

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

CIVIL ACTION NO. 15-CV-02203-RM-KLM
SALVADOR MAGLUTA.
PLAINTIFF "P"

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

JAN 31 2019

JEFFREY P. COLWELL
CLERK

v
CHARLES DANIELS et al.
DEFENDANTS, "D"

PLAINTIFFS RESPONSE TO DEFENDANTS
MOTION TO DISMISS REMAINING CLAIMS
DOC-(129) AND RESPONSE TO THE COURTS
ORDERS DOC-(139) AND (142). AND "P" REQUEST
FOR DISCOVERY PURSUANT TO FED. R. CIV.
P. 56(d).

"P" adopts pertinent paragraphs in the "P"
SUBMISSION TO (DOC. 71) REQUEST FOR DISCOVERY

- (A) LEGAL STANDARDS
- (B) Would allow the identities of persons not
addressed in current complaint
- (C) SECTION II FIRST PARAGRAPH. (WITHOUT THE)
AFFIDAVIT) THOUGH "P" SUBMITS THIS MOTION
AS IF IT WERE AN AFFIDAVIT

'P' response to this court's orders #139-DOC-142 and the 'D' DOC-129

A

- (1) 'P' asks this court that it affords 'P' the latitude it does to Pro Se litigants. See US Court of Appeals Tenth Circuit (#2) Federal Civil Procedures.
- (2) That 'P' filing is being done under duress as will be addressed, in the following paragraphs, to include 'P' thought process and correlation of facts.
- (3) 'P' ask this court to accept each paragraph as adopted to every part of this document, at times

"P" (B) DOCUMENTS TO ADOPT.
As part of this response.

- (4) 'P' adopts the following Docket Entries as if plead herein in support of 'P' response to Documents 129-139 and 142.

(a) Doc (81 and 83) motion for Preliminary Injunction and #84 response to 'D' #83 response.

(b) DOC-#98 (request to accept doc #81)

(c) DOC #134-135-136-137 and 138 which have remained unaddressed by this court,

(d) DOC #140 'P' filed in response to this court #139

(5) These documents should lay a foundation for the "P" response to Doc-129-139-142.

(6) In "P" Doc E 140 submission "P" alluded to certain facts but, trying to be discrete, refrained from being specific to allow the court to know that ~~these~~ are issues but "P" was holding back to allow counsel to make the decision as to how to respond to #129 and proceed with new evidence.

ATTORNEY Encounter

(8) On or about Dec - 21 to 23 "P" was brought to the visiting room for an attorney visit. "P" had been informed by his family that counsel would be coming.

(9) Once at the visiting room, after a short time, ~~Mr.~~ a gentleman came in, introduced himself as Mr. ZACHARY WARREN and that he was an attorney. He asked if I knew why he was there and explained that he had been communicating with Mr. Weinberg from Boston (MR WEINBERG IS AN ATTORNEY WHO HAS REPRESENTED ME FOUR YEARS IN WHOM I HAVE GREAT TRUST IN) and said that "Marty" (Mr. Weinberg's first name) had been in constant contact with him (ZACHARY) and even stated he would speak to Marty on his cell phone at 10:00 PM even though Marty was in the east coast.

(10) Mr. Warren explained that he worked for a firm and made enough income that he could.

take these pro bono cases and assist persons like me who lack the necessary funds to hire counsel. He stated he was one in a small group that does this... He stated that he would review the facts with the others and would either represent me or one of the others. As Doc # 140 states, we addressed the response to Doc # 139 and how he asked I proceed in its response.

(11) He stated he would obtain a waiver to get access to my medical records, - since it's hard for inmates to get them, - I showed I had some up to Nov-30 2018 and proceeded to show him some. He stated he would return to go through all the issues and would reach out to me by Wednesday 26TH or 27TH After Christmas... He saw I had documents that proved I was not getting my prescribed medications ELAVIL as prescribed and that the medication was being substituted by other medications... He then stated "ok you already did the math and asked to take the document with him, in addition^{to} to the document that proves "P" was told they had performed a root canal - but only on paper because they did not. I showed him I had daily charts of the medications being dispensed (generated by me). I also showed him a report that supported my claim of UNPRESCRIBED AND UNCONSENTED MEDICATION BEING DISPENCED AS IF IT WAS THE PRESCRIBED MEDICATION ENCOUNTER DATED 8-8-2018 BY MEDICAL PERSONEL.

