06-894-CD
Glenn Holder Sr. vs Officer Swanson et al

Glenn Holder vs Officer Swanson et al
2006-894-CD

P.M.

Appeal Docket Sheet **Superior Court of Pennsylvania**

Docket Number: 701 WDA 2007

April 17, 2007

Glenn A. Holder, Sr., Appellant
v.
Matthew Swanson

06-894-CD

Initiating Document: Notice of Appeal IFP

Case Status: Active

Case Processing Status: April 16, 2007 Awaiting Original Record

Journal Number:

Case Category: Civil CaseType: Trespass

Consolidated Docket Nos.: **Related Docket Nos.:**

SCHEDULED EVENT

Next Event Type: Receive Docketing Statement Next Event Due Date: May 1, 2007

Next Event Type: Original Record Received Next Event Due Date: May 23, 2007

FILED
2007 APR 20 P 1:40
PROTHONOTARY/CLERK OF COURTS
CLEARFIELD COUNTY, PENNSYLVANIA

FILED NO CC
M 11:50 BL
APR 19 2007 GK

William A. Shaw
Prothonotary/Clerk of Courts

#53

Superior Court of Pennsylvania

COUNSEL INFORMATION

Appellant Holder, Glenn A. Sr.
Pro Se: ProSe Appoint Counsel Status:
IFP Status: Pending

Appellant Attorney Information:
Attorney: Holder, Glenn Anthony
Bar No.: Law Firm:
Address: EA-7173 SCI Houtzdale
PO Box 1000
Houtzdale, PA 16698-1000
Phone No.: Fax No.:
Receive Mail: Yes
E-Mail Address:
Receive E-Mail: No

Appellee Swanson, Matthew
Pro Se: Appoint Counsel Status:
IFP Status: No

Appellee Attorney Information:
Attorney: Rand, Debra S.
Bar No.: 41661 Law Firm: PA Department of Corrections
Address: 55 Utley Drive
Camp Hill, PA 17011
Phone No.: (717)731-0444 Fax No.:
Receive Mail: Yes
E-Mail Address:
Receive E-Mail: No

FEE INFORMATION

Fee Date	Fee Name	Fee Amt	Paid Amount	Receipt Number

TRIAL COURT/AGENCY INFORMATION

Court Below: Clearfield County Court of Common Pleas
County: Clearfield Division: Civil
Date of Order Appealed From: March 27, 2007 Judicial District: 46
Date Documents Received: April 16, 2007 Date Notice of Appeal Filed: April 13, 2007
Order Type: Order OTN:
Judge: Ammerman, Fredric J.
President Judge
Lower Court Docket No.: 06-894-CD

ORIGINAL RECORD CONTENTS

Appeal Docket Sheet **Superior Court of Pennsylvania**

Docket Number: 701 WDA 2007

April 17, 2007

Original Record Item	Filed Date	Content/Description

Date of Remand of Record:

BRIEFS

DOCKET ENTRIES

Filed Date	Docket Entry/Document Name	Party Type	Filed By
April 16, 2007	Notice of Appeal IFP	Appellant	Holder, Glenn A. Sr.
Petition To Proceed IFP pending			
April 17, 2007	Docketing Statement Exited (Civil)		Western District Filing Office

CERTIFICATE AND TRANSMITTAL OF RECORD UNDER PENNSYLVANIA RULE OF APPELLATE PROCEDURE 1931(C)

To the Prothonotary of the Appellate Court to which the within matter has been appealed:

THE UNDERSIGNED, Clerk (or Prothonotary) of the court of Common Pleas of Clearfield County, the said Court being a court of record, does hereby certify that annexed hereto is a true and correct copy of the whole and entire record, including an opinion of the Court as required by Pa. R.A.P. 1925, the original papers and exhibits, if any, on file, the transcript of the proceeding, if any, and the docket entries in the following matter:

06-894-CD

Glenn A. Holder, Sr.
VS.
Matthew Swanson

In compliance with Pa. R.A.P. 1931 (c).

The documents compromising the record have been numbered from **No. 1 to No.** 56, and attached hereto as Exhibit A is a list of the documents correspondingly numbered and identified with reasonable definiteness, including with respect to each document, the number of pages compromising the document.

The date on which the record had been transmitted to the Appellate Court is May 24, 2007.

Prothonotary/Clerk of Courts

(seal)

Clearfield County Court of Common Pleas

ROA Report

Case: 2006-00894-CD

Current Judge: Fredric Joseph Ammerman

Civil Other

Date		Judge
06/02/2006	New Case Filed.	No Judge
	Contents of Original Record, Order from Commonwealth Court, Miscellaneous Docket Sheet # 286 MD 2006, Application for Leave to Proceed In Forma Pauperis, Petition for Review, filed. no cert. copies.	No Judge
07/14/2006	Order, NOW, this 12th day of July, 2006, in consideration of Petitioner's Pro Se Complaint transferred from the Pa Commonwealth Court, Ordered: 1. Petitioner's Request to Proceed In Forma Pauperis is Granted. 2. The Prothonotary of Clfd. Co. shall accept and file Petitioner's Amended Petition for Review. 3. The Petitioner shall be solely responsible for service of process upon all parties in conformity with the PA. Rule of Civil Procedure. 4. Respondents shall have no more than 45 days from the date of this Order to file a responsive pleading or other appropriate legal document. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 5CC Plff.	Fredric Joseph Ammerman
	Amended Petition For Review, filed by s/Glenn A. Holder, Sr. 2CC Plff	No Judge
08/23/2006	Praecipe For Entry of Appearance, filed by Atty. Rand, 1 Cert. to Atty. Enter appearance of Debra Sue Rand on behalf of Defendants Matthew a. Swanson, Marshall J. Shirley, Jr., Robert Reed, Randall E. Britton, Kenneth R. Cameron, Frank Hartnett and George Patrick.	No Judge
	Defendants' Preliminary Objections, filed by Atty. Rand 1 Cert. to Atty.	No Judge
08/25/2006	Order, NOW, this 23rd day of August, 2006, upon consideration of Defendants' Preliminary Objections, ordered that the Preliminary objections are Sustained and the Amended Petition for Review is Dismissed as to all parties except Swanson and as to all counts except for monetary damages. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC Atty. Rand, 1CC Plff-SCI Houtzdale, EA 7173	Fredric Joseph Ammerman
08/29/2006	Motion for Extension of Time or Stay of Proceedings to Properly Comply with PA R.C.P. 1022, filed by Plaintiff 1 Cert. to Plaintiff.	Fredric Joseph Ammerman
	Motion for Appointment of Counsel, filed by Plaintiff. 1 Cert. to Plaintiff.	Fredric Joseph Ammerman
	Exhibits for the Plaintiffs Response to the Defendants Preliminary Objections, filed by Plaintiff. 1 Cert. to Plaintiff.	Fredric Joseph Ammerman
08/30/2006	Order, this 30th day of August, 2006, Motion for Appointment of Counsel is Dismissed. By The Court, /s/ Fredric J. ammerman, Pres. Judge. CC to Plaintiff & Atty. Rand	Fredric Joseph Ammerman
	Order, this 30th day of August, 2006, Plaintiff's Motion for Extension of Time or Stay of Proceedings is Dismissed. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. CC to Plaintiff & Atty. Rand	Fredric Joseph Ammerman
09/05/2006	Motion To Strike, filed by s/ Glenn A Holder, Sr. Pro-Se. 1CC Plff	Fredric Joseph Ammerman
09/06/2006	Order, NOW, this 5th day of Sept., 2006, ordered: This Court's Order of August 23, 2006, granting Preliminary Objections is rescinded (see original). By The Court, /s/Fredric J. Ammerman, President Judge. 1CC Plff-SCI Houtzdale, 1CC Atty. Rand	Fredric Joseph Ammerman
09/11/2006	Remaining Defendant Swanson's Motion For Extension of Time to File an Answer to The Amended "Petition For Review", filed by s/ Debra Sue Rand, Esquire. 1CC Atty.	Fredric Joseph Ammerman
09/21/2006	Amended Complaint Pursuant to Rule of Civil Procedure 1028, filed by s/ Glenn A. Holder Sr. Pro-Se. 3CC Plff	Fredric Joseph Ammerman

Clearfield County Court of Common Pleas
ROA Report
Case: 2006-00894-CD
Current Judge: Fredric Joseph Ammerman

Civil Other

Date		Judge
09/29/2006	Request for Production of Documents, filed by s/ Glenn A. Holder Sr., Plff. 1CC plff.	Fredric Joseph Ammerman
10/02/2006	Defendants' Preliminary Objections and Notice to Plead, filed by s/ Debra Sue Rand, Esquire. 1CC Atty.	Fredric Joseph Ammerman
	Praecipe for Argument filed. By s/Debra Sue Rand, Esquire. 1CC Atty.	Fredric Joseph Ammerman
	Application to Have the Preliminary Objections Decided without Oral Argument, filed by s/Debra Sue Rand One CC Attorney	Fredric Joseph Ammerman
10/03/2006	Order, this 2nd day of Oct., 2006, Ordered that Preliminary Objections shall be decided without oral argument. by the Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Atty. Rand	Fredric Joseph Ammerman
10/09/2006	Plaintiff's Response to Defendants Preliminary Objections, filed by Plaintiff. 1 Cert. to Plaintiff.	Fredric Joseph Ammerman
10/23/2006	Praecipe For Entry of Appearance, filed. Please enter my appearance as counsel on behalf of Defendant, Glenn E. Irwin in the above-captioned matter, filed by s/ Debra Sue Rand Esq. No CC., and Copy to C/A.	Fredric Joseph Ammerman
10/31/2006	Order, NOW, this 30th day of Oct., 2006, Preliminary Objections are Sustained and the Second Amended Petition for Review is Dismissed as to all parties except Swanson and as to all counts except for monetary damages. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Plff.- EA 7173, SCI Houtzdale, 1CC Atty. Rand	Fredric Joseph Ammerman
11/01/2006	Plaintiff First Set of Interrogatories to Defendants, filed by s/ Glenn A. Holder Sr., Pro Se. 1CC Plff	Fredric Joseph Ammerman
11/03/2006	Response Motion for Order to Compel Discovery, filed by Plaintiff. 1 Cert. to Plaintiff.	Fredric Joseph Ammerman
11/06/2006	Plaintiffs First Set of Interrogatories to Defendants, filed by s/ Glenn A. Holder Sr.-pllf. 1CC plff.	Fredric Joseph Ammerman
11/08/2006	Order, NOW, this 7th day of Nov., 2006, Ordered that the Request for Production of Documents and Response Motion for Order to Compel Discovery are Dismissed as to all previously removed Defendants. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Plff: EA 7173, SCI Houtzdale; 1CC Atty. Rand	Fredric Joseph Ammerman
11/15/2006	Reconsideration of Motion for Order to Compel Discovery, filed by Plaintiff 2 Cert. to Plaintiff.	Fredric Joseph Ammerman
11/20/2006	Answer to Plaintiff's Second Amended Petition for Review, filed by s/ Debra Sue Rand Esq. 1CC to Atty.	Fredric Joseph Ammerman
11/29/2006	Response to New Matter Submitted by Defendant, filed by Plaintiff 1 Cert. to Plaintiff.	Fredric Joseph Ammerman
12/04/2006	Remaining Defendant Swanson's Answer to Plaintiff's "Reconsideration of Motion For Order to Compel Discovery", filed by s/ Debra Sue Rand, Esquire. 1CC Atty. rand	Fredric Joseph Ammerman
12/11/2006	Amended Request for Production of Documents, filed by Plaintiff 1 cert. to Plaintiff	Fredric Joseph Ammerman
	Response to Defendants Answers to Plaintiff's Second Amended Petition for Review, filed by Plaintiff. 1 Cert. to Plaintiff.	Fredric Joseph Ammerman
	Response to Defendants Answers to Plaintiffs "Reconsideration of Motion for Order to Compel Discovery", filed by Plaintiff no cert. copies.	Fredric Joseph Ammerman

Clearfield County Court of Common Pleas
ROA Report
Case: 2006-00894-CD
Current Judge: Fredric Joseph Ammerman

Civil Other

Date		Judge
12/13/2006	Response to Defendants Answers to Plaintiffs Reconsideration of Motion for Order to Compel Discovery, filed by s/Glenn A. Holder, Sr. No CC	Fredric Joseph Ammerman
12/18/2006	Motion to Deem Remaining Defendant's New Matter Admitted, filed by Atty. Rand 1 Cert. to Atty.	Fredric Joseph Ammerman
12/19/2006	Order, NOW, this 19th day of Dec., 2006, in consideration of the Defendant's Motion to Deem Remaining Defendant's New Matter Admitted, it is the Order of this Court that the Plaintiff serve a copy of his Reply filed on or about Nov. 29, 2006 on Defendant's Counsel, withing no more than 10 days from this date. Plaintiff is directed to strictly comply with the provisions of Rule of Civil Procedure 440 relative all future filings. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC Atty. Rand, 1CC Plff- EA 7173, SCI Houtzdale	Fredric Joseph Ammerman
12/26/2006	Motion to Strike Plaintiff's "Response to Defendants Answers to Second Amended Petition for Review," filed by s/Debra Sue Rand One CC Attorney Rand	Fredric Joseph Ammerman
01/03/2007	Order, NOW, this 28th day of December 2006, upon consideration of remaining Defendant Swanson's Motion to Strike Plaintiff's "Response to Defendants Answers to Second Amended Petition for Review," it is hereby ORDERED that the Motion is GRANTED and the Response is STRICKEN. BY THE COURT: /s/ Fredric J. Ammerman, P. Judge. 1CC Atty Rand.	Fredric Joseph Ammerman
01/04/2007	Response to Motion to Strike Plaintiff's Response to Defendants Answers to Second Amended Petition for Review, filed by s/ Mr. Glenn A. Holder Sr.-plff. 1cc plff.	Fredric Joseph Ammerman
	Response to Remaining Defendant Swansons Answers to Plaintiff's Amended Request for Production of Documents, filed by s/ Mr. Glenn A. Holder Sr.-plff. 1CC plff.	Fredric Joseph Ammerman
01/09/2007	Second Set of Interrogatories for Remaining Defendant Swanson. filed by G. Holder 1 Cert. to Holder.	Fredric Joseph Ammerman
02/08/2007	Motion For Summary Judgment, filed by s/Glenn A. Holder Sr., Pro-Se. 1CC Plff	Fredric Joseph Ammerman
02/12/2007	Order, NOW, this 12th day of Feb., 2007, the Defendant is directed to file an Answer to the Motion for Summary Judgment. Plaintiff and Defendant Ordered to provide a letter brief to the Court within no more than 30 days from this date. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. CC to Holder & Debra Sue Rand, Esquire.	Fredric Joseph Ammerman
02/21/2007	Reciept of Investigation Report, filed by Plaintiff 1 cert. to Plaintiff.	Fredric Joseph Ammerman
02/28/2007	Defendant Swanson's Cross Motion For Summary Judgment, filed by s/ Debra Sue Rand, Esquire. No CC	Fredric Joseph Ammerman
	Defendant Swanson's Answer to Plaintiff's Motion For Summary Judgment, filed by s/ Debra Sue Rand, Esquire. No CC	Fredric Joseph Ammerman
03/12/2007	Plaintiffs Response to Defendants Cross Motion for Summary Judgment, filed 1 Cert. to Plff.	Fredric Joseph Ammerman
	Affidavit of Plaintiff Glenn A. Holder, Sr., Filed 1 Cert. to Plaintiff.	Fredric Joseph Ammerman

Clearfield County Court of Common Pleas
ROA Report
Case: 2006-00894-CD
Current Judge: Fredric Joseph Ammerman

Civil Other

Date		Judge
03/27/2007	Opinion And Order. Opionion: NOW, this 27th day of March, 2007, after review of Defendant's Cross Motion for Summary Judgment, said Motion will be granted by This Court. (see original) Order: NOW, this 27th day of March, 2007, Ordered that Defendant's Cross Motion for Summary Judgment is Granted. The Plaintiff's Amended Complaint is Dismissed, With Prejudice. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC Plaintiff w/memo - EA 7173 SCI Houtzdale; 2CC Atty. Rand w/memo; 1CC Law Library (without memo); 1CC D. Mikesell (without memo)	Fredric Joseph Ammerman
03/29/2007	Order, NOW, this 27th day of March, 2007, after review of Plaintiff's Motion for Summary Judgment, said Motion is Denied. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Atty. Rand; 1CC Holder, EA 7173, SCI Houtzdale	Fredric Joseph Ammerman
04/13/2007	Continuation of In Forma Pauperis Status Pursuant to R.A.P. 551, filed by Plaintiff. 1 Cert. to Superior Court and 1 Cert. to Plaintiff	Fredric Joseph Ammerman
	Notice of Appeal, filed by Plaintiff Notice of Appeal to Superior Court. 1 Cert. to Superior Court and 1 Cert. to Plaintiff.	Fredric Joseph Ammerman
04/19/2007	Appeal Docket Sheet, 701 WDA 2007, filed. No CC	Fredric Joseph Ammerman
04/20/2007	Order, NOW, this 19th day of april, 2007, Ordered that Glen A. Holder, Sr., Appellant, file a concise statement of the matters complained of on Appeal no later than 14 days herefrom. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Plff - EA 7173, SCI houtzdale; 2CC Atty. Rand	Fredric Joseph Ammerman
04/30/2007	Statement of Matters Complained of on Appeal Pursuant to R.A.P. 1925 (b). Filed by s/ Glenn A. Holder Sr., Pro-Se. 1CC Plff	Fredric Joseph Ammerman
05/24/2007	May 24, 2007, Mailed Appeal to Superior Court. May 24, 2007, Letter, Re: Notification of mailing appeal mailed to Glenn Holder, Sr. and Debra Sue Rand with certified copies of docket sheet and Document listing required by Pa.R.A.P. 1931(c).	Fredric Joseph Ammerman

I hereby certify this to be a true and attested copy of the original statement filed in this case.

MAY 24 2007

Attest.

William L. Ber
Prothonotary/
Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

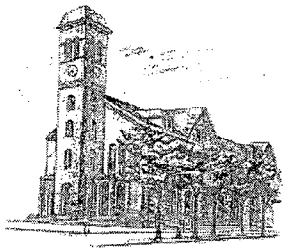
No. 06-894-CD
Glenn A. Holder, Sr.
VS.
Matthew Swanson

ITEM NO.	*DATE OF FILING*	*NAME OF DOCUMENT*	*NO. OF PAGES*
01	06/02/06	Contents of Original Record, Order from Commonwealth Court, Miscellaneous Docket Sheet #286 MD 2006, Application for Leave to Proceed In Forma Pauperis, Petition for Review	43
02	07/14/06	Order, Re: Petitioner's Request to Proceed In Forma Pauperis Granted; Prothonotary of Clearfield County shall accept and file Petitioner's Amended Petition for Review; Petitioner shall be solely responsible for service of process upon all parties; Respondents shall have no more than 45 days from the date of this Order to file a responsive pleading or other appropriate legal document	01
03	07/14/06	Amended Petition for Review	17
04	08/23/06	Praecipe for Entry of Appearance	02
05	08/23/06	Defendants' Preliminary Objections	15
06	08/25/06	Order, Re: Defendants' Preliminary Objections are sustained; Amended Petition for Review is Dismissed as to all parties except Swanson and as to all counts except for monetary damages	01
07	08/29/06	Motion for Extension of Time or Stay of Proceedings to Properly Comply with Pa.R.C.P. 1022	02
08	08/29/06	Motion for Appointment of Counsel	02
09	08/29/06	Exhibits for Plaintiff's Response to the Defendants' Preliminary Objections	04
10	08/30/06	Order, Re: Motion for Appointment of Counsel is Dismissed	01
11	08/30/06	Order, Re: Plaintiff's Motion for Extension of Time or Stay of Proceedings is Dismissed	01
12	09/05/06	Motion to Strike	05
13	09/06/06	Order, Re: Order of August 23, 2006, granting Preliminary Objections is rescinded	01
14	09/11/06	Remaining Defendant Swanson's Motion for Extension of Time to File an Answer to the Amended "Petition for Review"	06
15	09/21/06	Amended Complaint Pursuant to Rule of Civil Procedure 1028	34
16	09/29/06	Request for Production of Documents	03
17	10/02/06	Defendants' Preliminary Objections and Notice to Plead	08
18	10/02/06	Praecipe for Argument	03
19	10/02/06	Application to Have the Preliminary Objections Decided without Oral Argument with Order filed October 3, 2006—Preliminary Objections shall be decided without oral argument	03
20	10/09/06	Plaintiff's Response to Defendants' Preliminary Objections	08
21	10/23/06	Praecipe for Entry of Appearance	02
22	10/31/06	Order, Re: Preliminary Objections are Sustained and the Second Amended Petition for Review is Dismissed as to all parties except Swanson and as to all counts except for monetary damages	01
23	11/01/06	Plaintiff's First Set of Interrogatories to Defendants	04
24	11/03/06	Response Motion for Order to Compel Discovery	08
25	11/06/06	Plaintiff's First Set of Interrogatories to Defendants	05
26	11/08/06	Order, Re: Request for Production of Documents and Response Motion for Order to Compel Discovery are Dismissed as to all previously removed Defendants	01
27	11/15/06	Reconsideration of Motion for Order to Compel Discovery	04
28	11/20/06	Answer to Plaintiff's Second Amended Petition for Review	106
29	11/29/06	Response to New Matter Submitted by Defendant	07
30	12/04/06	Remaining Defendant Swanson's Answer to Plaintiff's "Reconsideration of Motion for Order to Compel Discovery	08
31	12/11/06	Amended Request for Production of Documents	02
32	12/11/06	Response to Defendant's Answers to Plaintiff's Second Amended Petition for Review	06

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

No. 06-894-CD
Glenn A. Holder, Sr.
VS.
Matthew Swanson

ITEM NO.	*DATE OF FILING*	*NAME OF DOCUMENT*	*NO. OF PAGES*
33	12/11/06	Response to Defendant's Answers to Plaintiff's "Reconsideration of Motion for Order to Compel Discovery"	04
34	12/13/06	Response to Defendant's Answers to Plaintiff's Reconsideration of Motion for Order to Compel Discovery	04
35	12/18/06	Motion to Deem Remaining Defendant's New Matter Admitted	04
36	12/19/06	Order, Re: Defendant's Motion to Deem Remaining Defendant's New Matter Admitted	01
37	12/26/06	Motion to Strike Plaintiff's "Response to Defendant's Answers to Second Amended Petition for Review"	04
38	01/03/07	Order, Re: Defendant Swanson's Motion to Strike Plaintiff's "Response to Defendant's Answers to Second Amended Petition for Review" Granted	01
39	01/04/07	Response to Motion to Strike Plaintiff's Response to Defendant's Answers to Second Amended Petition for Review	04
40	01/04/07	Response to Remaining Defendant Swanson's Answers to Plaintiff's Amended Request for Production of Documents	11
41	01/09/07	Second Set of Interrogatories for Remaining Defendant Swanson	03
42	02/08/07	Motion for Summary Judgment	97
43	02/12/07	Order, Re: Defendant is directed to file an Answer to the Motion for Summary Judgment; submission of letter briefs	01
44	02/21/07	Receipt of Investigation Report	11
45	02/28/07	Defendant Swanson's Cross Motion for Summary Judgment	Separate Cover
46	02/28/07	Defendant Swanson's Answer to Plaintiff's Motion for Summary Judgment	09
47	03/12/07	Plaintiff's Response to Defendant's Cross Motion for Summary Judgment	10
48	03/12/07	Affidavit of Plaintiff	03
49	03/27/07	Opinion and Order	06
50	03/29/07	Order, Re: Plaintiff's Motion for Summary Judgment Denied	01
51	04/13/07	Continuation of In Forma Pauperis Status Pursuant to R.A.P. 551	02
52	04/13/07	Notice of Appeal	06
53	04/19/07	Appeal Docket Sheet, Superior Court Number 701 WDA 2007	03
54	04/20/07	Order, Re: concise statement to be filed	01
55	04/30/07	Statement of Matters Complained of on Appeal Pursuant to R.A.P. 1925(b)	02
56	05/24/04	Letters, Re: Notification of mailing appeal mailed to Glenn Holder, Sr. and Debra Sue Rand with certified copies of docket sheet and Document listing required by Pa.R.A.P. 1931(c)	07



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw Prothonotary/Clerk of Courts
Jacki Kendrick Deputy Prothonotary/Clerk of Courts
Bonnie Hudson Administrative Assistant
David S. Ammerman Solicitor

PO Box 549, Clearfield, PA 16830 ▪ Phone: (814) 765-2641 Ext. 1330 ▪ Fax: (814) 765-7659 ▪ www.clearfieldco.org

COPY

Fredric J. Ammerman, P.J.
Court of Common Pleas
230 E. Market Street
Clearfield, PA 16830

Glenn A. Holder, Sr.
EA 7173
SCI Houtzdale, PO Box 1000
Houtzdale, PA 16698-1000

Debra Sue Rand
PA Department of Corrections
55 Utley Drive
Camp Hill, PA 17011

Glenn A. Holder, Sr.
Vs.
Matthew Swanson

Court No. 06-894-CD; Superior Court No. 701 WDA 2007

Dear Counsel:

Please be advised that the above referenced record was forwarded to the Superior Court of Pennsylvania on May 24, 2007.

