

04-360-CD
KENDALL GARLAND, vs. SCT HOUTZDALE, et al.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
CIVIL DIVISION

Kendall Garland, plaintiff

Complaint

v.

04-360-CD

SCI Houtzdale, et. al.
defendants

Application To Proceed In Forma Pauperis

TO THE HONORABLE JUDGE OF SAID COURT:

Petitioner, Kendall Garland, pro se, hereby applies to this Honorable Court for permission to proceed in forma pauperis.

1. Petitioner is incarcerated at SCI-Houtzdale, and he has no adequate means of support.
2. Petitioner is indigent with no assets except for \$.00 in his prison account.
3. Petitioner is unemployed, except for a prison work detail for which he receives a net pay of \$20.00 per month.
4. Petitioner cannot afford to pay for filing fees, notes of testimony and other costs.
5. Attached is the petitioner's verified statement.

Wherefore it is respectfully requested that this Honorable Court grant permission to proceed in forma pauperis.

Respectfully Submitted,


Kendall Garland
Plaintiff, Pro Se

FILED

MAR 16 2004

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY
CIVIL DIVISION

Kendall Garland

v.

SCI Houtzdale, et. al.

Complaint

IFP Verified Statement

I, Kendall Garland, plaintiff in the above captioned matter states under penalties provided by 18 Pa. C.S. §4904 that:

Because of my financial condition, I am unable to pay the following fees and costs:

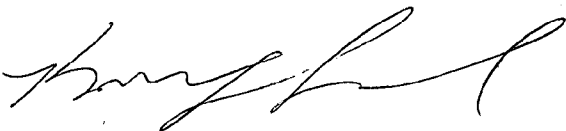
1. Retention of counsel; filing fees
2. other fees and costs associated with the filing of the enclosed complaint.

The following statements relating to my ability to pay the fees and costs of filing this complaint are true and correct to the best of my knowledge and belief:

1. I am not presently employed except for a prison work detail for which I receive an average monthly pay of \$20.
2. I have received no other income within the past 12 months.
3. I have no savings; nor do I own any stocks, bonds, notes, automobiles or other valuable property.
4. I have \$.00 in my account.

I understand that a false statement in this verified statement will subject me to the penalties provided by law.

Respectfully Submitted,



Kendall Garland
Plaintiff, Pro Se

FILED Noe

MJ 10:53 AM
MAR 16 2004

William A. Shaw
Prothonotary/Clerk of Courts

Return address (envelope):

Kendall Garland

FB 6080

Sci Hutzdale

Po Box 1000

Hutzdale, PA 16698-1000

CA

IN THE COURT OF COMMON PLEAS
OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

KENDALL GARLAND

:

-VS-

: No. 04-360-CD

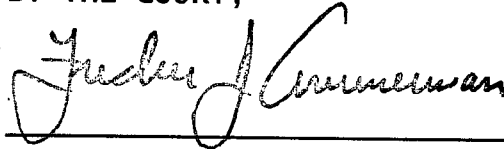
SCI HOUTZDALE, et al.

:

O R D E R

NOW, this 18th day of March, 2004, upon consideration of the Application to Proceed In Forma Pauperis filed on behalf of the Plaintiff; upon the Court's review of the Plaintiff's complaint and the Court's belief that the action is frivolous, it is the ORDER of this Court that said Application be and is hereby denied.

BY THE COURT,



President Judge

FILED

MAR 22 2004

William A. Shaw
Prothonotary/Clerk of Courts

FILED

cc

01/10:38:09
MAR 22 2004

PIF-

FB 60020

William A. Shaw

Prothonotary/Clerk of Courts

SCI Houtzdale

PO Box 1000

~~11451-1000~~
~~Houtzdale, PA 16804~~

along. compl. a denied letter

COPY

March 22, 2004

Kendall Garland
FB 6020
SCI Houtzdale
PO Box 1000
Houtzdale, PA 16698-1000

RE: Civil Complaint

Dear Mr. Garland:

Please be advised that your Petition to Proceed In Forma Pauperis in the above case has been denied by the Court.

You may proceed with this action by filing the enclosed Civil Complaint along with the \$85.00 filing fee with this office.

A certified copy of the Court's Order is enclosed. According to the Rules of Civil Procedure, the Prothonotary's Office may strike your filing if payment is not received in full within ten (10) working days from the date of this letter.

Sincerely,

William A. Shaw
Prothonotary/Clerk of Courts

Enclosures

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA
CIVIL DIVISION

Kendall Garland, plaintiff

v.

SCI Houtzdale, Commonwealth of Pennsylvania,
Pennsylvania Department of Corrections, Mr. Tom Short-
SCI Houtzdale Librarian, LT Horton, Corrections Officer
Kephart, Mr. Stetler - J Block Unit Manager, D.B.
Perry - SCI Houtzdale Facility Business Manager,
Corrections Officer Maines, Corrections Officer John
Doe 1, Corrections Officer John Doe 2, Superintend-
ent George M. Patrick, Lt Rydbom - Security Lt.,
Sgt Stone, Deputy Superintendent H. A. Tatum,
Corrections Officer John Doe 3 and Corrections
Officer John Doe 4 defendants

Complaint

04-360-03

COPY

Notice To Defend

TO THE ABOVE NAMED DEFENDANTS:

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing with the Court in writing your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgement may be entered against you by the Court without further notice for any money claimed in the complaint or for other claims or relief requested by the plaintiff. You may lose money or property or other rights important to you. YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE.

Sincerely,



Kendall Garland
Plaintiff, Pro Se

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PA
CIVIL DIVISION

Kendall Garland

Complaint

v.

SCI Houtzdale, et. al.

