

## UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen United States Courthouse  
Room 2722 - 219 S. Dearborn Street  
Chicago, Illinois 60604



Office of the Clerk  
Phone: (312) 435-5850  
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## PLRA C.R. 3(b) FINAL ORDER

August 13, 2020

No. 20-1527	KEVIN L. MARTIN, Plaintiff - Appellant  v.  CHRISTOPHER NICHOLSON, Defendant - Appellee
<b>Originating Case Information:</b>	
District Court No: 2:18-cv-00391-MJD-JMS Southern District of Indiana, Terre Haute Division Magistrate Judge Mark J. Dinsmore	

The pro se appellant was DENIED leave to proceed on appeal in forma pauperis by the appellate court on May 18, 2020 and was given fourteen (14) days to pay the \$505.00 filing fee. The pro se appellant has not paid the \$505.00 appellate fee. Accordingly,

**IT IS ORDERED** that this appeal is **DISMISSED** for failure to pay the required docketing fee pursuant to Circuit Rule 3(b).

**IT IS FURTHER ORDERED** that the appellant pay the appellate fee of \$505.00 to the clerk of the district court. The clerk of the district court shall collect the appellate fees from the prisoner's trust fund account using the mechanism of *Section 1915(b). Newlin v. Helman*, 123 F.3d 429, 433 (7th Cir. 1997).

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
TERRE HAUTE DIVISION

KEVIN MARTIN,

Plaintiff,

v.

CHRISTOPHER NICHOLSON,

Defendant.

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)  
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)


No. 2:18-cv-00391-MJD-JMS

**JUDGMENT**

The jury having rendered a verdict in favor of Defendant in this case, the Court  
**HEREBY ENTERS JUDGMENT** in favor of Defendant Christopher Nicholson and against  
Plaintiff Kevin Martin.

SO ORDERED.

Dated: 10 MAR 2020

  
\_\_\_\_\_  
Mark J. Dinsmore  
United States Magistrate Judge  
Southern District of Indiana

Distribution:

KEVIN MARTIN

169789

WABASH VALLEY - CF

WABASH VALLEY CORRECTIONAL FACILITY - Inmate Mail/Parcels

6908 S. Old US Hwy 41

P.O. Box 1111

CARLISLE, IN 47838

Robert E. Duff

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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
TERRE HAUTE DIVISION**

<b>KEVIN MARTIN,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>CASE NO. 2:18-cv-00391-JMS-MJD</b>
	)	
<b>CHRISTOPHER NICHOLSON and</b>	)	
<b>JERRICHA MEEKS,</b>	)	
	)	
<b>Defendants.</b>	)	

**DEFENDANTS' EXHIBIT LIST**

Defendants, Christopher Nicholson and Jerricha Meeks, by counsel, pursuant to this Court's Entry Setting and Directing Preparations for Evidentiary Hearing [ECF 18], respectfully file their list of exhibits that may be used as evidence in this matter.

- A. Offender Information System Conduct summary for Plaintiff Kevin Martin, DOC #169789.
- B. Bed location history for Plaintiff Kevin Martin, DOC #169789.
- C. Indiana Department of Correction file for B-213 Threatening write-up issued against Plaintiff Kevin Martin, DOC #169789 dated 7-23-2018. This includes:
  - 1. Report of Conduct dated 7-23-2018.
  - 2. Notice of Disciplinary Hearing (Screening Report) notification date 7-26-2018.
  - 3. Report of Disciplinary Hearing dated 7-30-2018.
  - 4. Witness statements
    - i. Major Busby dated 7-27-2018.
    - ii. Officer Gilstrap dated 7-27-2018.

- iii. Caseworker Meeks dated 7/23/2018.
  - iv. Notice of Lay Advocate/Witness: Offender Montgomery, Doc #996375.
  - v. Notice of Lay Advocate/Witness: Offender Mayfield, Doc #178522.
- 5. Video of 7-23-2018 incident.<sup>1</sup>
  - 6. Report of Disciplinary Hearing Video Evidence Review dated 7-30-2018.
  - 7. Disciplinary Hearing Appeal dated 7-31-2018.
  - 8. Letter written by Plaintiff Kevin Martin, DOC #169789, under W-V-5-1807-0002.

D. Indiana Department of Correction file for A-102 battery write-up for Kevin Martin, DOC #169789 dated 7-27-2018. This includes:

- 1. Report of Conduct dated 7-27-2018.
- 2. Notice of Disciplinary Hearing (Screening Report) dated 8-2-2018.
- 3. Postponement of Disciplinary Hearing dated 8-6-2018.
- 4. Report of Disciplinary Hearing dated 8-14-2018.
- 5. Witness statements:
  - i. Major Busby
  - ii. Officer Lovelace
  - iii. Officer Foster
- 6. Video of 7-27-2018 incident.<sup>2</sup>
- 7. Disciplinary Hearing Appeal.
- 8. Photographic evidence from 7-27-2018 incident, (i-v)

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<sup>1</sup> This video evidence has been sent via mail to both the court and Plaintiff's counsel, Robert E. Duff.

<sup>2</sup> This video evidence has been sent via mail to both the court and Plaintiff's counsel, Robert E. Duff.

E. Indiana Department of Correction file for A-102 battery write-up for Kevin Martin,

DOC #169789 dated 10-05-2018. This includes:

1. Report of Conduct dated 10-05-2018.
2. Notice of Disciplinary Hearing (Screening Report) dated 10-11-2018.
3. Request for interview dated 10-12-2018 written by Lt. Nicholson.
4. Witness Statements
  - i. Caseworker Meeks dated 10-09-2018.
  - ii. Caseworker Meeks dated 10-12-2018.
  - iii. Major Russell dated 10-12-2018.
  - iv. Lt. Nicholson dated 10-12-2018.
5. Video of 10-05-2018 incident.<sup>3</sup>
6. Photographic evidence from 10-05-2018 incident. (i-vi)
7. Report of Conduct dated 10-05-2018 written by Caseworker Meeks.

