

GREGORY W. ENTSMINGER,
NDOC# 73777 (NNCC),
PO BOX 7000, CARSON CITY, NV. 89702

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ENTSINGER, Case # 3:16-cv-00555-MMD-WGC
Plaintiff, PLAINTIFF'S FIRST
V. MOTION FOR ENLARGEMENT
ARANAS et al., OF TIME TO FILE SECOND
Defendants. / AMENDED COMPLAINT

1) Plaintiff, Gregory W. Entsminger, in pro per moves this Court, pursuant to Fed.R.Civ.P. 6(b), to grant an extension of time to file an amended complaint in response to first screening order from this Court. Local Rule 6-1 (a).

2) This extension to file a second amended complaint is to cure deficiencies of the first amended complaint, which was filed almost a year ago.

3) The Court's Screening Order allowed plaintiff "30 days from the date of entry of this order" (pg. 9) which was 8/23/17.

4) The Plaintiff seeks an additional 30 days, or, whatever the Court will allow, based on the attached declarations and the following reasons.

FIRST

Declaration in support of Plaintiff's Motion to Request an Enlargement of TIME to File Second Amended Complaint

Gregory W. Entsminger states:

1) I am the plaintiff in this case I make this declaration in support of my Motion to Request an Enlargement of Time to File Second Amended Comp. I have been subjected to retaliation as stated in my ~~original~~ original complaint. I have now suffered additional, escalating and blatant retaliation.

2) I have outlined the defendants "play book" extensively in Doc #6, a motion for a Tro + P.I. Now, defendants have actually done what I predicted they would do, absent the Court's intervention.

3) While awaiting screening of my complaint my dental condition has worsened. I filed a complaint with the Nevada Board of Dental Examiners (NSBDE) on May 3, 2017, against Dr. Gene Yip DDS.

4) On May 12, 2017 I fell in an NDOC required/mandatory class severely injuring my left hand. I did not know that it was broken,

at that time. It became black, blue and green. It was swollen and painful. A week passed and it did not get better. I did hear a snap when I fell. On 5/24/17 Lt. Garabaldi questioned me about my injury and ordered me to see medical.

5) On 5/31/17 I saw Dr. Johns and xrays were taken. I was given Tylnol. The xray needed to be read by a radiologist. On 6/17/17 I put in another medical kite (request). On 6/29/17 I saw Dr. Johns again. She ~~to~~ told me the boxes in my hand were broken and ordered a visit with Dr. Long, the orthopedic consultant.

6) Instead of seeing Dr. Long, on 7-6-17 I was ordered to see Melissa Mitchell RN. She said, after "reading" new xrays taken that day that it was a self-inflicted injury and that she would prevent me from seeing Dr. Long. She was furious that a report was not written. Then she said Dr. Long had 15 appointments for next week and that I would not be seen. She was going through my file flipping pages in a rage. I begged her to get care, showing her how I could not even close my hand as my finger had healed crooked and my bone was sticking out. She was not changing her mind. This was about 10:30 am and I could not leave until 11:15 am.

7) Later the same day at 1:54 pm I was again summoned to medical by Director of Nursing (DON) Services John Keast RN who is also a defendant. I was surprised when he gave me a letter from the NSBDE addressed to the prison. They refused to investigate my complaint against Dr. Ycep and referred the matter to the NDOC, instead. He handed it to me and quipped "I better take this paper clip (off the letter) so you don't try to kill yourself." [with it]

8) I was rolled up on 7-24-17, in the middle of the night. The appointment for Dr. Long on 7/19/17 never was scheduled, even though he only had 11 ~~patient~~ patients listed. I found out later than on that 7/6/17 double visit with Keast and Mitchell that they conspired to have me sent away to another prison, "diesel therapy". This was done I believe, because of the history of the NDOC, to both cover-up their failure to treat my serious medical need (broken hand) and to intimidate and retaliate for my filing of the complaint with the NSBDE and to quiet my speech, if not to also cause me further pain and anguish (which they did).

9) On 7-25-17 I arrived at So. Desert Cor. Center (SDCC) at Indian Springs, NV, after a 10 hour (direct) bus ride from hell. My hand broken I had to move all of my property, 3 heavy boxes, a TV, a fan and a 60 lb. green duffel bag. Half of my property had to be left behind, thrown in the trash by officers or left with other prisoners.