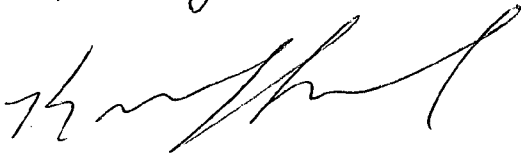
Application To File One Original

TO THE HONORABLE JUDGE OF SAID COURT:

1. Petitioner, Kendall Garland, pro se, respectfully requests permission to file one original of all enclosed documents because:
2. Petitioner is indigent with no savings or adequate means of support.
3. Petitioner does not have the funds to photocopy material or the supplies to make copies.
4. Petitioner currently has \$0.00 in his account.

Wherefore, petitioner respectfully requests that this Honorable Court grant permission to file just one original of all enclosed documents.

Respectfully Submitted,



Kendall Garland
Petitioner, Pro Se

IN THE COURT OF COMMON PLEAS OF CLEARFELD COUNTY, PA
CIVIL DIVISION

Kendall Garland, plaintiff

v.

SCI Houtzdale, Commonwealth of Pennsylvania,
Pennsylvania Department of Corrections, Mr. Tom Shorts-
CI Houtzdale Librarian, Lt. Horton, Corrections Officer
Kephart, Mr. Stetler - J Block Unit Manager, D. B.
Perry - SCI Houtzdale Facility Business Manager,
Corrections Officer Maines, Corrections Officer John
Doe 1, Corrections Officer John Doe 2, Superintend-
ent George M. Patrick, Lt. Rydbom - Security (T),
Sgt Stone, Deputy Superintendent H.A. Tatum,
Corrections Officer John Doe 3 and Corrections
Officer John Doe 4

Defendants

Complaint

Jury Trial Demanded

Preliminary Statement

This is a civil rights violation complaint filed by the plaintiff,
Kendall Garland, alleging several Constitutional violations under 42 U.S.C.A. § 1983.

1. SCI Houtzdale is sued in its individual capacity.
2. Commonwealth of Pennsylvania is sued in its individual capacity.
3. Mr. Tom Shorts is sued in his individual and official capacities.
4. Lt. Horton is sued in his individual and official capacities.
5. Corrections Officer Kephart is sued in his individual and official capacities.
6. Mr. Stetler is sued in his individual and official capacities.
7. D. B. Perry is sued in his individual and official capacities.
8. Pennsylvania Department of Corrections is sued in its individual capacity.
9. Corrections Officer Maines is sued in his individual and official capacities.
10. Corrections Officer John Doe 1 is sued in his individual and official capacities.

11. Corrections Officer John Doe2 is sued in his individual and official capacities.
12. Superintendent George M. Patrick is sued in his individual and official capacities.
13. Lt. Rydbom is sued in his individual and official capacities.
14. Sgt. Stone is sued in his individual and official capacities.
15. Corrections Officers John Doe3 and John Doe4 are sued in their individual and official capacities.
16. Deputy Superintendent H. A. Tatum is sued in his individual and official capacity.

Facts Of Case

16. On December 26, 2002, the plaintiff while incarcerated at SCI Houtzdale was moved from C Block to I Block.
17. The plaintiff, prior to December 26, 2002, while on C Block sent several request slips for several appointments for law library access the entire week while on C Block.
18. The plaintiff, prior to moving from C block to I block noticed that he had been signed up for law library access.
19. The plaintiff, because he had been moved from C block to I block was not permitted to go to the law library as scheduled because the plaintiff was scheduled on the callout for C block instead of I block.
20. The plaintiff sent new request slips after being signed up for law library on C block and then being denied access upon moving to I block, on or about December 27, 2002.
21. By December 31, 2002, the plaintiff still had not been signed up for law library usage or permitted to use the law library.
22. On December 31, 2002, the plaintiff sent a request slip to the law library inquiring about law library access.
23. On or about January 2, 2003, the plaintiff received a response stating that the plaintiff had been scheduled for law library usage on January 2, 2003, January 4, 2003 and January 5, 2003, all AM Times.
24. The plaintiff, when attempting to go to the library on or about January 8, 2003, would not even be allowed out of his cell until the clock on the housing unit showed 8:30 or later.
25. At times, it could be up to about 8:40 am or later before the plaintiff would even be allowed out of his cell to go to the law library.
26. The plaintiff would need to be issued a pass to go to the law library.

27. The plaintiff, while walking to the law library was stopped along the way because the guard on the walkway needed to call back to the housing unit to see if the plaintiff was actually issued the pass.
28. The extra time caused by the plaintiff being stopped along the way would take up to an additional five minutes.
29. Upon arriving at the library, the plaintiff would have to wait up to an additional 15 minutes for requested state case law to be brought out to him.
30. It was not until about 9:00 am that the plaintiff would actually receive a book in order to begin research of issues.
31. Subsequently, for a period of over the next three months until about April 17, 2003, these same conditions continued in addition to the following conditions.
32. From January, 2003 to April, 2003, the plaintiff would send request slips in to the library requesting law library access everyday and sometime for two different time slots each day.
33. The plaintiff was not necessarily expecting to be signed up everyday for two different time slots, but the requests were made primarily to indicate as many time slots the plaintiff had available in order to make use of the law library.
34. Mr. Shorts, the SCI Mountzdale law librarian was the one responsible for signing people up for law library usage.
35. The times requested by the plaintiff were the times that did not conflict with any other activities.
36. The plaintiff would arbitrarily be signed up for law library usage 2, 3, 4 or rarely 5 times per week.
37. The same delays of actually physically accessing the law library and obtaining research volumes continued through this time.
38. During this same period the plaintiff would notice that the callout sheet would always be full, but the library itself would rarely ever be filled.
39. Request slips for law library usage were required to be sent in at least four days prior to the date and time requested.
40. The plaintiff almost always sent request slips in for law library access two weeks in advance. Certainly at least nine or ten days in advance.
41. The plaintiff in January, 2003 was signed up for a mandatory class so as to conflict with law library access times already sent in at least nine or ten days in advance.
42. The plaintiff missed a number of Law Library access days or had to leave early from the library in order to make the class.