Sincerely,

William A. Shaw
Prothonotary/Clerk of Courts

FILED
08:49/BA
MAY 24 2007
William A. Shaw
Prothonotary/Clerk of Courts

#556

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

No. 06-894-CD
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IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

No. 06-894-CD
Glenn A. Holder, Sr.
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41	01/09/07	Second Set of Interrogatories for Remaining Defendant Swanson	03
42	02/08/07	Motion for Summary Judgment	97
43	02/12/07	Order, Re: Defendant is directed to file an Answer to the Motion for Summary Judgment; submission of letter briefs	01
44	02/21/07	Receipt of Investigation Report	11
45	02/28/07	Defendant Swanson's Cross Motion for Summary Judgment	Separate Cover
46	02/28/07	Defendant Swanson's Answer to Plaintiff's Motion for Summary Judgment	09
47	03/12/07	Plaintiff's Response to Defendant's Cross Motion for Summary Judgment	10
48	03/12/07	Affidavit of Plaintiff	03
49	03/27/07	Opinion and Order	06
50	03/29/07	Order, Re: Plaintiff's Motion for Summary Judgment Denied	01
51	04/13/07	Continuation of In Forma Pauperis Status Pursuant to R.A.P. 551	02
52	04/13/07	Notice of Appeal	06
53	04/19/07	Appeal Docket Sheet, Superior Court Number 701 WDA 2007	03
54	04/20/07	Order, Re: concise statement to be filed	01
55	04/30/07	Statement of Matters Complained of on Appeal Pursuant to R.A.P. 1925(b)	02

Clearfield County Court of Common Pleas

ROA Report

Case: 2006-00894-CD

Current Judge: Fredric Joseph Ammerman

Civil Other

Date		Judge
06/02/2006	New Case Filed.	No Judge
	Contents of Original Record, Order from Commonwealth Court, Miscellaneous Docket Sheet # 286 MD 2006, Application for Leave to Proceed In Forma Pauperis, Petition for Review, filed. no cert. copies.	No Judge
07/14/2006	Order, NOW, this 12th day of July, 2006, in consideration of Petitioner's Pro Se Complaint transferred from the Pa Commonwealth Court, Ordered: 1. Petitioner's Request to Proceed In Forma Pauperis is Granted. 2. The Prothonotary of Clfd. Co. shall accept and file Petitioner's Amended Petition for Review. 3. The Petitioner shall be solely responsible for service of process upon all parties in conformity with the PA. Rule of Civil Procedure. 4. Respondents shall have no more than 45 days from the date of this Order to file a responsive pleading or other appropriate legal document. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 5CC Plff.	Fredric Joseph Ammerman
	Amended Petition For Review, filed by s/Glenn A. Holder, Sr. 2CC Plff	No Judge
08/23/2006	Praecipe For Entry of Appearance, filed by Atty. Rand, 1 Cert. to Atty. Enter appearance of Debra Sue Rand on behalf of Defendants Matthew a. Swanson, Marshall J. Shirley, Jr., Robert Reed, Randall E. Britton, Kenneth R. Cameron, Frank Hartnett and George Patrick.	No Judge
	Defendants' Preliminary Objections, filed by Atty. Rand 1 Cert. to Atty.	No Judge
08/25/2006	Order, NOW, this 23rd day of August, 2006, upon consideration of Defendants' Preliminary Objections, ordered that the Preliminary objections are Sustained and the Amended Petition for Review is Dismissed as to all parties except Swanson and as to all counts except for monetary damages. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC Atty. Rand, 1CC Plff-SCI Houtzdale, EA 7173	Fredric Joseph Ammerman
08/29/2006	Motion for Extension of Time or Stay of Proceedings to Properly Comply with PA R.C.P. 1022, filed by Plaintiff 1 Cert. to Plaintiff.	Fredric Joseph Ammerman
	Motion for Appointment of Counsel, filed by Plaintiff. 1 Cert. to Plaintiff.	Fredric Joseph Ammerman
	Exhibits for the Plaintiffs Response to the Defendants Preliminary Objections, filed by Plaintiff. 1 Cert. to Plaintiff.	Fredric Joseph Ammerman
08/30/2006	Order, this 30th day of August, 2006, Motion for Appointment of Counsel is Dismissed. By The Court, /s/ Fredric J. ammerman, Pres. Judge. CC to Plaintiff & Atty. Rand	Fredric Joseph Ammerman
	Order, this 30th day of August, 2006, Plaintiff's Motion for Extension of Time or Stay of Proceedings is Dismissed. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. CC to Plaintiff & Atty. Rand	Fredric Joseph Ammerman
09/05/2006	Motion To Strike, filed by s/ Glenn A Holder, Sr. Pro-Se. 1CC Plff	Fredric Joseph Ammerman
09/06/2006	Order, NOW, this 5th day of Sept., 2006, ordered: This Court's Order of August 23, 2006, granting Preliminary Objections is rescinded (see original). By The Court, /s/Fredric J. Ammerman, President Judge. 1CC Plff-SCI Houtzdale, 1CC Atty. Rand	Fredric Joseph Ammerman
09/11/2006	Remaining Defendant Swanson's Motion For Extension of Time to File an Answer to The Amended "Petition For Review", filed by s/ Debra Sue Rand, Esquire. 1CC Atty.	Fredric Joseph Ammerman
09/21/2006	Amended Complaint Pursuant to Rule of Civil Procedure 1028, filed by s/ Glenn A. Holder Sr. Pro-Se. 3CC Plff	Fredric Joseph Ammerman

Civil Other

Date		Judge
09/29/2006	Request for Production of Documents, filed by s/ Glenn A. Holder Sr., Plff. 1CC plff.	Fredric Joseph Ammerman
10/02/2006	Defendants' Preliminary Objections and Notice to Plead, filed by s/ Debra Sue Rand, Esquire. 1CC Atty.	Fredric Joseph Ammerman
	Praecipe for Argument filed. By s/Debra Sue Rand, Esquire. 1CC Atty.	Fredric Joseph Ammerman
	Application to Have the Preliminary Objections Decided without Oral Argument, filed by s/Debra Sue Rand One CC Attorney	Fredric Joseph Ammerman
10/03/2006	Order, this 2nd day of Oct., 2006, Ordered that Preliminary Objections shall be decided without oral argument. by the Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Atty. Rand	Fredric Joseph Ammerman
10/09/2006	Plaintiff's Response to Defendants Preliminary Objections, filed by Plaintiff. 1 Cert. to Plaintiff.	Fredric Joseph Ammerman
10/23/2006	Praecipe For Entry of Appearance, filed. Please enter my appearance as counsel on behalf of Defendant, Glenn E. Irwin in the above-captioned matter, filed by s/ Debra Sue Rand Esq. No CC., and Copy to C/A.	Fredric Joseph Ammerman
10/31/2006	Order, NOW, this 30th day of Oct., 2006, Preliminary Objections are Sustained and the Second Amended Petition for Review is Dismissed as to all parties except Swanson and as to all counts except for monetary damages. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Plff.- EA 7173, SCI Houtzdale, 1CC Atty. Rand	Fredric Joseph Ammerman
11/01/2006	Plaintiff First Set of Interrogatories to Defendants, filed by s/ Glenn A. Holder Sr., Pro Se. 1CC Plff	Fredric Joseph Ammerman
11/03/2006	Response Motion for Order to Compel Discovery, filed by Plaintiff. 1 Cert. to Plaintiff.	Fredric Joseph Ammerman
11/06/2006	Plaintiffs First Set of Interrogatories to Defendants, filed by s/ Glenn A. Holder Sr.-pllf. 1CC plff.	Fredric Joseph Ammerman
11/08/2006	Order, NOW, this 7th day of Nov., 2006, Ordered that the Request for Production of Documents and Response Motion for Order to Compel Discovery are Dismissed as to all previously removed Defendants. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Plff: EA 7173, SCI Houtzdale; 1CC Atty. Rand	Fredric Joseph Ammerman
11/15/2006	Reconsideration of Motion for Order to Compel Discovery, filed by Plaintiff 2 Cert. to Plaintiff.	Fredric Joseph Ammerman
11/20/2006	Answer to Plaintiff's Second Amended Petition for Review, filed by s/ Debra Sue Rand Esq. 1CC to Atty.	Fredric Joseph Ammerman
11/29/2006	Response to New Matter Submitted by Defendant, filed by Plaintiff 1 Cert. to Plaintiff.	Fredric Joseph Ammerman
12/04/2006	Remaining Defendant Swanson's Answer to Plaintiff's "Reconsideration of Motion For Order to Compel Discovery", filed by s/ Debra Sue Rand, Esquire. 1CC Atty. rand	Fredric Joseph Ammerman
12/11/2006	Amended Request for Production of Documents, filed by Plaintiff 1 cert. to Plaintiff	Fredric Joseph Ammerman
	Response to Defendants Answers to Plaintiff's Second Amended Petition for Review, filed by Plaintiff. 1 Cert. to Plaintiff.	Fredric Joseph Ammerman
	Response to Defendants Answers to Plaintiffs "Reconsideration of Motion for Order to Compel Discovery", filed by Plaintiff no cert. copies.	Fredric Joseph Ammerman

Civil Other

Date		Judge
12/13/2006	Response to Defendants Answers to Plaintiffs Reconsideration of Motion for Order to Compel Discovery, filed by s/Glenn A. Holder, Sr. No CC	Fredric Joseph Ammerman
12/18/2006	Motion to Deem Remaining Defendant's New Matter Admitted, filed by Atty. Rand 1 Cert. to Atty.	Fredric Joseph Ammerman
12/19/2006	Order, NOW, this 19th day of Dec., 2006, in consideration of the Defendant's Motion to Deem Remaining Defendant's New Matter Admitted, it is the Order of this Court that the Plaintiff serve a copy of his Reply filed on or about Nov. 29, 2006 on Defendant's Counsel, withing no more than 10 days from this date. Plaintiff is directed to strictly comply with the provisions of Rule of Civil Procedure 440 relative all future filings. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC Atty. Rand, 1CC Plff- EA 7173, SCI Houtzdale	Fredric Joseph Ammerman
12/26/2006	Motion to Strike Plaintiff's "Response to Defendants Answers to Second Amended Petition for Review," filed by s/Debra Sue Rand One CC Attorney Rand	Fredric Joseph Ammerman
01/03/2007	Order, NOW, this 28th day of December 2006, upon consideration of remaining Defendant Swanson's Motion to Strike Plaintiff's "Response to Defendants Answers to Second Amended Petition for Review," it is hereby ORDERED that the Motion is GRANTED and the Response is STRICKEN. BY THE COURT: /s/ Fredric J. Ammerman, P. Judge. 1CC Atty Rand.	Fredric Joseph Ammerman
01/04/2007	Response to Motion to Strike Plaintiff's Response to Defendants Answers to Second Amended Petition for Review, filed by s/ Mr. Glenn A. Holder Sr.-plff. 1cc plff.	Fredric Joseph Ammerman
	Response to Remaining Defendant Swansons Answers to Plaintiff's Amended Request for Production of Documents, filed by s/ Mr. Glenn A. Holder Sr.-plff. 1CC plff.	Fredric Joseph Ammerman
01/09/2007	Second Set of Interrogatories for Remaining Defendant Swanson. filed by G. Holder 1 Cert. to Holder.	Fredric Joseph Ammerman
02/08/2007	Motion For Summary Judgment, filed by s/Glenn A. Holder Sr., Pro-Se. 1CC Plff	Fredric Joseph Ammerman
02/12/2007	Order, NOW, this 12th day of Feb., 2007, the Defendant is directed to file an Answer to the Motion for Summary Judgment. Plaintiff and Defendant Ordered to provide a letter brief to the Court within no more than 30 days from this date. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. CC to Holder & Debra Sue Rand, Esquire.	Fredric Joseph Ammerman
02/21/2007	Reciept of Investigation Report, filed by Plaintiff 1 cert. to Plaintiff.	Fredric Joseph Ammerman
02/28/2007	Defendant Swanson's Cross Motion For Summary Judgment, filed by s/ Debra Sue Rand, Esquire. No CC	Fredric Joseph Ammerman
	Defendant Swanson's Answer to Plaintiff's Motion For Summary Judgment, filed by s/ Debra Sue Rand, Esquire. No CC	Fredric Joseph Ammerman
03/12/2007	Plaintiffs Response to Defendants Cross Motion for Summary Judgment, filed 1 Cert. to Plff.	Fredric Joseph Ammerman
	Affidavit of Plaintiff Glenn A. Holder, Sr., Filed 1 Cert. to Plaintiff.	Fredric Joseph Ammerman

Clearfield County Court of Common Pleas

ROA Report

Case: 2006-00894-CD

Current Judge: Fredric Joseph Ammerman

Civil Other

Date		Judge
03/27/2007	Opinion And Order. Opionion: NOW, this 27th day of March, 2007, after review of Defendant's Cross Motion for Summary Judgment, said Motion will be granted by This Court. (see original) Order: NOW, this 27th day of March, 2007, Ordered that Defendant's Cross Motion for Summary Judgment is Granted. The Plaintiff's Amended Complaint is Dismissed, With Prejudice. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC Plaintiff w/memo - EA 7173 SCI Houtzdale; 2CC Atty. Rand w/memo; 1CC Law Library (without memo); 1CC D. Mikesell (without memo)	Fredric Joseph Ammerman
03/29/2007	Order, NOW, this 27th day of March, 2007, after review of Plaintiff's Motion for Summary Judgment, said Motion is Denied. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Atty. Rand; 1CC Holder, EA 7173, SCI Houtzdale	Fredric Joseph Ammerman
04/13/2007	Continuation of In Forma Pauperis Status Pursuant to R.A.P. 551, filed by Plaintiff. 1 Cert. to Superior Court and 1 Cert. to Plaintiff	Fredric Joseph Ammerman
	Notice of Appeal, filed by Plaintiff Notice of Appeal to Superior Court. 1 Cert. to Superior Court and 1 Cert. to Plaintiff.	Fredric Joseph Ammerman
04/19/2007	Appeal Docket Sheet, 701 WDA 2007, filed. No CC	Fredric Joseph Ammerman
04/20/2007	Order, NOW, this 19th day of april, 2007, Ordered that Glen A. Holder, Sr., Appellant, file a concise statement of the matters complained of on Appeal no later than 14 days herefrom. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Plff - EA 7173, SCI houtzdale; 2CC Atty. Rand	Fredric Joseph Ammerman
04/30/2007	Statement of Matters Complained of on Appeal Pursuant to R.A.P. 1925 (b). Filed by s/ Glenn A. Holder Sr., Pro-Se. 1CC Plff	Fredric Joseph Ammerman

I hereby certify this to be a true and attested copy of the original statement filed in this case.

MAY 23 2007

Attest.

Prothonotary/
Clerk of Courts

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

GLENN A. HOLDER SR. :

V. : NO. 06-894-CD

: Super. Ct. No. 701 WDA 2007

MATTHEW SWANSON :

STATEMENT OF MATTERS COMPLAINED OF ON APPEAL PURSUANT TO R.A.P. 1925 (b).

NOW COMES, Glenn A. Holder Sr., Pro-se Plaintiff, Pursuant to the 19 April 2007 Order, with issues as follows:

1). Allowance of Defendants to violate Rules of Discovery, to include, Courts issued Order.

2). Allowance of irrelevant material.

3). Dismissal of co-conspitors in this matter.

4). Abuse of Courts descretion, in denial of Clear, convicting and admitted evidence.

DATE: 27 April 2007

SUBMITTED BY:

Glenn A. Holder Sr. Pro-se
EA-7173
P.O. Box 1000
Houtzdale, PA. 16698-1000

FILED 1cc
m/9:06 Atty
APR 30 2007
GK
William A. Shaw
Prothonotary/Clerk of Courts

#55

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

GLENN A. HOLDER SR. :

V. : 06-894-CD
: Supe.Ct. 701 WDA 2007

MATTHEW SWANSON :

PROOF OF SERVICE.

I hereby certify that on the day and date I have served upon the individuals listed below, the attached document, by placing such in the provided First-Class Mail box, In a manner which is satisfactory to the Rules of Appellant Procedures.

BY FIRST-CLASS, PRE-PAID MAIL.

CLERK OF COURT
COMMON PLEAS COURT
P.O. BOX 549
CLEARFIELD, PA 16830

ORIG. AND (1)
Return date stamped.

DEBRA SUE RAND
OFFICE OF GENERAL COUNSEL
55 UTLEY DRIVE
CAMP HILL, PA 17011

(1)copy

27 April 2007

SUBMITTED BY:

Glenn A. Holder Sr. Pro-se
EA-7173
P.O. Box 1000
Houtzdale, PA 16698-1000

CA

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

GLEN A. HOLDER, SR.,	*	
Appellant	*	
vs.	*	NO. 06-894-CD
MATTHEW SWANSON,	*	
Appellee	*	

ORDER

NOW, this 19th day of April, 2007, this Court having been notified of Appeal to the Superior Court of Pennsylvania in the above-captioned matter; it is the ORDER of this Court that Glen A. Holder, Sr., Appellant, file a concise statement of the matters complained of on said Appeal no later than fourteen (14) days herefrom, as set forth in Rule 1925(b) of the Rules of Appellate Procedure.

BY THE COURT,

FREDRIC J. AMMERMAN
President Judge

FILED 1CC Plff
0/9:20/07 EA 7173
APR 20 2007 SCI Houtzdale

William A. Shaw 2CC Atty Rand
Prothonotary/Clerk of Courts
EK

#54

DATE: 4/20/07

____ You are responsible for serving all appropriate parties.

__X__ The Prothonotary's office has provided service to the following parties:

__X__ Plaintiff(s) ____ Plaintiff(s) Attorney ____ Other

____ Defendant(s) __X__ Defendant(s) Attorney

____ Special Instructions:

FILED

APR 20 2007

William A. Shaw
Prothonotary/Clerk of Courts

ppeal Docket Sheet **Superior Court of Pennsylvania**

)ocket Number: 701 WDA 2007

pril 17, 2007

Glenn A. Holder, Sr., Appellant
v.
Matthew Swanson

01e-894-CD

nitiating Document: Notice of Appeal IFP

:ase Status: Active

:ase Processing Status: April 16, 2007 Awaiting Original Record

ournal Number:

:ase Category: Civil CaseType: Trespass

:onsolidated Docket Nos.: **Related Docket Nos.:**

SCHEDULED EVENT

Next Event Type: Receive Docketing Statement Next Event Due Date: May 1, 2007
Next Event Type: Original Record Received Next Event Due Date: May 23, 2007

COPY
FILED 1 NOCC
01:50 PM
APR 19 2007 GR
William A. Shaw
Prothonotary/Clerk of Courts

#53

Superior Court of Pennsylvania

COUNSEL INFORMATION

Appellant Holder, Glenn A. Sr.
Pro Se: ProSe Appoint Counsel Status:
IFP Status: Pending

Appellant Attorney Information:
Attorney: Holder, Glenn Anthony
Bar No.: Law Firm:
Address: EA-7173 SCI Houtzdale
PO Box 1000
Houtzdale, PA 16698-1000
Phone No.: Fax No.:
Receive Mail: Yes
E-Mail Address:
Receive E-Mail: No

Appellee Swanson, Matthew
Pro Se: Appoint Counsel Status:
IFP Status: No

Appellee Attorney Information:
Attorney: Rand, Debra S.
Bar No.: 41661 Law Firm: PA Department of Corrections
Address: 55 Utley Drive
Camp Hill, PA 17011
Phone No.: (717)731-0444 Fax No.:
Receive Mail: Yes
E-Mail Address:
Receive E-Mail: No

FEE INFORMATION

Fee Date	Fee Name	Fee Amt	Paid Amount	Receipt Number

TRIAL COURT/AGENCY INFORMATION

Court Below: Clearfield County Court of Common Pleas
County: Clearfield Division: Civil
Date of Order Appealed From: March 27, 2007 Judicial District: 46
Date Documents Received: April 16, 2007 Date Notice of Appeal Filed: April 13, 2007
Order Type: Order OTN:
Judge: Ammerman, Fredric J.
President Judge
Lower Court Docket No.: 06-894-CD

ORIGINAL RECORD CONTENTS

ppeal Docket Sheet

Superior Court of Pennsylvania

Docket Number: 701 WDA 2007

April 17, 2007

Original Record Item	Filed Date	Content/Description

Date of Remand of Record:

BRIEFS

DOCKET ENTRIES

Filed Date	Docket Entry/Document Name	Party Type	Filed By
April 16, 2007	Notice of Appeal IFP	Appellant	Holder, Glenn A. Sr.
Petition To Proceed IFP pending			
April 17, 2007	Docketing Statement Exited (Civil)		Western District Filing Office

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

GLENN A. HOLDER SR.
Plaintiff

V.

MATTHEW SWANSON
Defendant

CASE NO. 06-894-CD

President Judge:
Fredric Ammerman

FILED
APR 13 2007
William A. Shaw
Prothonotary/Clerk of Courts
1 cert to Sfe
+ Plaintiff

NOTICE OF APPEAL

Notice is hereby given, that Glenn A. Holder Sr., pro-se Plaintiff in the above matter Appeals to the Superior Court of Pennsylvania, from the Order Entered in this matter by President Judge Fredric J. Ammerman, on the 27th day of March 2007, Granting Cross Summary Judgement for the Defendant and Dismissing the Plaintiffs Amended Complaint with Prejudice.

This Order has not been entered in the docket as evidence on this date, by the attached copy of the docket entry.

Said Order is attached.

Signed: Glenn A. Holder Sr., Pro-se

DATE: 11 April 2007

#52

ORDER

NOW, this 27th day of March, 2007, it is the Order of This Court that the Defendant's Cross Motion for Summary Judgment be and is **HEREBY GRANTED.** The Plaintiff's Amended Complaint is **HEREBY DISMISSED, WITH PREJUDICE.**

BY THE COURT:

FREDRIC J. AMMERMAN
President Judge

I hereby certify this to be a true and attested copy of the original statement filed in this case.

MAR 27 2007

Attest. Prothonotary/ Clerk of Courts

Clearfield County Court of Common Pleas

ROA Report

Case: 2006-00894-CD

Current Judge: Fredric Joseph Ammerman

Civil Other

Date		Judge
6/2/2006	New Case Filed.	No Judge
	Contents of Original Record, Order from Commonwealth Court, Miscellaneous Docket Sheet # 286 MD 2006, Application for Leave to Proceed Informa Pauperis, Petition for Review, filed. no cert. copies.	No Judge
7/14/2006	Order, NOW, this 12th day of July, 2006, in consideration of Petitioner's Pro Se Complaint transferred from the Pa Commonwealth Court, Ordered: 1. Petitioner's Request to Proceed In Forma Pauperis is Granted. 2. The Prothonotary of Clfd. Co. shall accept and file Petitioner's Amended Petition for Review. 3C The Petitioner shall be solely responsible for service of process upon all parties in conformity with the PA. Rule of Civil Procedure. 4. Respondents shall have no more than 45 days from the date of this Order to file a responsive pleading or other appropriate legal document. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 5CC Plff.	Fredric Joseph Ammerman
	Amended Petition For Review, filed by s/Glenn A. Holder, Sr. 2CC Plff	No Judge
8/23/2006	Praecipe For Entry of Appearance, filed by Atty. Rand, 1 Cert. to Atty. Enter appearance of Debra Sue Rand on behalf of Defendants Matthew a. Swanson, Marshall J. Shirley, Jr., Robert Reed, Randall E. Britton, Kenneth R. Cameron, Frank Hartnett and George Patrick.	No Judge
	Defendants' Preliminary Objections, filed by Atty. Rand 1 Cert. to Atty.	No Judge
8/25/2006	Order, NOW, this 23rd day of August, 2006, upon consideration of Defendants' Preliminary Objections, ordered that the Preliminary objections are Sustained and the Amended Petition for Review is Dismissed as to all parties except Swanson and as to all counts except for monetary damages. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC Atty. Rand, 1CC Plff-SCI Houtzdale, EA 7173	Fredric Joseph Ammerman
8/29/2006	Motion for Extension of Time or Stay of Proceedings to Properly Comply with PA R.C.P> 1022, filed by Plaintiff 1 Cert. to Plaintiff.	Fredric Joseph Ammerman
	Motion for Appointment of Counsel, filed by Plaintiff. 1 Cert. to Plaintiff.	Fredric Joseph Ammerman
	Exhibits for the Plaintiffs Response to the Defendants Preliminary Objections, filed by Plaintiff. 1 Cert. to Plaintiff.	Fredric Joseph Ammerman
8/30/2006	Order, this 30th day of August, 2006, Motion for Appointment of Counsel is Dismissed. By The Court, /s/ Fredric J. ammerman, Pres. Judge. CC to Plaintiff & Atty. Rand	Fredric Joseph Ammerman
	Order, this 30th day of August, 2006, Plaintiff's Motion for Extension of Time or Stay of Proceedings is Dismissed. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. CC to Plaintiff & Atty. Rand	Fredric Joseph Ammerman
9/5/2006	Motion To Strike, filed by s/ Glenn A Holder, Sr. Pro-Se. 1CC Plff	Fredric Joseph Ammerman
9/6/2006	Order, NOW, this 5th day of Sept., 2006, ordered: This Court's Order of August 23, 2006 granting Preliminary Objections is rescinded (see original). By The Court, /s/Fredric J. Ammerman, President Judge. 1CC Plff@ SCI Houtzdale, 1CC Atty. Rand	Fredric Joseph Ammerman
9/11/2006	Remaining Defendant Swanson's Motion For Extension of Time to File an Answer to The Amended "Petition For Review", filed by s/ Debra Sue Rand, Esquire. 1CC Atty.	Fredric Joseph Ammerman
9/21/2006	Amended Complaint Pursuant to Rule of Civil Procedure 1028, filed by s/ Glenn A. Holder Sr. Pro-Se. 3CC Plff	Fredric Joseph Ammerman

Clearfield County Court of Common Pleas
ROA Report
Case: 2006-00894-CD
Current Judge: Fredric Joseph Ammerman

Civil Other

Date		Judge
9/29/2006	Request for Production of Documents, filed by s/ Glenn A. Holder Sr., Plff. 1CC plff.	Fredric Joseph Ammerman
10/2/2006	Defendants' Preliminary Objections and Notice to Plead, filed by s/ Debra Sue Rand, Esquire. 1CC Atty.	Fredric Joseph Ammerman
	Praecipe for Argument filed. By s/Debra Sue Rand, Esquire. 1CC Atty.	Fredric Joseph Ammerman
10/3/2006	Order, this 2nd day of Oct., 2006, Ordered that Preliminary Objections shall be decided without oral argument. by the Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Atty. Rand	Fredric Joseph Ammerman
10/9/2006	Plaintiff's Response to Defendants Preliminary Objections, filed by Plaintiff. 1 Cert. to Plaintiff.	Fredric Joseph Ammerman
10/23/2006	Praecipe For Entry of Appearance, filed. Please enter my appearance as counsel on behalf of Defendant, Glenn E. Irwin in the above-captioned matter, filed by s/ Debra Sue Rand Esq. No CC., and Copy to C/A.	Fredric Joseph Ammerman
10/31/2006	Order, NOW, this 30th day of Oct., 2006, Preliminary Objections are Sustained and the Second Amended Petition for Review is Dismissed as to all parties except Swanson and as to all counts except for monetary damages. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Plff.- EA 7173, SCI Houtzdale, 1CC Atty. Rand	Fredric Joseph Ammerman
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11/3/2006	Response, Motion for Order to Compel Discovery, filed by Plaintiff. 1 Cert. to Plaintiff.	Fredric Joseph Ammerman
11/6/2006	Plaintiffs First Set of Interrogatories to Defendants, filed by s/ Glenn A. Holder Sr.-pllf. 1CC plff.	Fredric Joseph Ammerman
11/8/2006	Order, NOW, this 7th day of Nov., 2006, Ordered that the Request for Production of Documents and Response Motion for Order to Compel Discovery are Dismissed as to all previously removed Defendants. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Plff: EA 7173, SCI Houtzdale; 1CC Atty. Rand	Fredric Joseph Ammerman
11/15/2006	Reconsideration of Motion for Order to Compel Discovery, filed by Plaintiff 2 Cert. to Plaintiff.	Fredric Joseph Ammerman
11/20/2006	Answer to Plaintiff's Second Amended Petition for Review, filed by s/ Debra Sue Rand Esq. 1CC to Atty.	Fredric Joseph Ammerman
11/29/2006	Response to New Matter Submitted by Defendant, filed by Plaintiff 1 Cert. to Plaintiff.	Fredric Joseph Ammerman
12/4/2006	Remaining Defendant Swanson's Answer to Plaintiff's "Reconsideration of Motion For Order to Compel Discovery", filed by s/ Debra Sue Rand, Esquire. 1CC Atty. rand	Fredric Joseph Ammerman
12/11/2006	Amended Request for Production of Documents, filed by Plaintiff 1 cert to plaintiff	Fredric Joseph Ammerman
	Response to Defendants Answers to Plaintiff's Second Amended Petition for Review, filed by Plaintiff. 1 Cert. to Plaintiff.	Fredric Joseph Ammerman
	Response to Defendants Answers t oPlaintiffs "Reconsideration of Motion for Order to Compel Discovery, filed by Plaintiff no cert. copies.	Fredric Joseph Ammerman
12/13/2006	Response to Defendants Answers to Plaintiffs Reconsideration of Motion for Order to Compel Discovery, filed by s/Glenn A. Holder, Sr. No CC	Fredric Joseph Ammerman

Clearfield County Court of Common Pleas
ROA Report
Case: 2006-00894-CD
Current Judge: Fredric Joseph Ammerman

Civil Other

Date		Judge
12/18/2006	Motion to Deem Remaining Defendant's New Matter Admitted, filed by Atty. Rand 1 Cert. to Atty.	Fredric Joseph Ammerman
12/19/2006	Order, NOW, this 19th day of Dec., 2006, in consideration of the Defendant's Motion to Deem Remaining Defendant's New Matter Admitted, it is the Order of this Court that the Plaintiff serve a copy of his Reply filed on or about Nov. 29, 2006 on Defendant's Counsel, withing no more than 10 days from this date. Plaintiff is directed to strictly comply with the provisions of Rule of Civil Procedure 440 relative all future filings. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC Atty. Rand, 1CC Plff- EA 7173, SCI Houtzdale	Fredric Joseph Ammerman
12/26/2006	Motion to Strike Plaintiff's "Response to Defendants Answers to Second Amended Petition for Review," filed by s/Debra Sue Rand One CC Attorney Rand	Fredric Joseph Ammerman
1/3/2007	Order NOW, this 28th day of December 2006, upon consideration of remaining Defendant Swanson's Motion to Strike Plaintiff's "Response to Defendants Answers to Second Amended Petition for Review," it is hereby ORDERED that the Motion is GRANTED and the Response is STRICKEN. BY THE COURT: /s/ Fredric J. Ammerman, P. Judge. 1CC Atty Rand.	Fredric Joseph Ammerman
1/4/2007	Response to Motion to Strike Plaintiff's Response to Defendants Answers to Second Amended Petition for Review, filed by s/ Mr. Glenn A. Holder Sr.-plff. 1cc plff.	Fredric Joseph Ammerman
	Response to Remaining Defendant Swansons Answers to Plaintiff's Amended Request for Production of Documents, filed by s/ Mr. Glenn A. Holder Sr.-plff. 1CC plff.	Fredric Joseph Ammerman
1/9/2007	Second Set of Interrogatories for Remaining Defendant Swason. filed by G. Holder 1 Cert. to Holder.	Fredric Joseph Ammerman
2/8/2007	Motion For Summary Judgment, filed by s/Glenn A. Holder Sr., Pro-Se. 1CC Plff	Fredric Joseph Ammerman
2/12/2007	Order, NOW, this 12th day of Feb., 2007, the Defendant is directed to file an Answer to the Motion for Summary Judgment. Plaintiff and Defendant Ordered to provide a letter-brief to the Court within no more than 30 days from this date. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. CC to Holder & Debra Sue Rand, Esquire.	Fredric Joseph Ammerman
2/21/2007	Reciept of Investigation Report, filed by Plaintiff 1 cert. to Plaintiff.	Fredric Joseph Ammerman
2/28/2007	Defendant Swanson's Cross Motion For Summary Judgment, filed by s/ Debra Sue Rand, Esquire. No CC	Fredric Joseph Ammerman
	Defendant Swanson's Answer to Plaintiff's Motion For Summary Judgment, filed by s/ Debra Sue Rand, Esquire. No CC	Fredric Joseph Ammerman
3/12/2007	Plaintiffs Response to Defendants Cross Motion for Summary Judgment, filed 1 Cert. to Plff.	Fredric Joseph Ammerman
	Affidavit of Plaintiff Glenn A. Holder, Sr., Filed 1 Cert. to Plaintiff.	Fredric Joseph Ammerman

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

GLENN A. HOLDER SR. Plaintiff	:	
	:	CASE NO. 06-894-CD
V.	:	President Judge: Fredric J. Ammerman
MATTHEW SWANSON Defendant	:	

PROOF OF SERVICE

I hereby certify that I have served the attached document, on this day, to the individuals listed below, in a manner which satisfies the Rules of Appellate Procedures of Pennsylvania.