He then reviewed a few documents that classify my mental health as a SERIOUS MENTAL ILLNESS and took these documents with him, as well. (see attach. one)

12- This encounter was verified by my wife who has spoken with him before he came, after he came and that he was coming. These communications I have are through my two sons or my cousin since I can't call my wife directly, she is one of the #5 removed. (SEE AR #949556) EXHAUSTED (ATTACHMENT #2)

Conclusion

(13) I had every reason to believe that Mr. Warren and/or his associates would be taking over the case when I filed document #140 on Dec. 28, 2018. If not "P" would have proceeded with in an other fashion and not raised it in his motion.

(a) Mr. Zachary stated he did not have his card with him so wrote out the information on a piece of paper (see Attachment ①) (PLS) LIKE I HE IS A CHRISTIAN!

(14) I hope this helps clarify why I relied on having counsel and raised the issue in Dec-140 on 12-28-2018.

POST "P" DOC-140 SUBMISSION
ON DEC-28-2018

14) After P's filing, His main medication ELAVIL-200 mg was cut in half to 100 mg. Without notice - nor without

Following up on the blood work that was submitted and results returned by the end of November, 2018. Medical Psychiatrist did not feel it was a concern for a month, but did as soon as "P" filed his motion, that in part addressed Mental Health "MH" medication, on 12-31-18 - See Attachment 3 which is the AR# 964546 that addresses this issue. BP 8 was submitted immediately by "P" [FN- 1-3-2019. Response to BP 8 was on 1-8-19 and I immediately filed my BP 9 that was entered on 1-9-2019... "P" addressed the issue in person as well. D^s BOP know that this is the easiest way to affect "P" MH in a negative way - rendering the "P" unable to properly function daily to include these same legal issues. Pg # 3 of the attachment shows that even when a lab report scored over 500 or 200 more than this report the Psychiatrist Dr. Yutzy - waited stating reports are often wrong, had interaction with "P" as did medical, ~~understand~~ before taking a position and never cut the "P" medication in half nor would do any change without discussing with the "P" Im... As such "P" mental health circumstances is much greater than "just difficulties with medications." is not the issue. Effects are.

NEXT

15. "P" motion detailed the horror of living in a state of constant persecution that is not limited to medications but the introduction of substances like gassing, ^{among others} ~~in part~~, that the Administration knew and had known about for.

over two years and "P" raised the fact he lived under sheets with yarn ropes and no one would ask why (THEY KNEW) nor did they try to address the issue...

(16) Now that they were placed on notice in a way that supervisors Region and beyond know. Defendants tried to bring the bus (BY). "P" was given an incident report see ATTACH. (4) which is P BP-9, and BP8 along with the "P" defense...

IR # 3212058. In its own way corroborates all of "P" assertions

(a) HE HAD A HOMEMADE CLOTHES LINE UP ACROSS HIS ROOM. HE HAD SHEETS HANGING OVER THE HOMEMADE CLOTHES LINES (This was just trying to cover up for my allegations that I've lived like that for 2 plus years and they knew.) I immediately got a notice in person by officer Parra. In which he repeated numerous times "I GOT AN EMAIL FROM THE WARDEN, (COVER & OVER) that he wanted to make sure Parra told "P" that he had to fix cell... (some with UNIT MANAGER / AIN / LT.. my whole defense to the incident appears in attachment 4. (b) Claims there was dust on the floor. (WHY) "P" asserts that since they know "P" has documented that certain individuals from medical have stated repeatedly "THERE IS SOMETHING IN THIS CELL AND COULD NOT STOP COUGHING - CONTINUED STATING I CAN'T PUT THE NEEDLE IN THE VAIN" SEE ATT. 5 "P" report encountered.

They want to attribute it to dust (APPARENTLY THIS MUST BE IN EVERY CELL "P" HAS BEEN IN. Persons like PA. Serber and Firth have got caught, by reacting as Miss Temple did but immediately say "something about dust. THIS ISSUE HAS BEEN EXHAUSTED IN AR # 902899. as well as ^{RAISED} in other A.R.'s... See ATTCH. 6

'P' reserves the possibility of raising this issue in an Amendment to this action or New Complaint. Depending on this Courts rulings. ap

(17) The result of the Incident Report was that I could not have visits for 15 days. Which coincidentally is one day after this motion is do... my son came but I was not allowed a visit. That is where I would know the status of Mr. Warren. as a result I could not advise this court anything further as it relates to Counsel Warren.

FRP-RESTRICTION ATTACHMENT 7

(18) DOC 140/PARAGRAPHS 27+28 raised 'P' Program Review and inappropriate fine. At the time \$100.00 monthly not 45.00

a) Fines are withdrawn on the 10th of every month.