13. During the same period from January, 2003 to April, 2003 the plaintiff was often prevented from receiving more than three to five books at one time.
14. Each time the plaintiff required additional case volumes for research it could take up to another 10 to 15 minutes to receive the requested books.
15. At times, if it was beyond 10:10 am or 10:15 am and if the plaintiff required additional case volumes, workers in the library would mysteriously disappear, thereby making it impossible to request and receive additional books from the back of the library.
16. Over the same period of time from January, 2003 to April, 2003, the plaintiff at times needed to type petitions.
17. The plaintiff could not afford to purchase a typewriter for private use the same as other inmates.
18. These same two typewriters would be needed by many inmates.
19. Because of many inmates having to compete for typewriter usage, the plaintiff would often have to wait to use them.
20. This would take away from already limited time available for research in the law library.
21. The plaintiff could not use Regular Library time to do necessary typing of petitions because the plaintiff would not always be allowed to go to the regular library even if signed up. The regular library times only allow 10 inmates of 100 on a particular housing pod to go to the regular library.
22. The plaintiff also noticed that if he signed up for regular library and if the plaintiff was fortunate to be allowed to go, the plaintiff would be penalized by being signed up for law library usage less or the library would mysteriously close down.
23. The plaintiff was forced to do necessary typing of petitions in the time allowed for law library usage, taking away from valuable time for research.
24. On or about April 17, 2003, the plaintiff was moved from I block to C block.
25. The plaintiff was subjected to the same conditions as previously mentioned, except for the extra time in walking to the law library and being stopped along the way.
26. The plaintiff, while on C block noticed that the clocks on the housing unit were 5 to 10 minutes different than those in the library.
27. On April 30, 2003, the plaintiff submitted a list of books for research.
28. It was 10:00 am.
29. The plaintiff waited until 10:15 am when the SEI Hartzdale librarian, Mr. Shorts came out and said he could not find one of the books on the list. At this point, no books were brought out for research.

60. Another five minutes passed before Mr. Shortt brought out just three books.
61. These same conditions of being limited in the number of books allowed to request continued throughout May and June of 2003.
62. In June, 2003, after complaining of the conduct mentioned on several occasions, the plaintiff was met with the same conditions only in addition to being limited further by being signed up for law library usage less the previously allowed. This is after several attempts of trying to bring the situation to the attention of prison staff.
63. On June 22, 2003, the plaintiff filed a grievance grieving about law library access which was improperly denied.
64. The plaintiff received notice of this denial on June 25, 2003 in the morning.
65. The notice was delivered by Officer Kephart.
66. Later, that same morning of June 25, 2003, the plaintiff asked Officer Kephart for another grievance form to resubmit the grievance filed and rejected.
67. Officer Kephart asked the plaintiff if he went to the law library today (on June 25, 2003).
68. The plaintiff replied no.
69. Officer Kephart stated, "I am going to get rid of somebody today."
70. The plaintiff submitted another grievance.
71. Approximately one half hour later, Officer Kephart prevaricated on a misconduct in retaliation of the grievance filed on June 25, 2003.
72. The plaintiff on June 25, 2003 was served a misconduct. The plaintiff on the misconduct was charged with fighting.
73. On June 25, 2003, the plaintiff was sent to punitive and segregated housing unit called the "Restrictive Housing Unit" (RHU hereon).
74. On June 25, 2003, the plaintiff requested information via request slip on obtaining legal materials.
75. On June 25, 2003, the plaintiff sent another request slip requesting information on and viewing Department of Corrections policy concerning misconducts and RHU procedures (DCADM801 hereon).
76. Both of the plaintiff's request slips were ignored.
77. On June 27, 2003, the plaintiff again sent request slips, this time to various prison staff (RHU and Main Library Staff) requesting information on or obtaining or viewing DCADM801 and law library access.
78. Again, the plaintiff's requests were ignored.

19. On June 27, 2003, an officer brought some of the plaintiff's legal property and personal property to him in the RTHU.
20. The plaintiff was denied the equivalent of one "record center box" as allowed by DCADM 801.
21. Inside the paperwork that was not given to the plaintiff while in the RTHU was the plaintiff's counsel's address. The plaintiff had been attempting to contact his prior counsel of record.
22. Also inside the legal paperwork not given to the plaintiff were important case law pertaining to the plaintiff's case, without which hindered the plaintiff's ability to continue research and prepare for post conviction relief, notes concerning research, request slips that were needed to pursue civil issues that had arisen prior to June 25, 2003, grievances that had been attempted to be filed, but rejected and were needed to aid in research of claims and other important addresses.
23. The plaintiff was falsely informed that all he needed to do was send in a request slip for the rest of his legal property.
24. The plaintiff was told exchanges could be made only every 30 days and on the first Saturday of the month well after it was too late to even make such a request. The plaintiff's requests to view policy had been ignored.
25. At any rate, the plaintiff's request slips were ignored.
26. Because the plaintiff's request slips were ignored, he had no information on DCADM 801, or how much legal material was allowed in the RTHU, RTHU policy on exchange of legal materials, or RTHU policy on access to any kind of law library materials.
27. Because the plaintiff was given false and misleading information concerning policies on legal materials, not allowed to view DCADM 801, improperly coerced into allowing only a portion of his legal paperwork to be given to him, denied the ability to pursue legal remedies and denied access to a law library, the plaintiff was denied access to the courts.
28. While in the RTHU, the plaintiff was only allowed outside of his cell for exercise one hour each day.

