

APPENDIX

United States District Court
For The
United States District of Louisiana

Nicholas Queen
Plaintiff

vs

CASE No. _____

United States of America
Defendant

Complaint

Jurisdiction

1. This action arises under the Federal Tort Claims Act, 28 USC 1346 (b), 2671-80, as hereinafter more fully applies.
2. Jurisdiction is conferred upon this court by 28 USC 1346 (b).
3. Pursuant to 28 U.S.C. 2675(a) the claim set forth herein was presented to the U.S. Department of Justice Federal Bureau of Prisons South Central Regional office as TRT-SLR-2019-02173 on January 20, 2019, marked received February 1, 2019.
4. All acts herein have occurred and consented to pursuant to Rule 9(c) of

the Federal Rules of Civil Procedure and Plaintiff has exhausted his administrative remedies. See attached February 13, 2019, letter from Regional Counsel indicating response due July 31, 2019, and copy of Tort Claim No. TRT-SCA-2019-02173.

Venue

5. Venue is proper in the United States District of Louisiana pursuant to 28 U.S.C. 1402 (b).

Parties

6. Plaintiff Nicholas Queen is a citizen of the state of Maryland. Plaintiff resides at United States Penitentiary Pollock, P.O. Box 2099, Pollock LA. 71467, within the jurisdiction of this court. The alleged act or omission at issue occurred in the United States District of Louisiana.

Facts

7. On January 3, 2019, Plaintiff, Nicholas Queen, was the victim of excessive force in violation of Federal Bureau of Prisons Policy 5566.06, prohibition against the use of force and restraints which provides that staff shall not use force or restraints.

8. The Plaintiff, while a prisoner at USP Pollock in Louisiana was discovered by officer J. Lyons while also in his cell asleep. Officer J. Lyons then made a call for medical emergency promoting the arrival of officer S. Coggins and two other unknown officers. Together these officers questioned Plaintiff who was now awake as to his need for medical attention in which Plaintiff responded "No, I'm alright."¹

However despite Plaintiff's response the officers knowingly, willfully, and intentionally used force taking Plaintiff to medical by hitting Plaintiff in the face, pushing Plaintiff's head against the wall, dragging Plaintiff across the floor, twisting Plaintiff's left arm behind his back, jumping on Plaintiff's back and legs while Plaintiff lay on the ground, choking Plaintiff's neck, kicking Plaintiff in the head and body, smashing Plaintiff's right arm against the ground underneath his body, placing Plaintiff into restraints, pulling Plaintiff's

¹ A prisoner has a constitutional right to refuse medical treatment, although none was needed.

pants off his body and dragging Plaintiff to medical.

9. Plaintiff was then placed in the prison Special Housing Unit until exonerated by the prison Disciplinary Hearing Officer of assault on "officer Coggins" during this incident.

10. The use of force and restraints suffered by Plaintiff caused indefinite physical pain and injuries in Plaintiff's neck, back, arms, legs, and hip.

Scope of Employment

11. At such time and place the officers named and unknown in this complaint were employees of the United States Federal Bureau of Prisons which is an agency of the United States of America, and these officers were acting within the scope of government employment.

12. As the result of this incident Plaintiff has been unable to obtain to obtain medical attention for his injuries related to this incident. To make body movements without feeling pain in his hip, arms, neck, legs and back.

13. If the defendant were a private person, it would be liable to the Plaintiff for damages in accordance with the law of the state of Louisiana.

Prayer for Relief

14. Wherefore, for violating the Federal Bureau of Prisons Policy 5566.06 prohibition against the use of force, the law of the state of Louisiana, and for causing Plaintiff to suffer physical pain and injuries, Plaintiff demands judgment against the defendant in the sum of:

Three million United States of America dollars;

and the cost of these judicial proceedings.

dated: 12/4/19

Respectfully submitted,
Nicholas Queen
Nicholas Queen
#29623-037
USP-Pollock
P.O. Box 2099
Pollock, LA. 71467

See Attachment Tort Claim



U.S. Department of Justice

Federal Bureau of Prisons

South Central Regional Office

U.S. Armed Forces Reserve Complex
344 Marine Forces Drive
Grand Prairie, Texas 75051

CERTIFIED MAIL # 7017 0660 0000 6218 6020

MAILED: JUL 09 2019

Mr. Queen, Nicholas
Reg. 29623-037
USP Pollock
U.S. Penitentiary
P.O. Box 2099
Pollock, LA 71467

Re: Administrative Tort Claim No. TRT-SCR-2019-02173

Mr. Queen:

Your claim has been considered for administrative settlement under the Federal Tort Claims Act, Title 28 U.S.C. § 2672 et seq., and authority granted by 28 C.F.R. § 0.172. You claim government liability in the amount of \$3,000,000.00.

Section 2672 of the Federal Tort Claims Act delegates to each federal agency the authority to consider, determine, and settle any claim for money damages against the United States for loss of personal property or injury caused by the negligent or wrongful act or omission of any employee of the agency while acting within the scope of his office or employment.

In support of your claim, you state that on January 3, 2019, staff called for medical assistance after finding you unconscious inside of your cell at USP Pollock. You state that responding officers entered your cell and committed "several violations of the BOP use of force Program Statement 5566.06." However you fail to specify what those violations were or what injuries you sustained as a result of said violations.