D⁵ stated 'P' was in violation of the FRP contract and prejudiced my 'P' commissary. ('P' could not buy pens nor paper for his legal work) 'P' requested his Account and 'P' had 159.00⁺ in the account. Mr. Colson did not address the issue and stated he would on Tuesday 22ND. 'P' commissary was due on 18TH so 'P' only got stamps. in spite of the commissary slip stating he needed paper and pens. They refused to supply them.

(b) Coincidentally the previous week 'P' had requested paper from Commissary and they said they were out.. 7.

(c) 'P' explained the issue to his counselor. 'P' was told they would take care of it. TODAY IS SUNDAY 27TH 'P' still has not rec'd the paper. D⁵ COPY AND P⁵ copy of this pleading

is copied on the back of other documents. to assure P" has appropriate paper for this court.

(d) P' BP9-# 964223 was submitted to challenge the P" FRP amount. It was due on 1-22-19. After the issue was raised in doc 140 D' came and corrected the previous contract and dropped the amount to 70.00 P' asked for his copy and for BP9 response- was told he would get one but has not yet been provided one.

CONCLUSION

(19) These issues all arose after P" submission of doc-140 all in less than three weeks. Individually this court may say as it did to the serious medical issues raised that it sympathizes with P" plight but... I believe collectively they tell a totally different story, and a sad one as it affects P" m.h. among others raised, to include access to the courts

(20) New Exhausted A. Remedies and some that are in process. P" will proceed with these after the court addresses this complaint, P' reviews with counsel or hopefully they are resolved.

as 962899 - EXHAUSTED / ADDRESSES BASSING AS PART OF MISCONDUCT - STAFF - USE OF INMATES... (ATCH) 6

(b) 897040 - EXHAUSTED / ADDRESSES MEDICAL ISSUES AND CRIMINAL CONDUCT RELATED TO MEDICATIONS (ATCH - 8)

(c) AR-905405 / ADDRESSES EJAVAL / MISCONDUCT (ATCH - 9)

(d) 916861 - / Address illegal acts / giving medications (ATT-10) without consent.

- (Q) 921215 - Searches if I missed 2 meals in a row. (ATT-11)
- (Y) 923473 - Encounter w/ PSYCHIATRIST - x
- (G) 925013 - False info in Psy file (ATT-12)
- (H) 930136 - False info and refusal to correct Program Record (ATT-13)
- (I) 931193 - provided medication as if other prescribed meds
requests investigation - refusal to address other
medication issues because claims they were part of
AR 897040, ... Dosages not provided and
proof in their own docs. (MOST ALL ARE DOC SUPPORT
TED) (ATTCH-14)
- (J) ~~931314~~ 931314 - challenge to the medication prescribed, ...
(ATTCH-15) denied permission to provide counsel with a
bill as confirmation it was correct pills...
- (K) 935864 - False encounters and procedures that (~~###~~)
ATT-16 did not occur/mental & Dental. (ATTCH-16)
- (L) 949556 - Removal of legal - immediate family phone
(ATTCH-2) numbers - starting in July 2018. Some
continues EXHAUSTED
- (M) 746610 - medical part of current claim
- (N) ~~842836~~ 842836 - medical/chronic care ... apply directly
to current claim. /EXHAUSTED BUT NOT ENCLOSED
- (O) 852281 - M.H. /EXHAUSTED BUT NOT ENCLOSED
- (P) 858258 - Psy CARE (ATTCH-17)
- (Q) 889628 - Violation on the "P" legal materials
(ATTCH-18)
- Currently in process are
- (R) 952429 / - Improperly rejected (NOT ENCLOSED)

- (S) 960179 - MEDICATION - PRESCRIPTION - NOTICE ... (ATT 19)
- (T) 962409 - Legal Mail ATTCH 20
- (U) 964546 - Medication change. (ATTCH - 3)
- (V) - MOST RECENT IR (PENDING NUMBER)

95% of the above Administrative Remedies are all exhausted.

(21) On January 22ND 2019 - 'P' sent a letter to attorney Ed Aro (CERT # ~~7018-0360-0002-2081-0943~~) The recit was stamped with the date of 1-23-19. Mr. Aro is one of the attorneys monitoring the AOX Mental Health. 'P' requested an audience with him since he came a week or so ago to walk the unit with the Administration. Included in the letter was what was done before he came. TO INCLUDE THE IR. OF THE SHEETS... 'P' Hopes that this could address issues raised and may resolve some.

(22) The Psychiatrist Monitors Mrs Johnson and Mr. Betzer have witnessed some of this conduct. I will not elaborate until I see Mr. Aro, the monitors or an encounter with the court. New action...