39. The plaintiff was forced to eat off of filthy graffiti riddled trays while in the RHU.
40. The plaintiff, while in the RHU was not allowed out of his cell without being handcuffed from behind.
41. In fact, while in the RHU, if either the plaintiff or his cell mate left the cell for any reason, both inmates were required to be in handcuffs. Thus if the plaintiff's cell mate wanted to leave the cell for any reason, and if the plaintiff was laying down sleep, the plaintiff would be awakened just to be placed in handcuffs. This extra security also served as additional punishment as a result of RHU confinement.
42. While in the RHU, the plaintiff was allowed to shower and shave a maximum of three times per week. Officers often passed over cells without allowing inmates the opportunity to shower or shave. Pennsylvania Department of Corrections (Pa DOC hereon) policy states that inmates in RHU confinement shall be given the opportunity to shower at least three times per week.
43. The plaintiff, while in RHU confinement was subjected to freezing cell temperatures. Additionally, the air pressure blowing out air from the air conditioning vents blew out air harder and faster.
44. While confined in the RHU, the plaintiff was confined in filthy cells plagued with graffiti and racial slurs on the walls.
45. While the plaintiff was in the RHU, the plaintiff was allowed no TV or radio or commissary privileges otherwise afforded to inmates in the general population.
46. While in the RHU, the plaintiff was only allowed a change of clothes once per week.
47. On July 2, 2003, the plaintiff again sent request slips for law library access and the remainder of his legal property, which was ignored.
48. After several frustrated attempts to contact RHU staff concerning legal research materials and law library access, the plaintiff contacted his counselor by request slip.

99. On or about July 9, 2003, the plaintiff received a response from his Counselor Mr. Frantz.
100. The request slip had been inquiring about how to obtain legal materials and law library access.
101. On July 20, 2003, the plaintiff, while still confined in the RHU, observed Mr. Shortz, the librarian on the RHU block.
102. On this date, the plaintiff was able to ask Mr. Shortz about how to get legal materials and law library access.
103. After speaking with Mr. Shortz, he stated, "I told you it was in the manual."
104. The plaintiff filed another grievance the following day grieving about law library access.
105. The plaintiff throughout the time in RHU confinement had been requesting law library access and RUC policy.
106. On or about July 18, 2003, the plaintiff received an initial response reply to the grievance filed on July 11, 2003. In the response, the plaintiff learned that one of the request slips sent back on June 25, 2003 had been answered, but the response was never delivered. It was not until receiving this initial response reply of the grievance filed on July 11, 2003, that the plaintiff learned that the request slip had been responded to, but the response was never delivered.
107. This request slip response, was one of many that were either never responded to, ignored or maliciously not delivered.
108. The plaintiff, at the time had been attempting to work on his criminal case for which he is incarcerated, attempting to pursue civil issues prior to June 25, 2003, attempting to challenge the conditions of his confinement in the RHU, attempting to challenge his disciplinary hearing conviction and also attempting to challenge a conviction for which the plaintiff is currently on probation.
109. All of these issues were effectively halted from being pursued.
110. On July 19, 2003, the plaintiff was allowed to go to the RHU mini law library for the first time while in the RHU, despite numerous requests prior to July 19, 2003.
111. On July 19, 2003, the plaintiff observed that the RHU mini law library had no book on Criminal practice, no adequate sample forms for petitioning the courts (state or federal), no adequate example of how to file an action in civil court (state or federal), no current statute for 18 Pa. C.S.A §3121 and no information whatsoever on any letter or current up to date appellate court decisions (i.e. nothing beyond 800 A.2d and hardly anything beyond 700 A.2d).

112. The plaintiff had been attempting to pursue several legal issues, both criminal and civil.
113. The plaintiff, on July 19, 2003 was allowed close to two hours law library time.
114. The plaintiff had to choose 10 books; no exchanges.
115. The plaintiff requested assistance from a paralegal while confined in the RHU.
116. This request was denied. There was, at the time, no paralegal available at SCI Mottzdale.
117. The plaintiff was released from the RHU on July 24, 2003.
118. Prior to entering the RHU, the plaintiff was not allowed to pack his own property.
119. The plaintiff's property was apparently packed by the officers who escorted him to the RHU. The plaintiff cannot state with 100% certainty because the plaintiff did not actually witness the property being packed.
120. The plaintiff has receipts confirming that he did have a pen and highlighter prior to entry into the RHU.
121. The plaintiff had no reason to believe that his pen and highlighter would not be in his property upon release from the RHU.
122. It was not until after July 31, 2003 that the plaintiff realized that his pen and highlighter were gone from his property. No replacement pen was given to the plaintiff.
123. Because other property was also missing from the plaintiff's property and the fact that the plaintiff did not unpack his property immediately after release from the RHU, the plaintiff deduced that these items could only have been removed while in the RHU. Among the items also missing from the plaintiff's property was three white T-shirts.
124. After being released from the RHU, the plaintiff needed to use the law library in order to continue research of legal issues in pursuit of relief.
125. The plaintiff was not allowed law library access until July 31, 2003, despite requests sent on July 24, 2003, after leaving the RHU.
126. Pa DOC policy only allows a pen to be issued if an inmate qualifies for indigent status.
127. The plaintiff had no adequate writing materials.

128. Because of being denied work, and not having money on the books in his prison account, the plaintiff could not purchase a pen, and did not qualify for indigent status until after August 24, 2003.
129. For nearly the entire month of August, 2003, the plaintiff had no pen or adequate writing materials. Despite being qualified for indigent status and requesting a pen and supplies no pen was issued until August 30, 2003.
130. The plaintiff, because of not having a pen was impeded from taking notes and pursuing legal issues.
131. On August 13, 2003, the plaintiff sent the Facility Business Manager at JCE Houtede a formal request by request slip for pen, paper, photocopying privileges and hygiene supplies.
132. On August 14, 2003, the plaintiff received a response stating that the plaintiff would not be eligible for indigent status until August 24, 2003, and denied the request.
133. On Saturday evening, August 23, 2003, the plaintiff sent off another request slip to the Facility Business Manager requesting deodorant, toothbrush, toothpaste and inkpen. The request also asked for photocopying privileges and the photocopying requested was for grievance final reviews.
134. The plaintiff, on August 27, 2003, received a response from this request denying all photocopying privileges, except those needed for grievance final reviews.
135. The request also stated to talk to the Housing Unit for hygiene products and no mention at all was made of a pen or paper.
136. On August 27, 2003, the plaintiff sent another request slip off to the Facility Business Manager specifically requesting a pen and paper.
137. The request slip was answered by stating that the library would be notified of the plaintiff's indigent status and to furnish the plaintiff with pen and paper.
138. The plaintiff, on August 30, 2003, did receive pen and paper.
139. The plaintiff, however, despite requests, did not receive any hygiene products until September 17, 2003.
140. The plaintiff submits that these deprivations of writing materials and hygiene supplies were in retaliation of earlier grievances filed.
141. The plaintiff prior to this period already had cavities.
142. As a result of not being able to brush his teeth for the period between July 31, 2003 until September 17, 2003 the plaintiff...