10) I was sent to a completely foreign prison. All the rules were different, the prisoners all at a higher, more violent, level. I could not even defend my self. (broken hand) I eventually saw a dentist, Dr. Calderon. He was appalled that I was sent 500 miles to look at a routine extraction which I had refused prior, as I am going to parole in 9 months. The order to send me to SDCC was signed by Dr. Peterson, DDS from NVCC on 7/6/17 in a different pen color and writing than the rest of the order. I wanted to return to NVCC so I agreed to the extraction. Dr. Calderon DDS, said if the tooth had been treated sooner it could have been saved.

11) I filed a writ of Mandamus in State Court. This was against the NSBDE, I sent a copy to the NV. Atty General.

12) I still cannot close my left hand or make a fist. It is deformed and painful. This mistreatment of broken bones is mirrored in my complaint where I broke my wrist and Mitchell and Keast then made me suffer for 9 months until I had an extensive surgery to correct it in 2015.

13) I have managed to gain the courage to proceed in spite of the attempts to kill my pursuit of justice and free speech. I wrote a letter to the NDOC Director. Yes, I fear repercussions, but I hope this will not further my suffering. I have sent a copy to NV-Care and informed my sister, Anna Pacatang PO BX 4812, Kailua-Kona, 96745 Phone 808-987-0284. for my protection. I also will file a DOJ complaint for further protection. I have asked this court for protection also.

14) I was informed by SDC Caseworker Lamby that I have been approved for transfer back to HNC. I will notify the Court of this address change as soon as I return.

I declare under penalty of perjury, under the laws of the United States that the foregoing is true and correct 28 USC § 1746 at Indian Springs RV, on 8/28/17
- 5 - Gregory W. Eutsungh #73777

SECOND

Declaration in Support of Motion
For Enlargement of Time to File Second Amended Comp.
Case No. 3:16-cv-00555-MMD-WGC

① The plaintiff Gregory W. Eutsinger was transferred by medical personnel to Southern Nev. Corr. Center (SNCC).

② I was seeking medical treatment for a broken left hand from May 12, 2017. I was given the run around until July 6, 2017. Then I was told I would not be getting to see the orthopedic consultant, Dr. Long, even though Dr. Marsha Johns ordered the exam.

③ A defendant, Melissa Mitchell RN, told me she would prevent me from receiving care because it was "my fault". I showed her my deformed hand and pleaded with her to let me see Dr. Long. She said he was too busy and already had 15 patients for his next visit. However, when he came on July 12, 2017 he only had 11 patients on his appointment list.

④ Later on July 6, 2017 John Keast, another defendant, called me back to medical and to my surprise he handed me a letter from the Nevada State Board of Dental Examiners (NSBDE) about a complaint I had filed with NSBDE on Dr. Guy

a dentist with the NDOC. This surprised me because I was trying to get treatment for my broken hand, which had been delayed for ~~to~~ two months and had now begun to heal improperly (fuse).

(5) Unbeknownst to me at the time, the defendants, Mitchell, Keast and Dr. Peterson were planning to get rid of me. I saw the order in my medical file on an 8-16-17 visit for a blood pressure check. Written on that day (7/6/17), that I was refused care for a broken hand, the defendants wrote an order to have me transferred 500 miles for a dental treatment I had not requested.

(6) This was done in retaliation for filing a complaint with the NSBDE, ~~and~~ the NDOC grievance and Civil Rights action filed in this court. This is a policy the NDOC uses to "break" an inmate litigant who uses his/her First Amendment Right to free speech.

(7) I outlined this policy extensively in my Preliminary Injunction and TRO Motion filed in this court. (Doc 6-1, 6-2, 6-3.)

⑧ This policy is called "Diesel Therapy". In the middle of the night a plaintiff is "rolled up" and sent to a far away prison as outlined in my dismissed P.I. and TRD motion.

⑨ This was done (transfer) to kill my objection to medical/dental treatment and to cover-up the prison's failure to provide care for a serious medical need, e.g. a broken hand.