An investigation into your claim revealed on January 3, 2019, while you were housed in the A-4 Housing Unit at USP Pollock, the A-4 Housing Unit officer called a medical emergency after finding you in need of medical assistance. Responding staff stated in signed memoranda that you were uncooperative and actively resisted staff attempts to extricate you from your cell. Following this incident, you were escorted to Health Services for a medical assessment. Medical records from that assessment revealed that you were speaking incoherently, your pupils were dilated, and you were unresponsive to questioning.

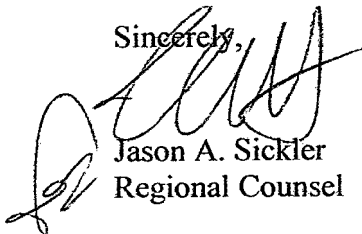
Appendix B

Additionally, it was noted that you had abrasions to the right side of your neck and right pectoral; however, no other bruising, swelling, or injuries were noted. Be advised that pursuant to 28 C.F.R. § 14.4(b), in support of a claim for personal injury, a claimant may be required to provide evidence or information which "may have bearing on either the responsibility of the United States for the personal injury or the damages claimed." In your administrative claim, you do not specify what, if any, injuries you actually sustained. Furthermore, although it is noted that you experienced an abrasion following your removal from the A-4 Housing Unit, there is no evidence to substantiate that said abrasion was the result of an unlawful use of force or that your removal from the A-4 Housing Unit was in violation of Program Statement 5566.06.

Thus, there is no evidence to establish that you experienced an injury due to a negligent act or omission of a Federal Bureau of Prisons employee acting within the scope of his or her office or employment. Therefore, your claim is denied.

You are advised that if you are dissatisfied with our determination in this matter, you are afforded six (6) months from the date of the mailing of this communication within which to bring suit in the appropriate United States District Court.

Sincerely,



Jason A. Sickler
Regional Counsel

cc: C. Johnson, Warden



U. S. Department of Justice

Federal Bureau of Prisons

Federal Correctional Complex

Office of the Warden

*P.O. Box 1000
Pollock, Louisiana 71467*

September 23, 2021

Nicholas Queen
804 Bumbarton Avenue
Baltimore, Maryland 21218

RE: QUEEN, Nicholas
Reg. No. 29623-037

Dear Mr. Queen:

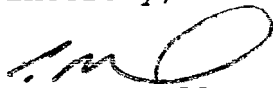
This is in response to your correspondence addressed to the United States Attorney General, Merrick B. Garland; Director of the Bureau of Prisons, Michael J. Carvajal; and South Central Regional Director, Juan Baltazar Jr., dated September 13, 2021, wherein you request FCC Pollock (USP) provide you with a copy of the complete disciplinary record of the incident report written on January 3, 2019.

A review of this matter revealed that the incident report written on January 3, 2019, was expunged. According to Program Statement, 5270.09, Inmate Discipline Program, "If the DHO expunges an incident report, unit staff must ensure the inmate's central file does not include the incident report and/or related documents. Placement of a reference to 100 or 200 severity level offenses not supported by disciplinary action in an inmate's central file may only be done with the written approval of the Warden of the institution where the incident occurred. This must be documented in the inmate's central file. Approval signifies that in the Warden's judgment this information is necessary for proper management of the inmate." No written approval was conducted to maintain the expunged incident report in the central file, therefore, none of the materials related to the aforementioned incident were maintained.

Appendix C

I trust this information has addressed your concerns. If I may be of further assistance, please feel free contact me.

Sincerely,


C. McConnell
Complex Warden

Cc: Central File - Queen, Nicholas, Reg. No. 16320-035

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA DIVISION

NICHOLAS QUEEN #29623-037

CASE NO. 19-cv-1576 SEC P

-vs-

JUDGE DRELL

U S A

MAGISTRATE JUDGE PEREZ-MONTES

ORDER

Following the status conference held this date, it is

ORDERED that Nicholas Queen shall file a list of his specific discovery requests within 15 days of the filing of this order. It is further

ORDERED the Government shall provide its responses to the discovery requests within 15 days of the filing of Mr. Queen's request. It is further

ORDERED that should the Government want to depose Mr. Queen, it shall take his deposition within 60 days of the filing of this order. Mr. Queen's deposition shall be taken either by video conferencing, telephone or, if in person, in Baltimore, Maryland. It is further

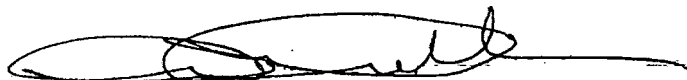
ORDERED that Mr. Queen shall notice any deposition he wishes to take within 90 days of the filing of this order. It is further

ORDERED that a video status conference is SET for February 11, 2025 at 1:30 p.m. The Clerk of Court is directed to schedule the video conference and provide access information to the

Appendix D

parties under separate cover in advance thereof.

THUS DONE AND SIGNED at Alexandria, Louisiana this 5th day of November
2024.

A handwritten signature in black ink, appearing to read "Dee D. Drell", written over a horizontal line.

DEE D. DRELL, SENIOR JUDGE
UNITED STATES DISTRICT COURT