143. The plaintiff suffered substantial pain from toothaches caused by food getting into cavities.
144. Because of the plaintiff's indigent status, Pa DOC policy, and S&I Houtdale Unit manager of J Block, Mr. Stetler and his failure to provide the plaintiff with hygiene supplies, the plaintiff was unable to use hygiene products until September 17, 2003, even after being granted indigent status according to Pa DOC policy. Mr. Stetler's refusal to provide hygiene supplies was in retaliation of grievances filed.
145. On September 12, 2003, the plaintiff mailed a petition for post conviction relief. Because the petition was filed beyond the one year statutory deadline, one year after the judgement of sentence, the plaintiff assumed that this is the reason or at least a contributing factor as to why the Court of Common Pleas of Philadelphia County did not review the petition on its merits.
146. The plaintiff because of being delayed access to the courts will be further delayed from obtaining a decision on the merits of the petition.
147. The plaintiff respectfully submits that if the errors herein mentioned are ruled to be responsible for delaying the petitioner then these errors will also be in part responsible for the time it takes the plaintiff to obtain a decision on the merits of the issues raised inside the petition.
148. In September of 2003, the plaintiff filed a pro se petition in Federal Court challenging, among other things, the plaintiff's misconduct conviction.
149. On July 21, 2003, the plaintiff mailed a petition for post conviction relief with respect to a case for which the plaintiff is on probation for.
150. All three of these petitions were delayed because of being denied access to the courts.
151. In September and October of 2003, in retaliation for exercising constitutional rights of filing grievances, the plaintiff was again arbitrarily limited from accessing the law library as the number of times the plaintiff was signed up for law library access for no reason other than retaliation dramatically decreased in September to October of 2003.
152. The S&I Houtdale library during this period made a point to make it known that they were no longer limiting the number of books, but as a reward again decreased the number of times the plaintiff was signed up for law library access.
- 152.A. Additionally, over this period of time, time allocated for eating meals would conflict with law library access time.
- 152.B. Also, the plaintiff respectfully submits that the access allowed in November, 2003 was also insuff-

- '53. In October of 2003, on or about October 22, the plaintiff filed a petition for Habeas Corpus, which was delayed by the actions of arbitrarily denying access to the law library in retaliation of grievances and lawsuits filed. Research for this issue also has been hindered.
54. The plaintiff, at times, when mailing petitions to the courts would need to get a cash slip signed in order to cover the extra cost of postage.
- '55. On November 10, 2003, the plaintiff submitted correspondence to the Clearfield County Courts.
- '56. On November 11, 2003, the plaintiff was subjected to a strip search and entire cell search.
- '57. On November 17, 2003, the 26th day of the same month and December 5, 2003, the plaintiff was subjected to being moved as harassment for grievances filed prior to November 11, 2003, November 26, 2003 and for also grievance appeals filed. Included are ones filed on November 29, 2003 and December 5, 2003.
- '58. On December 5, 2003, the plaintiff was subjected to another strip search as harassment.
159. Prior to November 10, when filing a grievance, officer Maines would often state, "Garlano you're going to walk the plank." The cash slip for the correspondence submitted to Clearfield County Courts was submitted to Officer Maines of J. Block.
- '60. Corrections Officers John Doe 1 and John Doe 2 actually performed the search. They stated that the search was being conducted because the plaintiff cell mate was "acting retarded."
- '61. Because the plaintiff, on December 5, 2003 was moved as harassment, the plaintiff was again, whether intentionally or unintentionally, delayed from filing for injunctive relief.
- '62. On January 21, 2004, the plaintiff was sent to the RHC, in retaliation of lawsuits and grievances filed, by Officer Stone (Sgt.) and Lt. Rydbom.
- '63. On January 21, 2004, the plaintiff requested assistance because of being threatened.
164. Sgt Stone sent the plaintiff to security despite the plaintiff stating that he did not want to go.
- '65. This situation normally would never have left the block. Because of grievances filed, the plaintiff became a "marked" man.
166. Sgt. Stone often would make remarks directed at trying to deter the plaintiff from filing grievances. These remarks were not just in the order of trying to resolve a situation, they were often said to mock the plaintiff. Such statements include, but not are limited not only to "What are you going to tell on now?"
167. This situation on January 21, 2004, provided the perfect opportunity to attempt to have the plaintiff placed in the RHC.

168. Sgt. Stone called security and forced the plaintiff to go to security. The situation probably would have been handled a lot different had it been another inmate.

169. Sgt Stone told the plaintiff that the plaintiff would probably have to do a couple days in the RHU.

70. The plaintiff did not request self confinement or state any wrong doing on his part. So how did Sgt. Stone know the plaintiff would have to spend any time in the RHU unless Sgt Stone called Security and told them to place the plaintiff in the RHU.

71. This very same situation was in fact handled differently because the plaintiff once alleged being pushed by another inmate, a shirt was torn as evidence and nothing was done

72. At any rate, when the plaintiff arrived at the Security Office, he was met by Lt. Rydbom

73. The plaintiff repeatedly stated he did not fight, punch or shove anyone.

74. The plaintiff was threatened by Lt. Rydbom with a misconduct. The plaintiff then stated the plaintiff would give the Lt. a §1983 action (Though the plaintiff may not have elected to do so, it is still within his Constitutional rights, especially after not being believed and repeatedly being called a liar by the Lt.).

