

Tyrone B. Hutchins
 Name
P.O. Box 1989 E.S.P.
Ely Nevada 89301
35000
 Prison Number

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 JUN 18 2010
 CLERK US DISTRICT COURT
 DISTRICT OF NEVADA
 BY: _____ DEPUTY

UNITED STATES DISTRICT COURT
 DISTRICT OF NEVADA

Tyrone B. Hutchins,
 Plaintiff,
 vs.
Nevada UDOC, U.UCC
ESP U.S.P, H. Skolnik,
oms, Noel. S BACA,
P. Gibson, D. Brooks,
J. Benedetti, And John v Same Doe 1-50
 Defendant(s).

CASE NO. 3:10CV 369
 (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, Tyrone Hutchins
 (Print Plaintiff's name)
 who presently resides at H. D. S. P., were
 violated by the actions of the below named individuals which were directed against
 Plaintiff at U.U.C.C, ESP, H.D.S.P. U.S.P. on the following dates
 (institution/city where violation occurred)
2009 - 2010, and _____
 (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 Howard Skolnik resides at UDOC, P.O. Box 7011
(full name of first defendant) (address if first defendant)
and is employed as Director of the UDOC. 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: This Defendant was employed as the Director of the UDOC at all times pertinent to this Complaint under the Color of State Law

3) Defendant James Baca resides at _____
(full name of first defendant) (address if first defendant)
and is employed as _____. 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: _____

4) Defendant Ek. McDaniel resides at _____
(full name of first defendant) (address if first defendant)
and is employed as _____. 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: _____

5) Defendant Debra Brooks resides at _____
(full name of first defendant) (address if first defendant)
and is employed as _____. 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: _____

SUPPLEMENTAL DEFENDANTS

6) P. Gibson CASE WORKER U.U.C.C. (7B)

7) CASE WORKER 7A/ROAL U.U.C.C.

8) Jim Benedetti WARDEN U.U.C.C.

9) Jeff Froschauer, CCS III O.M.D

(c) Defendant John and Jane Doe, 1-50 resides at _____,
(full name of first defendant) (address if first defendant)
and is employed as _____ 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: _____

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.

Additional Jurisdiction is invoked pursuant to F.R. Civ. P. 38, 39, 57 and 65;
28 U.S.C. 1343, 1983, 1985, 2201 and 1367. Pendent jurisdiction is also invoked

B. NATURE OF THE CASE

1) Briefly state the background of your case.

This is a civil rights action alleging that the Plaintiff's rights to
be free from cruel and unusual punishment and rights to a Due Process
Post-Deprivation Hearing were violated by prison officials when the
Plaintiff was willfully and wantonly denied adequate medical care in
deliberate indifference to his serious medical needs. In addition, this case
involves an intentional and arbitrary deprivation of personal property with-
out an adequate and meaningful Pre-Deprivation or Post-Deprivation remedy.

C. CAUSE OF ACTION

COUNT I

The following civil rights has been violated: Plaintiff's Eighth Amendment Right to BE FREE FROM CRUEL AND UNUSUAL Punishment WAS VIOLATED BY THE DEFENDANTS DELIBERATE INDIFFERENCE TO HIS MEDICAL NEED AS SET FORTH IN ESTELLE V GAMBLE, 97.S.Ct285

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].

- ① THE PLAINTIFF ALLEGES AND CONTENDS THAT HIS 8th AMENDMENT RIGHT TO BE FREE FROM CRUEL AND UNUSUAL PUNISHMENT WAS DIRECTLY VIOLATED BY DEFENDANTS JAMES BACA, CASE WORKER DONALD, S. BENEDETTI, PETE GIBSON, DEBRA BROOKS EX MCDANIEL HOWARD SKOLNIK AND OFFENDER MANAGEMENT DIVISION (OMD) OF THE WDOC, WHEN THEY INTENTIONALLY, WILLFULLY AND WANTONLY CAUSED THE PLAINTIFF TO BE MOVED TO A PRISON THAT WAS MORE THAN 50 MILES AWAY FROM A MAJOR HOSPITAL IN DELIBERATE INDIFFERENCE TO HIS SERIOUS MEDICAL NEEDS; AS PROSCRIBED FOR HIM BY DR. LIMICH IN 2006 AT E.S.P, AND DR. KAREN GEDNEY IN 2006 AT U.I.C.C.
- ② THAT THE ACTS AND OMISSIONS PERPETRATED BY THE DEFENDANTS WERE NOT DIRECTLY RELATED TO ANY LEGITIMATE PENOLOGICAL INTERESTS. AND EACH DEFENDANT WAS DIRECTLY INVOLVED IN THAT THEY KNEW OR WERE INFORMED ABOUT THE MEDICAL ORDER; OR, THEY CREATED AND/OR INSTITUTED SUCH UNCONSTITUTIONAL POLICY WHICH WOULD OR COULD ALLOW THE VIOLATION TO OCCUR;

(4-A)

