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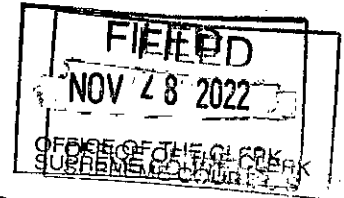
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EASTERN DISTRICT OF CALIFORNIA

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IN THE

SUPREME COURT OF THE UNITED STATES



JAMISI JERMAINE CALLOWAY — PETITIONER
(Your Name)

VS.

M. MARTEL, WARDEN; ET AL., — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT COURT
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

JAMISI JERMAINE CALLOWAY
(Your Name)

7707 S. AUSTIN ROAD/P.O. BOX 213040
(Address)

STOCKTON, CALIFORNIA 95213-213040
(City, State, Zip Code)

N/A
(Phone Number)

QUESTION(S) PRESENTED

1. When should a total disabled incarcerated indigent prisoner that is under the direct care and jurisdiction of the California Department of Corrections and Rehabilitation as a totally dependent of the state corrections be appointed legal assistant in a 42 U.S.C. § 1983 against the state CDCR and its EMPLOYEES/CONTRACTORS for the deprivation depriving plaintiff of his constitutional rights?
2. When should a total disabled incarcerated indigent inmate/patient be appointed pro bono counsel in a 42 U.S.C. § 1983 that is totally dependent on the state CDCR?
3. When should a total disabled incarcerated inmate/patient in a 42 U.S.C. § 1983 case be considered a complex case to handle if when he or she is fully dependent on the state or corrections for full representation?
4. Why are only prisoners properly filed legal proceedings in the screening process in a 42 U.S.C. § 1983 being intentionally discriminatory illegally screened out by California district courts and court of appeals Ninth Circuit judges when inmates submit their properly filed actions naming CDCR and its Employees/Contractors under the continuing violation doctrine that was properly joined together in their civil right complaints as a pro se indigent state prisoner?
5. Why is it okay for legal professional attorney's to join defendants in the same similar course of conduct arriving from retaliations together from different jurisdiction under the continuing violation doctrine in claims against CDCR and its Employees/Contractors legal control, but within the same similar actions prisoners acting in pro se indigent prisoners is being denied the same legal protections to prosecute their claims against state defendants?
6. Why are state prisoners in CDCR custody being intentionally discriminated against to properly join defendants in their claims of retaliation or threat to safety in the same course of conduct of CDCR and its Employees/Contractors when the California Department of Corrections is within the same and under the state of California acting as a public entity?
7. Why are state prisoners being intentionally denied to process their cognizable claims properly joined together under the continuing violation doctrine laws, but professional lawyers are being allowed to bring forth them same similar claims against a large volume of defendants working as agents of CDCR and the STATE of California in different jurisdictions of CDCR against CDCR and its Employees/Contractors under the same continuing violation doctrine act?

CONTINUED
QUESTION(s) PRESENTED

8. Should a legal defense fund be set aside for indigent state prisoners that are totally disabled and dependent on the state of California for advocacy and legal assistance when indigent and unable to afford legal aid or counsel to hire individual in these complex cases of medical or mental ADA retaliation complaints and the use of force on disabled state prisoners?
9. Who should be liable to legally represent indigent dependent total disabled state prisoners in their individual complex civil complaints that are fully dependent on the state to advocate their inmate/patients rights and care?
10. Why are the American with Disabilities Act being discriminatory over looked by the district and appeals federal courts and magistrate and district judges when it comes to ADA STATE PRISONERS CLAIMS who allege medical and mental health abuse by CDCR and its Employees/contractors?
11. What is the legal standard for a legal complex case to grant pro bono services for total dependent [ADA] indigent pro se prisoners incarcerated that has no High School Diploma, GED or College Degree educations on top of his high serious risk disabilities of medical and mental health needs and safety that plaintiff could not cure the deficiencies to likings when refused limited pro bono counsel.
12. When does it become discriminatory by the court and abuse of authority to hold medical and mental health disabled prisoners acting in pro se to the same high standard of the law as professional attorney's when bringing claims against state or federal officials or public entities.

LIST OF PARTIES

[] All parties appear in the caption of the case on the cover page.

☒ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows: 1. M. Martel, 2. J. Porras, 3. K. Mim, 4. M. Banks, 5. C. Barroga, 6. S. Amador, 7. A. Lewis, 8. T. Jackson, 9. R. Vanconett, 10. D. Castille, 11. R. Reyes, 12. A. Aceves, 13. J. Agular, 14. A. Alvarez, 15. T. Her, 16. C. Jackson, 17. S. Leach, 18. M. Narag, 19. J. Serwanga, 20. J. Purtle, 21. D. Yang, 22. K. McTaggart, 23. K. Sanborn, 24. F. Casillas, 25. K. Pettersen, 26. G. Gricewish, 27. D. Perez, 28. A. Adams, 29. W. Gu, 30. U. Chaudhry, 31. A. Bokelman, 32. B. Bartel, 33. E. Zdradzinski, 34. M. Erilim, 35. Price, 36. Tucker, 37. J. Cruzen, 38. A. Andres, 39. T. Vang, 40. S. Jimenez, 41. San Joaquin General Hospital and 42. California of Corrections and Rehabilitation/California Corrections Health Care Services.

RELATED CASES

1. JAMISI J. CALLOWAY V. B. DUFFY, ET AL., CASE NO. 2:16-cv-02532-WBS-DMC-P
2. JAMISI J. CALLOWAY V. R. DAVIS, ET AL., CASE NO. 4:19-cv-06758-JSW/
appeals court case no. 21-16638
3. JAMISI J. CALLOWAY V. D. NIEVES, ET AL., CASE NO. 2:19-cv-01792-KJM-CKD
4. JAMISI J. CALLOWAY V. YOUSSEE, ET AL., CASE NO. 1:21-cv-01450-BAM

TABLE OF AUTHORITIES CITED

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Wood v. Housewright, 900 F.2d 1332, 1335-36(9th Cir.1990),
Wilborn v. Escalderon, 798 F.2d 1328, 1331(9th Cir.1986),
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Clark v. CDCR, No. 96-1486-CRB(N.D. Cal),
Reed v. Fox, et al., No. 2:19-cv-0275-ACP(Sept.1, 2021) order granting
temporary appointed counsel.
Conley v. Gibbsom, 355 U.S. 41, 45-46, 78 S.ct. 99, 101-102, 2 L.ed. 2d 80
(1957),
Van Heest v. McNeilab, Inc., 624 F.Supp. 891, 896(D.Del.1985),
Sandutch v. Muroski, 684 F.2d 252, 254(3d Cir.1992),
Cowell V. Palmer TWP., 263 F.3d 286, 292(3d Cir.2001),
West v. Philadelphia Elec.Co., 45 F.3d 744, 754(3d Cir.1995),
Moran, 536 U.S.at114 and
Knox, 260 F.3d at 1013.

STATUTES AND RULES

28 U.S.C. CFR Part 35 (Title II, Department of Justice)
28 U.S.C. 1915 (e)(1)
28 U.S.C. 1915 (d)
29 U.S.C. 794
29 U.S.C. 794 (d)
42 U.S.C. 1983
42 U.S.C. 12101, et Seq.,
42 U.S.C. 12102, et Seq.,
42 U.S.C. 12103, et Seq.,
42 U.S.C. 12203, et Seq.,
F.R.C.P. 8 (a)(2)
F.R.C.P. 8 (f)
F.R.C.P. 18
F.R.C.P. 20
American with Disabilities Act,
Section 504 of the Rehabilitation Act of 1973 and
Section 508 of the Rehabilitation Act.

OTHER

Villescas v. Miranda, No. 2016 U.S. Lexis 158142, *23-*24, *26-*27
(E.D. Cal. Nov.14.2016)(Medical personnel or custody who reviewed
grievances may be held liable).