75. The plaintiff stated to LT. Rydbom that there was no evidence of sufficient nature to warrant a misconduct and "if you give me a misconduct, I'm gonna give you a §1983 action."

76. The Lt. stated that he did not care about a §1983 action and lied on a misconduct in retaliation for what the plaintiff stated.

77. The plaintiff in this action does not challenge the misconduct itself (that will be challenged in Federal Court), the plaintiff only asserts that Sgt. Stone and Lt. Rydbom conspired to have the plaintiff placed in the RHU under a bogus misconduct and both have retaliated against the plaintiff for the exercise of constitutional rights.

78. The plaintiff respectfully submits that he was punished harsher because of exercising his Constitutional rights.

79. The Security Lt., LT Rydbom stated because he saw scratches on the plaintiff's neck, which the plaintiff never stated where they were from, and bruises, which were in fact not bruises and only the plaintiff's skin acne, Lt. Rydbom felt this was evidence of fighting.

180. The plaintiff respectfully submits that he was punished harsher because this evidence is more akin to, if anything at all, what Re DOC policy states as the class II charge of "Body punching or horseplay."

181. At any rate, the plaintiff is innocent of any wrong doing, as the plaintiff did not shove anyone as stated in the false misconduct report.

82. The plaintiff sent a request slip to the Superintendent, Mr. George M. Patrick, concerning the situation.
83. The request slip was answered by Deputy Superintendent H. A. Tatum.
84. Every grievance filed concerning issues contained in this action was reviewed by the Superintendent and no action was taken.
85. No action was taken on the request slip sent to Superintendent Patrick concerning the misconduct issued in retaliation by LT. Ryddom.
86. LT. Horton is placed in this action because he is the person responsible for answering requests for law library usage in the PHU and also responsible for denying the plaintiff's mailed responses to request slips sent.
87. The plaintiff also respectfully submits that law library access allowed in December, 2003 is inadequate as well.
88. In December, 2003, the plaintiff had indigent status as defined under Pa DOC policy DCADM663.
89. On December 10, 2003, the plaintiff again requested hygiene supplies as he had none and could not afford to purchase them.
90. The request slip sent was addressed to the Unit Manager and Facility Business Manager.
91. The plaintiff received a response to this request which stated that all parties would be forwarded a copy of this request.
92. The plaintiff received no supplies.
93. On January 5, 2004, the plaintiff again sent another request for hygiene supplies specifically to the Unit Manager, Mr. Stetter. (J. Block).
94. On January 7, 2004, the plaintiff received hygiene supplies.
95. The plaintiff again suffered substantial pain from toothaches caused from not being allowed to brush his teeth.
96. The plaintiff, during this time, was again forced to go without hygiene supplies in retaliation of grievances filed.
97. On January 8, 2004, the plaintiff received a response stating that the request sent on January 5, 2004 was the first request sent when in fact it was not.
98. On or about March 27, 2003, the plaintiff received a letter from his attorney.
99. The mail had been marked as "attorney-inmate mail" under the address.
200. The mail was opened outside the presence of the plaintiff.
201. On or about May 28, 2003, the plaintiff received another letter from his attorney.
202. The letter also contained an "attorney-inmate" marking.

103. The letter also had the plaintiff's attorney's "attorney-id" on the mail.
104. The letter was opened outside the presence of the plaintiff.
105. The plaintiff received evidence that the Pa DOC policy for opening inmates mail from attorneys was created to stop attorneys from sending Christmas cards as "privileged" mail.
106. On or about August 10, 2003, the plaintiff attempted to contact an attorney regarding his criminal case.
107. On or about August 19, 2003, the plaintiff's letter to this attorney had been returned undelivered.
108. The letter was marked as 'not deliverable addressed'.
109. The letter contained confidential information.
110. Pa DOC policy only requires outgoing inmate mail to be considered privileged if the mail is addressed to an attorney.
111. The letter was so addressed and it was opened outside the plaintiff's presence when it was returned undelivered.
112. On or about October 20, 2003, the plaintiff again sent another letter requesting assistance or advice from an outside attorney.
113. This letter also contained confidential information.
114. The letter was returned, marked as 'not deliverable as addressed'.
115. This letter, too, was opened outside the presence of the plaintiff.
116. The plaintiff respectfully submits that Pa DOC policy allows confidential letters mailed to attorneys to be opened, inspected and read if they are returned for any reason.
117. The plaintiff respectfully submits that Pa DOC policy allows mail from attorneys clearly marked as confidential to be opened outside the inmates presence just because it may not comport with Pa DOC policy.
118. The plaintiff respectfully submits that SEI Houtzdale and Pa DOC policy manuals do not and did not issue a manual that adequately explains this policy upon entering any state correctional institution.
119. The plaintiff respectfully submits that Pa DOC policy inhibits and interferes with free and private communications with attorneys.
120. The plaintiff verifies that the facts and claims set forth in this action are true and correct to the best of the plaintiff's personal knowledge, information and belief.