BY PRE-PAID, FIRST-CLASS MAIL.

CLERK OF COURT
WILLIAM A. SHAW
P.O. BOX 549
CLEARFIELD, PA 16830
Common Pleas Court.

Orig. and 2 Copies,
Return one date stamped.

OFFICE OF CHIEF COUNSEL
DEPARTMENT OF CORRECTIONS
55 UTLEY DRIVE
CAMP HILL, PA 17011
ATTORNEY FOR DEFENDANT
Debra Sue Rand

1COPY

DATE: 11 April 2007

SUBMITTED BY:
Glenn A. Holder Sr. Pro-se
EA-7173
P.O. Box 1000
Houtzdale, PA 16698-1000

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

GLENN A. HOLDER SR.
Plaintiff

V.

MATTHEW SWANSON
Defendant

CASE NO. 06-894-CD

President Judge:
Fredric J. Ammerman

FILED
APR 13 2007
m/10:30/cc
William A. Shaw
Prothonotary/Clerk of Courts
1 cert Sic.
to Plaintiff

CONTINUATION OF INFORMA PAUPERIS STATUS PURSUANT TO R.A.P. 551.

NOW COMES, Glenn A. Holder Sr. Pro-se, Plaintiff, in the above matter, in this said motion, and avers the following:

1). Petitioner was Granted Forma Pauperis 12 July 2006, by Common Please Court of Clearfield County.

2). There has been no substancial change in the Petitioners financial status or condition since this date.

3). Petitioner is unable to pay fees and cost on appeal.

Wherefore, for the above reasons, Plaintiff/Petitioner prays this Honorable Court will GRANT the Continuance of Forma Pauperis status on appeal.

DATE: 11 April 2007

Signed: Glenn A. Holder Sr. Pro-se
EA-7173
P.O. Box 1000
Houtzdale, PA 16698-1000

#551

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

GLENN A. HOLDER SR. Plaintiff	:	
	:	CASE NO. 06-894-CD
V.	:	President Judge: Fredric J. Ammerman
MATTHEW SWANSON Defendant	:	

PROOF OF SERVICE

I hereby certify that I have served the attached document, on this day, to the individuals listed below, in a manner which satisfies the Rules of Appellate Procedures of Pennsylvania.

BY PRE-PAID, FIRST-CLASS MAIL.

CLERK OF COURT
WILLIAM A. SHAW
P.O. BOX 549
CLEARFIELD, PA 16830
Common Pleas Court.

Orig. and 2 Copies,
Return one date stamped.

OFFICE OF CHIEF COUNSEL
DEPARTMENT OF CORRECTIONS
55 UTLEY DRIVE
CAMP HILL, PA 17011
ATTORNEY FOR DEFENDANT
Debra Sue Rand

1COPY

DATE: 11 April 2007

SUBMITTED BY:
Glenn A. Holder Sr. Pro-se
EA-7173
P.O. Box 1000
Houtzdale, PA 16698-1000

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

GLENN A. HOLDER SR. Plaintiff,	:	No. 06-894-CD
v.	:	
MATTHEW SWANSON Defendant	:	

ORDER

NOW, this 27th day of March, 2007, after review of Plaintiff's Motion for Summary Judgment, said Motion is **HEREBY DENIED.**

The Court finds that the Plaintiff, who would bear the burden of proof at trial, has failed to produce evidence of facts essential to the cause of action which in a jury trial would require the issues to be submitted to a jury. Pa.R.C.P. No. 1035.2.

BY THE COURT:

FREDRIC J. AMMERMAN
President Judge

FILED 1cc Atty Rand
MAR 29 2007 1cc Holder
EA7173
William A. Shaw SCI Houtzdale
Prothonotary/Clerk of Courts

FILED

MAR 29 2007

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 3/29/07

___ You are responsible for serving all appropriate parties.

__X__ The Prothonotary's office has provided service to the following parties:

___ Plaintiff(s) __X__ Plaintiff(s) Attorney ___ Other

__X__ Defendant(s) ___ Defendant(s) Attorney

Special Instructions:

affidavits

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

GLENN A. HOLDER SR. Plaintiff,	:	No. 06-894-CD
v.	:	
MATTHEW SWANSON Defendant	:	

FILED
01:33 pm
MAR 27 2007

William A. Shaw
Prothonotary/Clerk of Courts
Copies - See reverse

OPINION

NOW, this 27th day of March, 2007, after review of Defendant's Cross Motion for Summary Judgment, said Motion will be granted by This Court.

Defendant asserts that judgment should be entered in his favor because Plaintiff has not established a prima facie case of discrimination and/or denial of equal protection. The Plaintiff complains of civil rights violations that are brought under 42 U.S.C. § 1983. This statute provides:

> Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State ... subjects or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

To establish a prima facie case under the statute Defendant must show: "1) that the conduct complained of was committed by a person acting under color of state law, and 2) that the conduct deprived the party of rights, privileges or immunities secured by the Constitution or laws of the United States." Oatess v. Norris, 637 A2d. 627, 629 (1994) citing Parrat v. Taylor, 451 U.S. 527, 535, 101 S.Ct. 1908, 1913, 68 L.Ed.2d 420 (1981). Plaintiff points to conduct of the Defendant in issuing a misconduct for infractions that occurred during a visit with his wife

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and child. Plaintiff's minor child was standing and dancing on a desk and Plaintiff was warned that she was not allowed to be on the desk. Additionally, due to the nature of the Plaintiff's crimes, Defendant reasonably believed that the minor child's dancing was sexually provocative to Plaintiff. Plaintiff was issued a misconduct after his daughter continued to stand on the desk for the following charges: (1) refusing to obey an order; (2) engaging in sexual acts with others; and (3) violation of visiting room regulations. Plaintiff alleges that the misconduct was issued based on his race, the fact that his wife is of a different race, and that the Defendant disapproves or inter-racial marriages.

Plaintiff fails to state anything beyond bare allegations and speculations in his voluminous complaint. He does not allege actions that rise to the level of an equal rights violation. Plaintiff states at various points throughout his complaint that Defendant discriminates on basis of race and has "evil motives", however, he fails to cite any examples of racially derogatory comments or times where Defendant has treated similarly situated people differently based on race. In an attempt to show discrimination, Plaintiff relies on an answer Defendant provided to Plaintiff's interrogatories (question number 13). Additionally, Plaintiff points to four other inmates and their treatment during and subsequent to visits. Two inmates have provided affidavits that grow increasingly specific with every Motion the Defendant files. However, even with all of the newly added material, the affidavits fail to establish facts that show discrimination and/or a denial of equal rights.

Defendant first alleges two inmates had visits terminated for identical infractions. He has a statement from an inmate (Dedmon) stating he had a visit terminated for infractions similar to the Plaintiff's infractions. Dedmon's misconduct did not come from the Defendant and therefore, it is irrelevant to Defendant's conduct toward Plaintiff or Defendant's ability to

terminate visits. The Plaintiff provides no other information with regard to the second inmate except to say he had a visit terminated and was punished for his infractions. Both of these examples show nothing about Defendant's conduct, but do show that when inmates violate rules during visitation they are punished appropriately.

Plaintiff also has two affidavits from witnesses that state they saw children standing on desks in the non-contact visitation room on April 8, 2006 and that the Defendant was the Corrections Officer on duty at that time. The affidavits originally did not state the race of the children and parents. However, following Defendant's Cross Motion for Summary Judgment both affidavits have been amended to reflect the race of the individuals involved as white. Still, these affidavits do not show that the Defendant was aware of the children's actions, only that he was on duty when the actions allegedly occurred. Additionally, the affidavits do not indicate if the inmates had been warned about the behavior of their visitors previously or if they had ever been blockcarded for infractions in the non-contact visiting room. Finally, the affidavits do not state that the Defendant did not tell the inmates to control the behavior of the children, only that the witnesses did not see nor hear the Defendant warn the inmates. Both witnesses admit that they were in a different area participating in visits with their own family, therefore their ability to know fully what was transpiring was limited to what they may have overheard while primarily focused on their families. Plaintiff himself indicates that it is hard to hear visitors in the non-contact visitation room especially if they are not in a direct line of sight. Further, his pleadings indicate that it can be difficult to see small children in the visitation area because of desks and other obstacles.

Finally, Plaintiff's reliance on Defendant's answer to question number 13 of Defendant Swanson's Answers to Plaintiff's Interrogatories is erroneous. Plaintiff takes liberties with

Defendant's response taking it gravely out of context. Defendant did not admit that the misconduct was not true and factual, rather he answered that he was not able to give a misconduct to any civilian. The question was poorly phrased, therefore the answer needed to give additional information to satisfy the inquiry, which it does completely.

The only conduct the Plaintiff successfully shows in his pleadings is that he was given a misconduct by the defendant and other inmates have been given misconducts for similar offenses by other Corrections Officers. The issuing of misconducts is completely within the job duties of the Defendant and the Plaintiff has failed to show any discriminatory action or intent. Therefore, there is no evidence of discrimination nor is there a denial of equal protection to Plaintiff.

The crux of the Plaintiff's complaint is that he wishes to have contact visits with his minor child. However, he has been denied these visits due to the State's legitimate interest in protecting its minor children. Plaintiff is serving a sentence for rape, corruption of minors, endangering the welfare of children, and indecent assault without consent. In *Garber v. Pennsylvania Department of Corrections Secretary*, the Court held that an inmate "does not have a constitutional right to *contact* visitation with his minor children. Further, even if such a constitutional right exists, it can be restricted because the Department's interest for institutional order, security and overall safety of minor visitors and others outweighs Garber's interest in contact visitation with minors." *Garber v. Pennsylvania Department of Corrections Secretary*, 851 A.2d 222, 225 (2004) citing *Turner v. Safley,* 482 U.S. 78, 107 S.Ct. 2254, 96 L.Ed.2d 64 (1987).

Therefore, because the Plaintiff cannot show that he is being deprived of a right, privilege or immunity secured by the Constitution or laws of the United States he has no redress available to him under 42 U.S.C. § 1983.

Motions for summary judgment are granted when there are no questions of material fact. Motions for summary judgment are governed by Pa.R.C.P. 1035.2 which provides:

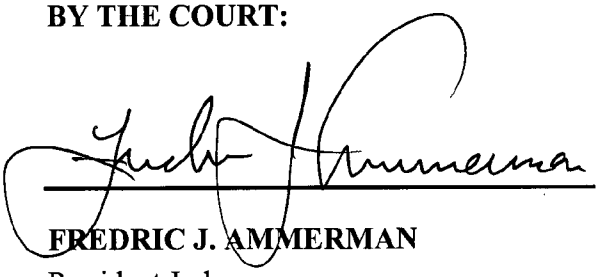
> After the relevant pleadings are closed, but within such time as not to unreasonably delay trial, any party may move for summary judgment in whole or in part as a matter of law.... if, after the completion of discovery relevant to the motion, including the production of expert reports, an adverse party who will bear the burden of proof at trial has failed to produce evidence of facts essential to the cause of action or defense which in a jury trial would require the issues to be submitted to a jury.

Further, summary judgment may be granted only "where the right is clear and free from doubt. The moving party has the burden of proving that there is no genuine issue of material fact. The record and any inferences therefrom must be viewed in the light most favorable to the nonmoving party, and any doubt must be resolved against the moving party." *Domineck v. Mercy Hosp. of Pittsburgh*, 673 A.2d 959, 961 (1996). In the present case it is undisputed that the Plaintiff was issued a misconduct for behavior arising from a visit with his wife and child. However, in his pleadings Plaintiff has failed to allege facts that show either discrimination and/or denial of equal protection. Plaintiff has also not established that there is a constitutional right to contact visitation with his daughter. Even viewing the pleadings in a light most favorable to Plaintiff, it is clear that he has not established a prima facie case of a civil rights violation, and therefore Defendant's Cross Motion for Summary Judgment must be granted.

ORDER

NOW, this 27th day of March, 2007, it is the Order of This Court that the Defendant's Cross Motion for Summary Judgment be and is **HEREBY GRANTED.** The Plaintiff's Amended Complaint is **HEREBY DISMISSED, WITH PREJUDICE.**

BY THE COURT:



FREDRIC J. AMMERMAN
President Judge

FILED

MAR 27 2007

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 3/27/07

____ You are responsible for serving all appropriate parties.

__X__ The Prothonotary's office has provided service to the following parties:

__X__ Plaintiff(s) ____ Plaintiff(s) Attorney ____ Other

____ Defendant(s) __X__ Defendant(s) Attorney

____ Special Instructions:

2CC Plaintiff w/memo
EA 7173
SCI Houtzdale

2CC Attorney Rand w/memo

1CC Law Library (without memo)
1CC S. Mikesell (without memo)

IN THE Court of Common Pleas of Clearfield
Civil Division

GLENN A. HOLDER SR.
PLAINTIFF

V.

MATTHEW SWANSON

ACTION No: 06-894-CD

FILED
MAR 12 2007
William A. Shaw
Prothonotary/Clerk of Courts
1 cent to Plff

AFFIDAVIT of PLAINTIFF GLENN A. HOLDER SR.

I GLENN A. HOLDER SR. PRO-SE, PLAINTIFF do hereby STATE THAT:

1). I AM THE PLAINTIFF IN the above ACTION.

2). I WAS given A MISCONDUCT ON 12 MARCH 2006 FOR Charges of, ENGAGING IN SEXUAL ACTS WITH MY MINOR Child, REFUSING ORDERS AND VIOLATING VISITING ROOM RULES AND REGULATIONS.

3). I AM NOT Guilty of ANY of SAID CHARGES.

4). I WAS MADE guilty BASED ON the words of CORRECTION OFFICER MATTHEW SWANSON.

5). I WAS UNJUSTIFIABLY AND FRAUDENTLY PLACED IN THE RESTICTED HOUSING UNIT FOR DISCIPLINARY CUSTODY FOR (60) DAYS SERVING (23) OF THOSE days, DUE to THE WORDS of MATTHEW

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(6). THE ACTION BROUGHT FORTH IS DUE TO THE FALSE ALLEGATION, RACIAL DISCRIMINATION WHICH ARE VIOLATIONS OF MY FAMILY AND MY CIVIL RIGHTS AND EQUAL PROTECTION/TREATMENT OF THE U.S. CONSTITUTION, AND FOR THE FALSE ALLEGATIONS AGAINST MY MINOR CHILD AND DEFAMATION OF MY WIFE CHARACTER.

THESE ARE MY TRUE AND CORRECT STATEMENTS TO THE BEST OF MY BELIEF AND KNOWLEDGE AND PURSUANT TO 18 PA. C.S.A. § 4904.

DATE: 9 March 2007

SUBMITTED BY:
PRO-SE PLAINTIFF
GLENN A. HOLDER SR

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

GLENN A. HOLDER SR.

V.

MATTHEW SWANSON

NO. 06-894-CD

President Judge;
Fredric J. Ammerman

PROOF OF SERVICE

I hereby certify that on this day and date, I have served upon the individuals listed below the attached document, by placing such in the first-class mail box provided by this institution, which satisfies the Pa. Rules of Civil Procedures.

BY PRE-PAID FIRST -CLASS MAIL.

CLERK OF COURTS
COMMON PLEASE COURT OF CLEARFIELD
230 EAST MARKET STREET
CLEARFIELD, PA 16830

Orig. and (1) copy to be returned date stamped.

DEBRA SUE RAND ESQ.
OFFICE OF CHIEF COUNSEL
DEPARTMENT OF CORRECTIONS
55 UTLEY DRIVE
CAMP HILL, PA 17011

(1) Copy

DATE: 9 March 2007

SUBMITTED BY:
Mr. Glenn A. Holder Sr. Pro-se
EA-7173
P.O. Box 1000
Houtzdale, PA 16698-1000

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

FILED
MAR 12 2007
m/12:30/cc
William A. Shaw
Prothonotary/Clerk of Courts
1 cert to
Plff

GLENN A. HOLDER SR.
Plaintiff

V.

MATTHEW SWANSON
Defendant

NO. 06-894-CD

President Judge:
Fredric J. Ammerman

PLAINTIFFS RESPONSE TO DEFENDANTS CROSS MOTION FOR SUMMARY JUDGEMENT.

NOW COMES, Glenn A. Holder Sr., Pro-se, Plaintiff, in the above matter and submitts the following Answers to the Defendants Cross Motion for Summary Judgement:

1). Admitted

2).DENIED. The Plaintiff filed civil action against Officer Swanson for violation of Civil and Constitutional Rights and the Filing of False Chrages/Allegations Against the Plaintiff, his wife and their minor child, and against other staff members for acting in concert with him.

3). Admitted.

4). Admitted.

5). DENIED. Plaintiff states in his second amended petition for review that Defendant Swanson issued a misconduct alleging that the Plaintiff was engaging in sexual acts with his minor child;Refused Orders and Violated visiting room rules and regulation, Knowing the misconduct report was being fabracated as he wrote it. (AMENDED PETITION FOR REVIEW, PG. 3, Itm. 12 & 13).

6). Admitted.

7). Admitted in part. The misconduct was appealed, However the misconduct was not vacated by Superintendent Patrick. After Mr. Patrick recieved the 21 April 2006 letter of Intent from the Plain--tiff's wife, Mr. Patrick made a request to Sec. of Corrections Mr. Jeffery A. Beard, to have the Chief Hearing Examiner re-open the appeal, and it was the decision collectively with the Chief Hearing Examiner to Vacate the matter. Mr. Beard concurred and dismissed the matter advising Mr. Patrick to have his staff expunge the misconduct

#47

from institutional files and records. Therefore it is denied that the misconduct was vacated by Order of Jeffery A. Beard Ph. D. Secretary of Pa. Department of Corrections.

8). Admitted.

9). Admitted.

10). DENIED. Plaintiff presented to the Defendant and the Court Affidavits from inmates whom have nothing to gain in this matter, which Under the Penalty of 18 PA. C.S. §4904, have stated that the defendant on 8 April 2006, allowed two minor children, (girls) Dancing on the table in the non-contact booth, sometimes facing away from the inmate, jumping, siting and standing on the table. In an addendum by Lauro, he, (he) states the defendant (Swanson) while doing his rounds, "at no time while walking through the visiting room doing any of his visual inspections of inmates and their visitors, did officer Swanson stop to issue a warning to the visitors in the non-contact visiting room, in spite of the two small girls jumping and dancing on the tables. And continues saying that the action revealed only one thing, that (he) the Defendant was intent on giving special treatment to the inmate and his visitors. on that day. SEE EX. G, G1 OF M.S.J.

The only diffrence between the plaintiff and the inmate having the visit on 8 April 2006 is race, with the inmate being the same race as the defendant. AT THIS TIME THE PLAINTIFF HAS AQUIRED FROM LAURO AND FRITZ THE RACE OF THE INMATE, SEE AFFIDAVITS.

To state a claim for denial of Equal protection or Discriminatory treatment, I must allege that 1) I have not been treated the same as similary situated persons and 2). The disparate treatment is based on an impermissible factor. CORRELL V. DEPT. OF TRANS, BUREAU OF DRIVERS LICENSING, 726 A.2d 427, 431 (Pa. Comwlth. 1999) Affirmed per curiam, 564 PA. 470, 769 A.2d 442 (2001). Also the Doctrine of Equal Protection demands that each state entity treat similarly situated persons the same. It is DENIED that the plaintiff has not presented a prima facie case of discrimination and of Equal Protection/ Treatment Clause of the Constitution.

11). DENIED. The vacation of the misconduct establishes that the misconduct was false, fradulent and without merit for the following reasons, 1) No evidence was presented to establish that

the misconduct was credible. Further of the Defendants own admission the misconduct was not true and factual, even more so that there were no rules posted or in existance for whict the Plaintiff and his minor child violated. SEE REF. INTERROGATORIES.

12). Admitted, there is no record of evidence submitted prior to this, only the ascertions by the Plaintiff. This information is available to the Defendant, where it is not to the Plaintiff, However the Plaintiff has recieved a statement from inmate Dedmond in which does establish that he recieved the same charges as the Plaintiff, His visit was terminated by the officer issuing the misconduct, he was placed in the Restricted Housing Unit for (60) days and had his visiting privileges suspended for (60) days. Information of Hernandez just as Dedmon is in the files at S.C.I. Houtzdale and available to the Defendant, therefore and since the Defendant has consistantly refused to produce requested documentation, the Plaintiff has attached the aquired statements, which establishes the facts.

13). DENIED. The affidavits from Inmate Lauro and Fritz establish that the defendant was on duty in the visiting room, 8 April 2006, visually making rounds, observing the main visiting room and the non-contact booth, allowing (2) minor children to stand jump and dance around on the desk in the non-contact booth, without giving a warn--ing or asking the inmate to have his visitor take their seat. The Defendant gave the Plaintiff whom is of a diffrent race, a miscon--duct for his child sitting upon the same table.

14). Admitted, the affidavits by Lauro and Fritz do not contain the name and race of the inmate in question on 8 April '06. To clarify the name and race of this inmate,... The Defendant can easily obtain this information, due to the Defendant being an employee of the Department of Corrections, the Plaintiff can not, because he is incarcerated in the Department of Correction, and this information will not be released to the plaintiff. However, the Plaintiff has obtained affidavits giving the race of the inmate in question. SEE ATTACHED AFFIDAVITS. (Mr. Lauro and Mr. Fritz are both caucasion).

15). Admitted, This information is not obtainable to the Plaintiff, a fact the the Defendant is aware of. Plaintiff has had a continued problem getting requested documents from the Defendant, to this date.

to this date has not recieve request admissible and permissible requested documents.

16). DENIED. The Defendant admits that he was on duty on 8 April 2006, making rounds observing the main visiting room and non-contact booth. The minor child was on the table from 13:00 hr to 14:50 Hr. The Defendant was on duty doing his job, as he has stated and the Defendant seen the children on the table, but has chosen to at this point have a laps of memory. Proof is demanded he didnt see the children on the table.

17). DENIED. The question was asked by the Plaintiff,"Was the Misconduct written in your hand, charging the plaintiff, his wife and their minor child of Engaging in Sexual Acts with others, Refusing to Obey Orders and violating vising room rules and regulations a True and factual misconduct." And the Defendant answered, NO. which preceeded with a peroid. Then went on stating that he could not write a misconduct on a civilian only on an inmate. The Defendants answer is his admission.."NO THE MISCONDUCT WAS NOT A TRUE AND FACTUAL MISCONDUCT." It also establishes that the Plaintiff is a victim of discrimination, for not only was the misconduct, per, the Defendants own admission, Not a True and Factual misconduct, But the misconduct was written against the Plaintiff, and his minor child for violation of rules and regulations which did not exist, but a cacuasion inmate and his children could freely act upon. Thus forcing a rule not in the Department of Corrections Visiting Policy upon an African american inmate and his family, while allowing caucasion inmate and his visitors to be free from the same actions.

18). DENIED. The affidavit of the Plaintiff's wife does not speak on disparate treatment based on race, However it does speak of disparate treatment by the Defendant which is discrimination.

19). DENIED. The 21 April 2006 letter from the Plaintiffs wife speaks of Racial Discrimination and discrimination, to include being harassed by the Defendant, and indicates disparate treatment she is personally aware of, to include affidavits presented to her.

20). DENIED. The Plaintiff has never said that Rules posted in the non-contact booth were posted by Swanson, nor by Swansons request. The Plaintiff stated that after civil actions were filed against the facility and Swanson, Rules were posted in the non-

contact booth, which are retialitory in nature. These rules are signed and dated by Major Kessling, on 6-13-06. There is no posted documentation that these rules came from the Department of Correctiion, Further, SEE ATTACHED REQUEST FORM TO MAJOR CLOSE, where, Major Close has no idea what rules the Plaintiff is referring to. (NO CLUE). This is denied also.