F. Report of Inter-Institutional Transfer requested 9-14-2018.

G. Offender Information Sanction Detail.

H. Any documents necessary for rebuttal or impeachment.

Respectfully submitted,

CURTIS T. HILL, Jr.  
Indiana Attorney General  
Atty. No. 13999-20

By: s/ Marley G. Hancock  
Marley G. Hancock  
Deputy Attorney General  
Attorney No. 34617-32

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<sup>3</sup> This video evidence has been sent via mail to both the court and Plaintiff's counsel, Robert E. Duff.

OFFICE OF ATTORNEY GENERAL  
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**CERTIFICATE OF SERVICE**

I hereby certify that on October 16, 2018, the foregoing was filed using the Court's CM/ECF electronic filing system. Filings can be accessed via the electronic system. Copies of the filed documents will be electronically sent to all counsel of record in the CM/ECF system.

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s/Marley G. Hancock  
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<sup>4</sup> The video disc was mailed to the address listed for Attorney Duff. All other exhibits were sent via email to the address listed on the docket.





2. Did Lieutenant Nicholson prove by a preponderance of the evidence that there were reasons other than the filing of the lawsuit that would have led Lieutenant Nicholson to order the shakedown even if Mr. Martin had not filed the lawsuit?

*Check one:*

\_\_\_\_\_ Yes          \_\_\_\_\_ No

*If your answer to Question 2 was "Yes," do not answer any further questions; instead, proceed to sign and date the Verdict Form. If your answer to Question 2 was "No," proceed to Question*

3.

3. What dollar amount of compensatory damages did Mr. Martin prove by a preponderance of the evidence was caused by Lieutenant Nicholson? (Note: If you find that Mr. Martin did not prove any compensatory damages, you must enter \$1.00.)

\$ \_\_\_\_\_

*Continue to Question 4.*

4. Do you find by a preponderance of the evidence that punitive damages should be assessed against Lieutenant Nicholson?

*Check one:*

\_\_\_\_\_ Yes

\_\_\_\_\_ No

*If your answer to Question 4 was "Yes," proceed to Question 5. If your answer to Question 4 was "No," do not answer Question 5; instead, proceed to sign and date the Verdict Form.*

5. What dollar amount of punitive damages do you award in favor of Mr. Martin and against Lieutenant Nicholson?

\$ \_\_\_\_\_

Christina Ham

Presiding Juror

3-10-2020

Date

# UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

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## ORDER

May 18, 2020

Before

MICHAEL S. KANNE, *Circuit Judge*  
DAVID F. HAMILTON, *Circuit Judge*

No. 20-1527	KEVIN L. MARTIN, Plaintiff - Appellant  v.  CHRISTOPHER NICHOLSON, Defendant - Appellee
<b>Originating Case Information:</b>	
District Court No: 2:18-cv-00391-MJD-JMS Southern District of Indiana, Terre Haute Division Magistrate Judge Mark J. Dinsmore	

The following is before the court:

1. **DECLARATION IN SUPPORT OF MOTION TO PROCEED IN FORMA PAUPERIS**, filed on April 16, 2020, by the pro se appellant.
2. **MOTION SEEKING PERMITTED TO APPEAL IN THE FORMA PAUPERIS**, filed on April 16, 2020, by the pro se appellant.
3. **NOTICE TO THE COURT**, filed on April 21, 2020, by the pro se appellant.

Upon consideration of appellant's motions, the district court's order pursuant to 28 U.S.C. § 1915(a)(3) certifying that the appeal was filed in bad faith, and the record on appeal,

**IT IS ORDERED** that the motion for leave to proceed in forma pauperis on appeal is **DENIED**. See *Lee v. Clinton*, 209 F.3d 1025 (7th Cir. 2000). Appellant Kevin Martin has not identified a good faith issue that the district court erred in its resolution of his motion in limine or that he was prejudiced at trial. Martin shall pay the required docketing fee within 14 days, or this appeal will be dismissed for failure to prosecute pursuant to Circuit Rule 3(b). See *Newlin v. Helman*, 123 F.3d 429, 434 (7th Cir. 1997).

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## ORDER

April 3, 2020

*By the Court:*

No. 20-1527	KEVIN L. MARTIN, Plaintiff - Appellant  v.  CHRISTOPHER NICHOLSON, Defendant - Appellee
<b>Originating Case Information:</b>	
District Court No: 2:18-cv-00391-MJD-JMS Southern District of Indiana, Terre Haute Division Magistrate Judge Mark J. Dinsmore	

The following is before the court: **MOTION FOR EXTENSION OF TIME**, filed by the pro se appellant on April 2, 2020.

This appeal is subject to the Prison Litigation Reform Act and therefore all proceedings are suspended pending the assessment and payment of any necessary fees. See *Newlin v. Helman*, 123 F.3d 429, 434 (7th Cir. 1997). A review of the docket indicates that the appellant's fee status has not yet been determined. Accordingly,

**IT IS ORDERED** that the motion is **GRANTED** to the extent that the appellant shall file the Circuit Rule 3(c) docketing statement and transcript information sheet, if one is necessary, with this court by June 1, 2020.

Further, the appellant shall either pay the \$505.00 filing fee or file a motion for leave to proceed on appeal in forma pauperis in the district court by June 1, 2020.

**Additional material  
from this filing is  
available in the  
Clerk's Office.**