TABLE OF CONTENTS

OPINIONS BELOW.....	1
JURISDICTION.....	2
CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED	3
STATEMENT OF THE CASE	4,5,6
REASONS FOR GRANTING THE WRIT	7,8,9,10
CONCLUSION.....	11

INDEX TO APPENDICES

APPENDIX A Decision of Screening order by United States Magistrate Judge January 21,2021,November 22,2021,and March 23,2022 with findings and Recommendations.

APPENDIX B Decision of District Court order by United States District Judge April 5,2022 with Final orders and notice of appeal April 21,2022.

APPENDIX C Decision of United States Court of Appeals 9th Circuit Referral Notice to the District Court filed April 22,2022.

APPENDIX D Decision of District Court order revoking in forma pauperis status in retaliation to obstruct access to the court by District Judge May 5,2022.

APPENDIX E Decision of United States Court of Appeals 9th Circuit orders May 6,2022,and October 19,2022,and November 10,2022.

APPENDIX F GDCR KNOWLEDGE OF THREAT TO PLAINTIFF'S SAFETY BY CUSTODY TO KILL HIM NOVEMBER 20,2015.

APPENDIX G CDCR MEMORANDUM TO ALL STAFF OF REFUSAL FOR TREATMENTS

APPENDIX H CDCR 128-C of the retaliation housing of E.O.P.

APPENDIX I DECLARATION OF ROBERT STRINGFELLOW OF SECOND RETALIATION ASSAULT.

IN THE
SUPREME COURT OF THE UNITED STATES
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix C&E to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

The opinion of the United States district court appears at Appendix A, B&D to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the _____ court appears at Appendix _____ to the petition and is

☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was October 19, 2022.

☒ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was _____.
A copy of that decision appears at Appendix _____.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. A _____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

FIRST AMENDMENT RETALIATION RIGHT TO GRIEVE.

EIGHTH AMENDMENT CRUEL AND UNUSUAL PUNISHMENT.

EIGHTH AMENDMENT DELIBERATE INDIFFERANT TO SERIOUS MEDICAL NEEDS AND SAFETY.

FOURTEENTH AMENDMENT EQUAL PROTECTION AND FAILURE TO PROTECT.

AMERICAN WITH DISABILITIES ACT OF 1973, and 504, 508 of THE REHABILITATION ACT.

STATEMENT OF THE CASE

Plaintiff/Appellate brought forth under the continuing violation doctrine his 42 U.S.C. 1983 and American with Disabilities Act of 1973 and 504 Rehabilitation Act against CDCR and its employees/contractors for deprivation of his constitutional 1st Amendment, 8th Amendment and Fourteenth Amendment rights stating cognizable claims of relief per F.R.C.P. 8 (a)(2) and (f) when because he was a indigent incarcerated inmate/patient fully dependent on the state his access to the court was intentionally deliberately thwarted, stonewalled, whitewashed, obstructed, and rebuffed due to the courts bias rulings and discriminatory opinions against disable prisoners due to their disabilities to comprehend american disabilities act (ADA) in a complex case involving numerous CDCR defendants of physical and mental abuse when defendants are engaged in a continual course of conduct. Plaintiff's actions were timely filed and plaintiff should had been permitted to litigate violations that were part of the same course of conduct of retaliations, coercions, intimidations, discriminations, and threats to plaintiff's medical and mental health needs and safety.

Despite plaintiff's terminal illness of his chronic serious high risk medical needs of hemodialysis and the imminent threat of death of his endstage renal disease which he have under went life sustaining treatment (HEMODIALYSIS) to stay alive for (24 years). As his physical and mental health decompensated greatly. Because plaintiff is self educated with no proper education of schooling due to his special education that [CDCR] has failed to address in their correctional state institutions due to their over crowding and his personal [ADA] disabilities of [CCCMS] status and serious medical needs and safety of his level of care.

The court failed to consider pro se leniency for state prisoners thats incarcerated within each of his properly filed submitted amended 42 U.S.C. § 1983 complaints and American with Disability Act/ADA and 504, 508 Rehabilitation Act/ADA was intentionally, maliciously and sadistically thwarted, stonewalled, whitewashed, ostructed, and rebuffed in order to discriminate and undermined the material exculpatory factual evidence presented in cognizable claims of 1st, 8th, 14th and ADA actions to hold CDCR/CCHCS and its (42) employees/contractors Does 1-100 liable for their actions for retaliation, threats to kill him within their work/employee emails which was a direct threat to safety, cruel & unusual punishment, deliberate indifferent, excessive use of force and equal protection (ADA) healthcare services and rehabilitation programs under the jurisdiction of the state of california CDCR/CCHCS, CHCF-Stockton in which its employees/contractors personally acted as agents under the color of state law in deprivation when each defendant named deprived plaintiff of his constitutional rights established under federal applicable law 1st, 8th, 14th Amendment and ADA.

STATEMENT OF THE CASE

Also because plaintiff acted in pro se as a state prisoner and is not a professional licensed attorney leniency should have been constured when screening plaintiff's properly filed amended complaints, but yet they were not because plaintiff was discriminated due to his incarceration and him acting in pro se as a indigent state prisoner causing the discriminatory dismissal of his case for failure to adequate follow the court order correctly when amending his 3rd civil complaint to the pleading that satisfies the requirement of the federal rules of civil procedure of applicable law or the court likings to limited and break down the named (42) and Does (1-100) that arrived from the same similar course of conduct under the contining violation doctrine of clear establish applicable federal law of retaliation when there was retribution of imminent threat to kill plaintiff at CDCR/CCHCS, CHCF-Stockton reported to related defendants (Chief Medical Executive, E. Tootel) and (Medical Doctor, M. Rowe) whom custody informed and disclosed in related case no. 4:19-cv-06758-JSW/appeals court case no. 21-16638 emails exculpatory evidence.

At no point did the district or the appellate courts identify or state that plaintiff's complaints was frivolous or malicious and failed to state cognizable claims that could not grant relief in his 3rd amended complaint prior to the order or recommendation to revoke plaintiff's in forma pauperis status by magistrate judge when plaintiff was granted in forma pauperis status in the district court on 8/21/2020 to proceed in his case, but as soon as his son resolved his outstanding court filing fee of \$350.00 in this case plaintiff case was maliciously and sadistically dismissed for failure to adequate follow the court order to limted defendants that were properly joined together in the same similar course of conduct under the continuing violation doctrine act of retaliation at CDCR/CCHCS institution of CHCF-Stockton jurisdiction who employees/contractors named as defendants personally acted in concert conspiring together as agents on behalf of the state in the clear deprivation to deprive plaintiff of his establish constitutional rights under applicable laws of the 1st, 8th, 14th Amendment and ADA.

It is in the court bias opinion to turn an intentional blind eye to plaintiff's cognizable claims that were properly joined and filed together cured under 42 U.S.C. § 1983 F.R.C.P. 8 (a)(2) & (f) in which this complaint arrived from the same similar actions of retaliation of the continuing violation doctrine. It was discriminatory overlooked to intentionally undermined the exculpatory factual evidence stated under the penalty of perjury by plaintiff under oath of who did what and were within his complaint.