Wherefore the above answers to the Defendants Cross Summary Judgement, the Plaintiff Request that the Defendants Cross Motion For Summary Judgement be DISMISSED.

Date: 9 March 2007

SUBMITTED BY:

Mr. Glenn A. Holder Sr. Pro-se

04/00/06

ON SAT 04/08/06 I HAD A VISIT FROM MY WIFE + GRAND DAUGHTER Jessie FRITZ + JEANNINE MARTIN. AT ONE POINT IN TIME I TOOK NOTICE THAT A LITTLE GIRL WAS STANDING ON A TABLE OR DESK TALKING TO SOME ONE IN THE NON CONTACT VISITING ROOM

THIS I BELIEVE WAS PROBLY BETWEEN 1300 HRS AND 1400 HRS.

THIS IS MY NAME

FRITZ WILSON FY5228
BLOCK CA CELL 18

Wilson Fritz

THE LITTLE GIRL WAS WHITE
SWANSON WAS ON DUTY

Wilson Fritz

SUPPLEMENTAL AFFIDAVIT

This Affidavit is a Supplement to one prepared on April 8, 2006, by Carmine Lauro, Sr., regarding his observation of visiting room practices conducted by then C.O. Swanson who was in charge of the visiting room as mentioned in Mr. Lauro's original affidavit.

The supplemental information is as follows:
The children in the non-contact visiting booth were white. The adult visitors accompanying them were also white. The inmate being visited was a white male.

At no time were the adult visitors warned by Officer Swanson to keep the children off the table, as previously stated in the original affidavit.

The above information is true and correct to the best of my knowledge and I make these statements pursuant to 18 Pa. C.S. 4904, relating to unsworn statements and subject to the penalties prescribed under that Statute. This Affidavit has been prepared by Carmine Lauro, Sr. on the date below.

Date: March 4, 2007

Carmine Lauro, Sr.
Carmine Lauro, Sr.

TO WHOM IT MAY CONCERN:

On May 15th 2005, I Mark Dedmon, DW-4087, had a visit at the S.C.I @ Houtzdale. (30) minutes into my visit with my then girlfriend, my visit was terminated. I was sent back to my housing unit and my visitor was asked to leave. Later on that evening, I recieved a misconduct (DC-141).

I was charged with the following: #35 Refusing to obey an order; #19 Engaging in sexual acts with others or sodomy, and #37 Violation of visiting regulations. I had a misconduct hearing with in the institution. I was found guilty and sentenced to serve (60) days in the RHU (Restricted Housing Unit) and my visiting privileges were suspended for (60) days.

Officer Sinclair, now Sargent Sinclair, terminated my visit and issued the DC-141 misconduct.

Then again on February 26th, 2006, I recieved another (DC-141) misconduct with the same charges as May 15th, 2005, and I recieved the same sanction, But this time my visit was not terminated. This misconduct was issued by officer Gillian.

I STAND TO GAIN NOTHING FOR MY STATEMENT NOR AM I BEING OFFERED OR GIVEN ANYTHING FOR MY STATEMENT.

THIS STATEMENT IS TRUE AND CORRECT TO THE VERY BEST OF MY ABILITY, RECOLLECTION. AND KNOWLEDGE, AND PURSUANT TO **18 PA. C.S. §4904.**

DATE: 2 March 2007

Submitted By:
Mark Dedman

Form DC-135A

INMATE'S REQUEST TO STAFF MEMBER

cc;

Commonwealth of Pennsylvania
Department of Corrections

INSTRUCTIONS
Complete items number 1-8. If you follow instructions in preparing your request, it can be responded to more promptly and intelligently.

1. To: (Name and Title of Officer)
MAJOR KESSLING

2. Date:
30 July 2006

3. By: (Print Inmate Name and Number)
HOLDER EA-7173

Inmate Signature

4. Counselor's Name
Ms. Urbanick

5. Unit Manager's Name
Mr. Everhart

6. Work Assignment
NITE BAKERY

7. Housing Assignment
CA-46

8. Subject: State your request completely but briefly. Give details.

Major Kessling:

I have noticed that you have posted some rules dated effective 6-13-06. To this date there can be found no copy of these rules in the library or Law Library.

I am requesting a copy of these rules.

Thank you for your assistance.

9. Response: (This Section for Staff Response Only)

Mr. Holder, I have NO clue what RULES you ARE speaking of, you will have to be more specific

To DC-14 CAR only ☐ | To DC-14 CAR and DC-15 IRS ☐

Staff Member Name KESSLING Kessling Date 8/7/06
Print Sign

Revised July 2000

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

GLENN A. HOLDER SR.

V.

MATTHEW SWANSON

NO. 06-894-CD

President Judge;
Fredric J. Ammerman

PROOF OF SERVICE

I hereby certify that on this day and date, I have served upon the individuals listed below the attached document, by placing such in the first-class mail box provided by this institution, which satisfies the Pa. Rules of Civil Procedures.

BY PRE-PAID FIRST -CLASS MAIL.

CLERK OF COURTS
COMMON PLEASE COURT OF CLEARFIELD
230 EAST MARKET STREET
CLEARFIELD, PA 16830

Orig. and (1) copy to be returned date stamped.

DEBRA SUE RAND ESQ.
OFFICE OF CHIEF COUNSEL
DEPARTMENT OF CORRECTIONS
55 UTLEY DRIVE
CAMP HILL, PA 17011

(1) Copy

DATE: 9 March 2007

SUBMITTED BY:
Mr. Glenn A. Holder Sr. Pro-se
EA-7173
P.O. Box 1000
Houtzdale, PA 16698-1000

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA CIVIL DIVISION

FILED NO CC
m/ 10:43/64
FEB 28 2007
William A. Shaw
Prothonotary/Clerk of Courts

GLENN A. HOLDER, SR.,	:	
	:	
Plaintiff,	:	No. 06-894-CD
	:	
v.	:	(President Judge Fredric J. Ammerman)
	:	
OFFICER SWANSON, ET AL.	:	
	:	
Defendants	:	

DEFENDANT SWANSON'S ANSWER TO PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

1. **ADMITTED** that Plaintiff filed a (second) amended complaint in September 2006.

2. **ADMITTED.**

3. **ADMITTED.**

4. **ADMITTED.**

5. Defendant does not know when Plaintiff received the Objections, but they were mailed on December 12, 2006.

6. **ADMITTED.**

7. **ADMITTED.**

8. **ADMITTED.**

#46

9. Defendant Swanson does not know why Plaintiff brought this action, but the second amended complaint speaks for itself. It is agreed that the misconduct in issue was ultimately vacated.

10. The second amended complaint speaks for itself.

11. To support his assertions of discrimination, Plaintiff relies on the affidavit of Inmate Carmen Lauro, but this affidavit does not contain all the information Plaintiff claims it does, *see* ¶32, incorporated here by reference, and, further, it violates the *Nanty-Glo* Rule.

12. The record does not state anywhere that Plaintiff was block carded by Defendant Swanson on December 29, 2005 or December 30, 2005 or that Defendant Swanson was the one who had observed the conduct on those dates.

13. Defendant Swanson perceived this conduct as sexually provocative.

14. This answer to the interrogatory is taken out of context. The Defendant was answering "No" to the assertion in the interrogatory that he was permitted to or did write a misconduct against non-inmates.

15. Defendant's good faith belief goes to the issue of intention to discriminate.

16. "Criminal history" is a term of art referring to the entire process of the criminal case.

17. Defendant did not file any false charges or any charges at all against Plaintiff's wife or child. Any purported damages to non-parties are irrelevant to this litigation.

18. It is **ADMITTED** that Exhibit J makes such statements. The credibility of those statements is **NOT ADMITTED** and is a fact in dispute. Further, the statements in Exhibit J do not establish discrimination.

19. This evidence violates the *Nanty-Glo* Rule and does not establish discrimination.

20. The decision to post rules after the March 12, 2006 incident does not show evidence of discrimination and there is no evidence that the rules are being applied only to Plaintiff.

21. There is no evidence of record whatsoever to support the assertions concerning inmates Hernandez and Dedmons. There is no evidence that if, in fact, the visitations of inmates Hernandez and Dedmons were terminated, Defendant Swanson was the one who terminated them. The remaining statements in this paragraph are argumentative only.

22. There is no evidence of record that Defendant Swanson had the authority to terminate visits. Further, the assertions in this paragraph do not support such a conclusion.

23. This document, which is Exhibit N, not Exhibit I, speaks for itself.

24. The fact that the visit was not immediately terminated does not mean that the behavior did not occur or that the allegations in the misconduct were perceived as untrue when made. Further, there is no admissible evidence of record that Defendant Swanson had the authority to terminate a visit. The answer to the interrogatory is taken out of context. The Defendant Swanson was answering "No" to the assertion in the interrogatory that he was permitted to or did write a misconduct against non-inmates.

25. Defendant Swanson also stated in the misconduct that Plaintiff failed to obey previous orders pertaining to the child remaining seated. Although it is agreed that there was no written rule at that time requiring visitors to remain seated, there is no evidence of record that defendant permitted white inmates' minor children to stand, sit or dance on the desk in the non-contact room.

26. The absence of written rules prohibiting minor children from dancing on desks does not tend to establish racial discrimination on the part of defendant because there is no admissible record evidence that he tolerated such conduct on behalf of any minor visitor irrespective of race. The answer to the interrogatory is taken out of context. The Defendant Swanson was answering "No" to the assertion in the interrogatory that he was permitted to or did write a misconduct against non-inmates.

27. The posting of visiting room rules subsequent to the Match 12, 2006 incident does not establish discrimination.

28. Defendant Swanson does **NOT ADMIT** that his report was false. Defendant Swanson believed that his warning to keep the child seated was in the nature of a rule issued by him.

29. See answer to ¶28.

30. The actions of Superintendent Patrick were not taken out of "conscience or guilt" and do not establish that Defendant Swanson discriminated against Plaintiff. They do establish that the misconduct review process is fair and meaningful. The remaining assertions are argumentative only.

31. The actions of Superintendent Patrick were not taken out of "conscience or guilt" and do not establish that Defendant Swanson discriminated against Plaintiff. They do establish that the misconduct review process is fair and meaningful. The remaining assertions are argumentative only.

32. Plaintiff attempts to define **in this motion itself** the race of the inmates referred to in Ex. G. This is improper. Inmate Lauro does not give the name or race of the inmates or visitors to whom he is referring, the crimes for which the inmates were convicted or whether they had received prior warnings concerning the conduct of their visitors, nor does he state that Defendant Swanson saw other minor visitors in the non-contact room sitting on the desk. The affidavit

from Inmate Wilson suffers from the same factual deficiencies. Further, both affidavits violate the *Nanty-Glo* Rule.

33. Exhibit P, as attached to Defendant Swanson's copy of the Motion for Summary Judgment, contains no such statement. Further, the accuracy of Plaintiff's wife's account of what occurred remains a material fact in dispute.

34. The unchallenged denial of a discovery request establishes nothing. Plaintiff's remaining comments are speculative, argumentative and cite to no record evidence.

35. What the hearing examiner in the misconduct decision may have written, does not establish discrimination on Defendant Swanson's part. The answer to the interrogatory is taken out of context. Defendant Swanson was answering "No" to the assertion in the interrogatory that he was permitted to or did write a misconduct against non-inmates.

36. The affidavit of Inmate Klingensmith violates the *Nanty-Glo* Rule and does not establish any evidence of discrimination.

37. This paragraph consists only of legal conclusions, which are vehemently **DENIED**.

38. This paragraph consists only of legal conclusions, which are vehemently **DENIED**.

39. This paragraph contains only legal argument. Further, the vacation of a misconduct does not establish intent to discriminate on Defendant Swanson's part.

40. This paragraph consists only of legal conclusions.

41. Exhibit G, upon which the paragraph relies for support, violates the *Nanty-Glo* Rule and suffers from factual deficiencies. *See* answer to ¶32. Further, Exhibit C items 1 & 2 do not establish that Defendant Swanson saw any Caucasian children standing on a desk.

42. This is a conclusion of law.

43. Defendant Swanson's perception is relevant to intent to discriminate. Professional training is not a necessary predicate to establish Defendant Swanson's perception.

44. This paragraph consists only of legal conclusions and legal arguments.

45. The unchallenged denial of a discovery request establishes nothing and is irrelevant to this motion.

46. The unchallenged denial of a discovery request establishes nothing and is irrelevant to this motion.

47. The unchallenged denial of a discovery request establishes nothing and is irrelevant to this motion. Further, undersigned counsel has now found and forwarded what she believes is the report that Plaintiff is seeking.

48. The unchallenged denial of a discovery request establishes nothing and is irrelevant to this motion. Further, no documents have been concealed and a proper objection was made to the request for block cards. Plaintiff is attempting to circumvent seeking discovery through Defendant Swanson's counsel.

49. The unchallenged denial of a discovery request establishes nothing and is irrelevant to this motion. Further, all discovery requests have been complied with or otherwise proper objections have been made.

Respectfully submitted,

Office of General Counsel

By: Debra Sue Rand

Debra Sue Rand
Assistant Counsel
Attorney I.D. No. 41661
Pennsylvania Department of Corrections
Office of Chief Counsel
55 Utley Drive
Camp Hill, PA 17011
(717) 731-0444

Dated: February 26, 2007

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA CIVIL DIVISION

GLENN A. HOLDER, SR.,	:	
	:	
Plaintiff,	:	No. 06-894-CD
	:	
v.	:	(President Judge Fredric J. Ammerman)
	:	
OFFICER SWANSON, ET AL.	:	
	:	
Defendants,	:	

CERTIFICATE OF SERVICE

I hereby certify that I am depositing in the U.S. mail a true and correct copy of Answer to Plaintiff's Motion for Summary Judgment upon the person(s) in the manner indicated below:

Service by first-class mail
addressed as follows:

Glenn A. Holder, Sr., EA-7173
SCI-Houtzdale
P. O. Box 1000
Houtzdale, PA 16698

Kay Flohr
Clerk Typist 2
Pennsylvania Department of Corrections
55 Utley Drive
Camp Hill, PA 17011
(717) 731-0444

Dated: February 26, 2007

TO: PRESIDENT JUDGE: FREDRIC AMMERMAN
COMMON PLEAS COURT OF CLEARFIELD COUNTY
230 EAST MARKET STREET
CLEARFIELD, PENNSYLVANIA 16830

FILED
FEB 21 2007
William A. Shaw
Prothonotary/Clerk of Courts

DATE: **16 Feb. 2007**

RE: Glenn A. Holder Sr. V. Matthew Swanson. **Docket #06-894-CD**
RECIEPT OF INVESTIGATION REPORT.

NOW COMES, Glenn A. Holder Sr, Pro-se, Plaintiff in the above matter to give acknowledgement of the reciept of one of the Requested Documents of Discovery and submitts the following:

1). On 27 Sept. 2006, Plaintiff filed Request for Production of Documents, requesting at item #2, Complete Investigation Report of misconduct (DC-141) written by the Defendant.

2). On 27 Oct. 2006, Defendant in answer to Request for Pro--duction ofDocument, item #2, Responded," You have this document and it is attached to your Amended Complaint as (EX. A and D) mailed Sept. 20, 2006.

NOTE: Defendant was aware that Exhibit A, in the Plaintiffs Amended Complaint was a copy of the misconduct written by the defendant, and Exhibit D, was a copy of the Hearing Examiners Actions and Sanction, NOT the Requested Investigation Report.

3). On 7 Dec. 2006, Plaintiff filed his Amended Request for Production of Documents and at item #6, requesting again the complete Investigation Report.

4). On 13 dec.2006, Defendant filed Answer to the Plaintiffs Amended Request for Production of Document, item #6, Responding, "The only report concerning this incident has already been provided to you".

5). Prio to this, On 7 Nov. 2006, this Honorable Court Ordered the Request for Production of Documents and Response Motion to Compel Discovery be and are hereby DISMISSED as to all previously removed Defendants. A Court Order of 30 Oct. 2006, Dismissed all parties Except Swanson, and as to all counts except monetary damages.

6). On 5 Feb. 2007, Plaintiff filed Motion for Summary Judgement being entered 8 Feb. 2007, which was also recieved by the Defendant. In this Motion for Summary Judgement at #45-49, Plaintiff stated that Defendant had refused to comply with Court Orders and Rules of Discovery; Were deliberately concealing documents and had deliberately sent the Plaintiff on a document chase. The Plaintiff made attempts to obtain the requested documents, established by exhibits, being advised that the documents could only be obtained from the attorney, (Debra Sue Rand).

7). On 16 Feb. 2007, Plaintiff recieved a letter from the Defendant dated 13 eb.2007, stating. " I have a continuing obligation to up date any discoveryrequest, In the course fo my investigation, I have obtained a report complied by Captian Irwin, Which I believe is the document you were seeking in item #6 of your Amended Request for Production of Documents. SEE LETTER EXHIBIT **A.**

8). This investigation report by Security Officer Irwin is dated June 23, 2006. This establishes that this document was available to the defendant, for the Plaintiff did not submit a Request for Productions of Documents until 27 Sept. 2006, then again 7 Dec. 2006. At those dates the Defendant intentionally withheld the requested Documents. RULE OF CIVIL PROCEDURE 4007.3 STATES A PARTY SHALL NOT OPERATE TO DELAY ANY OTHER PARTY DISCOVERY. Defendant is in violation.

9). In this Investigation Report by Security Officer Irwin, states in March 2006, the Defendant Issued a misconduct tothe Plaintiff for a Violation of Visiting Rules. FOR THE CONVIENCE OF THE COURT, THE SAID MISCONDUCT IS AGAIN ATTACHED AS EXHIBIT **B.** Defendant has stated in his Jan. 23, 2007 Interrogatories, 15 Nov. 2006 Answer to Plaintiffs Amended Petition, signing a Verification Statement Pursuant to 18. PA. C.S. §4904, that There were no Posted rules and there were No rules in exisitance that state that the plaintiffs minor child could not sit upon the desk in order to see and hear the Plaintiff. In accordance to submitted documentation the Plaintiff was given a misconduct for no reason.

10). Security Offcier acknowledges the letter written by the Plaintiffs wife in complaint, in regards to the circumstances of the

misconduct, Yet in the conclusion of the report, the Officer states, neither the Plaintiff nor his wife made any allegations of Racial concerns or Profiling, in his initial review of the misconduct. FOR THE CONVIENCE FO THE COURT, THE APRIL 21, 2006 LETTER FROM THE PLAINTIFFS WIFE IS ATTACHED WITH THE HIGHLITED SECTION OF FACTS. Plaintiffs wife writes of personal harassment, and Swansons allowance of white inmates, rather, " Mr. Swanson allows white inmates to not only stand, but allows their minor children to stand on table during non-contact visits". This which is making an allegation of racial concerns.

11). Plaintiff asserts that it is clear as to why the Defendant attempted to conceal this document, because this investigation Report, DOES NOT investigate the matter of the misconduct, only of an allegation of Racial Discrimination. The Actual and Factual Misconduct has never been investigated.

Wherefore, Plaintiff request this document Entered into the Court in the above matter for consideration, to rule in Favor of the Plaintiff in this matter.

DATE: 16 Feb. 2007

SUBMITTED BY:
Mr. Glenn A. Holder Sr. Pro-se
EA-7173

A

PENNSYLVANIA DEPARTMENT OF CORRECTIONS
GOVERNOR'S OFFICE OF GENERAL COUNSEL
55 UTLEY DRIVE
CAMP HILL, PENNSYLVANIA 17011
(717) 731-0444

February 13, 2007

Glenn A. Holder, Sr., EA-7173
SCI-Houtzdale
P. O. Box 1000
209 Institution Drive
Houtzdale, PA 16698

RE: *Glenn A. Holder, Sr. v. Officer Swanson, et al.*
Docket No. 06-894-CD

Dear Mr. Holder:

I have a continuing obligation to update any discovery requests. In the course of my investigation, I have obtained a report compiled by Captain Irwin, which I believe is the document you were seeking in item 6 of your Amended Request for Production of Documents. I have enclosed a copy of the report.

Very Truly Yours,

Debra Sue Rand

Debra Sue Rand
Assistant Counsel

DSR/smj
Enclosure
cc: File

CL-2

FORM DC-141 PART 1
Rev 3/00

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS

A 664500

☒ MISCONDUCT REPORT ☐ OTHER ☐ DC-ADM 801 INFORMAL RESOLUTION

DC Number	Name	Facility	Incident Time 24 Hr. Base	Incident Date	Date of Report
EA-7173	Huldah Glynn	SCI-Hou	1420	3-12-06	3-12-06
Quarters	Place of Incident				
CA44	Non-Contact Visit booth				

OTHER INMATES OR STAFF INVOLVED OR WITNESSES (CHECK I OR W)

DC Number	Name	I	W	DC Number	Name	I	W

MISCONDUCT CHARGE OR OTHER ACTION CLASS I #25 Refusing to obey an Order - CLASS I #19 Engaging in Sexual Acts with Others & CLASS I #57 Violation of Visiting Room Regulations

STAFF MEMBER'S VERSION On the above date and time I observed inmate Holder's (EA-7173) minor female visitor standing on the desk in the Non-Contact visit area. I also observed this minor female bent over sharing her rear end at inmate Holder. Inmate Holder has a Non-Contact with Minors Restriction. Inmate Holder was block counted on 12-29-05, 12-30-05 and twice today for the same type of infractions. On 12-29-05 inmate Holder was counselled by Lt. Gill and was ordered to have this visitor seated in the chair provided at all times.

IMMEDIATE ACTION TAKEN AND REASON Reviewed & Warranted. Inappropriate for an informal resolution due to the serious nature of the mis-conduct. Inmate is to remain in his present status pending review of this report by the Hearing Examiner.

PRE-HEARING CONFINEMENT	IF YES	
	TIME	DATE
☐ YES		
☒ NO		

FORMS GIVEN TO INMATE ☒ REQUEST FOR WITNESSES AND REPRESENTATION ☒ INMATE'S VERSION

REPORTING STAFF MEMBER SIGNATURE AND TITLE	ACTION REVIEWED AND APPROVED BY RANKING C.O. ON DUTY SIGNATURE AND TITLE	DATE AND TIME INMATE GIVEN COPY	
		DATE	TIME 24 HOUR BASE
Lt. Glynn	Lt. (SHIELLY)	3/14/06	1753

YOUR HEARING MAY BE SCHEDULED ANY TIME AFTER		MISCONDUCT CATEGORY		Signature of Person Serving Notice
DATE	TIME	☒ CLASS 1	☐ CLASS 2	
3-14-06	0800			

NOTICE TO INMATE

You are scheduled for a hearing on the allegation on the date and time indicated or as soon thereafter as possible. You may remain silent if you wish. Anything you say will be used against you both at the misconduct hearing and in a court of law, if this matter is referred for criminal prosecution. If you choose to remain silent, the hearing committee/examiner may use your silence as evidence against you. If you indicate that you wish to remain silent, you will be asked no further questions. If you are found guilty of a Class 1 misconduct, any pre-release status you have will be removed.

WHITE — DC-15 YELLOW — Inmate PINK — Reporting Staff Member GOLDENROD — Deputy Superintendent Facility Management

A

COMMONWEALTH OF PENNSYLVANIA
Department of Corrections
State Correctional Institution at Houtzdale
Security Office
(814) 378-1000
June 23, 2006

SUBJECT: ALLEGED RACIAL DISCRIMINATION
RE: OFFICER MATTHEW SWANSON
INV#: 06-55

TO: Randall Britton
D.S.F.M.

FROM: Glenn E. Irwin Glenn E Irwin
Intelligence Captain

Origin of Investigation

In March of 2006, Superintendent Patrick assigned the Security Office to review a misconduct that was written by Officer Matthew Swanson. Officer Swanson had issued the misconduct to inmate Glenn Holder EA7173 for a violation of visiting rules. Superintendent Patrick had received a letter from Dawn Holder the wife of inmate Glenn Holder. She had written a letter of complaint in regards to the circumstances of the misconduct. The Security Office completed the review of the misconduct and was unable to substantiate any wrong doing by staff.

On May 31, 2006, Superintendent Patrick had requested the Security Office review Officer Swanson's misconduct history for any possible evidence of racial discrimination or profiling. This request was based on new allegations being raised by inmate Holder and his wife.

Investigation Narrative

The Security Office reviewed Officer Swanson's misconduct history. Based on the misconduct history report from the D.O.C. mainframe Officer Swanson has issued misconducts to 109 different inmates for a total of 126 misconducts. This information was from August 4, 1997 to June 9, 2006. The profile of the 109 inmates is as follows:

C: Ms. Chenchanick

A

Total inmates 109	% of Misconducts
Black Inmates 73	67%
White inmates 23	21%
Hispanic inmates 13	12%

Of the total misconducts written by Officer Swanson, nine (9) were issued in the Visiting Room/Visit Process. One inmate received two misconducts. The profile of the 8 inmates is as follows:

Total inmates 8	% of population
Black 6	75%
White 1	12.5%
Hispanic 1	12.5%

The Security Office reviewed our current inmate populations profile and the percentage of formal misconducts issued by all staff. The misconduct information was collected for the months of April and May 2006. The institution inmate profile is as follows:

Total inmates 2300	% of population
Black 1183	51.45%
White 842	36.60%
Hispanic 262	11.41%
Other 13	.54%

In April 2006, 100 inmates were issued formal misconducts. The profile of these 100 inmates is as follows:

Total inmates 100	% of misconducts
Black 67	67%
White 23	23%
Hispanic 10	10%

In May 2006, 116 inmates were issued formal misconducts. The profile of these 116 inmates is as follows:

Total inmates 116	% of misconducts
Black 74	64%
White 32	27%
Hispanic 10	9%

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Conclusion

When the Security Office conducted the initial review of the misconduct in question neither inmate Holder nor his wife had made any allegations of any racial profiling or racial concerns. After a comparison of the misconducts written by Officer Swanson and the total misconducts written in April and May 2006 by all staff members, the percentages of misconducts issued do not indicate any racial profiling or discrimination from Officer Swanson. The breakdown of the visiting room misconducts issued by Officer Swanson is slightly above the overall percentage numbers. However, the Security Office is not aware of any other complaints being brought forward in regards to misconducts issued in the visiting room by Officer Swanson. Without an extensive review of all misconducts written exclusively in the visiting room by all other staff members we are unable to compare the percentages of misconducts issued in the visiting room.

GEI/jmv

cc: Superintendent Patrick
Deputy Cameron
Major Kessling
Major Close
File

TO: Mr. Jeffery Beard
Department of Corrections
P.O. Box 598
Camp Hill, Pennsylvania 17001-598

Mr. George N. Patrick; Superintendant
State Correctional Institution @ Houtzdale
P.O. Box 1000
Houtzdale, Pennsylvania 16698-1000

FROM: Mrs. Dawn E. Holder
1247 West Market Street
York, Pennsylvania 17404

DATE: April 21, 2006

RE: COMPLAINT/INTENT.

Dear Madam/Sirs:

This is an advisory of my intent.