- ③ In May of 2005 Plaintiff ~~■~~ Had a Heart Attack while at E.S.P and had to be Emergency flown (flight for life) to a Las Vegas Hospital and spent 2 1/2 months in a medical unit in Southern Nevada before returning back to Ely State Prison.
- ④ In December 2005 Plaintiff had heart problems so bad that he was placed in the E.S.P. infirmary for a week 1/2
- ⑤ In April 2006 Plaintiff had to be Emergency transported to and outside hospital in the town of Ely because his heart gave out again.
- ⑥ This doctor at Ely State Prison has and order in Plaintiff medical files stating that he should be in close proximity (50 miles) to a major hospital because he could suffer a major heart attack at any time.
- ⑦ There and order from the same Dr. Limich in Plaintiff files at Ely State Prison that his blood pressure ~~■~~ be taken twice a week at our point it went without blood pressure check for 2 1/2 months. When when it was taken it was 198 over

(4-B)

120 which as "ANYONE" knows it is dangerously high, it has pretty much remained high consistently since then at Elly State Prison from 2005 - 2006.

- ⑧ BECAUSE OF THIS DOCTOR'S ORDER, IN AUGUST OF 2006 THE PLAINTIFF WAS TRANSFERRED TO U.U.C.C. AND THEN TO U.S.P. IN FEBRUARY OF 2007, HOWEVER, DUE TO MORE HEART PROBLEMS, THE DOCTOR AT U.S.P. RETURNED THE PLAINTIFF BACK TO U.U.C.C. BOTH WHICH ARE WITHIN THE 50 MILES OF MABOR HOSPITAL.
- ⑨ AFTER (2) TWO AND A QUARTER YEARS THE PLAINTIFF RECEIVED A NOTICE OF CHARGES, WAS FOUND GUILTY AND WAS SANCTIONED TO (18) MONTHS DISCIPLINARY SEPARATION AND A TRANSFER TO U.S.P. A MORE RESTRICTIVE CUSTODY.
- ⑩ HOWEVER, AFTER BEING WELL INFORMED A.U.P. JAMES BACA KNEW ABOUT THE PLAINTIFF'S SERIOUS HEART AND BLOOD PRESSURE PROBLEMS AND THE CONCURRENT MEDICAL ORDER THATS BEEN IN THE COMPUTER SINCE 2006

(4-B)

(4-C)

Defendants James Baca and Case Worker Loral Still Reclassified the Plaintiff to Elk State Prison, which is more than 400 miles away from a major hospital.

11 In Addition, Defendants Benedetti, Gibson, D.M.D. and Skolnik, were all informed about the Constitutional violation and failed to resolve or fix the situation. In fact the above stated defendants approved of and assisted in the completion of the transfer,

12 Upon arrival at Elk State Prison, Plaintiff notified Defendant A.W.D. Brooks of his condition and the medical order that currently existed in his prison file, however, despite the Plaintiff's notice, Defendant Brooks and E.K. McDaniel ignored the Plaintiff's complaints and refused to return him to an institution that was within 50 miles of a major hospital;

13 Plaintiff additionally wrote numerous grievances, (Emergency Grievances) to which the E.S.P. medical staff and administration duly ignored; medical said it was no emergency. / (4-C)

(4-D)

14

Then, ON NOVEMBER 15, 2009, THE PLAINTIFF SUFFERED A HEART ATTACK AND HAD TO BE LIFE FLIGHTED TO CARSON TRAVIS MEDICAL CENTER, AFTER WHICH, HE WAS RETURNED TO U.U.C. DEFENDANT JAMES BACA DLCS AGAIN RECLASSIFIED THE PLAINTIFF AND RE-ACTIVATED HIS SUPERSED HOLD TIME AND SENT PLAINTIFF TO H.D.S.P.

15

THE PLAINTIFF SUBMITS THAT DEFENDANTS KNOWINGLY VIOLATED HIS MEDICAL ORDER AND CAUSED THE PLAINTIFF TO SUFFER AN ACUTE STRESS SYNDROME WHICH, IN CONJUNCTION WITH HIS HEART AND BLOOD PRESSURE, CAUSED HIM TO SUFFER AN UNNECESSARY AND WANTON INFLECTION OF PAIN AND THE POSSIBILITY OF DEATH, IN VIOLATION OF THE 8TH AMENDMENT OF THE UNITED STATES CONSTITUTION;

16

AS SUCH, THE PLAINTIFF IS ENTITLED TO INJUNCTIVE AND DECLARATORY RELIEF; EXEMPLARY, CIVIL, PUNITIVE, AND COMPENSATORY DAMAGES; AND A CRIMINAL ~~IN~~ INVESTIGATION BY THE JUSTICE DEPARTMENT AS WELL, THIS MATTER WAS GRIEVANCE'S (GRIEVED) AND EXHAUSTED TO A.R. 740 UNDER LOG NUMBER: 2006-28-88818 AND 2006-28-94891

(4-D)

E. REQUEST FOR RELIEF

I believe that I am entitled to the following relief:

Compensatory damages from each Defendant in the amount of
25,000.00;
Punitive damages from each Defendant in the amount of
50,000.00;
Costs of Litigation
Injunctive and Declaratory Relief

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)

Walter Tyrone
(Signature of Plaintiff)

JUNE 14, 2010
(Date)

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

Tyrone B. Hutchins #35000

P.O. Box 650

H.B.S.P.

Indian Springs Nevada

89018