STATEMENT OF THE CASE

The court of appeal referral notice to interfere with the district court finalize ruling which was a discriminatory action to suggest that they revisit their finalized order to decide if plaintiff appeal should be taken in bad faith. See 28 U.S.C. § 1915 (a)(3); see also *Hooker v. American Airlines*, 302 F.3d 1091, 0192 (9th Cir. 2002) (revocation of forma pauperis status is appropriate where district court finds the appeal to be frivolous), was within its self an abuse of authority because then the district court issued an order revoking plaintiff forma pauperis status and then the court of appeal maliciously sadistically dismissed plaintiff/appellate complaint for being frivolous when it was not clearly apart of the district court records. The court of appeal abused their authority by justifying their actions to dismiss plaintiff's case and pending motions for appointment of in forma pauperis status and appointment of counsel or the chance to raise the filing fee of \$505.00. "under a continuing violation theory, if defendants engaged in a continual course of conduct and plaintiff's action is timely as to any act in that course of conduct, plaintiff may be permitted to litigate violations that are part of the course of conduct. See *Van Heest v. McNeilab, Inc.*, 624 F.Supp. 891, 896 (D. Del. 1985). A continuing violation is occasioned by continual unlawful acts, not continual ill effects from an original violation". *Sanducth v. Muroski*, 684 F.2d 252, 254 (3d Cir. 1992). Also the continuing violation doctrine is an 'Equitable exception to the timely filing requirement". *Cowell v. Palmer TWP.*, 263 F.3d 286, 292 (3d Cir. 2001) (quoting) *West v. Philadelphia Elec. Co.*, 45 F.3d 744, 754 (3d Cir. 1995)). "[W]hen a defendant's conduct is part of a continuing practice, an action is timely so long as the last act evidencing the continuing practice falls within the limitations period; see *Morgan*, 536 U.S. at 114 and *Knox*, 260 F.3d at 1013.

REASONS FOR GRANTING THE PETITION

Because the appointment of (Pro Bono) counsel for all Disability ADA inmate/patients in civil complaints acting in indigent pro se status under 42 U.S.C. § 1983 and The American with Disability Act, 42 U.S.C. § 12101, et seq., § 12102, et seq., § 12103, et seq., § 12203, et seq., is warranted to be addressed due the gravely illness high risk serious medical and mental health needs and safety of excessive risk of their disabilities and conditions which "makes it nearly impossible to adequately, meaningfully, and effectively to present their claims in pro se as indigent prisoners in arguments and supportive law to the facts of their cases, in all constitutional manners against the state or federal employees employed by the government as agents acting under the color of state law for public entities." Because of the discriminatory in certain inmate/patients pro se indigent prisoners exceptional circumstances that have been clearly overlooked that clearly meet the same requirements for (Pro Bono) legal counsel, which the district court may request the voluntary assistance of counsel pursuant to 28 U.S.C. § 1915 (e)(1). *Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991); *Wood v. Housewright*, 900 F.2d 1332, 1335-36 (9th Cir. 1990). The test for exceptional circumstances requires the court to evaluate all pro se plaintiff's who request counsel on the likelihood of their success on their merits and ability of the plaintiff to articulate their claims pro se in light of the complexity of the legal issues involved. See out dated laws that don't address appointment pro bono counsel for indigent total dependent pro se prisoners with medical and mental health disabilities under the ADA.... *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986); *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983). It is time that the state of California and the rest of the states and federal public entities start paying their shares for pro bono legal counsel- especially in inmate/patients prisoner cases involving ADA issues in 42 U.S.C. § 1983 1st, 8th, 14th Amendment and American with Disability Act, 42 U.S.C. § 12101, § 12102, § 12103 and § 12203, et seq., who would require at the less professional competent adequate counsel, expert witnesses and private investigators in order to pierce Defendants summary judgment that have very high unlimited account to protect the course of corrupt conduct by their employees/contractors misconduct and crimes against the medical and mental inmate/patients that is disabled that cannot legally defend or protect themselves from correctional institutions that intentionally abuse inmate/patients and that polices themselves.

Due to all cases involving [ADA] issues against any and all state and federal correctional employees/contractors should clearly be complex circumstances for any and all total dependent disabled indigent pro se incarcerated prisoners without adequate "legal education or background in constitutional state or federal laws". No pro se [ADA] prisoner should be required by the courts to meet such hardship and burden to put [ADA] prisoners through discriminatory legal standards under *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9th Cir. 1986) or *Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991) because the District court and court of appeals is designed to be racially, financially and prejudicially

REASONS FOR GRANTING THE PETITION

discriminatory bias against minority prisoners who seeks individual civil claims without any professional counsel under 42 U.S.C. § 1983 and American with Disabilities Act, 42 U.S.C. §12101, §12102, §12103, and §12203, et seq., for monetary damages against state or federal government public entities employees / contractors employed as agents.

The clear abuse of authority by the district and appellate courts' and legislatures of their failure to protect [ADA] inmate/patients with high risk serious medical/mental health needs because it is impossible for any prisoner to adequately "demonstrate a likelihood of success on the merits or to show the complexities of the issues involved are sufficient to require the designation of counsel when there is no legal adequate standard to appointment of pro bono counsel or to force all state and federal government public entities to set aside funding for counsels, expert witnesses, and investigators in individual civil complaints for [ADA] inmate/patients acting in pro se as a total dependent incarcerated prisoner under 42 U.S.C. § 1983 and American with Disabilities Act, 42 U.S.C. §12101, §12102, §12103, and §12203, et seq.

Until this great nation Re-visit and Set aside funding for disabled funds for [ADA] inmate/patient incarcerated prisoners acting in pro se and rule in favor of prisoners the state and federal government will continue to abuse their authority and discriminate toward minorities [ADA] prisoners denying them the appointment access of pro bono counsel in order to deny us all access of the courts' and to adequately prosecute their state and federal claims against defendants' by pro se plaintiff's who seeks justice will continue to be racially, financially, and prejudicially discriminated against that have truly legitimized claims of medical/mental abuse.

The prisoner right bill should be added to reflect any and all [ADA] funding for prisoners who bring claims against state or federal government public entities to hold accountable state and federal actors in their actions and inactions as defendants who clearly violate prisoners constitutional rights in deprivation to deprive prisoners of clearly established state and federal [ADA] laws. It is also discriminatory for the courts' to openly screen out properly filed civil rights complaints by prisoners for failure to cure deficiencies when pro se prisoners have presented factual cognizable claims or legal complexities that would benefit from the presentation and representation of legal counsel in order to facilitate expediting the proceedings in the courts in prisoners [ADA] civil cases. But yet instead a lot of district and appellate courts' still refuse to find in favor that [ADA] inmate/patient prisoners acting in pro se cases does not present exceptional circumstances which all prisoners and [ADA] issues fall under the appointment of limited pro bono counsel see 28 U.S.C. § 1915 (d), "For the purpose of limited preparing their cases and filings or

REASONS FOR GRANTING THE PETITION

pleadings that will then satisfy the requirements of the federal rules of civil procedures and the legal applicable laws in the district and appellate court's standards.

At this time i can pointout the courts discriminatory actions of abuse of authority due to the fact when different judged exercise their discretion in similar case like used in the Reed v. Fox,et al.,Case No. 2:19-cv-0275-ACP,order dated september1,2021 by the United States Magistrate judge Allison Claire,in regards to her ruling of exception circumstances in his 42 U.S.C. §1983 and American with Disabilities Act,42 U.S.C. §12101,§12102,§12103,and §12203,et seq.

This Writ of Certiorari should be granted because the many of thousands of mine and other [ADA] prisoners law suits and claims that go unanswered or wrongfully dismissed due to the intentional discriminatory actions against pro se prisoners who are malicious sadisticly ostracise and denied the courts' [ALTERATIVE DISPUTE RESOLUTION AND PRO BONO PROGRAM SERVICES],To temporary appointment of legal counsel under 28 U.S.C. §1915(d),Federal Rules of Civil Procedure and Applicable Laws. Since me and other pro se [ADA] prisoners are being denied equal access to the courts' services and not afforded the same civil legal standards of screening under 28 U.S.C. §1915 A, 42 U.S.C. §1997 e(c)(9)(2) and F.R.C.P. 8 (a)(2),18,and 20. We as a group of individuals with disabilities with monetary damages are being intentional thwarted,stonewalled whitewashed,obstructed,and rebuffed in such ways to discriminate against all [ADA] prisoners civil complaints by the abuse of discretion to screenout our properly filed pleadings under the same and similar facts,pleadings,or filings by professional counsels who are not being held to the same discriminatory high standards of pro se [ADA] prisoners who are limited by the courts' abuse of discretion of what is equal opportunity or access to sue state or federal government public entities and their employees/contractors acting as agents for correctional institutions. The district and appellate courts' has gone as far as abusing their authority by even forcing pro se prisoners to amend their properly filed civil rights complaint in order to undermined their stated relief that is plausible on its face by a pro se [ADA] prisoners under F.R.C.P. 8 (A)(2) against government public entities and to undermined our pro se prisoners filings only to limited our claims discriminatory to prevent their cases from being complex or having exceptional circumstances.