On March 14, 2006, Inmate, EA-7173; Glenn A. Holder Sr. My Husband was charged and placed into the Restricted Housing Unit. Found guilty of allegations made by Officer Swanson, that my husband engaged in sexual acts with others; this others being our child, during our visits, which take place in the non-contact booth in your facility. This lie also accuses me, because I was present at every visit with our child. This lie was/is documented by Officer Swanson and S.C.I Houtzdale, not only against my husband, but me as well as our child. Yet, the Hearing Examiner, Mr. Reed, states that he believes Officer Swanson, even though, Mr. Swanson claimed these said acts took place over a peroid of (4) four days, he personally observed this, rather these acts each time, but chose not to terminate our visit, call authorities or take the appropriate actions. Over (50) human beings in the visiting room, but, Mr. Swanson was the only person who observed this. Though this was said to be dismissed, the damage has been done and it remains in my husbands file.

My husband has a non-contact status, due to another inmates actions in another facility. Our child was not born, when he was arrested, and his case is still in litigation.

Our family was also charged with violating visiting room rules and regulations; Mr. Swanson alleged that our child was standing on the table bent over shaking her rear end at her daddy. Which is a lie, Then Mr, Swanson charges us with refusing to obey an order. First of all, as i stated, our child was never standing on the table. Mr. Swanson insisted that our (7) year old child remain seated the entire visit of (5) hours, in that little booth after riding (3½) hours for the visit. I have reviewed the Visiting Rules (DC-ADM-812) and there is no such rule or regulation that states that a minor child must remain seated during the visit, nor can it be found in the most recent houtzdale supplement. I have personally observed

children running all over the visiting room, on Dec. 29; Dec. 30, 2005 and on March 12, 2006, While Mr. Swanson was on duty, and Mr. Swanson said nothing to any of them, instead, Mr. Swanson chose to personally harass my family. It has been brought to my attention that Mr. Swanson allows white inmates to not only stand, but allow their minor children to stand on the table during their non-contact visit, during their visit. SEE ATTACHED STATEMENTS. This is the very thing that Mr. Swanson gave my husband a misconduct for, and charged my family with. Discrimination, Racial discrimination of any type is against the Laws governed by the United States, which includes central Pennsylvania and Houtzdale.

The response from the Superintendant stated that, "Due to the continued misbehavior of the child despite orders issued to the appellant to control his visitor," My husband was found guilty. Our child has never misbehaved during any of our visits, as you claim. We have not allowed this, nor have we ever condoned bad conduct by our child, for we are aware that the facility will use anything to further burden our family , to discontinue our visitation with Glenn. It is clear to me that your statement is made to cover up the wrong of Mr. Swanson, and I understand that you have to stand up for your officers, so that they will feel safe and that they have support. However, when you are wrong, you are wrong. and there is no justification for Mr. Swansons bad conduct.

It is very clear that Mr. Swanson has and is racially profiling my family and has been for some time, due to the diffrence in the make up of my family. I am white and my husband is African-american. It has also come to my attention that Mr. Swanson has a history of racial discrimination, as well as use of the "N" word.

This is a Civil Rights claim, ripe for Civil Action. Just because my husband is there in your facility, does not give you the right, or any one else the right to make false allegations against him, and for Mr. Swanson to allege that I allowed such actions, took part of such action or even condone such action was wrong.

I forgive Mr. Swanson and those involved for their actions against our family, However there are Laws against what has been done, and what is being done to my husband. These actions have cause great harm to my entire family.

I have been **informed** by counsel to take this matter into the court.

Yours' Truly

ATTACHMENTS:

Mrs. Dawn E. Holder

Dawn Holder

NOTE: FROM JULY 2000 THROUGH MARCH 2006, THERE HAS BEEN NOT TYPE OF RULES OR INSTRUCTIONS AFFIXED TO THE TABLE IN THE NON-CONTACT BOOTH.

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY PENNSYLVANIA
CIVIL DIVISION

GLENN A. HOLDER SR.

V.

MATTHEW SWANSON

06-894-CD

PROOF OF SERVICE

I hereby certify that onthis date I have served upon the individuals listed below the attached document, in a manner that is satisfactory to the Pennsylvania Rules of Civil Procedures.

BY PRE-PAID FIRST-CLASS MAIL

COMMON PLEAS COURT OF CLEARFIELD COUNTY 230 EAST MARKET STREET CLEARFIELD, PA 16830	2 Copies Return 1 copy cert.
DEBRA SUE RAND ESQ. OFFICE OF CHIEF COUNSEL 55 UTLEY DRIVE CAMP HILL, PA 17011	1 Copy

DATE: 16 Feb 2007

SUBMITTED BY:

Mr. Glenn A. Holder Sr. Pro-se
EA-7173
P.O. Box 1000
Houtzdale, PA 16698-1000

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

GLENN A. HOLDER, SR., Plaintiff	*	
vs.	*	NO. 06-894-CD
MATTHEW SWANSON, Defendant	*	

ORDER

NOW, this 12th day of February, 2007, the Court being in receipt of the Motion for Summary Judgment filed by Plaintiff, the Defendant is hereby directed to file an Answer to the Motion for Summary Judgment in accordance with the Rules of Civil Procedure. The Court will decide on the Motion for Summary Judgment without oral argument.

It is the further ORDER of this Court that the Plaintiff and the Defendant provide a letter brief to the Court within no more than thirty (30) days from this date.

BY THE COURT,

FREDRIC J. AMMERMAN
President Judge

FILED
FEB 12 2007
01:00/1
William A. Shaw
Prothonotary/Clerk of Courts

Cert to Holder & D. S. Rann

#43

DATE: 2-12-07

___ You are responsible for serving all appropriate parties.

X The Prothonotary's office has provided service to the following parties:

X Plaintiff(s) ___ Plaintiff(s) Attorney ___ Other

___ Defendant(s) X Defendant(s) Attorney

___ Special Instructions:

FILED
FEB 12 2007
William A. Shaw
Prothonotary/Clerk of Courts

G. Norden.
EA-7173.
SCI Houtzdale
Houtzdale, PA 16698-1000

Deana Sue Rand.

original affidavits

Ans to Dec Reg

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

GLENN A. HOLDER SR.
Plaintiff

V.

MATTHEW SWANSON
Defendant

NO. 06-894-CD

JUDGE: Fredric J. Ammerman

FILED 1cc Pltf
m 12:41 Bl
FEB 08 2007 GK
William A. Shaw
Prothonotary/Clerk of Courts

MOTION FOR SUMMARY JUDGEMENT.

NOW COMES, Glenn A. Holder Sr., Pro-se Plaintiff in the above action to move for Summary Judgement and submitts the following:

1). Plaintiff filed his Amended Complaint Pursuant to Pa. Rules of Civil Procedure 1028, on Sept. 2006.

2). Plaintiff filed his Request for the Production of Documents, 27 Sept. 2006, which was later followed by a Response motion for Order to Compel Discovery, 3 Nov. 2006; Due to Defendants Objections/Answer to Discovery 27, Oct. 2006.

3). On 7 Nov. 2006, Court referrenced the Order of 30, Oct. 2006 which removed all Defendants Except Matthew Swanson, Ordered that the Request for Production of Documents and Response Motion for Order to Compel Discovery be and are hereby Dismissed as to all previously removed Defendants. EXHIBIT "T".

4). Plaintiff filed Amended Request for Production of Documents 7 Dec. 2006.

5). Defendants Objections to Amended Request for Discovery was recieved 18 dec. 2006.

6). Defendant filed Answer to Plaintiffs Second Amended Petition for Review, 15 Nov. 2006, SEE EXHIBIT "A" AND PLAINTIFFS AMENDED PETITION FOR REVIEW EXHIBIT "B".

7). Defendant filed Defendant Swansons Answers to Plaintiffs Interrogatories 30, Nov. 2006. SEE EXHIBIT "C".

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8). Remaining Defendant Swanson Answers to Plaintiffs Second Set of Interrogatories filed, Jan. 23, 2007. SEE EXHIBIT "D".

REASON FOR ACTIONS FILED:

9). This action is brought, due to a misconduct written by the Defendant, which alleged and charges that the Plaintiff was Engagaing in Sexual Acts with his minor child; that the Plaintifff, Plaintiffs wife and their minor child refused Orders and Violated Visiting room Rules and Regulations, all which resulted in the Plaintiff being sanctioned as Guilty and to serve (60) days in the Restricted Housing Unit under disiciplinary custody, Level 5 Classification.

Plaintiff served (23) days, while appealing the matter, and was denied at all levels through to Camp Hill; Department of Corrections office of General Counsel.

On or about 21 April 2006, the Plaintiff's wife forward a letter of intent seperately to Mr. Jeffery A. Beard, Seceratary of Corrections and Mr. George Patrick, Superintendant of S.C.I. Houtzdale, stating the intent to bring civil actions against Officer Swanson and all those involved for the wrong done and being done, including the Constitutional Violations. SEE EXHIBIT "E". Action was later filed.

On 1 May 2006, as a result of the request from Superintendant Patrick to Sec. Beard, the Chief Hearing Examiner re-opened the appeal and Vacated the matter to prohibit re-charging. Sec. Beard concurred with the Chief Hearing Examiner, and accordingly Dismissed the mis-conduct asking Mr. Patrick to Expunge the matter from all records and institutional files of the misconduct. SEE EXHIBIT "F".

10). Plaintiff cites Equal Protection/Equal Treatment Violations of the Constitution; Civil Rights Violations as result of Racial Discrimination and the Filing of false charges against the Plaintiff the Plaintiffs wife and their minor child.

FACTS:

11). At EXHIBIT "A", Pg. 2, item 17, Defendant stated in his response that he has not ever knowingly allowed visitors of any race to stand or climb on desk in the non-contact booth, at EXHIBIT "C" Defendant states that he was present in the visiting room on duty

making rounds, visually observing inmate activity in the visiting room to include the non-contact booth, further at EXHIBIT "A", PG. 10, Item 124, Defendant claims he does not allow visitors to stand on the desk in the non-contact room and any time he views such conduct, he insists, without regard to race, that the person step down off of the desk, YET, on 8 April 2006 between 13:00 hours until 14:50 Hours, (2) small children, (girls) were seen jumping and dancing on the desk, sitting and standing, and at no time did the Defendant attempt to stop, correct or warn the visitors or inmate. SEE AFFIDAVITS OF INMATE CARMINE LAURO EXHIBIT "G" & "G-1", AND WILSON FRITZ "G-2".

12). At EXHIBIT "C" 30 Nov. 2006 Interrogatory, Items 4 thru 7 Defendant states that an inmate can not physically engage in sexual contact in the non-contact booth, and that he did not see the Plaintiff engaging in sexual acts or conduct on 12-29-05 and 12-30-05, but he did see the Plaintiff engaging in sexual misconduct with his minor child on 12 March 2006, YET at EXHIBIT "H" the Defendant in the original misconduct writes that, "Inmate Holder was block carded on 12-29-05 , 12-30-05 and twice today (12 March 06) for the same type of infractions". It is clear in the Defendants language that the Plaintiff was doing the same thing on all four occassions, even though now, the Defendant states that he observed this alleged incident only once. Did the Defendant actually observe this action at all? The suggested answer is no.

13). At EXHIBIT "D", plaintiff asked, "What sexual misconduct did you see the plaintiff engaging in twice on March 12, 2006, and Defendant answered, "the action described in my misconduct". YET AT EXHIBIT "H", Defendant in his misconduct alleged that the Plaintiffs minor child was standing on the desk in the non-contact area, bent over shaking her rear end at inmate Holder, referring to this as engaging in sexual acts with others, when Factually, the Defendant seen the Plaintiff doing nothing at all.

14). At EXHIBIT "C" Pg. 3, Item 13, When asked, "was the misconduct written in your hand chargeing the plaintiff, His wife and their minor child of Engaging in Sexual Acts with others, refusing to Obey Orders and Violating Visiting Room Rules and Regulations a True and Factual misconduct", the Defendant answers, "NO"., Then

signs a Verification state Pursuant to **18 PA C.S. §4904**, as to perjury.

15). At EXHIBIT "A" Pg. 9 Item 119, Defendant states He honestly believed that the conduct of the Plaintiffs minor daughter represented sexually suggestive conduct from the plaintiffs stand point... A Belief is a feeling of thought and has no sicientific bearing on factuals events that might have occured, Further the Defendant has failed to show any proof of his psychic ability, ability to read minds, nor has the Defendant established that he has been trained professionally as a psychologist or Doctorate in Human behavior, there fore what the Defendant believes is of his own thought process when he sees a child.

16). At EXHIBIT "A" Pg. 4, Item 26, Defendant states, "Given Plaintiffs criminal history, he believes that the actions of the minor child were precieved by the Plaintiff as sexual in nature. First, History accordingly is a continous record of pst events. The Plaintiff has only one case which is a sexual offense, and which is currently in litigation by the Superior Court of Pennsylvania, and has no other such history as alleged by the defendant, sexual in nature, this could have been established, had the Defendant with his resources, reviewed the Plaintiffs criminal history. Secondly, AGAIN the Defendant has no proof of his psychic abilities.

17). EXHIBIT "A", Pg. 7, Item 82 & 83, Defendant states that the Plaintiffs wife and minor child are not a party to this action, YET, it is a defamation of character for the Defendant to file such false and fraudlent charges, which alleged that the Plaintiffs wife sat by in allowance of such sexual acts to occur, as the same for the Defendant to Falsely and Fraudently file charges implying that the minor child was an actor in such acts. EXHIBIT "I", Hearing Actions due to the Defendants fraudlent charges, sanctioned the minor child, rather states that the minor child violated visiting room rules and regualtions. Injuries that the Plaintiff's wife and their minor child have suffered are on going and are releveant to this litigation.

18). EXHIBIT "J" Plaintiff's wife states that they are, (she nor the Plaintiff) would not allow their child to do such as the Defendant

claims, and even when she comes up by herself ~~the~~ both of them are very cautious of touching each other that would get him in trouble; that the child never once stood on the table/desk, although she admits to allowing the child to sit on the table/desk so that she could see her dad and he could hear her.

19). At EXHIBIT "K", is an affidavit from the Plaintiff's wife where she states that due to the actions of the defendant, she has lost (4) days from work; increased depression which required her going to Dr. Seydel, whom prescribed her the medication Paxil. She also states that she is fearful, when she comes to visit, the child now is fearful, all due to the actions of the Defendant; That there are no hearing devices that will allow the child to hear the Plaintif, and that if the child remains seated, the child will not only be unable to even see her father, but she will not even be able to hear him, (the plaintiff).

20). At EXHIBIT "L", Plaintiffs wife establishes that the rules posted are retaliatory, becuase they were posted after the filing of these actions, and now prevent visitation with the Plaintiff and his minor child. SEE EXHIBIT "M" RULES POSTED AFTER THE FILING OF THESE ACTIONS.

21). Defendant states that it is not policy or procedure to terminate an inmates visit and place the inmate in the restricted housing unit once sexual misconduct is observed, and that it all is up to the shift commander, and that a COI can not make that decision, YET, on the very same day that the plaintiff was given a misconduct, 12 March 2006, inmate Hernandez, FA-2146, had his visit terminated. Inmate hernandez was given the very same (exact) charges as the Plaintiff, and his visits were taken for a peroid of time. On 15 may 2005, inmate Dedmons visit was terminated, lost his visits for a peroid of (30) days and recieved (30) days in the resticted Housing Unit. (NOTE: inmate Hernandez was placed in the restricted Housing for (60) days). On 26 Feb. 2006, again, inmate Dedmon was placed in the restricted Housing unit for (60) days and lost his visits for (60) days. Inmate Dedmon on both occassions recieved the exact charges that the Plaintiff was given. Both of the above said inmates were given the same charges as the Plaintiff, and their

visits were terminated, yet the plaintiff's visits were not, even worst it was alleged by the Defendant that the Plaintiff engaged in sexual acts with his minor child, still no termination of the visit, nor did the Defendant seek to have the visit terminated, which is more that suspect. It is more that inconcievable that, IF this event did happen which was alleged by the Defendant, that the visit was allowed to continue, which shows of proof that it did not happen.

22). At EXHIBIT "A", Pg. 4 Item 22, Defendant claims, He had no authority to terminate the Plaintiffs visit. It is clear and established by the actions and events of this misconduct that the Defendant had the authority, fore Defendant alleged what he Believed he saw, the Plaintiff was called out of the non-contact booth, then returned to continue his visit. Defendant wrote the misconduct, the Plaintiff was served and MADE guilty and Locked up in the Restricted housing unit on the Defendants words alone. It is common practice at S.C.I. Houtzdale to punish the inmate and the inmate is guilty until the inmate proves he is not guilty, or the truth comes out, which is then swept under the rug as a mistake or over sight, when it is no more than a LIE. This the officers words.

23). Pages 11 and 12 of the Inmate Handbook, SEE EXHIBIT "H" D.O.C. Policy states, "Sexual contact with inmates is strictly prohibited by the D.O.C.. Sexual contact refers to any sexual behavior directed toward an inmate and includes any act or atempt to commit acts which involve sexual contact directly or indirectly. Violation of this nature is subject to a class I misconduct, in accordance with Dept. Policy DC-ADM 801.

24). The Plaintiff was charged with Engaging in sexual acts YET, on all (4) occassions, the Plaintiffs visits continued, namely on March 12, 2006. This in it'self clearly establishes that there was no belief in the report and allegations. Due to the seriousness of the allegations, the plaintiff should have been taken to the R.H.U. and the Plaintiff's wife arrested and charged with a felony, But, Nothing happen, because all of the Defendants allegations were not factual or true. AT EXHIBIT "C" PAGE 3 ITEM 13, DEFENDANT STATES THAT THE MISCONDUCT WAS NOT TRUE OR FACTUAL BY ANSWERING "NO" TO THE QUESTION ASKED.

25). Defendant stated that he had full knowledge and understanding of the Department of Corrections Policies and S.C.I. Houtzdale supplemental policies, as they pretain to inmate visitation, this at EXHIBIT 'C' pG. 2, iTEM 9. KNOWLEDGE, accordingly is an awareness and familiarity; UNDERSTANDING; accordingly is the ability to understand, think with intelligence and individual perception. In the Defendants report, he states that the Plaintiff and the Plaintiff's child violated visiting room rules and regualtions, when the Defendant KNEW that there were not any rules with in the Department of Corrections or in Houtzdales Supplement that stated a minor child must remain seated during the visit, nor was there any such rules that stated a minor child could not sit upon the desk in the non-contact booth in order to see and hear their parent, but it was the Defendants own person actions that gave sepreate visiting rules for African american inmates, which clearly say that if you are a caucasion inmate you are allowed to let your minor child sit, stand, dance etc. on the desk in the non-contact booth, But if you are a person of color your child must remain seated in the seat provided, and he could care-less if it kept the child from seeing or hearing you. This is a violation of constitutional Rights that I still have as an inmate.

26). At EXHIBIT "D" Pg. 1, Item 1, Defendant states that on Dec. 29 and 30th of'05 and March 12, 2006, There was no visiting rules and regulations of the D.O.C. or S.C.I. Houtzdale Supplement that stated that a minor child could not sit upon the desk/table in the non-contact booth, in order to hear and talk to their parent while on their visit, by answering "NO" to the question, Further at EXHIBIT "A" Pg. 2, Item 16, again that there was no rules posted requiring that visitors in the non-contact booth must remain seated. This establishes that the Defendant made his own rules to harass and racially discriminate against the Plaintiff, the Plaintiff's wife and their child. Then at EXHIBIT "D" Pg. 2 Item 3, When asked what visiting room rules and regulations did the Plaintiff break or violate, the Defendant answered by saying that He Believed the Plaintiff violated a rule to keep the child seated. By the Defendants own admissions he has full Knowledge and Understanding of D.O.C.

and Houtzdales visiting policies, rules and regulations, It was clear that it was the Defendants intention to cause harm to the Plaintiff, the plaintiff's wife and their child, by his harassment and racial discrimination, and the haze is burnt off when the Defendant admits at EXHIBIT "C" Pg. 3, Item 13, that the misconduct was not true and factual. The the Defendant signs a verification statement in EXHIBITS "A" "C" and "D" that his statements are true and correct Pursuant to 18 PA. C.S. §4904 as to perjury, even though the Defendant continues to contradict himself and misrepresent the truth.

27). Since the filing of these actions, rules have been posted that state that the child must remain seated through out the visit, which, due to the concrete obstructions will prevent the Plaintiff from even seeing his child, and with no hearing devices, the Plaintiff will not be able to even hear or speak to his child, thus the actions of the Defendant have totally prevented the Plaintiff from visitation with his child, which is a parental liberty taken away from the Plaintiff. SEE EXHIBIT "M" NEWLY POSTED RULES AND AGAIN EXHIBIT "L".

28). By the defendants own admissions, he states that he was aware that no such rules existed as the above, YET, Defendant wrote a misconduct report stating that the Plaintiff and his child violated visiting room rules and regulations. Clearly Defendant admits the report was false.

29). At EXHIBIT "A" pg. 4 Item 25, Defendant denied that he was aware that he had written a fradulent misconduct, and denied he wrote a fradulent misconduct, YET, by his own admission, Defendant states @ EXHIBIT "A" pg. 2 Item 16 amd EXHIBIT "D" item 1, that there were no such rules posted or inexistance in D.O.C. Policy, therefore what the Defendant wrote can be nothing, but false, Frivilous without merit and a fabrication.

30). Further the established Conscience of Guilt by Supertindant Patrick, upon reciept of the letter of intent by the Plaintiff and his wife,(EXHIBIT "E")fore upon reciept of this letter, Superintendant Patrick made a request to Secretary Beard to re-open the appeal process, with his recommendation and decision to Vacate to prohibit re-charging and rehearing. Sec. Beard concurred accordingly and dismissed the misconduct, asking Patrick to Expunge the misconduct from

all records and institutional files. SEE EXHIBIT "F" LETTER FROM MR. BEARD TO THE PLAINTIFF. Included with this, the Defendant acknowledges the facts in the letter at EXHIBIT "A" ITEM 79, by his admission that the letter speaks for it's self.

31). To further establish the superintendants Conscience of Guilt, and establish that it was a known fact that the misconduct was fradulent without merit and fabricated, Superintendent Patrick re-instated the plaintiff with his previous Level "2" classification which is not heard of, with a person comming out of the restricted housing unit. (a person comming from R.H.U. status is classified at Level "4" and has to work their way back up.) Patrick continued by reinstating the plaintiff in his previous job assignment, and re-imburst the plaintiff for wages lost due to being placed fraudlently in the restricted housing unit, which was ($77.28) for 23 days at .42¢ for 8 hours a day. This was the superintendants attempt to make lite of the matter of his officer, Defendant Swanson intentionally violating Constitutional Rights, Civil Rights and writing a fabricated misconduct on state documentation, alleging, and charging the Plaintiff, the Plaintiffs wife and their minor child with very serious charges sexual in nature.

32). At EXHIBIT "C" Pg. 3, ITEM 12, Defendant states that the D.O.C. has a policy on discrimination and he is aware of it, YET, the Defendant CLEARLY Discriminated against the Plaintiff, the Plaintiffs wife and their minor child, by givin the plaintiff a misconduct for his minor child sitting on the desk in order to be seen and heard, stating that the plaintiffs minor child violated visiting room rules and regulations, while at the very same time allowing another inmates visitor to do the very same with out any negative actions. SEE EXHIBITS "G" "G-1" "G-2". Both inmates are similarl situated, but the only diffrence between the two are race. The Defendants acts are Racial Discriminatory, a Violation of Civil Rights, Department of Correction Policy, a Violation of the Equal Treatment/Protection Clause of the Constitution, including Article 1 of the Constitution of the Commonwealth of Pennsylvania.

33). Defendant continues by stating that, I can not write a misconduct on a civilian, only on an inmate, which establishes that

the Defendant told the truth once, by stating "NO" the misconduct was not factual and true atEXHIBIT "C", ITEM 13 . Defendant states that the Plaintiff was written up for the said violations, Yet, at EXHIBIT "P" PG 1, last Paragraph, Defendant states that the Plaintiff was issued a misconduct based upon the conduct of his seven year old daughter when she went to visit at S.C.I. Houtzdale. Therefore the Plaintiff was issued a misconduct for alleged actions of his minor child, which the Plaintiffs wife say never happened, and did not violate any D.O.C. or S.C.I. Houtzdale Rules and regulations. According to the actions of the Defendant at the time of the alleged acts, nothing of his assumption ever happened, fore it it did, the visit would have been terminated, for the serious acts.

34). Defendant states that the Plaintiff was block carded on 12-29-05; 12-30-05 and twice on 12 March 2006. Plaintiff through Amended request for Productions of Documents, request these said Block Cards, and was denied stating that the request was overly broad and would not lead to admissible discovery, when in fact this would have been evidence in favor of the Defendant, in that the Plaintiff was infact Block carded for the alleged sexual acts. SEE EXHIBIT "V" PG. 2, ITEM 5.

IF actions of this magnitude were seen on 12-29-05, a misconduct would have followed, not a block card. **IF** said actions would have accured on 12-30-05, of the same magnitiue, a misconduct would have folowed; Provisions would have been made that such actions would not have occured by the Plaintiff and his family, Not only if it was alleged to have happen the previous day, but for any future visits the plaintiff was to have with his minor child in the non-contact booth. While it is obvious such block cards DO NOT EXIST, allegations as such are extremely serious and a Block Card would only pacify such an incident. Thus it is very clear that through the Defendants flip flopping and condrictions, the truth of the matter is that this entire incident had the Defendants evil Discriminatory motives and intent to cause harm to the Plaintiff, the Plaintiff's wife and their minor child, and the injuries continue to this present date.

35). At EXHIBIT "C" PG.3, ITEM 13, Defendant continues by

saying that you wife and child were not charged with anything, YET due to the allegations of the Defendant, the hearing examiner writes in his Hearing actions, (EXHIBIT "I") that "Inmate Holders minor visitor violated visiting room rules". And it is very clear by the defendants own admissions that no such rules or regulations exisited which the Plaintiff was punished, and the Plaintiff's minor child was to have allegedly violated. Again to further establish this claim, Defendant claims that he has never written a fradulent misconduct and has no knowledge of writing such atEXHIBIT "A" page 4, item #25, then by his own Admissions at EXHIBIT "2" iten #16 and EXHIBIT "D" ITEM #1, Defendant states that there were no such rules in existance at that time or in D.o.C. Policy. The Go's a step further at EXHIBIT "C" PAGE 3 Item #13, Defendant answers "NO" to the question whether or not the misconduct written in his own hand against the Plaintiff, the Plaintiff's wife and their minor child was True and Factual. Then Signs a verification statement.

36). Prior to the actions of the Defendant, the Plaintiff was active in the church and the church choir, occassionally playing the piano. After the actions of the Defendant the Plaintiff was removed from the choir, not permitted to parcipate with the choir, first for (30) days, the (30) days after his release from the R.H.U., then being told by worship leaders that he was being placed on hold. The increased embarrasment of such false and fradulent allegations by the Defendant has left the Plaintiff withdrawn from the worship service, due to the backlash of the Defendants actions. SEE EXHIBIT "Q" AFFIDAVIT.

37). Defendant signed verification Statements Pursuant to **18 PA. C.S. §4904**, that his answers which are referenced throughout this Motion for Summary Judgement, are true and correct to the best of his knowledge, information and belief. YET, the Defendant consistantly contradicts and perjures himself, over and over misrepresenting the truth with underlying discriminatory motives and intent for his evil and illegal purposes.

38). Defendants intent is established by his actions. Accordingly INTENT; is a noun, intnetion,purpose to cause harm, to the

Plaintiff, the Plaintiff's wife and their child. Fore there is no penal or logical reasoning for the actions of the Defendant, except to cause harm, and his own admissions establish his intent.

