Plaintiff was taken to NCC where there was none of the necessary equipment to do a full or proper exam. Further complicated by defendants Rick Stralaker John Dots # 5, 6, and 7 refusal to remove plaintiff's restraints. His hands were cuffed with black box, strapped to his waist with a heavy chain, and leg irons. While surrounded by four guards with Tazer guns.
- (5.) Defendant Randall Nixon had a Moral and Ethical obligation to properly examine and diagnose plaintiff. yet as the conditions of plaintiff's examination were barbaric at best. Without review of medical records or history, Dr. Nixon did misdiagnose plaintiff's condition, prescribing treatment that caused plaintiff's illness to worsen, causing great pain, stress, untold harm.
- (6.) Based on this brief exam, two medications were ordered, including Elavil. with a follow up exam to follow several tests.
- (7.) On 10-26-08 plaintiff told defendant Janice Daniel he could not take

### Continuation of count V

Elavil, as he'd experienced an adverse reaction to it previously.

(8.) Defendants Kathy King and Daniel did threaten plaintiff's refusal to take Elavil, a psychotropic drug, would be considered a refusal of medical treatment.

(9.) On 10-26-08 plaintiff mailed a letter, sealed, addressed, and postage affixed, to Dr. Nixon. Informing him of plaintiff's symptoms and medical history. As well plaintiff's past experience with Elavil, and the threats made by King and Daniel.

(10.) Defendant King intercepted said letter. And against all legal standing, against all NDOR policies and procedures. The defendant opened and read said letter. Thus a pattern of harassment and retaliation began.

(11.) Defendants King, Daniel, and Delmar Snider did conspire to retaliate against and cause plaintiff untold/serious harm. By withholding vital information from Dr. Nixon to keep plaintiff from being properly diagnosed and treated. Attempting to administer/poison plaintiff with powerful psychotropic drugs not prescribed to plaintiff, and against his will. And by overriding the appointments and authority of Dr. Nixon, to have plaintiff sent back to HDSP without diagnosis or treatment. Causing plaintiff to languish in pain till this day.

(12.) On 11-1-08 defendant Daniel attempted, with malice and forethought, to give plaintiff another inmates medication. A very powerful psychotropic drug which would have made plaintiff very sick.

(13.) On 11-3-08 defendant Susana Taylor did attempt, with malice and forethought, to give plaintiff another inmates medication. A very powerful psychotropic drug that would've made him sick.

(14.) As plaintiff was suffering great pain due to his illness, and the only thing stronger than valium that defendant Snider would give plaintiff was Elavil. Plaintiff was forced to take this medication, which did cause his condition to become much worse.

(15.) Defendant Kay Long did participate in the harassment

### CONTINUATION OF COUNT V

and retaliation against plaintiff, by denying him prescribed medication and causing plaintiff to languish in pain.

(16) On 12-18-08 defendant King did inform plaintiff that she and Dr. Snider had canceled his follow up exam with Dr. Nixon, to send plaintiff back to HDSP, ensuring his illness would not be properly diagnosed or treated, and that he'd continue to languish in pain.

(17) On 12-29-08 though plaintiff was deathly ill having lost over 20 lbs. Defendant Bill Doney, in full knowledge of all described herein, ordered plaintiff transferred back to HDSP.

(18) Defendants Stalmark, John Does # 8, 9, 10, and 11. Did force plaintiff to leave his property behind, against all policies. As plaintiff was placed in full restraints, placed in a tiny cage on the transport bus, and allowed no water or use of the toilet.

(19) Several hours into the trip plaintiff became very sick, bleeding from the nose, losing consciousness, and falling head to the floor.

None of the defendants John Does # 8 thru 11, did anything to help or provide immediate medical care. John Doe # 8 phoned Warden Doney, who ordered no immediate care be given, as plaintiff laid unconscious for an undetermined amount of time on the floor. Plaintiff was driven that way, the 2-3 hours back to Carson City, and to NCC.

(20.) Upon arriving at NCC John Does # 12 and 13 boarded the bus, and while dragging plaintiff off the bus, each of them struck plaintiff about the head.

(21.) Plaintiff was taken to the infirmary where defendant John Doe # 14 also assaulted plaintiff, dragging him across the room by the leg irons, causing plaintiff to scream out in agony.

(22.) Defendants Jane Doe # 1 and 2, as doctor and nurse, did not examine plaintiff in a professional manner. Instead accused plaintiff of being high or faking illness. So no diagnosis or X-rays were taken, leaving plaintiff to suffer with

## CONTINUATION OF COUNT V

his injuries to the present date.

(23.) Plaintiff was taken to an empty cell where John Doe # 15 forced plaintiff to strip naked at tazer/gun point. John Doe # 16 took plaintiff's cloths. John Doe # 17 filmed the entire occurrence from start to finish. And Jane Doe # 3 was present and party to each of the points detailed in paragraphs 21-23.