Relief Requested

1. A declarative judgement stating that the plaintiff was in fact denied access to the courts.
2. A declarative judgement stating that the plaintiff was denied adequate access to the courts from January, 2003 to April, 2003 and delayed from filing for relief.
3. A declarative judgement stating that the plaintiff was denied adequate access to the courts from April, 2003 to June, 2003 and delayed from filing for relief.
4. A declarative judgement stating that the plaintiff was denied access to the courts from June, 2003 to July, 2003, and delayed from filing for relief.
5. A declarative judgement stating that the plaintiff was denied adequate access to the courts from July, 2003 to September, 2003, and delayed from filing for relief.
6. A declarative judgement stating that the plaintiff was denied adequate access to the courts from September, 2003 to December 31, 2003 and delayed from filing for relief.
7. \$5,000 against defendants SCI Houtzdale, Commonwealth of Pennsylvania and Mr. Tom Shorts jointly and severally, in their individual and official capacities for denying the plaintiff access to the courts, delaying the plaintiff's efforts to pursue relief and violating the plaintiff's equal protection rights by committing the acts described in this action between January, 2003 and April, 2003.
- 7.A. \$17,000 against defendants SCI Houtzdale, Commonwealth of Pennsylvania, Mr. Tom Shorts, Mr. D. B. Perry, Superintendent G.W. Patrick, Corrections Officers John Doe 3 and John Doe 4, and Pennsylvania Department of Corrections for denying the plaintiff access to the courts adequately from August, 2003 to December 31, 2003.
- 7.B. An amount as it appears to this Honorable Court the plaintiff is entitled against defendants SCI Houtzdale, Commonwealth of Pennsylvania, Mr. Stetler and D. B. Perry, jointly and severally, in their individual and official capacities for denying the plaintiff hygiene supplies from December 10, 2003 to January 5, 2004 in retaliation of grievances filed and causing the plaintiff substantial pain from toothaches.
- 7.C. An amount as it appears to this Honorable Court the plaintiff is entitled against defendants SCI Houtzdale and Commonwealth of Pennsylvania for opening the plaintiff's legal mail on or about March 27, 2003.
- 7.D. An amount as it appears to this Honorable Court the plaintiff is entitled against defendants SCI Houtzdale and Commonwealth of Pennsylvania for opening the plaintiff's legal mail on or about May 28, 2003.
- 7.E. An amount as it appears to this Honorable Court the plaintiff is entitled against defendants SCI Houtzdale and Commonwealth of Pennsylvania for opening the plaintiff's legal mail on or about August 19, 2003.
- 7.F. An amount as it appears to this Honorable Court the plaintiff is entitled against defendants SCI Houtzdale and Commonwealth of Pennsylvania for opening the plaintiff's legal mail on or about October 20, 2003.
8. \$10,000 against defendants SCI Houtzdale, Commonwealth of Pennsylvania and Mr. Tom Shorts jointly and severally, in their individual and official capacities, for denying the plaintiff access to the courts, impeding access, delaying the plaintiff's efforts to pursue relief and violating the plaintiff's equal protection rights and

for retaliating against the plaintiff for exercising his constitutional rights between April 17, 2003 and June 25, 2003.

9. An amount as it appears to this Honorable Court that the plaintiff is entitled against Corrections Officer Kephart, SCI Houtzdale and Commonwealth of Pennsylvania jointly and severally, in their individual and official capacities, for retaliating against the plaintiff for exercising his constitutional rights.

10. An amount to be determined by the amount of time it takes the plaintiff to receive a decision on the merits of the issues raised in the plaintiff's PCRA petition filed for case #CPO108/0426 against defendants Mr. Tom Shorts, SCI Houtzdale, Superintendent Patrick, Commonwealth of Pennsylvania, Lt. Horton, Mr. D. B. Zeng, Corrections Officers John Doe3 and John Doe4 and Pennsylvania Department of Corrections jointly and severally, in their individual and official capacities.

11. An amount as it appears to this Honorable Court that the plaintiff is entitled against defendants Lt. Horton, SCI Houtzdale and Commonwealth of Pennsylvania, jointly and severally, in their individual and official capacities, for denying the plaintiff legal materials.

12. \$8,000 against defendants LT Horton, SCI Houtzdale, Commonwealth of Pennsylvania and Department of Corrections of Pennsylvania jointly and severally, in their individual and official capacities, for denying the plaintiff mail while in the RTHU at SCI Houtzdale.

13. \$5,000 against defendants Lt Horton, SCI Houtzdale, Commonwealth of Pennsylvania and Pennsylvania Department of Corrections jointly and severally in their individual and official capacities for denying the plaintiff access to the courts while confined in the RTHU at SCI Houtzdale, from June 25, 2003 to July 19, 2003.

14. An amount as it appears to this Honorable Court that the plaintiff is entitled against defendants **SCI** Houtzdale, Commonwealth of Pennsylvania and Department of Corrections jointly and severally for providing an inadequate law library facility while confined in the RTHU at SCI Houtzdale.

15. An amount as it appears to this Honorable Court that the plaintiff is entitled against defendants SCI Houtzdale, Commonwealth of Pennsylvania and Superintendent Patrick for creating a policy and allowing SCI Houtzdale to create conditions in the SCI Houtzdale RTHU which violate Pa DOC policy and allow conditions which sanction cruel and unusual punishment.

16. \$10,000 against defendants SCI Houtzdale, Commonwealth of Pennsylvania, Corrections Officers John Doe3 and John Doe4, Lt. Horton and Pennsylvania Department of Corrections, jointly and severally, in their individual and official capacities for intentionally and maliciously removing the plaintiff's pen and highlighter from the plaintiff's property, which not only constituted denial of property without due process, but caused the plaintiff to be denied access to the courts and delayed the plaintiff from filing for relief.

17. An amount as it appears to this Honorable Court that the plaintiff is entitled against defendants SCI Houtzdale, Commonwealth of Pennsylvania, Corrections Officers John Doe3 and John Doe4, Lt Horton and Pennsylvania Department of Corrections jointly and severally, in their individual and official capacities, for denying the plaintiff all other items missing from his property without due process, including but not limited to his white T-shirts.

18. A declarative judgement stating that the plaintiff was in fact denied access to the courts and delayed from filing for relief on several issues when the plaintiff's pen was intentionally and maliciously removed from his property and in retaliation of grievances filed.

19. An amount as it appears to this Honorable Court the plaintiff is entitled against defendants Lt. Horton, Pennsylvania Department of Corrections, Commonwealth of Pennsylvania, SCI Houtzdale, Mr. Tom Shorts, D.B. Perry and Superintendent Patrick jointly and severally, in their individual and official capacities, for delaying the plaintiff from filing for relief in Federal Court for Civil Case No. 3:03-cv-01599, criminal case # CP9911/0395 and criminal case # 0106/0426.