39) At EXHIBIT "A" PAGE 6, ITEM 79, in reference to EXHIBIT "F" Which is the letter from Sec. Beard, where at the request of Superintendent Patrick the misconduct was Vacated, Dismissed and Expunged from all records and institutional files, the Defendant acknowledges the letter, stating that it, (the letter) speaks for it's self, acknowledging the same facts that was acknowledged by Sec. Beard, Superintendant Patrick, that the misconduct was completely without merit, and frivilous, Because if infact there was any Truth in or abouth the misconduct, it would not have been Vacated, Dismissed and Expunged completely.

40). The Equal Protection Clause of the Fourteenth Amendment of the United States forbids a state or State agencies to deny any person within its jurisdiction the equal protection of the Laws. It forbids discrimination or unequal treatment that is unjustified.

41). There is no justifiable reason for the Defendant to allow caucasion inmates situated the same, Liberties that he issues a misconduct to the plaintiff for. For Clarity, Defendant allowed caucasion inmates visiting in the non-contact booth, to have their minor children stand, sit, etc. upon the desk in the non-contact booth, and gave the Plaintiff a misconduct for the same acts, and the Defendant has seperate sets of rules for caucasion and African-american inmates. Defendant allowed the caucasion children to act upon the desk for approx. (2 hours) with out saying a word to them, and Defendant admits that he was on duty on the day of this occurance, observing the inmate activity in the main visiting room and in the non-contact booth. SEE EXHIBITS "G" AND EXHIBIT "C" ITEM 2 & 3.

42). There is and was no justification to the actions of the Defendant.

43). Defendant states that what he thought he saw, he precieved to be sexual in nature to the Plaintiff, Yet the Defendant has yet to show these super natural abilities, nor has the Defendant given proof of any professional training in this area. If the Defendant had these said abilities, then he would have known that these actions

were forcomming.

44). There is no Rational Relationship in the racial Discriminatory treatment the Pl aintiff recieved from the Defendant, and there is no legitimate penal purpose or interest which will condone the Defendant actions, with the exceptions of his own personal evil motives and beliefs. Defendants actions were intentional and served its purpose to sever visits between the Plaintiff and his daughter, and speaks very Loud of the double standard that is practiced within the walls of this institution, when it comes to persons of color and those without.

45). With the exception of the interrogatories of the Defendant, the Defendant has refused to produce the requested documents, and has failed to comply with Pennsylvania Rules of Civil Procedure, in their denial of disclosure of permissible documentation.

46). Defendant advised the Plaintiff that the following requested documents, first were in his posession; Requested Grievances; Investigation report; Block Cards, then the Defendant stated in an answer dated 13 dec. 2006, that the Plaintiff may have a copy of these documents at his own expense. EXHIBIT "V" ITEM #3. Plaintiff was GRANTED informa Pauperis status 12 July 2006, SEE EXHIBIT "S">

47). The Investigative report, Defendant claimed he had already provided to the Plaintiff, YET, reading the language of the Captian of Security; Glenn Irwin, the Investigative Report must be obtained through the attorney, (Debra Sue Rand), the very attroeny for the Defendant who sent the Plaintiff on this deliberate document chase. SEE EXHIBIT "R" INMATE REQUEST TO CAPTAIN IRWIN.

48). Defendant continues to conceal other documents such as the alleged block cards. Plaintiff made an attempt to get these alleged Block cards by inamte request, abd recieve an answer saying, "TOO BAD". SEE EXHIBIT "R" REQUEST TO VISITING ROOM. Also Notice other request where the Plaintiff made attempts to obtain documents, advised by Defendant, that he could get through inmate request.

49). Defendant has failed to comply with the Courts Order

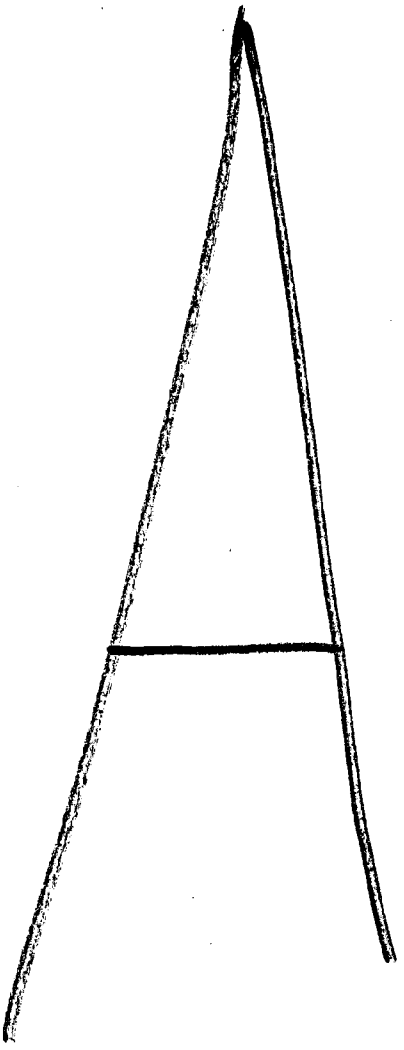
of 7 November 2006, when the court Ordered that the Request for Production of Documents and Response Motion for Order to Compel Discovery be and are hereby DISMISSED as to all previously removed Defendants.... The Court did not dismiss the motion as to Swanson, and the Defendant has continued to ignore this order, Knowing that the Plaintiffs position as an inmate limits the access to any of the requested documents, which are accessible to the attorney or a free person.

Wherefore these reason, and the Defendants own Admissions, this Plaintiff request that this Honorable Court review all of the Submitted Documentation, finding truth, and GRANT this Summary Judgement Motion in favor for the Plaintiff, Entering Judgement for the Plaintiff for Violations of Constitutional and Civil Rights, Racial Discrimination and the filing of false and fradulent charges against the Plaintiff, the Plaintiffs wife and their minor child, Injury cause to the Plaintiff, the Plaintiffs wife and their minor child all directly inflicted upon them by the Defendant, Officer Matthew Swanson, in the amount totaling $75,000.00, which includes the punitive amount to prevent these type of actions from occuring again. And an additional $1500.00 for the failure to comply with court order forcing the Plaintiff to seek out documents.

DATE: 5 Feb **2007**

SUBMITTED BY:

Mr. Glenn A. Holder Sr. Pro-se
EA-7173
P.O. BOX 1000
Houtzdale, PA. 16698-1000



such allegations are **DENIED**. To the extent it avers that the answering defendant was at SCI-Houtzdale on March 12, 2006, this averment is **ADMITTED**.

12. **ADMITTED.**

13. **DENIED**. This allegation is specifically **DENIED** and strict proof thereof is demanded.

14. **DENIED** as stated. By way of further answer, answering defendant stated that the minor child was standing on a "desk," not a table. It is specifically **DENIED** that this statement was untrue.

15. **ADMITTED** in part and **DENIED** in part. It is **ADMITTED** that answering defendant stated that Plaintiff's minor child was bent over and shaking her rear at Plaintiff. It is specifically **DENIED** that this statement is untrue.

16. **ADMITTED**. It is **ADMITTED** that at the time the incident occurred there was no posted rule requiring that visitors in the non-contact booth remain seated. By way of further answer, Plaintiff's daughter was not using the chairs and desk in the non-contact booth for their intended purposes and was engaging in a safety risk by standing on the desk. Further, Plaintiff had been counseled previously by a lieutenant on the need for him and his visitors to remain seated at all times.

17. **DENIED**. It is specifically **DENIED** that answering defendant ever knowingly allowed visitors of any race to stand or climb on desks in the

22. **ADMITTED** in part and **DENIED** in part. It is **ADMITTED** that answering defendant never terminated any of Plaintiff's visits. By way of further answer, he has no authority to do so. Only the shift commander can order a visit to be terminated. It is **DENIED** that answering defendant stated that he had seen these "inappropriate events" on four occasions. It is **DENIED** that policy and normal procedure required that the visit be immediately terminated and that Plaintiff immediately be placed in the Restrictive Housing Unit ("RHU").

23. **DENIED**. It is specifically **DENIED** that answering defendant retaliated against Plaintiff for any grievances Plaintiff may have filed against him and strict proof thereof is demanded.

24. **DENIED**. It is specifically **DENIED** that answering defendant has ever been placed on a misconduct restriction and specifically **DENIED** that he has ever fabricated any misconduct reports and strict proof thereof is demanded.

25. **DENIED**. It is specifically **DENIED** that answering defendant was aware he had written a fraudulent misconduct and specifically **DENIED** that he wrote a fraudulent misconduct and strict proof thereof is demanded.

26. **DENIED**. By way of further answer, given Plaintiff's criminal history answering defendant believed that the actions of the minor child were perceived by Plaintiff as sexual in nature.

27. **ADMITTED**.

76. It is **ADMITTED** that Plaintiff filed an appeal to the Chief Hearing Examiner on April 12, 2006 and that it was **DENIED** on April 21, 2006. Answering defendant does not know that date Plaintiff received the decision and, therefore, the allegation that he received it on May 1, 2006 is **DENIED**.

77. **ADMITTED** in part. It is **ADMITTED** that the April 21, 2006 letter contains that language. By way of further answer, the letter speaks for itself.

78. **DENIED**. Answering defendant is without knowledge as to the truth of this averment and therefore it is **DENIED**.

79. **DENIED**. Answering defendant does not know the date Plaintiff received the letter and this allegation is, therefore, **DENIED**. By way of further answer, the May 1, 2006 letter speaks for itself.

80. **ADMITTED** in part and **DENIED** in part. It is **ADMITTED** that Plaintiff filed this action initially in the Commonwealth Court of Pennsylvania. It is **ADMITTED** that the Commonwealth Court transferred the matter to this Court. Answering defendant is without knowledge as to the date the matter was "forwarded" by the Commonwealth Court to this Court and the allegation that it did so on May 17, 2006 is, therefore, **DENIED**.

81. **DENIED.** This allegation is **DENIED** and strict proof thereof is demanded.

82. **DENIED**. This allegation is **DENIED** and strict proof thereof is demanded, if relevant. By way of further answer, Plaintiff's wife is not a party to this action and, therefore, any injuries she may have suffered are irrelevant to this litigation.

83. **DENIED**. This allegation is **DENIED** and strict proof thereof is demanded, if relevant. By way of further answer, Plaintiff's minor child is not a party to this action and, therefore, any injuries she may have suffered are irrelevant to this litigation.

84. This statement does not aver any facts for which a response is needed.

85. **DENIED**. This statement is **DENIED** and strict proof thereof is demanded.

86. No facts are averred and, therefore, no answer required.

87. **DENIED**. It is specifically **DENIED** that answering defendant racially profiled, discriminated against, harassed or filed fraudulent claims against Plaintiff, his wife or minor child and strict proof thereof is demanded. It is specifically **DENIED** that answering defendant violated any civil or constitutional rights of Plaintiff, his wife or minor child and strict proof thereof is demanded.

88-98. These allegations do not pertain to answering defendant. To the extent they may be construed as doing so, the averments are **DENIED** and strict proof thereof is demanded.

NEW MATTER

113. Plaintiff is serving a sentence for rape, corruption of minors, endangering the welfare of children and indecent assault without consent. *See* Exs. A & B to this Answer.

114. Plaintiff's criminal victims included minor children.

115. Because of the nature of his crimes Plaintiff is allowed only non-contact visits with his child.

116. When answering defendant observed Plaintiff's minor daughter facing away from Plaintiff and shaking her rear at him during her non-contact visit with Plaintiff, answering defendant viewed the conduct as sexually provocative in light of Plaintiff's personal criminal history.

117. In light of answering defendant's personal observation of the events, Plaintiff's explanation that his daughter was performing a dance that she had learned in church did not seem plausible to answering defendant.

118. Answering defendant honestly believed that Plaintiff could have controlled his daughter's behavior by asking his wife, who was present in the non-contact room with the child, to control her.

119. Answering defendant honestly believed that the conduct of Plaintiff's minor daughter, while probably innocent from her standpoint, represented sexually suggestive conduct from Plaintiff's standpoint.

120. Answering defendant is protected by the affirmative defense of justification.

121. Answering defendant has been a corrections officer for ten years.

122. Answering defendant has never been the subject of a disciplinary action.

123. Answering defendant has never been sanctioned for writing too many misconducts.

124. Answering defendant does not allow visitors to stand on the desk in the non-contact room and anytime he views such conduct, he insists, without regard to race, that the person step down off the desk.

125. Answering defendant does not discriminate against persons, including inmates, on the basis of race or other illegal or improper reasons.

126. Answering defendant did not discriminate against Plaintiff, who is African-American, on the basis that he is married to a white woman.

127. Answering defendant did not discriminate against Plaintiff's wife, who is white, on the basis that she is married to an African-American man.

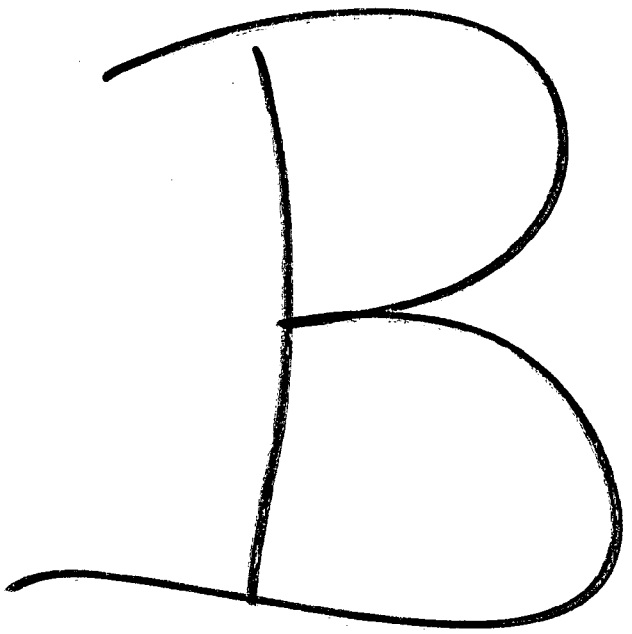
128. Answering defendant did not discriminate against Plaintiff's minor child on the basis that she is the product of an interracial union.

VERIFICATION

I, Matthew Swanson, have reviewed the foregoing Answer to second Amended Petition for Review and I declare under penalty of perjury that the factual averments set forth herein are true and correct, to the best of my knowledge information and belief, and that I give this verification subject to the criminal penalties relating to unsworn falsification to authorities, 18 Pa.C.S. §4904.

11-13-26
Date

Matthew Swanson
Corrections Officer I
SCI-Houtzdale
Pennsylvania Department of Corrections



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

GLENN A. HOLDER SR.
Plaintiff

V.

MATTHEW SWANSON
CAPT. MARSHALL SHIRLEY, [redacted]
HEARING EXAMINER;ROBERT REED,
DEPUTY RANDALL E. BRITTON,
DEPUTY KENNETH R. CAMERON, and
FRANK HARTNETT,PROGRAM REVIEW
COMMITTE. INTELLIGENCE CAPTIAN
IRWIN, and SUPERINTENDANT GEORGE
PATRICK,
INDIVIDUALLY AND IN THEIR
OFFICIAL CAPACITIES.
Defendants

No. 06-894-CD

CIVIL COMPLAINT

(President Judge Fredic J. Ammerman)

AMENDED COMPLAINT
PURSUANT TO RULES OF CIVIL PROCEDURE 1028

NOW COMES, Glenn A. Holder Sr.,Pro-se, plaintiff in the above said, in compliance to R.C.P. 1028 and Order dated, 5 Sept. 2006 by this Honorable Court as follows:

1). This Court has Jurisdiction over this natter pursuant to Section 736 of the Judicial Code 42 PA C.S. §763.

PLAINTIFF

2). Plaintiff, Glenn Anthony Holder Sr., is and was at all times mentioned herein a prisoner of the state of Pennsylvania, in the custody of the PA Department of Corrections. Plaintiff is currently confined in State Correctional Institution at Houtzdale, in the city of Houtzdale, Pennsylvania.

DEFENDANTS.

3). Defendant Matthew Swanson is a Correctional Officer of the PA Department of Correction, who at all times mentioned in this complaint was assigned to S.C.I. Houtzdale.

4). Defendant Marshall J. Shirley is a Correctional Officer of the PA Department of Corrections, who at all times mentioned in

this complaint was assigned to S.C.I. Houtzdale, holding the rank of Captian as Shift Supervisor.

5). Defenant Robert Reed is an employee of the PA Department of Correction, who at all times mention in this complaint was assigned to S.C.I. Houtzdale as Hearing Examiner.

6). Defendant Randall Britton is an Officer of th PA. Department of Corrections, who at all times mentioned in this complaint was assigned to S.C.I Houtzdale. As Deputy Superintendant. he is legally responsible in assisting in the operation of S.C.I. Houtzdale , for the welfare of all inmates in S.C.I. Houtzdale and a member of the Program Review Committee.

7). Defendant Kenneth Cameron is an Officer of th PA Department of Corrections, who at all times mentioned in this complaint was assigned to S.C.I. Houtzdale as Deputy Superintendant, Legally responsible in assisting in the operation of S.C.I. Houtzdale, For the welfare of the inmates in S.C.I. Houtzdale and a member of the Program Review Committee.

8). Defendant Frank Hartnett is an employee of the PA Department of Corrections, who at all times mentioned in this complaint was assigned to S.C.I Houtzdale as Classification/Program Manager and is a member of the Program review Committee.

9). Defendant Irwin is a Correctional Officer of PA Department of Correction, who at all times mentioned in this complaint was assigned to S.C.I. Houtzdale, as Intelligence Officer, holding the rank of Captian and the investigating officer in this matter.

10. Defendant George Patrick is Superintendant of S.C.I. Houtzdale. He is legally responsible for the operation of S.C.I. Houtzdale and for the welfare of the inmates of that prison. He is also the fourth member of the Program Review Committee.

11). Each defendant is sued individually and in his official capacity. At all times mentioned in this complaint each defendant was present at S.C.I. Houtzdale and acted under the color of State Law.

FACTS:

12). Defendant Swanson submitted a misconduct report on 12 March 2006, stating plaintiff was Engaging in Sexual Acts with others; Refused an Order and Violated Visiting Room Regulations. (SEE EXHIBIT "A").

13). Defendant Swanson knew this report was being fabricated as he wrote it.

14). Defendant Swanson stated that plaintiff minor child was standing on the table, which is untrue. (SEE EXHIBIT "G" THIRD PARAGRAPH).

15). Defendant Swanson stated that the plaintiff's minor child was bent over shaking her rear at the plaintiff, which is untrue. (SEE EXHIBIT "G", THIRD PARAGRAPH).

16). Defendant Swanson was aware that ther was no such rule or policy which stated that a minor child could not sit on the table or that a minor child must remain seated throughout the entire visit. (SEE D.O.C. VISITING ROOM RULES, EXHIBIT "B").

17). Upon information and Belief, Defendant Swanson allows caucasion inmates visitors not only to stand, but allows their minor children to stand on the table in the non-contact booth making it easy for the child to communicate with the incarcerated parent. (SEE EXHIBIT "C" STATEMENTS).

18). Upon information and Belief, Defendant Swanson deprives the plaintiff, who is African-american, the same liberties he freely allows caucasion inmates.

19). Upon information and Belief, Defendant Swanson Racially Discriminated, (Willfully and intentionally) against the plaintiff , the plaintiffs wife and his child, due to the plaintiff being married to a caucasion woman, and having a child as a product of the marriage.

20). Upon information and Belief, Defendant Swanson has an employment history at S.C.I. Houtzdale of Racial Discriminatory behavior and practices, against African american inmates.

21). Defendant Swanson submitted a misconduct report,(EX."A") stating that the very same inappropriate conduct occurred on 12-29-05 and 12-30-05 and twice on 3-12-06, which he was aware was untrue.

22). Defendant Swanson never terminated any of the Plaintiffs visits, though he claims that these inappropriate events occured, being seen by him on (4) four diffrent occassions, when it is policy and the normal procedure to immediately terminate the visit and place the inmate in the Restricted Housing Unit.

23). Upon information and Belief, this action by Defendant Swanson, was also retialitory due to the grievance written by the Plaintiff against the Defendant.

24). Upon information and Belief, Defendant Swanson was just off of the misconduct restriction, he was placed on for writing many fabricated misconduct reports, such as this instant report.

25). Upon information and Belief, Defendant Swanson was aware that the misconduct report he penned was fraudlent.

26). Upon information and Belief, Defendant Swanson was awrae that the plaintiff has not and did not engange in sexual acts with his minor child or anyone else during any visit at S.C.I. Houtzdale.

27). Upon information and Belief, Defendant Swanson being an Officer for PA. Department of Corrections, assigned at S.C.I. Houtzdale has full knowledge of the D.O.C. Policies as they pretain to visiting.

28). Upon information and Belief, Defendant Swanson is fully aware that the Plaintiff, nor his wife or his minor child violated NO rules or regulations set for the visiting room at S.C.I. Houtzdale.

29). During the Disiciplinary (sic) Hearing and upon information and Belief Defendant Swanson raised his right hand being sworn in, stated all information in his submitted report was true and correct, when in fact it was a total fabrication.

30). Upon information and Belief Defendant Shirley, being defendant Swanson supervisor and employed at S.C.I Houtzdale with Defendant Swanson, as his superior, and Defendant Swanson Co-worker for more than (3) years, was aware of Defendant Swanson discriminatory practices, (racial).

31). Upon information and Belief, Defendant Shirley was the ranking Officer and Shift Supervisor on 12 March 2006, and authorized the submitted misconduct report. (SEE EXHIBIT "A")

32). Upon information and Belief, Defendant Shirley was aware not only of Defendant Swanson Racial Discriminatory conduct, but aware that Defendant Swanson had been placed on a misconduct restriction, for writing many fraudlent reports, and authorized this misconduct anyway.

33). Upon information and Belief, Defendant Shirley in his capacity, being of full knowledge of policy, and aware that the visit, as well as alleged events were said to take place in the non contact booth, with the plaintiff being seperated from his visitors reviewed the report giving it an okay, this condoning the behavior of Defendant Swanson, Directly participating in the injury to the Plaintiff and his wife and child.

34). Upon information and Belief, Defendant Shirley, upon his independant review of the alleged seriousness of the charges, allowed the plaintiff to remain in he present status, when if the alleged was thought to be true, the plaintiff would have been placed in the restricted Housing unit until the hearing.

35). Upon information and Belief, Defendant Shirley was aware that the report was suspicious, but willfully, knowingly and intelligently authorized it.

36). Upon information and Belief Defendant Reed (Hearing Examiner) was aware that there was NO evidence of such acts on video tape.

37). Upon information and Belief, Defenadnt Reed is bias due to the plaintiffs incarcerated conviction, stating to the plaintiff "It says here that you are here for rape."

38). Upon information and Belief, Defendant Reed established his Bias, demonstrating such, by stating that he believes the officer (Defendant Swansons) written report over the plaintiff.(SEE EXHIBIT "D")

39). Upon information and Belief, Defendant Reed refused to allow the plaintiffs witness, whom was present during the visit, stating that the witness was not necessary, further establishing his bias and made up mind prior to the plaintiffs account of event. (SEE EXHIBIT "E")

40). Upon information and Belief, Defendant Reed, having full knowledge of D.O.C. policy concerning the visiting room, stated that the plaintiffs minor child violated visiting room rules, when there were NO SUCH RULES, stating that a minor child had to remain seated throughout the entire visit, nor any rules governing the non-contact booth at that time. (SEE EXHIBIT "D").

41). Upon information and Belief, Defendant Reed, having personal feeling involved, waivered in his decision, by first marking that the verdict was NOT GUILTY, then after leaving the room to speak with Defendant Swanson returned and santioned the plaintiff to (60) days in the Retricted Housing Unit. Santions for fraudlent chArges. (SEE EXHIBIT "D").

42). Upon information and Belief, Defendant Reed had personal involvement, participating is assisting Defendant Swanson in Racially Discriminating against the plaintiff, his wife and their child by, his statement that he believed Defendant Swanson, due to the plaintiffs incarcerated conviction of rape and stating that the plaintiffs minor child violated visiting room rules that did not exist.

43). Upon information and Belief, Defendant Reed having knowledge that Defendant Swanson has a History of Racial Discriminatory practices/behavior, as well as Defendant Swanson being on a misconduct restriction for writing many fabricated reports, willfull, knowingly and intelligently chose to take an active part in this miscarriage of administrative justice.

44). Upon information and Belief, Defendant Reed santioned the plaintiff to the Restricted Housing Unit for a peroid of (60) days for charges that were eligible for informal resolution, and did not require placement in the restricted housing unit, confining the plaintiff in the RHU under and due to the fraudlent report. (SEE EXHIBIT "F")

45). Upon information and Belief, Defendant Britton, inhis position with full knowledge of Department of Corrections Policy as it is to Visitation, as well as his knowledge of Defendant Swansons Racial Discriminatory practices and being one of the (4) deciding members on the Program Review Committee, Knowingly, willfully and intelligently chose to sustain ALL ASPECTS of the misconduct report. (SEE EXHIBIT "H").

46). Upon information and Belief, Defendant Britton was aware that the visit took place in the non-contact booth, and that not only was it impossible for the plaintiff to engage in sexual acts with others, but that there was NO SUCH RULE in the visiting rules and regulations that stated that a minor child must remain seated at all times during a visit.

47). Upon information and Belief, Defendant Britton in his capacity, was aware that Defendant Swanson had been Placed on a Misconduct Restriction for writing many Fabricated Misconduct reports, yet chose to knowingly, intelligently, willfully, and intentionally participate, involving himself in assisting Defendant Swanson in his injury to the plaintiff, his wife and their child.

NOTE: THE FACTS STATED ABOVE IN ITEM NUMBER (45) (46) and (47) ALSO ARE FACTS UPON INFORMATION AND BELIEF FOR DEFENDANT CAMERON: DEFENDANT HARTNETT; and DEFENDANT PATRICK.

48). Upon information and Belief Defendant Irwin, being the Security investigator and employed here at S.C.I. Houtzdale more that (3) years, having knowledge of Defendant Swanson derogatory Racial Discriminatory behaviors and History, Knowingly, Willfully and Intelligently condoned Defendant Swanson actions.

49). Upon information and Belief Defendant Irwin, being the investigating Officer, during the investigation interview with the plaintiff, Stated, " When I first saw this thing, I laughed, because I know that it is impossible for you to engage in sexual acts with others in the non-contact booth"., Yet, Defendant Irwin continued by Stating to the Plaintiff, that the charges will stand and remain in the petitioners record.

50). Upon information and Belief, Defendant Irwin was aware that Defendant Swanson had been on a misconduct restriction for writing many fraudlent misconduct reports.

51). Upon information and Belief Defendant Irwin during the investigation interview, instead of focusing on the issue at hand, Defendant adding insult to injury, peppered the plaintiff with questions , inquiring the plaintiff about becomming a snitch for him, or a confidential informant, and that the plaintiff could have a code name like Dancing Bear, this in it'self attempting to lure the plaintiff in harms way.

52). Upon information and belief, Defendant Irwin instead of getting the facts of the fabricated misconduct, offered the plaintiff Ice cream tickets, free cable, soups, free phone calls, a television and other commissary items to work for him and as remedy to a wrong done by Defendant Swanson.

53). Upon information and Belief, Defendant Irwin was aware that the misconduct by Defendant Swanson was false, but willfully, Knowingly, intelligently and intentionally participated in assisting Defendant Swanson in the injury to the plaintiff, the plaintiffs wife and their child.