(24.) Defendant James Bontedetti, as warden of NCC, and by refusing to give plaintiff the names of his employees who assaulted plaintiff, to preserve any and all written reports and other evidence, or to lodge a investigation of plaintiff's claims with the investigator generals office as per NDOC policy. Did participate in a cover up of the incident. Causing undue and irreparable harm to plaintiff's pursuit of the present action.

(25.) Plaintiff suffers greatly to the present date, both physically, as his illness and injuries go undiagnosed and untreated; and morally. As plaintiff has endured up to now a unyielding pattern of harassment and abuse. Causing great psychological distress.

(26.) In denying each of plaintiff's numerous grievances and personal letters pleading for medical care, and to put an end to the harassment against him by medical staff. Defendant Bruce Bannister has allowed plaintiff to endure to this day great physical pain and untold harm as his illness continues to worsen.

(27.) Rather than returning plaintiff to HDSP to be reevaluated as stated by King and Smider. Defendants Skolnik and Doner returned plaintiff to ESP, ensuring he would not be properly diagnosed or treated as there is no urologist available at ESP.

(28.) Plaintiff has exhausted all available remedies.

#### 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: E.K. McDaniel, Steven MacArthur
- b) Name of court and docket number: DISTRICT COURT 3:05-CV-0174-LRH-VPC
- c) Disposition (for example, was the case dismissed, appealed or is it still pending?):  
DISMISSED.
- d) Issues raised: INTENTIONAL INDIFFERENCE TO SERIOUS MEDICAL NEEDS.
- e) Approximate date it was filed: 2005
- f) Approximate date of disposition: 2006

- 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 have 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: E.K. McDaniel, Steven MacArthur
- b) Name of court and case number: DISTRICT COURT 3:05-CV-0174-LRH-VPC
- c) The case was dismissed because it was found to be (check one): ☐ frivolous ☐ malicious or ☒ failed to state a claim upon which relief could be granted.
- d) Issues raised: INTENTIONAL INDIFFERENCE TO SERIOUS MEDICAL NEEDS.
- e) Approximate date it was filed: 2005
- f) Approximate date of disposition: 2006

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

- a) Defendants: \_\_\_\_\_

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

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

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

- 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 \_\_\_\_\_.
- Date and institution where grievance was filed \_\_\_\_\_.
- Response to grievance: See additional page (10-A) for  
complete information.
- \_\_\_\_\_
- \_\_\_\_\_



## Additional information - Exhaustion of remedies

COUNT I : (Malicious prosecution, 1983 only remedies.)

COUNT II :

Grievance #<sup>s</sup>

DATES

INSTITUTION

Response

2006-26-53977

11-1-07

ESP

Denied

COUNT III :

2006-26-51481

10-15-07

ESP

Denied

COUNT IV :

2006-26-78967

1-22-08

HDSP

Denied

COUNT V :

2006-28-11933

11-7-08

NSP

Denied

2006-28-35275

12-18-08

NSP

Denied

2006-28-11909

10-30-08

NSP

Denied

2006-28-411428

12-19-08

NSP

Denied

2006-28-11930

11-3-08

NSP

Denied

2006-28-11911

11-1-08

NSP

Denied

2006-28-11948

11-9-08

NSP

Denied

2006-28-06988

10-26-08

NSP

Denied

2006-28-42909

1-8-09

ESP

Denied

2006-28-56328

2-4-09

ESP

Denied

2006-28-42113

1-4-09

ESP

Denied

2006-28-41901

12-27-09

NSP

Denied

### E. REQUEST FOR RELIEF

I believe that I am entitled to the following relief: (1) Declaratory Judgment. (2) General damages of \$10,000.00 from each defendant, on each count. (3) Compensatory damages of \$10,000.00 from each defendant, on each count. (4) Punitive damages of \$10,000.00 from each defendant, on each count. (5) Injunction compelling defendants to stop practice of having inmates transport property in restraints, remove plaintiff from HRP status, and place plaintiff in care of a urologist to be fully diagnosed and treated. (6) Cost and attorney fees. (7) Any and all other relief the court may deem just and equitable.

I understand that a false statement or answer to any question in this complaint will subject me to penalties of perjury. **I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE UNITED STATES OF AMERICA THAT THE FOREGOING IS TRUE AND CORRECT.** See 28 U.S.C. § 1746 and 18 U.S.C. § 1621.

\_\_\_\_\_  
(Name of person who prepared or helped  
prepare this complaint if not Plaintiff)

Marion B. Funcher  
(Signature of Plaintiff)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Additional space if needed; identify what is being continued)

Page 1-A &

NSP = Nevada State Prison

HDSP = High Desert State Prison

ESP = Elko State Prison

NNCC = Northern Nevada Correctional Center

NDOC = Nevada Department of Corrections

TOP, UNSHADED PORTION TO BE FILLED OUT BY INMATE PATIENT

Signature \_\_\_\_\_ DOC # \_\_\_\_\_  
( also print name and DOC # at the bottom of this form )

Institution \_\_\_\_\_ Date Submitted \_\_\_\_\_ Unit/House \_\_\_\_\_

Reason for request: \_\_\_\_\_

Per AB 389, there may be a \$4.00 charge for any visit and a \$2.00 charge for any prescription issued.  
**DO NOT WRITE IN SHADED AREA BELOW**

#### RESPONSE TO KITE:

- ☐ Appointment scheduled for \_\_\_\_\_ Rescheduled for \_\_\_\_\_  
☐ No Visit necessary. See type of service or service provided below.  
☐ Not entitled to requested care. Reason: \_\_\_\_\_  
☐ No show for appointment.  
☐ Refused to be seen. DOC 2523 Release of Liability filed.