20. An amount as it appears to this Honorable Court the plaintiff is entitled against Mr. Tom Shorts, SCI Houtzdale, Commonwealth of Pennsylvania, and Pennsylvania Department of Corrections jointly and severally, in their individual and official capacities, for retaliation against the plaintiff in the form of limiting the number of times the plaintiff was scheduled for law library usage in September, June and October of 2003.

21. An amount as it appears to this Honorable Court the plaintiff is entitled against Mr. Tom Shorts, SCI Houtzdale, Commonwealth of Pennsylvania and Pennsylvania Department of Corrections individually and jointly and severally, in their individual and official capacities for delaying the plaintiff from filing for habeas corpus relief in Federal Court.

22. An amount as it appears to this Honorable Court the plaintiff is entitled against Corrections Officers Maines, Corrections Officers John Doe 1 and John Doe 2, SCI Houtzdale, Commonwealth of Pennsylvania and Pennsylvania Department of Corrections jointly and severally, in their individual and official capacities for retaliation in the form of harassing strip searches.
3. An amount as it appears to this Honorable Court that the plaintiff is entitled against J.B. Perry, Mr. Stetler, SCI Houtzdale, Commonwealth of Pennsylvania and Pennsylvania Department of Corrections jointly and severally, in their individual and official capacities for further denying the plaintiff needed supplies in retaliation of grievances filed.
4. An amount as it appears to this Honorable Court that the plaintiff is entitled against Commonwealth of Pennsylvania, Mr. Stetler, SCI Houtzdale and Pennsylvania Department of Corrections, jointly and severally, in their individual and official capacities for cruel and unusual punishment caused in not allowing the plaintiff to have requested hygiene products, even after requests, and for the substantial pain and suffering caused by the plaintiff not being allowed to brush his teeth and getting toothaches from food being lodged in cavities.
5. An amount as it appears to this Honorable Court that the plaintiff is entitled against Commonwealth of Pennsylvania and Department of Corrections for creating a policy that makes an inmate wait an additional 30 days, after being denied work, before allowing the inmate to have indigent status.
26. An amount as it appears to this Honorable Court that the plaintiff is entitled against SCI Houtzdale and Commonwealth of Pennsylvania jointly and severally for allowing the plaintiff to be harassed and retaliated against in the form of being moved around and strip searched in retaliation of grievances filed.
27. An amount as it appears to this Honorable Court that the plaintiff is entitled against SCI Houtzdale and Commonwealth of Pennsylvania jointly and severally for denial of access to the court as a result of retaliatory actions.
28. An amount as it appears to this Honorable Court that the plaintiff is entitled against SCI Houtzdale, Superintendent Patrick, Mr. Tom Shortz and Commonwealth of Pennsylvania jointly and severally, in their individual and official capacities for denying the plaintiff access to the courts and delaying the plaintiff from filing for injunctive relief.

29. An injunction stating that so long as the plaintiff is in the custody of the Pennsylvania Department of Corrections, the plaintiff shall be given at least 10 hours of law library access time each week.

30. An amount as it appears to this Honorable Court that the plaintiff is entitled against Sgt Stone, Lt. Rydbom, Superintendent Patrick, Deputy Superintendent W.A. Tatum, SCI Houtzdale, Commonwealth of Pennsylvania and Pennsylvania Department of Corrections jointly and severally, in their individual and official capacities for retaliating against the plaintiff for exercising his constitutional rights of free speech, filing grievances, petitioning the courts and punishing the plaintiff harsher in retaliation when allegations of misconduct were made.
31. Grant such other relief as it appears to this Honorable Court the plaintiff is entitled

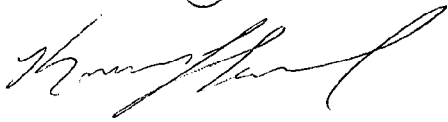
32. Punitive damages in amounts as it appears to this Honorable Court that the plaintiff is entitled against all defendants jointly and severally, in their individual and official capacities.

33. Attorney fees in the amount of \$2,000.00 for time, effort and research involved in prosecuting this action.

34. A declarative judgement stating that the plaintiff was in fact retaliated against.

3/11/04

Respectfully Submitted,



Kendall Garland

FB6020

SCI Houtzdale

PO Box 1000

Houtzdale, PA 16698-1000

All defendants may be served at

SCI Houtzdale

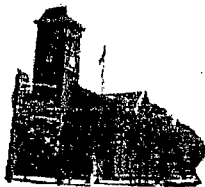
PO Box 1000

Houtzdale, PA 16698-1000

CLEARFIELD COUNTY
OFFICE OF THE PROTHONOTARY AND CLERK OF COURTS

WILLIAM A. SHAW
PROTHONOTARY/
CLERK OF COURTS

DAVID S. AMMERMAN
SOLICITOR



JACKI KENDRICK
DEPUTY PROTHONOTARY

BONNIE HUDSON
ADMINISTRATIVE ASSISTANT

P.O. Box 549, Clearfield, PA 16830
Phone (814) 765-2641 Ext. 1330 Fax: (814) 765-7659

COPY

April 7, 2004

Kendall Garland
vs.
SCI Houtzdale, et al

Dear Mr. Garland:

Please be advised that the action you filed to the above term and number has been stricken effective April 7, 2004. You may not proceed with this action without good cause from the court.

William A. Shaw, Prothonotary

Date: 04/07/2004

Clearfield County Court of Common Pleas

User: BHUDSON

Time: 12:51 PM

ROA Report

Page 1 of 1

Case: 2004-00360-CD

Current Judge: No Judge

Civil Other

Date		Judge
03/16/2004	Application to Proceed In Forma Pauperis, s/Kendall Garland No CC	No Judge
03/22/2004	ORDER, NOW, this 18th day of March, 2004, re: Application to Proceed In Forma Pauperis is DENIED. by the Court, s/FJA, P.J. 6 cc to Plff w/orig. compl. & Denied letter	No Judge
04/07/2004	Case Stricken-filing fee not received.	No Judge