54). Upon information and Belief Defendant Patrick, being the Superintendent at S.C.I Houtzdale, had knowledge of Defendant Swanson being placed on a misconduct restriction for writing many false misconduct reports.

55). Upon information and belief, Defendant partick in his capacity has full knowledge of the D.O.C. Policy comcerning Visitation, and was aware that there was NO SUCH RULES that stated that **a minor** child must remain seated during the visit.

56). Upon information and belief Defenant Patrick was aware that the misconduct report was false, and attempted to justify defendant Swansons actions by stating that the plaintiff was punished for the behavior of the child despite orders issued to the plaintiff to control his child, making it sound that the child was

being disruptive, which is far from the truth.SEE EXHIBIT "I") ALSO SEE EXHIBIT "G" 2ND PAGE, 2ND PARAGRAPH).

57). Upon information and Belief Defendant Partick, knowing the report was fraudlent, sustained the finding of guilt, stating that #37 of Misconduct was due to the continued misbehavior of the child despite orders issued to the appellant to control his visitor, when this numbered charge is violation of visiting regulations, which did not, and does not exist, concerning this matter. (SEE EXHIBIT "F").

58). Upon information and Belief, Defendant Patrick, reduced the misconduct from a Class I to a Class II misconduct, modified the santion to disciplinary Custody Time Served , after the plaintiff had served (23) days in disciplinary custody (RHU), After Defendant Patrick recieved, (EXHIBIT "G") from the plaintiffs wife, which is a Complaint/Intent letter, Defendant Patrick requested to the Chief Hearing Examiner in Camp Hill to re-open the appeal, recommending that the decision of guilty and the charges be Vacated at final review, to prohibit recharge, rehearing and the misconduct dismissed. Defendant Patrick was aware that the misconduct was false, thus his actions to get rid of the misconduct establishes the fact.

SEC. JEFFERY BEARD INFORMED DEFENDANT PATRICK TO ENSURE THAT HIS STAFF EXPUNGED ALL RECORD OF THE MISCONDUCT FROM THE PLAINTIFFS INSTITUTIONAL FILES. SEE EXHIBIT "L"

59). Upon information and Belief, Defendant Patrick willfully knowingly, intelligently and intentionally participated in directly by having knowledge of Defendant Swanson, whom he is charge of, yet failed to act, until the threat of Civil Actions from the plaintiffs wife.

60). Upon information and Belief Defendant Patrick, knowingly, Intelligently, Willfully and Intentionally allowed his Officer, Defendant Swanson to profile and Racially Discriminate against the plaintiff, the plaintiffs wife and their child.

61). Upon information and belief Defendant Patrick wilfully discriminates against the plaintiff in refusing contact visits for the plaintiff and his biological child, whon is not involved in his case, even though plaintiff has several affidavits from family members

who support the plaintiff for his contact visitation with his child.

62). Upon information and Belief, Defendant Patrick refuses plaintiff contact visitation with his biological child, due to a discriminatory policy against the plaintiff, due to the offense which has the plaintiff currently under incarceration, and which is also in the appellate courts at this moment.

NOTE: THE PLAINTIFF IS ON NON CONTACT STATUS DUE TO THE ACTIONS OF AN INMATE NAMED SIMMS IN S.C.I. MAHANEOY.

63). Upon information and belief, Defendant Patrick willfully and purposefully discriminates against the plaintiff, due to the nature of his incarcerated offense, while at the same time allowing inmates with burtal murder, physical assaults, Multiple murders as well as some caucasion inmates with sex offenses to have contact visits with their children.

64). Upon information and Belief Security and Defendant Patrick state that the plaintiff is a security risk,as a reason that the plaintiff has NOT contact visitation in the non contact booth with his child, Yet, the plaintiff is cleared by the Defendant and security to work through the night with a female employee, with next to no supervision.

65). Upon information and Belief Defendant Patrick, after the filing of the original complaint, has allowed retialatory rules to be placed in the non-contact booth, that now will not allow the plaintiffs wife and child to take photographs for the plaintiff, which are given to the plaintiff after the visit, which is some thing that the Defendant is aware that the plaintiff buys photo tickets for, prior to his visits. These rules also state that all visitors must remain seated for the duration of the visit, That there is no loud talking.(SEE RULES, EXHIBIT "M" AND THE DATE POSTED IS JUNE 13, 2006 APPROX. A MONTH AFTER FILING)

66). Upon information and Belief Defendant Patrick is aware that if the plaintiffs minor child remains seated, the child will not be able to see the plaintiff, nor the plaintiff her, And given this situation, the only way for the plaintiff to speak to the child would be to raise his vioce, just as the child would have to.

67). Upon information and belief, Defendant Patrick acknowledges the fact that the plaintiff, the plaintiff's wife and their child were racially discriminated against,and False claims and charges were alleged against them by Defendant Swanson, by his actions, to rid the matter upon his request to the Secretary of Corrections to reopen the matter having the matter dismissed, Vacated and expunged from the plaintiffs records. However the damage has already been done.

68). Upon information and belief, Defendant Swanson had intent to cause harm/injury to the plaintiff, the plaintiffs wife and their child, due to his personal beliefs and racial discriminatory evil motive.

69). Upon information and belief, the reamining defendants fail to act and acted in a manner that clearly established that the defendants condoned the racial discriminatory acts and the approved the fraudlent report filed.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

70). Plaintiff used appellate procedures available at S.C.I. Houtzdale to try to solve the problem.

71). Plaintiff recieved DC-141, Misconduct Report on 12 March 2006.

72). Plaintiff had a Disciplinary Hearing 14 March 2006, where the plaintiff was found guilty, sanctioned to (60) Disciplinary Custody in the Restricted Housing Unit immediately.

73). Plaintiff filedAdministrative Appeal according to D.O.C. Policy DC-ADM-801, 14 March 2006, to the Program Review Committee, whom Sustained EVERY ASPECT OF THE MISCONDUCT on March 21, 2006.

74).Plaintiff appealed to the Facility Manager,(Defendant Patrick), who reduced the misconduct to Class II, citing charge diffrent from those alleged in the misconduct report.

75). Plaintiff was released from the restricted Housing unit/ disciplinary custody, after serving (23) days of confinement, in the HOLE, 6 April 2006.

76). Plaintiff filed an appeal to the Chief Hearing Examiner

in Camp Hill, on 12 April 2006, Timely, and relief was denied 21 April 2006, being recieved on 1 May 2006. (SEE EXHIBIT J)

77). Examiner stated that Defendant Patrick throughly and fairly reviewed the facts of this misconduct. (EX. K)

78). Plaintiff's wife, upon request by the plaintiff, forward a letter of intent (EXHIBIT "G") to Defendant Patrick and Sec. Beard.

79). On 11 May, 2006, Plaintiff recieved letter from Sec. Beard Dated 1 May 2006, (EXHIBIT "L"), stating upon request from Defendant Patrick to re-open the appeal, Vacate, Dismiss and expunge misconduct from all of the plaintiffs institutional files.

80). Plaintiff filed Pettion for Review in Commonwealth Court, which forwarded matter to the Clearfield Common Pleas Court 17 May 2006.

LEGAL CLAIMS.

81). As a result of the actions of the Defendants, the Plaintiff has suffered ridicule from inmates as well as officers, and damage to his low keyed reputaion, and has had to withdraw from his regular activities.

82). Plaintiff's wife has suffered sever depression, her reputation has been damaged and is in grave fear in returning to this institution or any other institution due to the actions of the named defendants.

83). These actions have brought trauma upon the plaintiff's child, making the plaintiff's child a victim, and has harmed the child emotionally.

84). The plaintiff is incarcerated as punishment, not for punishment.

85). The named defendants have taken it upon themselves to inflict more punishment over top of what the court has given, in the way of Racial Discrimination, and deprivation of Constitutional Rights, as well as Civil Rights, and inflicting punishment on the Plaintiff's family.

86). Plaintiff realleges and incorporates paragraph 2-80.

87). Defendant Swanson acting under the color of State Law,in his actions against the plaintiff, racially profiled; Racially Discriminated; Racially Harassed and Filed fraudlent claims against the plaintiff, The Plaintiff's wife and their child, Violating their Civil Rights,; Equal Protection and Equal Treatment Rights and Due Process Rights as Guaranteed by the Constitution of the Commonwealth of Pennsylvania, and the Constitution of the United States of America.

88). Defendant Reed, acting under the Color of State Law, Violated the Plaintiffs Due Process Rights in Denying witnesses and his Failure to Act, Acts of omission to the same extent as acts of comission, Directly participated in the Violation of the Plaintiffs Civil Rights as well as PA and United States Constitutional Rights.

89). Defendant Shirley acting under the color of State Law, wilfully, knowingly having knowledge of Defendant Swansons Racial Discriminatory actions, Directly participated with Defendant Swanson in Racially Harassing and Racially Discriminating against the Plaintiff, the plaintiff's wife and their child, when he autnorized the known fraudlent misconduct.

90). Defendant Shirley acting under the color of State Law, Directly participated and his failure to act, acts of omission, which areactionable to the same extent as acts of comission, is liable in the Violationn of the plaintiff, the plaintiff's wife and their childs Rights protected by the Equal protection/Equal treatment Clause of the Constitution and Civil Rights, due to his knowledge of the Racial Discrimination. Racial Harassment, Defendant Swansons behavior and authorization of the fraudlent claims and his failure to do anything about it.

91). Defendants Britton, Cameron and Hartnett acting individually and collectively as the Program Review Committee, and under the color of State Law, having knowledge of Defendant Swansons racial Discriminatory actions, behavior and fraudlent misconduct writings as well as Department policy are liable in their failure to act, whoch omissions are actionable to the same extent as acts of comission, to the Constitional Violations above stated, as well as Civil Rights Violations against the plaintiff the plaintiff's wife and their child, with their knowledge of these

facts and their failure to do anything about it, establishes their direct participation.

92). Each of the above said defendants, in thier individual wrong doings, caused the plaintiff to be subjected to a deprivation of rights guaranteed by the Pa. Constitution and the United States Constitution, having personal involvement. Not respondent superior, but each in thier own individual offical capacity, with knowledge of acts, and their omissions leads to their Personal Involvement.

93). Defendant Irwin, Investigating Officer, acting under the color of State Law, having knowledge of Defendant Swansons Racial Discriminatory actions and behavior; Acknowledgement of the fraudlent Misconduct and Knowledge of th Department of Corrections Policy, Directly participated, having personal involvement in the Racial Discrimination, Racial Harassment, Equal Protection/Equal Treatment Clause of the Constitution and Civil Rights Violations against the Plaintiff, the plaintiff's wife and their child, with his knowledge of the said acts and violations, is liable in his failure to act, which omissions are actionable to the same extent as acts of comission and his failure to do anything about it.

94). Defendant Patrick, the Superintendant of S.C.I. Houtzdale and the supervisor of all above said defendants Directly participated in the Violations of Rights Guaranteed by the PA Constitution and The United States Constitution as they do apply to the plaintiff, the plaintiff's wife and their child, including the violation of their Civil Rights, when Defendant Patrick having knowledge of the fraudlent miconduct writings, Racial Discriminatory behaviors of is Officer, being fully aware of Department of Corrections Policies and failed to act, to the extent which is the same as acts of commission of the Violations. Defendant Patrick at this time was acting under the color of state Law in his capacity.

95). Defendant Patrick, Superintendant of S.C.I. HOutzdale acting under the color of State Law Had personal Involvement and Direct Participation, subjecting the plaintiff, the plaintiff's wife and their child to the above state Constitutional Violations and Civil Rights Violations, when .this Defendant chose to attempt to

cover up the fraudlent charges, fraudlent Misconduct, Racial Discrimination, Racial Harassment, resulting in Equal Protection/ Equal Treatment Clause Violations of the United States Constitution, PA. Constitution, Civil Rights Violations, all with intent to harm, when this defendant attempted to justify all actions of Defendant Swanson on the Plaintiff's Minor Child, which was clearly untrue.

96). Defendant Patrick, Superintendant of S.C.I. Houtzdale acting under the color of State Law, having the above said knowledge allow retialatroy rules to be posted, after claim was filed with the intent to further cause harm to the plaintiff and his family, by restricting photographs by the plaintiff's wife and child, insisting that the plaintiff's minor child remain seated, after her (3½) hour ride to visit, knowing that this will prevent the minor child from being able to see or hear the plaintiff, and stating that there is to be NO LOUD talking, knowing that this would be the only way for the plaintiff to communicate with the child and his wife effectively. There are no hearing devices only a (4 inch) hole in the glass approx. a foot and a half above the plaintiffs head for communication, Thus continuing to cause injury to the family.

97). Defendant Patrick, Superintendent of S.C.I. Houtzdale acting under the color of State Law, Wilfully, Purposefully and Intentionally carry out a policy that discriminates against the plaintiff due to his conviction by insisting that the plaintiff can only have visits with his child in the non contact booth. Equal Protection/ Treatment Violation

98). Defendant Patrick, Superintendant of S.C.I Houtzdale Knowingly and Wilfully Voilates the Plaintiffs Equal Treatement Rights by allowing caucasion inmates similiar situated with same conviction, and not completed program to have contact visits with thir children, even though Plaintiff has completed all required forms and has supporting affidavits from family members of boths sides of his family.

99). The Plaintiff has no plain, adequate or complete remedy at law to redress the wrongs described herein. The Plaintiff has been and will continue to be irreparably injured by the conduct of the Defendants unless this Honorable Court Grants declaratory and injuntive

relief which the plaintiff seeks.

PRAYER FOR RELIEF.

WHEREFORE, Plaintiff respectfully prays that this Honorable Court enter Judgement granting plaintiffs:

100). A declaration that the acts and omissions described herein violated plaintiff's rights under the PA. Constitution, and the Constitution and Laws of the United States.

101). A preliminary and permanent injunction ordering the Defendants to cease Racial Discriminatory Practices against the Plaintiff, the plaintiff's wife and thier child.

102). A preliminary and permanent injunction Ordering the Defndants to cease harassment and retailitory actions, including Transferring the plaintiff due to these actions.

103).A prelimianary injunction Ordering Defendant Patrick to cease the discriminary actions that keeps plaintfiff from having contact visitation with his biological child, while allowing other inmates the same liberty.

104). A preliminary and permanet injunction Ordering Defendant Patrick to remove retialitory Rules posted 6-13-06, after the filing of this matter.

105). Compensatory damages in the amount of $2000.00 against each Defendant jointly and severally.

106). Punitive damages in the amount of $2500.00 against each of the Defendants Jointly and severally.

107). $1000.00 a day for (23) days of confinement in the Hole due to the Constitutional and Civil Rights Violations by the Defendants.

108). Punitive Damages in the amount of $50,000.00 against Defendant Swanson each for the Plaintiff, the plaintiff's wife and their child.

109). Emotional and Psychological damages in the amount of $25,000.00, due to Constitutional violations.

110). Recompensation for this present legal action and Appeal in the amount of $2500.00 as estimated by attoreny average rate.

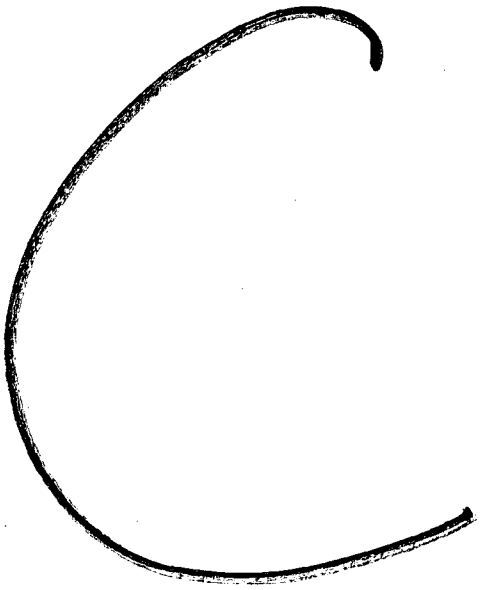
111). Plaintiff **RESPECTFULLY DEMANDS A TRIAL**, To further establish facts and Request an appointment of Counsel to assist in this matter, and Discovery.

112). Any additional relief this Honorable Court deems just, proper and equitable.

DATE: 20 September 2006

RESPECTFULLY SUBMITTED BY:

Mr. Glenn A. Holder Sr. Pro-se
EA-7173
P.O. BOX 1000
Houtzdale, PA 16698-1000



IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA CIVIL DIVISION

GLENN A. HOLDER, SR.,	:	
	:	
Plaintiff,	:	No. 06-894-CD
	:	
v.	:	(President Judge Fredric J. Ammerman)
	:	
OFFICER SWANSON, et al.	:	
	:	
Defendants.	:	

DEFENDANT SWANSON'S ANSWERS TO PLAINTIFF'S INTERROGATORIES

1.) "State complete name, Official Employment Position, Place of Employment and Date of Employment."

RESPONSE: Matt Swanson, COI
SCI-Houtzdale
May 1996 – Present

2.) "Were you on duty in the Visiting room on April 8, 2006?"

RESPONSE: Yes.

3.) "Did you make rounds visually observing inmate activity in the visiting room as well as the non-contact booth?"

RESPONSE: Yes.

4.) "Can an inmate physically engage in sexual contact with their visitor, while visiting in the non-contact booth?"

RESPONSE: No.

5.) "Did you see the plaintiff engaging in Sexual Acts or conduct with his minor child or anybody on 12-29-05?"

RESPONSE: No.

6.) "Did you see the plaintiff engaging in sexual misconduct or acts with his minor child or anybody while visiting in the non-contact booth no 12-30-05?"

RESPONSE: No.

7.) "Did you see the plaintiff engaging in sexual misconduct with his minor child or anybody at anytime while in the non-contact booth on 12 March 2006?"

RESPONSE: Yes.

8.) "Is it not policy or procedure to terminate an inmates visit and place the inmate in the restrictive housing unit, once sexual misconduct is observed?"

RESPONSE: It Depends. A COI cannot make that decision. It is up to the shift commander.

9.) "Do you have full knowledge and understanding of Department of Corrections policy and S.C.I. Houtzdale Policy as it pertains to inmate visitation?"

RESPONSE: Yes.

10.) "Have you ever been disciplined, Santioned, Reprimanded, Suspended, Placed on Restriction or Warned about Racial Discrimination against African-american inmates or inmates?"

RESPONSE: No.

11.) "Have you ever been disciplined, Santioned, Reprimanded, Suspended, Placed on Restriction or Warned or Placed on a Restriction from writing Misconducts, due to writing many misconducts which are found in error? If so, When?"

RESPONSE: There is no such thing as a misconduct restriction. I have never been disciplined for anything.

12.) "Does the Department of Correction have a policy against all types of Discrimination:

RESPONSE: Yes.

13.) "Was the misconduct written in your hand, charging the Plaintiff his wife and their child of Engaging in Sexual Acts with others, Refusing to obey Orders and Violating Visiting Room Rules and Regulations a true and Factual misconduct?"

RESPONSE: No. I can not write misconduct on a civilian, only on an inmate. Your wife and child were not charged with anything.

Respectfully submitted,

Office of General Counsel

By: Debra Sue Rand

Debra Sue Rand
Assistant Counsel
Attorney I.D. No. 41661
Pennsylvania Department of Corrections
Office of Chief Counsel
55 Utley Drive
Camp Hill, PA 17011
(717) 731-0444

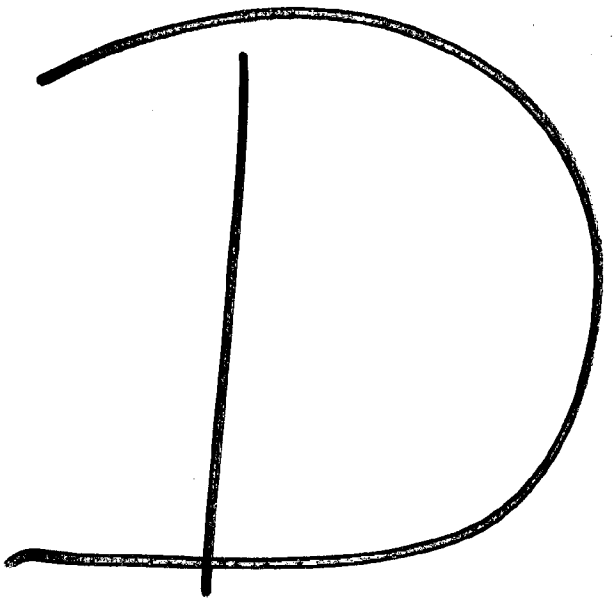
Dated: November 30, 2006

VERIFICATION

I, Matthew Swanson, have reviewed the foregoing Answer to Interrogatories of Matthew A. Swanson and I declare under penalty of perjury that the factual answers set forth herein are true and correct, to the best of my knowledge information and belief, and that I give this verification subject to the criminal penalties relating to unsworn falsification to authorities, 18 Pa.C.S. §4904.

11-13-26
Date

Matthew Swanson
Corrections Officer I
SCI-Houtzdale
Pennsylvania Department of Corrections



IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA CIVIL DIVISION

GLENN A. HOLDER, SR.,	:	
Plaintiff,	:	No. 06-894-CD
v.	:	(President Judge Fredric J. Ammerman)
OFFICER SWANSON, et al.	:	
Defendants.	:	

REMAINING DEFENDANT SWANSON'S ANSWERS TO PLAINTIFF'S SECOND SET OF INTERROGATORIES

1. "On the following dates of Dec. 29, 2005; Dec. 30, 2005 and March 12, 2006, the dates referenced from the DC-141 Misconduct, were there Visiting Rules and Regulations of the Department of Corrections Policy or S.C.I. Houtzdale's Supplement that stated that a minor child could not sit upon the desk/table in the non-contact booth in order to hear and talk to their parent, while on their visit?"

RESPONSE: No.

2. "What sexual misconduct act did you see the Plaintiff engaging in twice on March 12, 2006?"

RESPONSE: The activity described in my misconduct report.

3. "What visiting room Rules and Regulations did the Plaintiff break or violate?"

RESPONSE: At the time I believed he had violated a rule to keep the child seated.

4. "Is engaging in any type of sexual acts with a minor a Felony that should be brought to the attention of the authorities?"

RESPONSE: **OBJECTION**. This calls for a legal conclusion rather than asking a factual question. **OBJECTION** as to form.

5. "The Department of Corrections has a policy strictly prohibiting sexual behavior, which includes act directly or in-directly. On 12 March 2006, if infact what you alleged that you saw was sexual acts/misconduct, Why was the Plaintiff allowed to continue his visit?"

RESPONSE: OBJECTION to the first statement. It is not a proper interrogatory. I do not know the answer to the question in the second statement but I did not have authority to terminate a visit.

Respectfully submitted,
Office of General Counsel

By: Debra Sue Rand

Debra Sue Rand
Assistant Counsel
Attorney I.D. No. 41661
Pennsylvania Department of Corrections
Office of Chief Counsel
55 Utley Drive
Camp Hill, PA 17011
(717)731-0444

Dated: January 23, 2007

VERIFICATION

I, Matthew Swanson, have reviewed the foregoing Answer to Second Set of Interrogatories for Remaining Defendant Swanson and I declare under penalty of perjury that the factual averments set forth herein are true and correct, to the best of my knowledge information and belief, and that I give this verification subject to the criminal penalties relating to unsworn falsification to authorities, 18 Pa. C.S. §4904.

1-16-27
Date

Matthew Swanson
Corrections Officer I
SCI-Houtzdale
Pennsylvania Department of Corrections

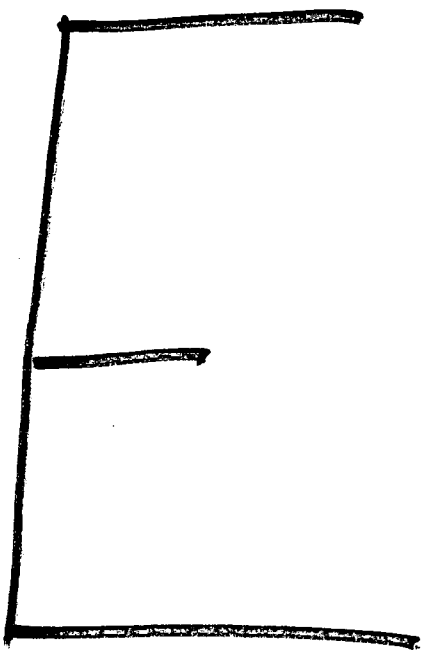


EXHIBIT "A"

TO: Mr. Jeffery Beard
Department of Corrections
P.O. Box 598
Camp Hill, Pennsylvania 17001-598

Mr. George N. Patrick; Superintendant
State Correctional Institution @ Houtzdale
P.O. Box 1000
Houtzdale, Pennsylvania 16698-1000

FROM: Mrs. Dawn E. Holder
1247 West Market Street
York, Pennsylvania 17404

DATE: April 21, 2006

RE: COMPLAINT/INTENT.

Dear Madam/Sirs:

This is an advisory of my intent.

On March 14, 2006, Inmate, EA-7173; Glenn A. Holder Sr. My Husband was charged and placed into the Restricted Housing Unit. Found guilty of allegations made by Officer Swanson, that my husband engaged in sexual acts with others; this others being our child, during our visits, which take place in the non-contact booth in your facility. This lie also accuses me, because I was present at every visit with our child. This lie was/is documented by Officer Swanson and S.C.I Houtzdale, not only against my husband, but me as well as our child. Yet, the Hearing Examiner, Mr. Reed, states that he believes Officer Swanson, even though, Mr. Swanson claimed these said acts took place over a peroid of (4) four days, he personally observed this, rather these acts each time, but chose not to terminate our visit, call authorities or take the appropriate actions. Over (50) human beings in the visiting room, but, Mr. Swanson was the only person who observed this. Though this was said to be dismissed, the damage has been done and it remains in my husbands file.

My husband has a non-contact status, due to another inmates actions in another facility. Our child was not born, when he was arrested, and his case is still in litigation.

Our family was also charged with violating visiting room rules and regulations; Mr. Swanson alleged that our child was standing on the table bent over shaking her rear end at her daddy. Which is a lie, Then Mr, Swanson charges us with refusing to obey an order. First of all, as i stated, our child was never standing on the table. Mr. Swanson insisted that our (7) year old child remain seated the entire visit of (5) hours, in that little booth after riding (3½) hours for the visit. I have reviewed the Visiting Rules (DC-ADM-812) and there is no such rule or regulation that states that a minor child must remain seated during the visit, nor can it be found in the most recent houtzdale supplement. I have personally observed

children running all over the visiting room, on Dec. 29; Dec. 30, 2005 and on March 12, 2006, While Mr. Swanson was on duty, and Mr. Swanson said nothing to any of them, instead, Mr. Swanson chose to personally harass my family. It has been brought to my attention that Mr. Swanson allows white inmates to not only stand, but allow their minor children to stand on the table during their non-contact visit, during their visit. SEE ATTACHED STATEMENTS. This is the very thing that Mr. Swanson gave my husband a misconduct for, and charged my family with. Discrimination, Racial discrimination of any type is against the Laws governed by the United States, which includes central Pennsylvania and Houtzdale.