⑩ I was sent to a "rough" prison, where beatings take place daily. I have observed this in the month I have been here. If you complain to the officials you will be labeled a "snitch" so you best keep quiet. Here at SDCC I am in Level 1 but I am locked in my cell with another prisoner most of the day. The law library is ~~open~~ once a week. Getting things done requires a weeks advance notice. My legal materials and property were all mixed up and many things missing or lost. I was forced to the top bunk even though I have a bottom restriction

From Medical, as well as a broken hand.
The prison does not enforce this here
at SDCC as it is the biggest and
baddist prisoner who runs things.
You can complain, but, then you will
be beaten by a psychotic prisoner,
then maybe sent to the "hole". (If you
are lucky). Don't get me wrong, prison
is rough, but when I'm sent here for
punishment for exercising my Constitutional
Rights, it crosses the line. The ~~prison~~^{prison}
staff know this and they get away
with it by pretending to be providing
care or justifying it some other way. Even
the Court is aware of the problems of
being "rolled-up", as in the Court's
video that is shown on the CCTV at
most prisons, (with V. Cook, Mag. Judge) ^{Elizabeth} Gates

(11) Now, with my life in danger,
knowing that the defendants deliberately
caused pain and torture, I am further
hindered in litigation. I must now use
the mail filing, as SDCC does not have e-filing.
I must make copies of all pleadings. And
I hear nothing back from the court. (get)

Everything is in ~~total~~ turmoil, I just happened to read another's filing and read that I must send notice to the defendants of my change of address too, or my case may be dropped. So, my case has not been screened yet.

I have seen others cases, (Bruce Sheldon) ~~that~~ due to misdirected mail, dismissed.

(12) Mail is returned as undeliverable even when the prisoner has been transferred to another prison or jail; precisely at the most critical point in litigation. This tactic, which was used on Bruce Shelton and others, benefits the NDOC defendants, the State officials and the Attorney General of Nevada.

(13) I have just found out (8-22-17) that I am now approved for another transfer. This is after 1 month of struggling with the disruptive ~~un~~unconstitutional actions I believe the defendants have caused. I expect I will be returned to UNCC in a day or two. But, I do not know, as it is a security risk to inform prisoners

of pending transfers ~~across~~ ^{across} the state.

(14) These factors have created tremendous mental stress, a point I'm sure is not lost by the defendants. In fact when I return to NMCC I will be an example to all of the other prisoners who may think about filing complaints about unconstitutional acts and policies within the NMCC. I have been turned into a deterrent to free speech.

(15) I must now wait to file this motion because I do not ^{know} where I will be tomorrow. I may turn this address change into a move to NMCC, or to confirm the change to SDCC, or to some where else. I don't know. I cannot make copies to send to the defendants, nor can I have copies made for a stamped file copy, at least for 2 weeks. The Legal Library at SDCC requires a weeks advance notice for the once weekly visit. There are exceptions, if granted, however.

(16) I have sent a letter to James Dzurenda, Director of the NDDC (8-22-17) (see exhibit #2). This letter explains how retaliation is an ongoing policy or practice. This also puts NDDC on notice of this incident.

(17) I filed an emergency grievance the night I found out about the transfer at 10:45 PM. Then I was told I was being transferred for my own good and that "Diesel therapy" has not been used for years; by ~~Sgt~~ Sergeant Bloomfield. He denied my grievance.

(18) I filed a writ of mandamus with the 8th Judicial District Court in Nevada. This is a motion to compel the NSBDE's to investigate the complaint I filed about Dr. Guy D.D.S. at NUCC. The NSBDE did nothing. This was the complaint which was returned to me by John Keast, Dir. of Nursing II (DON S II). This was a ^{precipitous} ~~preceptive~~ document, I believe, in the chain of events that caused this tumultuous transfer.

(19) As part of the diesel therapy I was severely limited to the amount of property I could take, much less carry with a broken hand.

I have outlined many issues relating to the transfer in my letter to NDOC Director James Dzurenda in paragraph 8, pg. 3. (exhibit #1). I am missing copies of my ~~books~~ belongings and 10 legal books. I could only take 1 legal book because I did not have the required "fire box" to put them in.

(20) The law library had denied me the ability to purchase 2 boxes on 7-18-17. (The request returned pass slip # 2198976) because I was not indigent. When I attempted to buy the boxes for my legal books it was too late. The money from my account was taken on 7/24/17 but I could not pick them (fire boxes) up until the 26th, the day after I was transferred. Some of the books I left behind were: Federal Rules of Civil procedure, Complex Litigation, The Civil Rights of Prisoners, and Motion Practice. Ten books in all. (also Black's Law and Webster's Dictionaries)

(21) The grievance on the Law Library on 3/7/17 has not been answered and as of yet it has not even been logged in to the

NDOC's computer system. When I wrote it I was very thorough and included many specific instances with names and reasons (facts) why my access to the courts was blocked by NDOC's policies and practices of the Law Library Paging system run by inmate workers. It was (grievance) rejected procedurally on the notion that I had raised more than one issue. I appealed stating that there was ~~one~~ only one issue, Access to the Courts.