This court has the power to challenge the district and appellate courts' abuse of discretion because in one hand the courts discriminates by appointing [ADA] prisoners with the same similar cases or issues and facts,then in the other hand the same district and appellate courts' refuse to appoint pro bono services for mine or other [ADA] prisoners with the same similar facts as the ones they granted counsel to.

REASONS FOR GRANTING THE PETITION

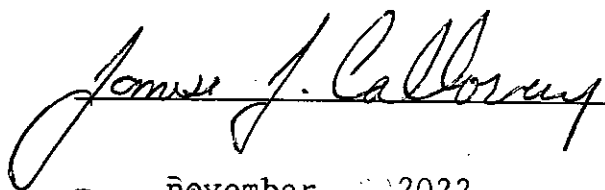
See REED V. FOX, ET AL., No.2:19-cv-ACP WHICH I PLAINTIFF FILED ON MR REED BEHALF HIS SECOND ADMENED COMPLAINT THAT WAS GRANTED LIMITED PRO BONO STATUS...

This court also have in its power to set a "NEW CRITERA" for appointment of counsel for pro bono [ADA] prisoners and to force the states to write new legislations to constitute prisoners right to pro bono counsel in pro se civil claims with disabilities. It should be so, that all [ADA] prisoners be established equal access to pro bono counsel or the the court reverse and drop its high standard abuse of discretion against all pro se [ADA] prisoners who seeks to hold state or federal public entities and their employees/contractors liable for their conduct in the course of the continuing violation doctrine act in the direct deprivation to deprive us of our constitutional 1st, 8th, 14th Amendment and [ADA], rights. Lastly this law should be challenged and changed because the direct imminent danger and harm being done to the viocess, helpless and hopeless that have no other recourse but through the courts justice system when people of authority abuse their discretion and authority. Prisoners claims should not be undermined or limited to individual defendants' when there is a clear connection of abuse of authority is taught by the administration to turn a blind eye at corruption and criminal misconduct by its employees/contractors which led to the civil right violations withinside the courts of justice and thats why this Writ of Certiorari should be granted with the appointment of pro bono counsel.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "James J. Callahan", is written over a horizontal line.

Date: November 2, 2022

"APPENDIX B."

1
2
3
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5
6
7
8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
10

11 JAMISI JERMAINE CALLOWAY,

12 Plaintiff,,

13 v.

14 M. MARTEL, et al.,

15 Defendant.
16

No. 2:20-cv-01384-TLN-CKD

ORDER

17 Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief
18 under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to
19 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

20 On March 23, 2022, the magistrate judge filed findings and recommendations herein
21 which were served on Plaintiff and which contained notice to Plaintiff that any objections to the
22 findings and recommendations were to be filed within fourteen days. (ECF No. 22.) Plaintiff has
23 filed objections to the findings and recommendations. (ECF No. 23.)

24 In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C) and Local Rule 304, this
25 Court has conducted a *de novo* review of this case. Having carefully reviewed the entire file, the
26 Court finds the findings and recommendations to be supported by the record and by proper
27 analysis.

28 ///

1 Accordingly, IT IS HEREBY ORDERED that:

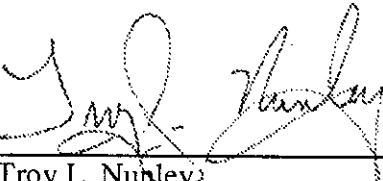
2 1. The Findings and Recommendations filed March 23, 2022, are adopted in full.

3 2. Plaintiff's Third Amended Complaint is DISMISSED pursuant to Federal Rule of Civil
4 Procedure 41(b) for failing to follow a Court order.

5 3. Plaintiff's Motion for a Preliminary Injunction and Temporary Restraining Order (ECF
6 No. 17) is DENIED as moot in light of the dismissal of Plaintiff's Amended Complaint.

7 4. The Clerk of Court shall close this case.

8 **DATED:** April 5, 2022

9
10
11 
12 Troy L. Nunley
United States District Judge

MIME-Version:1.0 From:caed_cmecf_helpdesk@caed.uscourts.gov To:CourtMail@localhost.localdomain
Message-Id: Subject:Activity in Case 2:20-cv-01384-TLN-CKD (PC) Calloway v. Martel et al .
Content-Type: text/html

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U.S. District Court

Eastern District of California – Live System

Notice of Electronic Filing

The following transaction was entered on 4/7/2022 at 10:33 AM PDT and filed on 4/7/2022

Case Name: (PC) Calloway v. Martel et al

Case Number: 2:20-cv-01384-TLN-CKD

Filer:

WARNING: CASE CLOSED on 04/07/2022

Document Number: 24

Docket Text:

ORDER signed by District Judge Troy L. Nunley on 4/5/2022 ADOPTING in FULL [22] Findings and Recommendations. Plaintiff's Third Amended Complaint is DISMISSED pursuant to FRCP 41(b) for failing to follow a Court order. DENIED as MOOT [17] Motion for Preliminary Injunction and TRO, in light of the dismissal of the Amended Complaint. The Clerk of Court shall close this case. CASE CLOSED(Reader, L)

2:20-cv-01384-TLN-CKD Notice has been electronically mailed to:

2:20-cv-01384-TLN-CKD Electronically filed documents must be served conventionally by the filer to:

Jamisi Jermaine Calloway
P-97743
California Health Care Facility (CHCF)
P.O. Box 213040
Stockton, CA 95213

The following document(s) are associated with this transaction:

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

JUDGMENT IN A CIVIL CASE

JAMISI JERMAINE CALLOWAY,

CASE NO: 2:20-CV-01384-TLN-CKD

v.

M. MARTEL, ET AL.,

Decision by the Court. This action came before the Court. The issues have been tried, heard or decided by the judge as follows:

IT IS ORDERED AND ADJUDGED

**THAT JUDGMENT IS HEREBY ENTERED IN ACCORDANCE WITH THE
COURT'S ORDER FILED ON 4/7/2022**

Keith Holland
Clerk of Court

ENTERED: April 7, 2022

by: /s/ L. Reader

Deputy Clerk

MIME-Version:1.0 From:caed_cmecf_helpdesk@caed.uscourts.gov To:CourtMail@localhost.localdomain
Jamisi Jermaine Calloway
P-97743

California Health Care Facility (CHCF)
P.O. Box 213040
Stockton CA 95213
US

--Case Participants: District Judge Troy L. Nunley (caed_cmecf_tln@caed.uscourts.gov), Magistrate Judge
Carolyn K. Delaney (caed_cmecf_ckd@caed.uscourts.gov)

--Non Case Participants:

--No Notice Sent:

Message-Id: Subject:Activity in Case 2:20-cv-01384-TLN-CKD (PC) Calloway v. Martel et al Judgment.
Content-Type: text/html

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U.S. District Court

Eastern District of California – Live System

Notice of Electronic Filing

The following transaction was entered on 4/7/2022 at 10:34 AM PDT and filed on 4/7/2022

Case Name: (PC) Calloway v. Martel et al

Case Number: 2:20-cv-01384-TLN-CKD

Filer:

WARNING: CASE CLOSED on 04/07/2022

Document Number: 25

Docket Text:

JUDGMENT dated *4/7/2022* pursuant to order signed by District Judge Troy L. Nunley on 4/5/2022. (Reader, L)

2:20-cv-01384-TLN-CKD Notice has been electronically mailed to:

2:20-cv-01384-TLN-CKD Electronically filed documents must be served conventionally by the filer to:

Jamisi Jermaine Calloway
P-97743
California Health Care Facility (CHCF)
P.O. Box 213040
Stockton CA 95213
US

UNITED STATES DISTRICT COURT
FOR THE
EASTERN DISTRICT OF CALIFORNIA

OFFICE OF THE CLERK
501 "I" Street
Sacramento, CA 95814

JAMISI JERMAINE CALLOWAY,
Plaintiff

v.