TIME OF SILENCE By 'D' 'P' and Court

(23) 'P' asks this court to take into account that 'P' was

waiting and hoping that this court would respond to P's pending request even just a status conference to address some of the issues raised in this motion and pending by the court. P's hope was that addressing the issues would have prevented the numerous violations that in part appear in the motions and Administrative remedies and still does. thereby the letter to Mr. Aro.

(24) P would ask to be provided document 93, that would help P in the response.

(25) P asks this court to re-consider its order #126 and lift the stay of discovery. This would assist the P immensely in this responses.

Counsel

(26) As the court is aware P brought to this court.

Doc-98 which in part precipitated P's counsel to file Doc-99 and withdraw. P communicated to counsel numerous observations in 3 letters which at this moment out of respect P will with-hold them. The alleged conduct will show that Mr. Salahudin and Mr. Franks were working both sides of the coin, as a result P's representation was compromised and.

in some of the rulings against "P" actions... A hearing could unveil "P" contentions. They were lead counsel and took over the case completely and never addressed any of the issues with Mrs. Petraggi. That was the condition they would take the case.

(27) The "P" if permitted can correct many of the deficiencies. These discussions would be raised with "P" counsel. Or so he believes if not "P" will do so.

MOTION # 140.

(28) "P" adopts EVERY REQUEST MADE IN THAT MOTION AND REMAINS WILLING TO ABIDE BY HIS ASSERTIONS

(29) I believe that even if this was not a legal proceeding. This court would grant or on itself reach out to law enforcement to follow up on the housing, medications etc issues raised. Some things are beyond legal needs... Consider "P" being related to someone this court knows and that person expressed what her nephew is going through. This court would not say file a legal procedure, but would seek out law enforcement to address the issues before it is too late. That is a moral obligation nothing else. And the "P" from the bottom of his heart and with utmost respect asks this court to act upon such request

(30) 'P' would ask for the continuance, a stay to address issues as previously raised, to include every request made in this motion, to Amend Complaint with new issues exhausted and pertinent to the medical claims this complaint has addressed. or proceed with a new action. And discovery will assist 'P' in moving forward. It would allow Mr. Oro to sue 'P' and address the issues related to his case of Mental Health settled by both parties,

(31) In relation to discovery, 'P' relies on previous discovery motions filed by 'P' counsel as appears in the Pleading page.

(32) The likelihood of a new complaint would be that the courts would merge both cases would be a possibility.

(33) Discovery would allow the 'P' to depose Mr. Salahudin and Frank which could shed light under the conflicting loyalties during their representation of 'P' action and the possibility that issues were not always addressed in the light most favorable to the 'P' to include the Fourth AMENDED COMPLAINT CURRENTLY LITIGATED

(34) 'P' can address information that the 'P' raised

in which counsel (usually Mr. Salakhudin) would state "OH THEY WILL ERASE THE CAMERAS" when it related to issues raised in the T.R.O. and complaint.

(35) Another example was when "P" had direct proof of a recently filed affidavit as to the exhaustion of AR-85228. and would render that statement a total lie, "P" was asked not to proceed with that count or issue.

Conclusion

For the foregoing reasons "P" respectfully requests that this court grants "P" requests alluded to in this complaint and a status conference as raised in the Courts Pending motions 134, 135, 136, 137, 138.

'P' Respectfully Submits
this document

SALVADOR MAGLUTA.

REG# R6012-037

USP ADX P.O. BOX 8500.

FLORENCE, COLORADO. 81226

Certificate # 7018-0360-0002-2081-0950.
THIS 29TH DAY OF JANUARY 2019

CERTIFICATE OF SERVICE

I hereby certify that I will send a copy of this pleading to Defendants Counsel Mark Pestal, Esq. as soon as I can get my unit team to provide me clean copy of my copy. I will send a copy of the copies I made with Carbon paper today but they are not very legible and the papers are done on papers that have other writings on one side.

CERTIFIED MAIL®



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4-52



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DENVER COLORADO
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CASE 15-CV-02203-RM-KLM (PART I) COMPLAINT & ATT-1 TO 10
PART II SENT TODAY IN CERTIFICATE OF MAILING

FEDERAL CORRECTIONAL INSTITUTION
P.O. BOX 6000
FLORENCE, COLORADO 81226

DATE: 1/24/15
SPECIAL "LEGAL MAIL"

The enclosed letter was processed through special mailing procedures for forwarding to you. The letter has neither been opened nor inspected. If the writer raises a question or a problem over which this facility has jurisdiction, you may wish to return the material for further information or clarification. If the writer encloses correspondence for forwarding to another addressee, please return the enclosed to the above address.

PLACE STICKER
HERE
OF THE
FBI