#### TYPE OF SERVICE: ☐ Medical ☐ Dental ☐ Mental Health ☐ Nursing ☐ Dietary ☐ Other \_\_\_\_\_

- ☐ Inmate requested, charge \_\_\_\_\_ ☐ Inmate requested, no charge  
☐ Emergency, charge \_\_\_\_\_ ☐ Emergency, no charge  
☐ Prison required, no charge

Enter ICD-9 code(s) and/or diagnosis(es)

#### SERVICE(S) PROVIDED: Check all that apply

##### VISITS

- ☐ New, minimal  
☐ New, moderate  
☐ New, high  
☐ Established, minimal  
☐ Established, moderate  
☐ Established, high  
☐ Consultation visit  
☐ Intake PE/classification  
☐ Recurrent PE/classification  
☐ Re-classification only  
☐ Nursing assessment

##### CONTRACT PROVIDERS

- ☐ Physician, gen'l practice  
☐ Neurology  
☐ Ophthalmology  
☐ Orthopedic  
☐ Physical therapy  
☐ Other \_\_\_\_\_

##### PROCEDURES/ DIAGNOSTICS

- ☐ Biopsy  
☐ BP  
☐ Ear Lavage  
☐ EKG  
☐ Excision  
☐ Eye Exam  
☐ I & D  
☐ Immunization  
☐ Hepatitis B  
☐ Influenza  
☐ Tetanus  
☐ Other \_\_\_\_\_  
☐ Inhalation Treatment  
☐ PPD  
☐ Spirometry  
☐ Suturing  
☐ Suture removal  
☐ Treadmill

##### PROCEDURES/ DIAGNOSTICS, cont'd

- ☐ Whirlpool  
☐ X-ray  
☐ Other \_\_\_\_\_

##### CHART REVIEW ONLY

- ☐ By medical personnel  
☐ By inmate patient

##### LABORATORY

- ☐ Venipuncture  
☐ Specimen collection

##### ITEMS ISSUED

- ☐ Prosthetic  
☐ Eye glasses

##### ☐ Rx REFILL ONLY

##### SPECIALTY CLINICS

- ☐ Cardiology  
☐ Neurology  
☐ Infectious disease  
☐ Endocrine  
☐ Internal Medicine  
☐ Pulmonary  
☐ Mental Health  
☐ Other \_\_\_\_\_

##### EMERGENCY SERVICES

- ☐ Mandown  
☐ Non-mandown  
☐ Suicide attempt  
☐ Self-mutilation  
☐ Altercation  
☐ Accident  
☐ Recreational injury

**PRESCRIPTIONS:** KOP Medications: Total # \_\_\_\_\_ # to charge \_\_\_\_\_ # started by nursing \_\_\_\_\_  
Non-KOP Medications: Total # \_\_\_\_\_ # to charge \_\_\_\_\_ # started by nursing \_\_\_\_\_

**PLAN:** ☐ Follow-up appointment ordered ☐ Return if needed ☐ Follow-up not required

Name / Title OR Position # \_\_\_\_\_ Date \_\_\_\_\_ Time \_\_\_\_\_ Name / Title OR Position # \_\_\_\_\_ Date \_\_\_\_\_ Time \_\_\_\_\_

Distribution: **ORIGINAL** to medical record, **COPY** to date entry, then to inmate patient if necessary

**NEVADA DEPARTMENT OF CORRECTIONS**  
**MEDICAL KITE and / or**  
**SERVICE REPORT**

NAME \_\_\_\_\_

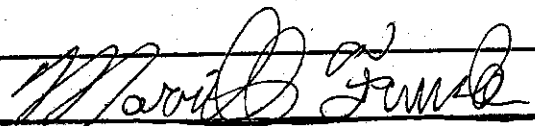
DOC # \_\_\_\_\_ DOC 2500 (REV. 7/01)

## Certificate of Mailing

I, Marriette Funches, have mailed a true and correct copy of The enclosed "First Amended Civil Rights Complaint, Case no 3:09-CV-0343-LRH-VPC", to the following:

Office of the Attorney General  
of the State of Nevada  
c/o Pamela Sharp,  
Supervising Legal Secretary  
100 North Carson St.  
Carson City, NV. 89701-4717

Signed and dated this March 2<sup>nd</sup> 2010.



Marriette Funches #37050

HDSP

P.O. Box 650

Indian Springs, NV. 89070-  
0650