CASE NO. 2:20-CV-01384-TLN-CKD

M. MARTEL, ET AL.,
Defendant

You are hereby notified that a Notice of Appeal was filed on **April 20, 2022**
in the above entitled case. Enclosed is a copy of the Notice of Appeal, pursuant
to FRAP 3(d).

April 21, 2022

KEITH HOLLAND
CLERK OF COURT

by: /s/ V. Licea Chavez

Deputy Clerk

**UNITED STATES DISTRICT COURT
FOR THE
EASTERN DISTRICT OF CALIFORNIA**

**OFFICE OF THE CLERK
501 "I" Street
Sacramento, CA 95814**

TO: CLERK, U.S. COURT OF APPEALS

FROM: CLERK, U.S. DISTRICT COURT

SUBJECT: NEW APPEALS DOCKETING INFORMATION

CASE INFORMATION

USDC Number: 2:20-CV-01384-TLN-CKD

USDC Judge: DISTRICT JUDGE TROY L. NUNLEY

USCA Number: NEW APPEAL

Complete Case Title: JAMISI JERMAINE CALLOWAY vs. M. MARTEL

Type: CIVIL

Complaint Filed: 2/20/2020

Appealed Order/Judgment Filed: 4/7/2022

Court Reporter Information:

FEE INFORMATION

Fee Status: IFP Granted on 8/21/2020

Information prepared by: /s/ V. Licea Chavez , Deputy Clerk

MIME-Version:1.0 From:caed_cmecf_helpdesk@caed.uscourts.gov To:CourtMail@localhost.localdomain
Jamisi Jermaine Calloway
P-97743
California Health Care Facility (CHCF)
P.O. Box 213040
Stockton CA 95213
US

--Case Participants: District Judge Troy L. Nunley (caed_cmecf_tln@caed.uscourts.gov), Magistrate Judge Carolyn K. Delaney (caed_cmecf_ckd@caed.uscourts.gov)
--Non Case Participants: Appeals Court - Ninth Circuit (cmecf_ca9central@ca9.uscourts.gov)
--No Notice Sent:
Message-Id: Subject:Activity in Case 2:20-cv-01384-TLN-CKD (PC) Calloway v. Martel et al .
Content-Type: text/html

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U.S. District Court

Eastern District of California - Live System

Notice of Electronic Filing

The following transaction was entered on 4/21/2022 at 9:37 AM PDT and filed on 4/21/2022

Case Name: (PC) Calloway v. Martel et al

Case Number: 2:20-cv-01384-TLN-CKD

Filer:

WARNING: CASE CLOSED on 04/07/2022

Document Number: 28

Docket Text:

APPEAL PROCESSED to Ninth Circuit re [27] Notice of Appeal filed by Jamisi Jermaine Calloway. Notice of Appeal filed *4/20/2022*, Complaint filed *2/20/2020* and Appealed Order / Judgment filed *4/7/2022*. ** *Fee Status: IFP Granted on 8/21/2020* (Licea Chavez, V)

2:20-cv-01384-TLN-CKD Notice has been electronically mailed to:

2:20-cv-01384-TLN-CKD Electronically filed documents must be served conventionally by the filer to:

Jamisi Jermaine Calloway
P-97743
California Health Care Facility (CHCF)
P.O. Box 213040
Stockton CA 95213
US

"APPENDIX C."

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

APR 22 2022

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

JAMISI JERMAINE CALLOWAY,

Plaintiff - Appellant,

v.

M. MARTEL, Warden, Warden; et al.,

Defendants - Appellees.

No. 22-15583

D.C. No. 2:20-cv-01384-TLN-CKD

U.S. District Court for Eastern
California, Sacramento

REFERRAL NOTICE

This matter is referred to the district court for the limited purpose of determining whether in forma pauperis status should continue for this appeal or whether the appeal is frivolous or taken in bad faith. *See* 28 U.S.C. § 1915(a)(3); *see also Hooker v. American Airlines*, 302 F.3d 1091, 1092 (9th Cir. 2002) (revocation of forma pauperis status is appropriate where district court finds the appeal to be frivolous).

If the district court elects to revoke in forma pauperis status, the district court is requested to notify this court and the parties of such determination within 21 days of the date of this referral. If the district court does not revoke in forma pauperis status, such status will continue automatically for this appeal pursuant to Fed. R. App. P. 24(a).

This referral shall not affect the briefing schedule previously established by this court.

FOR THE COURT:

MOLLY C. DWYER
CLERK OF COURT

By: Cyntharee K. Powells
Deputy Clerk
Ninth Circuit Rule 27-7

"APPENDIX D."

"APPENDIX F."

Message

From: Rowe, Michael@CDCR [Michael.Rowe@cdcr.ca.gov]
Sent: 11/20/2015 10:00:12 AM
To: Tootell, Elena@CDCR [Elena.Tootell@cdcr.ca.gov]
Subject: RE: Calloway (P97743)

That's asinine and unprofessional. Every cop in the world has to deal with someone who has assaulted another cop without killing them. Do they think they're actually not all part of the same organization?

From: Tootell, Elena@CDCR
Sent: Friday, November 20, 2015 9:59 AM
To: Rowe, Michael@CDCR
Subject: RE: Calloway (P97743)

The explanation is that custody thinks they will kill him. I find that even more concerning.

E. Tootell
Chief Medical Executive
California State Prison, San Quentin
Phone: (415) 721-3511
Cell: (916) 698-7255
Fax: (415) 721-3512

CONFIDENTIALITY NOTICE: This communication with its contents may contain confidential and/or legally privileged information. It is solely for the use of the intended recipient(s). Unauthorized interception, review, use or disclosure is prohibited and may violate applicable laws including the Electronic Communications Privacy Act. If you are not the intended recipient, please contact the sender and destroy all copies of the communication.

From: Rowe, Michael@CDCR
Sent: Friday, November 20, 2015 9:58 AM
To: Tootell, Elena@CDCR
Subject: RE: Calloway (P97743)

What's shocking is that Custody is acting just like a DaVita center refusing to provide Custody coverage. Are they afraid he'll bite someone else?

From: Tootell, Elena@CDCR
Sent: Friday, November 20, 2015 9:56 AM
To: Smith, Oak@CDCR; Koenig, Theresa@CDCR; Rowe, Michael@CDCR
Subject: RE: Calloway (P97743)

Thanks ! great news!

E. Tootell
Chief Medical Executive
California State Prison, San Quentin
Phone: (415) 721-3511
Cell: (916) 698-7255
Fax: (415) 721-3512

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"APPENDIX G."

Memorandum

Date : December 28, 2016

To : All Staff

Subject: **REFUSAL FOR TREATMENTS**

The purpose of this memorandum is to clarify the expectation relating to situations requiring an emergent transfer of an ill inmate-patient who refuses treatment at an outside hospital and use of force for inmate-patients who refuse treatment.

All inmate-patients have the right to refuse medical or mental health treatment. Once the risk of refusal and the benefit of treatment have been discussed with the inmate-patient and outlined on the CDCR Form 7225, Refusal of Examination and/or Treatment, inmate-patient may then sign the refusal. If there is a question regarding the inmate-patient's capacity to understand the discussion, please consult with the inmate-patient's primary care provider/clinician to have a capacity evaluation conducted. If the Inmate-patient lacks the capacity to weigh the risks and benefits of his decision, the refusal is not valid. Upon the receipt of an order by the medical provider and the consent of the inmate-patient, American Medical Response (AMR) is to be immediately called.