(22) This grievance rejection tactic is just one of the inventive ways the NDOC's "new" policy that totally prevents claims to be exhausted under the PLRA. (Not to mention "diesel therapy".) The NDOC now just rejects claims on the procedural level, with out justification. In my case, if I broke down each fact I presented, I would have 32 issues according to the NDOC's practice. Then each fact would be a grievance (seperate) and only one grievance is allowed per week. This would cause a loss of the totality

of the circumstances which raises the issue from cumulative factors. This tactic of rejecting grievances to prevent review renders the grievance procedure effectively unavailable. To file 32 separate grievances would take, at one per week, 8 months. This would time bar most complaints as the Administrative Regulation 740 allows 10 days for assaults and 30 days for medical or constitutional violations. Only in cases of Rape (PREA) is the time limit extended.

23) I have now been returned to NNEC on 8/31/17, spending the entire day traveling. My papers are again mixed up and I still cannot find things. I was blocked from the Law Library because of overdue checked out items until 9/11/17. They had the items all along and suddenly found them on 9/10/17. If we have overdue items we cannot check out new cases etc.

I declare, under penalty of perjury, under the laws of the United States, that the foregoing is true and correct. (28 USC § 1746 at Carson City NV,
- 10 - Gregory W. Ertsminger 9/14/17

Exhibit # 1

Exhibit # 1

TO: Director NDOC - James D zuvenda
FR: Gregory W. Entsminger NDOC# 73777
DATE: 8-15-17
RE: Retaliation

Sir,

I have been subjected to retaliation for filing official complaints and the resulting federal civil rights action. I was told directly that because I filed a grievance that I would not receive any treatment. When I filed another grievance about this retaliation it was directed to the subject of the grievance. After a year's delay it was denied, at the highest level.

After the denial of three grievances I was still not given treatment, when, I fell and broke my wrist. Again I was denied treatment for 9 months while my bones fused at a 45° angle. I began to have concerns for my safety and decided I must file a legal action to protect my self from further harm.

The denial of care still continued as I filed a complaint with Nevada's State Board

of Dental Examiners (NSBDE) It was returned, unanswered, to Northern Nevada Correctional Center on June 6, 2017, without my knowledge.

On 5/12/17 I suffered a fractured hand during a class in the Structured Senior Living Program at NUCC. I did not know it was broken, but, on orders from staff I put a kite in to medical on 5/24/17. I saw a doctor on 5/31/17 who eventually referred me to an orthopedic specialist. But on 7/6/17 I was told I would not see the specialist at all,

That afternoon I was called back to medical by the supervisor, who, handed me the letter from the NSBDE. On 7/24/17 at 10:30 p.m. I was ordered to roll-up. I was transferred to Southern Desert Cor. Center the next day for a treat and return. My broken hand, still untreated, I had to carry all of my belongings for a 10 hour "Diesel Therapy" bus ride, for dental treatment ^(for dental).

I filed an emergency grievance to no avail, that night. This is commonly

done for pay-back, I did not request this. In fact it was the day I saw the nurse about my broken hand, and, her supervisor saw me later that day, that an order signed by the dentist, whom I did not see (and written in different pens + writing), was issued to have me transferred for dental. Clearly this was directly related to the cover-up and further retaliation by NDOC medical staff. Not to mention a total waste of department funds.

I agreed to have the tooth pulled by the SDCC dentist so he would release me to return to NDOC. He said it was a routine extraction and was puzzled as to why I was sent all the way down to Las Vegas for a decayed (but not abscessed) tooth. I believe it was purely retaliation. (and cover-up)

Getting rolled up in the middle of the night, losing half or more of my property, my housing assignment, educational classes, religious services, my support group, my legal books + materials, job options, meritorious credits, work time/study time credits, legal and court access, my safety and mental well-being is

the price I have paid for this transfer. This is on top of the physical pain of packing and carrying the belongings I was allowed, while having an untreated broken hand. I still cannot close it as bones have fused incorrectly. Then a 10 hour bus ride, shackled and bounced around on a hard and slippery seat. The return trip may be worse.

You may have noticed I have not used the names of the staff involved. Everything is on the record and I am still somewhat concerned about more retaliation. This is why I have not written to you since you took over for Mc Daniels and Cox. I feel I must make this public, as my pen may be my only protection.

I hope you read this. I hope you will instruct your staff. I hope I can address my issues with the conditions of confinement without fear of reprisals. I hope I live to return to society as a productive well-meaning citizen, soon.

Thank-you,
Dwight Smingr # 73777

cc: NV-cure