Pursuant to the Use of Force Policy, inmate-patients have the right to refuse medical or mental health treatment; therefore, the use of force will not be utilized to compel inmate-patients with the capacity to understand the risks and benefits of their decisions to be transported to an outside hospital.



RAUL RE CAREY
Chief Executive Officer
California Health Care Facility

Date

1/4/2017



MICHAEL MARTEL
Warden
California Health Care Facility

Date

1/4/17

"APPENDIX H."

No: P977434


Name: Calloway, Jamise

DOB: 02/10/1974

Currently Pt is placed in EOP ASU. As pt's current clinician the following recommendation was made to CC2 Jimenez via email on 01/11/2017. For the purposes of documentation, that information is included here.

MH reasoning for pt transfer from EOP ASU to CCCMS ASU:

Pt Calloway is currently at CCCMS LOC and placed at an EOP ASU Hub due to medical needs for dialysis. Calloway appears, at this time to have minimal mental health needs, that meet EOP LOC specifications, and is frustrated with his placement at EOP ASU unit. Due to being placed in an ASU EOP HUB he is not able to participate in most of the therapeutic program set in place, due to inconsistency in LOC. If pt were placed at a CCCMS ASU yard, he would have more programming opportunities. Currently, due to pt being CCCMS, he is unable to be offered CCCMS programming. Pt is being prohibited freedoms/privileges that he might otherwise have at a CCCMS ASU. Instead, he is housed with all EOP inmates. Pt continues to report that being housed in EOP vs CCCMS is limiting his programming and options to those only offered to the EOP population. Pt continues to deny need for treatment; he has become agitated and very irritable at being labeled as an EOP patient. He does not desire to be in the MH system and feels that being housed with EOP patients is not appropriate. Continued placement in a higher restrictive MH environment has demonstrated increased irritability and frustration, which could be addressed if placed in MH program consistent with current MH LOC, CCCMS.


E. Zdradzinski, PsyD
MH Clinician/Psychologist
CHCF ASU

4/12/2017

Date

cc: Inmate
C-File
Medical Records

ASU Unit/CHCF



"APPENDIX I."

DECLARATION OF ROBERT STRINGFELLOW

I, Robert Stringfellow, CDCR No. AB2918, hereby declare under the penalty of perjury if called upon to testify i will do so truthfully of sound mind and body of the chronological events from 2017.

1. After when inmate/patient Jamisi J. Calloway, CDCR No. P97743 returned CHCF-Stockton D-Yard in early 2017. I personally informed him that i would sign a declaration concerning statements of staff misconduct by correctional officer D. Nieves abusive language of using the 'n' word toward african-american inmate/patients to incite and to provoke violence.

2. One day after returning from E-Yard together with inmate/patient Jamisi J. Calloway we was both ordered to comply to be stripped search on 10/05/2017 which we complied and walked over to stand by visiting as we was ordered to.

3. While standing in front of visiting we were approached from behind by community resource manager kim petterson who wanted 'Calloway' to pull up his pants and when he "stated no" it infuriated kim petterson so she demanded his identification in which he complied to her orders and she took down his information returning his identification without incident "stating to 'Calloway' he will be receiving a rvr-115" as she walked away.

4. I witnessed kim petterson then walk over to a group of ladies in front of the chapel then they walked over to lieutenant 'C. Barroga' and pointed directly toward us standing in front of visiting. At which time lieutenant c. barroga walked alone over toward us up to 'Calloway' stating aren't your name CALLOWAY and he said yes and lieutenant c. barroga stated the same calloway that assaulted his officer 'Nieves'. When Calloway did not respond lieutenant c. barroga started to harass Calloway about his pants telling him he needed to pull them up on his ass Calloway 'stated no' because aint nothing wrong with them. Lieutenant c. barroga retaliated and called several officers from the (greenwall-gang) to surround "CALLWAY" for nothing and watched lieutenant c. barroga ordered his officers to get this piece of shit in cuffs.

5. I watched each officer use of excessive force that was unreasonable because Calloway did nothing to provoke the unnecessary use of excessive force by slamming Calloway 'FACE FIRST' into the concrete (ground) other to cause him harm and injuries hitting his head and face then using their knees and feet to kneel on his body aggressively tearing his muscles apart as Calloway "YELLED-OUT" in pain that they was hurting him. I tried to tell them that he was on dialysis and he had a catheter in his chest but i heard lieutenant c. barroga state he did not give a fuck and its to fucking late and to get these fucking inmates back and to get this

piece of shit cry baby ass up and take him to (S.E.M.S.). Thats when i witnessed lieutenant A. Lewis then snatched Calloway up by his shirt to pull him off the ground by his catether as Calloway screamed in severe pain that he was pulling out his catether.

6.I,Robert Stringfellow CDCR No.AB2918,hereby declare under the penalty of perjury that the above foregoing is true and correct.
executed this 14th day of December,2021 at CHCF-STOCKTON in the state of CALIFORNIA.

/s/ Robert L. Stringfellow

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U.S. District Court

Eastern District of California – Live System

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Case Name: (PC) Calloway v. Martel et al

Case Number: 2:20-cv-01384-CKD

Filer:

Document Number: 19(No document attached)

Docket Text:

MINUTE ORDER issued by Judicial Assistant D. Eichhorn for Magistrate Judge Carolyn K. Delaney on 12/10/2021: (Text Only Entry) Plaintiff has filed a 39 page third amended complaint in direct violation of this court's November 22, 2021 order. The court denies plaintiff's separately filed request to exceed the page limitation and will strike the third amended complaint [ECF No. 16] from the docket as filed in violation of a court order. Within 14 days from the date of this order, plaintiff may file a third amended complaint limited to no more than 20 pages as previously ordered. If plaintiff fails to comply with all material terms of this order or disregards prior orders of this court, the undersigned will recommend dismissing this action for failing to follow a court order. See Fed. R. Civ. P. 41(b); Local Rule 110.(Eichhorn, D)

2:20-cv-01384-CKD Notice has been electronically mailed to:

2:20-cv-01384-CKD Electronically filed documents must be served conventionally by the filer to:

Jamisi Jermaine Calloway
P-97743
California Health Care Facility (CHCF)
P.O. Box 213040
Stockton, CA 95213

MIME-Version:1.0 From:caed_cmecf_helpdesk@caed.uscourts.gov To:CourtMail@localhost.localdomain
Message-Id: Subject:Activity in Case 2:20-cv-01384-CKD (PC) Calloway v. Martel et al Order.
Content-Type: text/html

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U.S. District Court

Eastern District of California – Live System

Notice of Electronic Filing

The following transaction was entered on 11/22/2021 at 10:52 AM PST and filed on 11/22/2021

Case Name: (PC) Calloway v. Martel et al

Case Number: 2:20-cv-01384-CKD

Filer:

Document Number: 15

Docket Text:

ORDER signed by Magistrate Judge Carolyn K. Delaney on 11/22/21 DISMISSING [14] plaintiff's second amended complaint. Plaintiff is granted 30 days from the date of service of this order to file a third amended complaint limited to no more than 20 pages. The Clerk of Court is directed to send plaintiff a copy of the court-approved form for filing a § 1983 action in this district.(Plummer, M)

2:20-cv-01384-CKD Notice has been electronically mailed to:

2:20-cv-01384-CKD Electronically filed documents must be served conventionally by the filer to:

Jamisi Jermaine Calloway
P-97743
California Health Care Facility (CHCF)
P.O. Box 213040
Stockton, CA 95213

The following document(s) are associated with this transaction:

1 41(b) of the Federal Rules of Civil Procedure.

2 4. The Clerk of Court is directed to send plaintiff a copy of the court-approved form for
3 filing a § 1983 action in this district.

4 Dated: November 22, 2021


CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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1 42 U.S.C. § 1983 unless there is some affirmative link or connection between a defendant's
2 actions and the claimed deprivation. Rizzo v. Goode, 423 U.S. 362 (1976). Furthermore, vague
3 and conclusory allegations of official participation in civil rights violations are not sufficient.
4 Ivey v. Board of Regents, 673 F.2d 266, 268 (9th Cir. 1982).

5 Finally, plaintiff is informed that the court cannot refer to a prior pleading in order to
6 make plaintiff's amended complaint complete. Local Rule 220 requires that an amended
7 complaint be complete in itself without reference to any prior pleading. This is because, as a
8 general rule, an amended complaint supersedes the original complaint. See Loux v. Rhay, 375
9 F.2d 55, 57 (9th Cir. 1967). Once plaintiff files an amended complaint, the original pleading no
10 longer serves any function in the case. Therefore, in an amended complaint, as in an original
11 complaint, each claim and the involvement of each defendant must be sufficiently alleged.

12 **V. Plain Language Summary for Pro Se Party**

13 The court has reviewed your second amended complaint and determined that you did not
14 fix the problems that were identified in the court's prior screening order. Your second amended
15 complaint continues to improperly join unrelated claims and defendants in this single civil action.
16 As a result, your second amended complaint is being dismissed. You are being given one last
17 chance to fix the problems identified in this order. Should you choose to do so, you may file a
18 third amended complaint that is no more than 20 pages in length on the court-approved form
19 within 30 days from the date of this order.

20 In accordance with the above, IT IS HEREBY ORDERED that:

21 1. Plaintiff's second amended complaint is dismissed.

22 2. Plaintiff is granted thirty days from the date of service of this order to file a third
23 amended complaint limited to no more than 20 pages that complies with the requirements of the
24 Civil Rights Act, the Federal Rules of Civil Procedure, and the Local Rules of Practice. The third
25 amended complaint must be written on the court-approved form, bear the docket number assigned
26 this case, and must be labeled "Amended Complaint."

27 3. Failure to file an amended complaint in accordance with the instructions provided in
28 this screening order will result in a recommendation that this action be dismissed pursuant to Rule

1 the number of frivolous suits or appeals that any prisoner may file without prepayment of the
2 required fees. 28 U.S.C. § 1915(g).” Id.

3 **IV. Analysis**

4 While plaintiff has narrowed the allegations in his amended complaint by eliminating
5 eight of the prior 49 named defendants and all claims for relief based on the processing of his
6 inmate appeals, the court is still unable to serve any defendant based on the improper joinder of
7 unrelated claims against multiple defendants in this single action. See ECF Nos. 7 at 7, 12 at 2-3.
8 The court cannot discern from the numerous allegations whether this is a case of retaliation based
9 on plaintiff’s housing classification, deliberate indifference to his serious medical and mental
10 health needs, the use of excessive force during cell extractions, or the conditions of his
11 confinement while housed at CHCF between August 25, 2016 and March 14, 2019.

12 Defendants’ knowledge of plaintiff’s prior assault on CHCF staff in 2015 is not a sufficient
13 connection to join all of the unrelated claims in the second amended complaint into a single suit.
14 Plaintiff was warned that his continued failure to follow directions in the court’s screening order
15 would result in a recommendation that this matter be dismissed pursuant to Rule 41(b) of the
16 Federal Rules of Civil Procedure. See ECF No. 12 at 3. However, based on plaintiff’s attempt to
17 comply with the court’s prior screening order as well as his documented mental health history, the
18 court will grant plaintiff one last chance to amend his complaint. If he chooses to do so, plaintiff
19 may proceed in this action only on those claims against different defendants that arise out of the
20 same transaction or occurrence, or that involve a common question of law or fact. If plaintiff
21 continues to join unrelated parties and claims in any third amended complaint, the undersigned
22 will not hesitate to recommend dismissing this action for failing to follow a court order. **The**
23 **amended complaint shall be no more than 20 pages in length and shall be on the court**
24 **approved form provided to plaintiff.**

25 If plaintiff chooses to file a third amended complaint, plaintiff must demonstrate how the
26 conditions complained of have resulted in a deprivation of plaintiff’s constitutional rights. See
27 Ellis v. Cassidy, 625 F.2d 227 (9th Cir. 1980). Also, in his amended complaint, plaintiff must
28 allege in specific terms how each named defendant is involved. There can be no liability under

II. Allegations in the Second Amendment Complaint

On January 21, 2021, plaintiff was given one last opportunity to comply with Rule 8's requirement that a complaint contain a "short and plain statement of the claim." ECF No. 12 at 3. He was granted leave to file a second amended complaint limited to no more than 25 pages in length. Id. The same order warned plaintiff that his failure to follow the court's order would result in a recommendation that the action be dismissed for failure to follow a court order pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. Id.

Plaintiff filed a second amended complaint against 41 defendants on February 1, 2021. ECF No. 14. The allegations in the second amended complaint concern the decision to transfer plaintiff back to CHCF on August 25, 2016 even though he had a prior physical altercation with staff at that facility. As a result, plaintiff spends a great deal of time recounting events that occurred in 2015 which are not germane to this lawsuit. Plaintiff alleges that due to the prior incident, he was the target of acts of retaliation, excessive force, and threats to his safety while an inmate at CHCF. Plaintiff was finally transferred from CHCF to Wasco State Prison on March 14, 2019.

III. Legal Standards¹

A plaintiff may properly assert multiple claims against a single defendant in a civil action. Fed. Rule Civ. P. 18. In addition, a plaintiff may join multiple defendants in one action where "any right to relief is asserted against them jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions and occurrences" and "any question of law or fact common to all defendants will arise in the action." Fed. R. Civ. P. 20(a)(2). However, unrelated claims against different defendants must be pursued in separate lawsuits. See George v. Smith, 507 F.3d 605, 607 (7th Cir. 2007). This rule is intended "not only to prevent the sort of morass [a multiple claim, multiple defendant] suit produce[s], but also to ensure that prisoners pay the required filing fees—for the Prison Litigation Reform Act limits to 3

¹ The court's two prior screening orders contained the relevant legal standards governing plaintiff's substantive claims for relief which are not restated herein. Plaintiff is advised to refer to the court's prior orders to determine which claim he wishes to bring and how properly to assert it.

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8 UNITED STATES DISTRICT COURT
9 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 JAMISI JERMAINE CALLOWAY,

No. 2:20-cv-01384-CKD P

12 Plaintiff,

13 v.

ORDER

14 M. MARTEL, et al.,

15 Defendants.
16

17 Plaintiff is a state prisoner proceeding pro se and in forma pauperis in this civil rights
18 action filed pursuant to 42 U.S.C. § 1983. This proceeding was referred to this court by Local
19 Rule 302 pursuant to 28 U.S.C. § 636(b)(1). Currently pending before the court is plaintiff's
20 second amended complaint.

21 **I. Screening Requirement**

22 As plaintiff is aware, the court is required to screen complaints brought by prisoners
23 seeking relief against a governmental entity or officer or employee of a governmental entity. 28
24 U.S.C. § 1915A(a). The court must dismiss a complaint or portion thereof if the prisoner has
25 raised claims that are legally "frivolous or malicious," that fail to state a claim upon which relief
26 may be granted, or that seek monetary relief from a defendant who is immune from such relief.
27 28 U.S.C. § 1915A(b)(1), (2).

28 /////

MIME-Version:1.0 From:caed_cmecf_helpdesk@caed.uscourts.gov To:CourtMail@localhost.localdomain
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U.S. District Court

Eastern District of California – Live System

Notice of Electronic Filing

The following transaction was entered on 1/21/2021 at 10:32 AM PST and filed on 1/21/2021

Case Name: (PC) Calloway v. Martel et al

Case Number: 2:20-cv-01384-CKD

Filer:

Document Number: 12

Docket Text:

ORDER signed by Magistrate Judge Carolyn K. Delaney on 1/21/2021 DISMISSING plaintiff's first amended complaint and GRANTING plaintiff 30 days to file a second amended complaint. The Clerk shall send plaintiff the court's form-complaint for violations of civil rights alleged by CA prisoners. Plaintiff's failure to file an amended complaint in accordance with the directions in this order as well as the court's 8/21/2020 screening order will result in a recommendation that this action be dismissed. (Yin, K)

2:20-cv-01384-CKD Notice has been electronically mailed to:

2:20-cv-01384-CKD Electronically filed documents must be served conventionally by the filer to:

Jamisi Jermaine Calloway
P-97743
CALIFORNIA HEALTH CARE FACILITY (32200)
P.O. Box 32200
Stockton, CA 95213

The following document(s) are associated with this transaction:

1 complaint, each claim and the involvement of each defendant must be sufficiently alleged.

2 **IV. Plain Language Summary for Pro Se Party**

3 The following information is meant to explain this order in plain English and is not
4 intended as legal advice.

5 The court has reviewed your first amended complaint and determined that you made no
6 effort to fix the problems that were identified in your original complaint. Your first amended
7 complaint does not contain a short and plain statement explaining how specific defendants
8 violated your constitutional rights on dates that are clearly identified. As a result, your amended
9 complaint is being dismissed. You are being given one-last chance to fix the problems identified
10 in this order. Should you choose to do so, you may file a second amended complaint that is no
11 more than 25 pages in length on the court-approved form within 30 days from the date of this
12 order.

13 In accordance with the above, IT IS HEREBY ORDERED that:

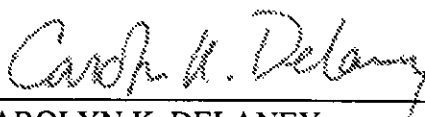
14 1. Plaintiff's first amended complaint is dismissed.

15 2. The Clerk of the Court shall send plaintiff the court's form-complaint for violations of
16 civil rights alleged by California prisoners.

17 3. Plaintiff is granted thirty days from the date of service of this order to file an amended
18 complaint that complies with the requirements of the Civil Rights Act, the Federal Rules of Civil
19 Procedure, and the Local Rules of Practice. The amended complaint must bear the docket
20 number assigned this case and must be labeled "Second Amended Complaint."

21 4. Plaintiff's failure to file an amended complaint in accordance with the directions in this
22 order as well as the court's August 21, 2020 screening order will result in a recommendation that
23 this action be dismissed.

24 Dated: January 21, 2021

25 
26 CAROLYN K. DELANEY
27 UNITED STATES MAGISTRATE JUDGE
28

III. Analysis

Under Rule 8(a)(2) of the Federal Rules of Civil Procedure, a complaint must contain “a short and plain statement of the claim showing that the pleader is entitled to relief.” Even if the factual elements of the cause of action are present, but are scattered throughout the complaint and are not organized into a “short and plain statement of the claim,” dismissal for failure to satisfy Rule 8(a)(2) is proper. McHenry v. Renne, 84 F.3d 1172, 1178 (9th Cir. 1996). In light of this standard, plaintiff’s complaint does not resemble anything “short and plain” and must be dismissed. The court’s prior instructions to plaintiff have had no effect. Therefore, while the court will grant plaintiff leave to file a second amended complaint, the amended complaint shall be no more than 25 pages in length and shall be on the court approved form provided to plaintiff. **Plaintiff is warned that this is his last opportunity to comply with this court’s orders. If plaintiff fails in any material respect to follow the directions given to him in the court’s screening orders, the court will recommend that this matter be dismissed for failure to follow court rules under Federal Rule of Civil Procedure 41(b).**

If plaintiff chooses to amend the complaint, plaintiff must demonstrate how the conditions complained of have resulted in a deprivation of plaintiff’s constitutional rights. See Ellis v. Cassidy, 625 F.2d 227 (9th Cir. 1980). Also, in his amended complaint, plaintiff must allege in specific terms how each named defendant is involved. There can be no liability under 42 U.S.C. § 1983 unless there is some affirmative link or connection between a defendant’s actions and the claimed deprivation. Rizzo v. Goode, 423 U.S. 362 (1976). Furthermore, vague and conclusory allegations of official participation in civil rights violations are not sufficient. Ivey v. Board of Regents, 673 F.2d 266, 268 (9th Cir. 1982).

Finally, plaintiff is informed that the court cannot refer to a prior pleading in order to make plaintiff’s amended complaint complete. Local Rule 220 requires that an amended complaint be complete in itself without reference to any prior pleading. This is because, as a general rule, an amended complaint supersedes the original complaint. See Loux v. Rhay, 375 F.2d 55, 57 (9th Cir. 1967). Once plaintiff files an amended complaint, the original pleading no longer serves any function in the case. Therefore, in an amended complaint, as in an original

1 seeking relief against a governmental entity or officer or employee of a governmental entity. 28
2 U.S.C. § 1915A(a). The court must dismiss a complaint or portion thereof if the prisoner has
3 raised claims that are legally “frivolous or malicious,” that fail to state a claim upon which relief
4 may be granted, or that seek monetary relief from a defendant who is immune from such relief.
5 28 U.S.C. § 1915A(b)(1), (2).

6 **II. Allegations in the First Amended Complaint**

7 Plaintiff’s sixty-seven page hand-written, single-spaced amended complaint is full of legal
8 conclusions that plaintiff’s First, Eighth, and Fourteenth Amendment rights were violated by
9 CDCR officials. Interspersed with these conclusory allegations are several disjointed references
10 to specific events including plaintiff’s transfer to the California Health Care Facility, his refusal to
11 get medical treatment at San Joaquin General Hospital which led to his forced cell extraction, and
12 the issuance of false disciplinary and medical records pertaining to his mental health.

13 The amended complaint identifies the same 49 CDCR defendants who were named in his
14 original complaint. Once again, plaintiff makes no effort to identify where each defendant was
15 employed at the time of the alleged violations. Although plaintiff was informed in the court’s
16 prior screening order that a prison official’s action in reviewing an inmate grievance cannot serve
17 as a basis for liability under Section 1983, plaintiff included numerous defendants who he alleges
18 improperly rejected or cancelled his inmate appeals. See ECF No. 7 at 6-7. In this same order
19 plaintiff was advised that he must allege in specific terms how each named defendant was
20 involved in the asserted constitutional violation. ECF No. 7 at 8. However, his amended
21 complaint alleges that a prison warden and associate warden were responsible for his retaliatory
22 transfer to the California Health Care Facility without identifying what individual actions that
23 each defendant took that resulted in plaintiff’s transfer. Just like in the original complaint,
24 plaintiff has improperly joined unrelated claims against multiple defendants into this single civil
25 action. The court’s screening order of August 21, 2020 specifically provided plaintiff with the
26 legal standards governing joinder of claims and parties. ECF No. 7 at 7. Plaintiff failed to
27 address any of the issues identified in the screening order.

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17 Plaintiff is a state prisoner proceeding pro se and in forma pauperis in this civil rights
18 action filed pursuant to 42 U.S.C. § 1983. This proceeding was referred to this court by Local
19 Rule 302 pursuant to 28 U.S.C. § 636(b)(1).

20 Plaintiff initiated the present proceeding on January 21, 2020. ECF No. 1. The court
21 dismissed plaintiff's complaint on August 21, 2020 after finding that it failed to state a claim for
22 relief against any of the 49 individual defendants. ECF No. 7. Plaintiff was granted leave to
23 amend his complaint. ECF No. 7. The court's screening order provided plaintiff with the
24 appropriate legal standards governing his claims for relief if he chose to file an amended
25 complaint. Id. On August 26, 2020, plaintiff filed a first amended complaint that is before the
26 court for screening.

27 **I. Screening Requirement**

28 As plaintiff is aware, the court is required to screen complaints brought by prisoners

Supreme Court of the United States
1 First Street, NE
Washington, DC 20543