The response from the Superintendant stated that, "Due to the continued misbehavior of the child despite orders issued to the appellant to control his visitor," My husband was found guilty. Our child has never misbehaved during any of **our** visits, as you claim. We have not allowed this, nor have we ever condoned bad conduct by our child, for we are aware that the facility will use anything to further burden our family , to discontinue our visitation with Glenn. It is clear to me that your statement is made to cover up the wrong of Mr. Swanson, and I understand that you have to stand up for your officers, so that they will feel safe and that they have support. However, when you are wrong, you are wrong. and there is no justification for Mr. Swansons bad conduct.

It is very clear that Mr. Swanson has and is racially profiling my family and has been for some time, due to the diffrence in the make up of my family. I am white and my husband is African-american. It has also come to my attention that Mr. Swanson has a history of racial discrimination, as well as use of the "N" word.

This is a Civil Rights claim, ripe for Civil Action. Just because my husband is there in your facility, does not give you the right, or any one else the right to make false allegations against him, and for Mr. Swanson to allege that I allowed such actions, took part of such action or even condone such action was wrong.

I forgive Mr. Swanson and those involved for their actions against our family, However there are Laws against what has been done, and what is being done to my husband. These actions have cause great harm to my entire family.

I have been **informed** by counsel to take this matter into the court.

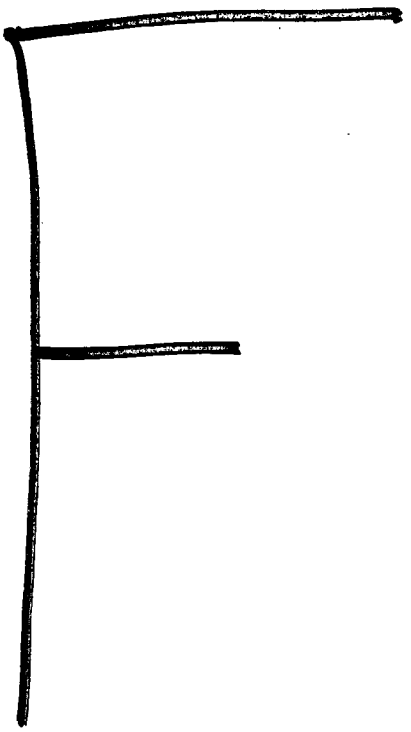
Yours' Truly

ATTACHMENTS:

Mrs. Dawn E. Holder

Dawn Holder

NOTE: FROM JULY 2000 THROUGH MARCH 2006, THERE HAS BEEN NOT TYPE OF RULES OR INSTRUCTIONS AFFIXED TO THE TABLE IN THE NON-CONTACT BOOTH.



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P. O. BOX 598
CAMP HILL, PENNSYLVANIA 17001-0598

OFFICE OF THE
SECRETARY OF CORRECTIONS

May 1, 2006

Glenn Holder, EA-7173
SCI-Houtzdale

Re: DC-ADM 801 - Final Review
Misconduct No. A664500

Dear Mr. Holder:

This is an amended response to your appeal to final review of the above numbered misconduct. As a result of a request from Superintendent Patrick, the Chief Hearing Examiner has reopened your appeal of this misconduct for further review.

In accordance with DC-ADM 801, VI, L, 3, the Chief Hearing Examiner has reviewed the entire record of this misconduct; including the misconduct report, the hearing report and related documents, your appeal to the Program Review Committee and their response, your appeal to the Superintendent and his response. The Chief Hearing Examiner has also reviewed this misconduct with Superintendent Patrick.

Upon completion of his review, it is the recommendation of the Chief Hearing Examiner and Superintendent Patrick that the decision and the charge be vacated at final review, to prohibit recharge and rehearing.

I concur with the recommendation of the Chief Hearing Examiner. Accordingly, this misconduct is hereby dismissed. Superintendent Patrick will be asked to ensure that his staff expunges all record of this misconduct from your institution files.

Sincerely,

Jeffrey A. Beard, Ph.D.
Secretary of Corrections

JAB/jcs

Cc: Superintendent Patrick

G - "G 1" G-2

I, CARMINE LAURO, DOC# DU-1558, HEREBY SWEAR AND ATTEST THAT THE FOLLOWING IS TRUE AND CORRECT AS WITNESSED BY ME, THIS DAY, APRIL 8, 2006, TO THE BEST OF MY RECOLLECTION:

WHILE VISITING WITH MY GIRLFRIEND MS. DENISE BOSLAND, OF MARLTON, N.J. AT THE VISITING ROOM IN SCI-HOUTZDALE STATE PRISON, I WITNESSED THE FOLLOWING, IN THE NON-CONTACT VISIT ROOM NEAREST TO THE INMATE ENTRY/EXIT, BETWEEN 13:00 HOURS AND 14:50 HOURS INTERMITTENTLY:

TWO SMALL GIRLS, AGES APPROXIMATELY 4-7 YRS., DANCING ON THE TABLE, SOMETIMES FACING THE INMATE, AND OTHER TIMES FACING AWAY, WITH THEIR BACKS TO HIM. JUMPING, SITTING, AND STANDING ON THE TABLE.

SOME OF THE TIME THE YOUNGER GIRL WAS ON THE TABLE, OTHER TIMES BOTH WERE. ONLY ONCE DID I SEE A LIEUTENANT TAP ON THE INMATE'S DOOR, HOWEVER, THE GIRLS REMAINED ON THE TABLE.

THIS WAS HARD NOT TO NOTICE, AS IT WAS IN OUR DIRECT LINE OF SIGHT AND THE JUMPING WAS A DISTRACTION TO THE OTHERWISE DOCILE SURROUNDINGS.

AT NO TIME DID I NOTICE THE C.O. ON DUTY IN THE VISITING ROOM ATTEMPT TO HAVE THE GIRLS REMAIN SEATED, OR ISSUE ANY TYPE OF WARNING, THOUGH HE DID DO SEVERAL ROUNDS OF RANDOMLY WALKING AROUND THE VISITING AREA, AS IS USUAL.

I STATE THE ABOVE UNDER THE PENALTY OF LAW, 18 PA. C.S. 4904.

Carmine Lauro 4-8-06

ADDENDUM TO: AFFIDAVIT OF
CARMINE LAURO DATED APRIL 8, 2006

THE "C.O. ON DUTY" MENTIONED IN MY AFFIDAVIT DATED APRIL 8, 2006 WAS OFFICER SWANSON.

AT NO TIME WHILE WALKING THROUGH THE VISITING ROOM DOING ~~ANY~~ OF HIS VISUAL INSPECTIONS OF THE INMATES AND THEIR VISITORS DID OFFICER SWANSON STOP TO ISSUE A WARNING TO THE VISITORS IN THE NON-CONTACT VISIT ROOM, IN SPITE OF THE TWO SMALL GIRLS JUMPING AND DANCING ON THE TABLE.

THIS SEEMED OUT OF CHARACTER TO ME, SINCE KNOWING OFFICER SWANSON FOR OVER 6 YEARS AND HAVING HIM AS A BLOCK OFFICER, HE WAS NOT ONE TO LET EVEN SMALL INFRACTIONS PASS HIS ATTENTION WITHOUT ISSUING A VERBAL WARNING AT THE LEAST.

NEVERTHELESS, MY OBSERVATIONS OF OFFICER SWANSON THAT DAY CONCERNING THE CHILDREN IN THE NON-CONTACT VISIT ROOM REVEALED ONLY ONE THING, HE WAS INTENT ON GIVING SPECIAL TREATMENT ~~TO~~ THEM.

I, CARMINE LAURO, DOC# DU-1558, CERTIFY THE ABOVE, IN COMBINATION WITH MY AFFIDAVIT DATED 4-8-06, TO BE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, SUBJECT TO PENALTIES OF LAW FOR UNSWORN FALSIFICATIONS, UNDER 18 PA. C.S. § 4904.

Carmine Lauro

12-3-06

04/08/06

Exh "C" 3

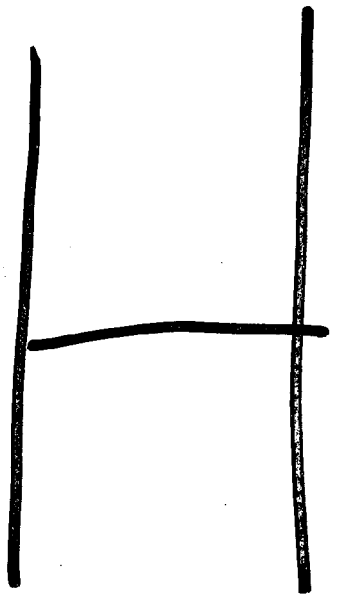
ON SAT 04/08/06 I HAD A VISIT FROM MY WIFE + GRAND DAUGHTER Jessie FRITZ + JEANNINE MARTIN. AT ONE POINT IN TIME I TOOK NOTICE THAT A LITTLE GIRL WAS STANDING ON A TABLE OR DESK TALKING TO SOME ONE IN THE NON CONTACT VISITING ROOM

THIS I BELIEVE WAS PROBLY BETWEEN 1300 HRS AND 1400 HRS.

THIS is MY NAME

FRITZ WILSON FY5228
Block CA cell 18

Wilson Fritz



CL-2 A

FORM DC-141 PART 1 Rev 3/00

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS

A 664500

☒ MISCONDUCT REPORT ☐ OTHER ☐ DC-ADM 801 INFORMAL RESOLUTION

DC Number	Name	Facility	Incident Time 24 Hr. Base	Incident Date	Date of Report
EA-7173	Holder, Glenn	SCI HOU	1420	3-12-06	3-12-06
Quarters	**Place of Incident**				
CA44	Non-Contact Visit booth				

OTHER INMATES OR STAFF INVOLVED OR WITNESSES (CHECK I OR W)

DC Number	Name	I	W	DC Number	Name	I	W

MISCONDUCT CHARGE OR OTHER ACTION CLASS I #35 Refusing to Obey An Order CLASS I #19 Engaging in Sexual Acts With Others; CLASS I #37 Violation of Visiting Room Regulations

STAFF MEMBER'S VERSION On the above date and time, I observed inmate Holder's (EA-7173) minor female visitor standing on the desk in the Non-Contact Visit Area. I also observed this minor female bent over sharing her rear end at inmate Holder. Inmate Holder has a Non-Contact with Minors Restriction. Inmate Holder was block cards on 12-29-05, 12-30-05 and twice today for the same type of infractions. On 12-29-05 inmate Holder was counseled by Lt. Gill and was ordered to have this visitor seated in the chair provided at all times.

IMMEDIATE ACTION TAKEN AND REASON Reviewed & Warranted. Inappropriate for an informal resolution due to the serious nature of the misconduct. Inmate is to remain in his present status pending review of this report by the Hearing Examiner.

PRE-HEARING CONFINEMENT	IF YES	
	TIME	DATE
☐ YES ☒ NO	–	–

FORMS GIVEN TO INMATE ☑ REQUEST FOR WITNESSES AND REPRESENTATION ☑ INMATE'S VERSION

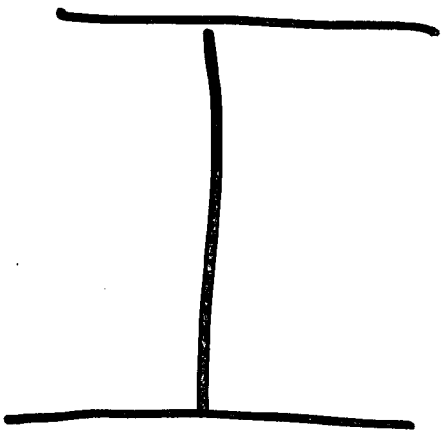
REPORTING STAFF MEMBER SIGNATURE AND TITLE	ACTION REVIEWED AND APPROVED BY RANKING C.O. ON DUTY SIGNATURE AND TITLE	DATE AND TIME INMATE GIVEN COPY DATE	TIME 24 HOUR BASE
Lt. Gill (GILL)	Lt. Shirley (SHIRLEY)	3/12/06	1753

YOUR HEARING MAY BE SCHEDULED ANY TIME AFTER DATE	TIME	MISCONDUCT CATEGORY	Signature of Person Serving Notice
3-14-06	0800	☒ CLASS 1 ☐ CLASS 2	

NOTICE TO INMATE

You are scheduled for a hearing on the allegation on the date and time indicated or as soon thereafter as possible. You may remain silent if you wish. Anything you say will be used against you both at the misconduct hearing and in a court of law, if this matter is referred for criminal prosecution. If you choose to remain silent, the hearing committee/examiner may use your silence as evidence against you. If you indicate that you wish to remain silent, you will be asked no further questions. If you are found guilty of a Class 1 misconduct, any pre-release status you have will be removed.

WHITE — DC-15 YELLOW — Inmate PINK — Reporting Staff Member GOLDENROD — Deputy Superintendent Facility Management



B

-141 Part 2B
Rev. 6-84

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS

DISCIPLINARY HEARING REPORT

DC Number	Name	Facility	Hearing Date	Hearing Time	No. from Part 1
EA-7173	HOLDER, Glynn	SCI-HOU	3-14-06	1005	A664500

INMATE PLEA: ☐ Guilty ☐ No Plea ☑ Not Guilty ☐ Other

Verdict: ☐ Guilty ☑ Not Guilty

HEARING ACTION

CHARGES
19 = Engaging in sexual acts with others or sodomy
35 = Refusing to obey an order
37 = Violation of visiting regulations

FINDINGS OF FACT, VERDICT AND SANCTIONS IMPOSED

INMATE HOLDER PLEADS NOT GUILTY. PROVIDES A WRITTEN STATEMENT.

CO I SWANSON PRESENT TO EXPLAIN THE REASONS WHY HE WROTE THE MISCONDUCT. CO I SWANSON STATED THE MINOR CHILD WAS BENT OVER SHOWING THE INMATE HER BUTTOCKS. CO I SWANSON STATES THAT THE MINORS CLOTHING REMAINED IN-TACT AT ALL TIMES. CO I SWANSON EXPLAINED UNDER OATH HOW THE MINOR GIRL BEHAVED. CO I SWANSON CLAIMS THAT THE BEHAVIOR WAS NOTHING HE HAD EVER SEEN IN AN INMATE PROGRAM. HE HAS BEEN EXCITED TO SEE HIS FATHER, BUT NEVER SHOWED HIM HIS REAR END. THIS ENTIRE INCIDENT TOOK PLACE WHILE THE INMATE WAS SEPARATED FROM HIS VISITORS BY A GLASS PARTICIAN.

HEO BELIEVES THE CO I'S WRITTEN REPORT OVER THE DENIAL OF INMATE HOLDER, THAT INMATE HOLDER DID REFUSE TO OBEY AN ORDER TO KEEP HIS CHILD OFF THE TABLE IN THE VISITING ROOM NON-CONTACT BOOTH. INMATE HOLDERS MINOR VISITOR VIOLATED VISITING ROOM RULES. IT IS THE RESPONSIBILITY OF THE INMATE AND ADULT VISITOR TO MAINTAIN CONTROL OF THE MINOR VISITOR. INMATE HOLDER HAS BEEN GIVEN NUMEROUS WARNINGS ABOUT HIS BEHAVIOR AS WELL AS HIS VISITORS BEHAVIOR WHILE ON A VISIT.

DISMISS: #19; GUILTY: #35 + #37 - 60 days DC, EFFECTIVE 3-14-06

☑ YES	☐ NO	The inmate has heard the decision and has been told the reason for it and what will happen.
☑ YES	☐ NO	The circumstances of the charge have been read and fully explained to the inmate.
☑ YES	☐ NO	The opportunity to have the inmate's version reported as part of the record was given.
☑ YES	☐ NO	The inmate has been advised that within 15 days a request for a formal review may be submitted and that this request must contain specific reasons for the review.

WRITTEN VERSION, WITNESS REQUEST

SEE APPENDICES ☑

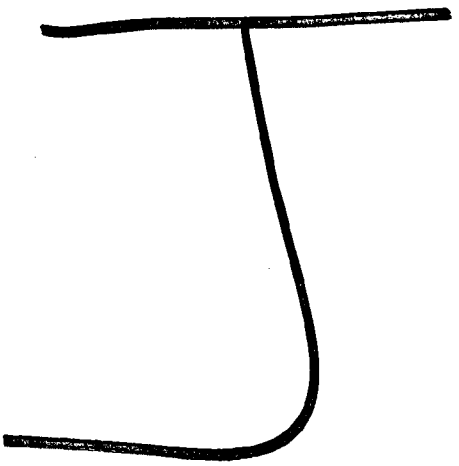
NAME(S) OF HEARING EXAMINER/COMMITTEE (TYPED OR PRINTED)

R. Reed, Hearing Examiner

Hearing Report and all appended information must be signed. Signature indicates finished report with appendices.

Robt Reed
SIGNATURE OF HEARING EXAMINER/COORDINATOR

WHITE - DC-15 YELLOW - Inmate Cited PINK - Staff Member Reporting Misconduct GOLDENROD - Deputy Superintendent



George Patrick

Superintendent
SCI-Houtsdale State Prison
Po Box 1000
Houtsdale Pa 16698-1000

Dear George Patrick,

My name is Mrs. Dawn Holder, I am writing you to file a formal complaint against Officer Swanson for lying against my family.

On March 12, 2006 my daughter and I came up to see my husband Glenn Holder. After visiting with him about 2 ½ hours Glenn was called out of the non contact room by Lt. Gill. After returning back, Glenn told us that he wanted us to leave.

I was informed later that Glenn was written up by Officer Swanson for an incident he said that occurred during our visit. Officer Swanson said that our daughter was standing on the table with her back turned toward Glenn dancing and shaking her rear inappropriately. Glenn or I would never allow our daughter to behave in that manner. Even when I come up by myself Glenn is very cautious of him or I touching each other in a manner that could get him in trouble.

Our daughter during any of our visits with Glenn never once stood on the table. She was dancing but on the floor

showing her daddy her tap dancing and a dance that she is learning for the Easter Program she is in at our church.

I do admit though that I have allowed Monique to sit on the table so that she can hear her dad and so that her dad can hear her. I apologize for allowing her to continue to sit on the table after being told by Glenn that she wasn't allowed to.

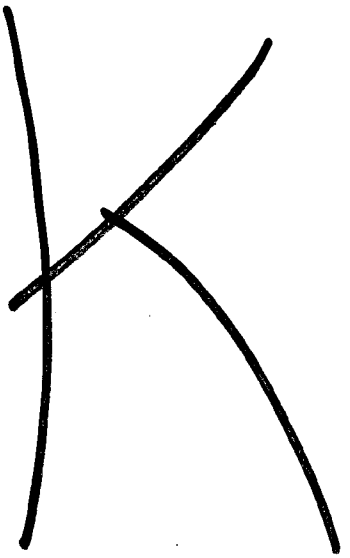
Office Swanson also accused our daughter of the same accusations on 12-29-05 and 12-30-05. He also claimed that Glenn was written up for it but there is no evidence of the write up. Office Swanson also said that the March incident was his fifth write up for the same thing. The only write up on Glenn's record was in 1999 and now this one.

I spoke with Major Kessling on the phone March 13, 2006 about this incident and he told me he was going to look into it and call me by the end of the week. He informed me that there are cameras in the visiting room and that they should have it on tape. Now I would like to know why the tape was not viewed at the hearing my husband had on March 14, 2006. I would like to view the tape recording on March 12, 2006 when me and my daughter were up visiting my husband.

I'm asking for you to take the time and investigate this situation carefully and fairly so Glenn's innocence's can be proven. Thank you for your time and consideration on this matter.

Sincerely,

Dawn Holder



IN THE COMMON PLEAS COURT OF CLEARIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

GLENN A. HOLDER SR.
plaintiff

V.

MATTHEW SWANSON
Defendant

No. 06-894-CD

President Judge Fredric J. Ammerman

AFFIDAVIT OF
DAWN E. HOLDER

I Dawn E. Holder of 1247 West Market Street, York, PA 17404 delcare under the penalty of perjury that these are my true and correct responses, to the very best of my knowledge and belief and hereby state so subject to penalties to unsworn falsifications to authorities, 18 Pa. C.S. §4904.

1). After the incident with Officer Swanson, my bouts of depression increased and got worst.

2). After this incident and due to the depression getting worst, as a result of this did you miss any days from work?

YES √ NO _____

3). How many days? 14

4). Did you see a doctor, and if so what was his name?

YES √ NO _____ Dr. Seydel

5). Were you prescribed medication? If Yes what were you prescribed?

YES √ NO _____ Medication Paxil

6). Are you fearful; Do you have fear when you now come to visit your husband at S.C.I. Houtzdale, Due to the actions of Officer Swanson?

YES √ NO _____

7). Was your minor child standing on the desk in the non-contact booth, dancing and/or bent over shaking her rear end at her daddy at any time on either Dec. 29, Dec. 30 of 2005 or on March 12, 2006 ?

YES____ NO✓

8). When the child shows new dances learned to her daddy while visiting in the non-contact booth, Where does she dance?

On the desk or on the floor ? The floor

9). Have you ever allowed your child to become out of control Misbehave or has your child ever been out of control at anytime during any visit at S.C.I. Houtzdale?

YES____ NO✓

10). Does the child dislike and fear comming to visit her daddy at S.C.I. Houtzdale, in the non-contact booth?

YES✓ NO____

11). Is there a telephone or any hearing devices in the non-contact booth at the time of your last visit, which will allow the child to hear her daddy since she is now required to remain seated throughout the entire visit?

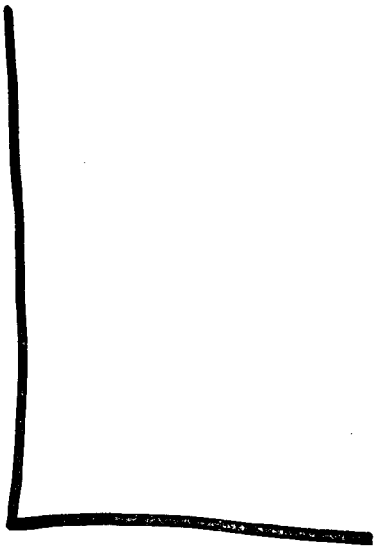
YES____ NO✓

12). If the child remains seated is there an obstruction which prevents her from seeing her daddy?

YES✓ NO____

These are my True Correct and Honest answers to the above and I stat so and affix my signature pursuant to the Standards of PA C.S. §4904.

DATE: 12-8-06 SIGNED: Dawn Holder



AFFIDAVIT OF
MRS. DAWN E. HOLDER

Due to the June 13, 2006 posted Rules in the Non-Contact Visiting room, at State Correctional Institution, that state that my child, which is Inmate Holder EA-7173, (My Husbands) Biological child, must remain seated at all times during our visit, I am forced to discontinue the visits.

It is bad enough that the facility make our family visit in the non-contact visiting room, when our child was not born nor part of my husbands case.

When he arrived there, I signed papers for contact visits with our child, as well as my parents and his parents.

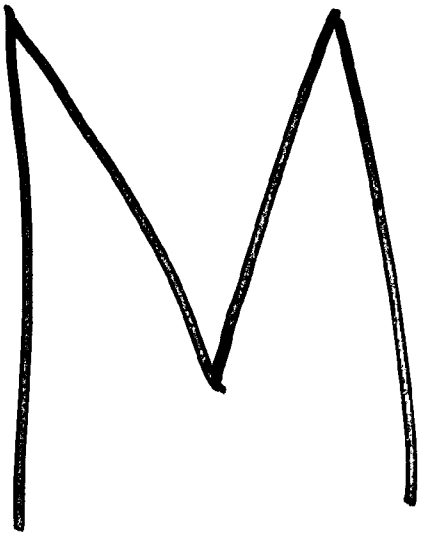
There is a wall that will not allow my child to see her dad, if she remains seated, and there is nothing that is available that will allow our child to be seated and talk to her dad. For these reason, to bring our child to visit is pointless, and causes more harm to our child.

This all has happened, because we filed a law suit against Officer Swanson

THESE STATEMENTS ARE TRUE AND CORRECT, AND TO THE BEST OF MY KNOWLEDGE, PURSUANT TO 18 PA. C.S. §4904.

DATE: 1-20-2007

SIGNED: Dawn Holder



NON-CONTACT VISITING RULES AND REGULATIONS

1. NO SMOKING IN THE VISITING AREA OR OUTSIDE COURTYARD.

2. NO ITEMS OR GIFTS WILL BE TAKEN INTO OR OUT OF THE VISITING AREA, EXCEPT FOR THE AUTHORIZED MONEY LIMIT FOR PURCHASING OF VENDING ITEMS.

3. INMATES ARE NOT PERMITTED TO VISIT WITH OTHERS NOT ON THEIR VISIT.

4. PHOTOGRAGHS WILL NOT BE PERMITED.

5. CHILDREN ARE TO BE CONTROLLED BY THE INMATE AND HIS VISITORS AT ALL TIMES. CHILDREN MUST BE ACCOMPNIED BY THE ADULT AT ALL TIMES.

6. ALL TRASH IS TO BE DISPOSED OF IN THE TRASH CONTAINER.

7. LOUD OR BOISTERIOUS BEHAVIOR WILL NOT BE TOLERATED. BE CONSIDERATE OF OTHER INMATES AND THEIR VISITORS.

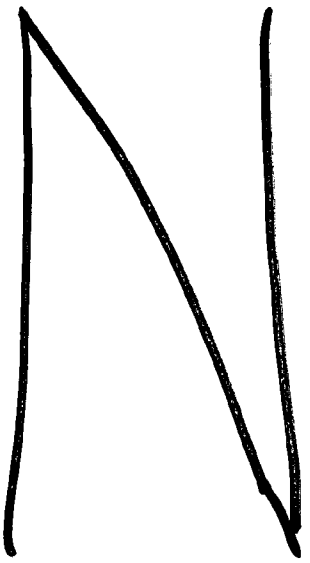
8. VISITORS OR INMATES ARE NOT PERMITTED TO SIT ON THE TOPS OF TABLES, SHELVES, OR THE BACKS OF CHAIRS.

9. VISITORS AND INMATES ARE TO REMAIN SEATED AT ALL TIMES DURING THEIR VISIT.

FAILURE TO COMPLY WITH THE ABOVE LISTED RULES AND REGULATIONS MAY RESULT IN THE TERMINATION OF THE VISIT.

Major of the Guard

6/13/06
Date



c. report it in writing to the Office of Professional Responsibility at Central Office.

5. A third party may make reports of allegations of inmate abuse, verbally or in writing, to any staff member at the facility or at Central Office.

6. If you make a false allegation, you may be issued a misconduct.

7. For more information about abuse allegations, refer to Department policy **DC-ADM 001, "Inmate Abuse Allegation Monitoring."**

B. Sexual Harassment of or Sexual Contact with Inmates (DC-ADM 008)

1. The Department strictly prohibits the sexual harassment of inmates. Sexual Harassment is defined as sexual advances, requests for sexual favors, and other verbal, visual, or physical contact of a sexual nature, sexually offensive comments or gestures or any physical contact that is of a sexual nature or sexually suggestive.

2. If you believe you have experienced sexual harassment by staff, inmates, visitors, contractors, or individuals/groups that have business with the Department, you must report it as soon as possible. You may report it to the Unit Manager and/or submit a grievance in accordance with the grievance procedure outlined in Department policy **DC-ADM 804.** If you file a report, you must include the names of all parties involved; the specific details of the incident(s), date(s), time(s), or place(s) of alleged incidents; and witnesses, if any. The Unit Manager shall initiate a review of the allegation and respond as soon as possible, but no later than 10 working days from receipt of information. You may not be retaliated against for reporting an incident of sexual harassment or for providing witness testimony.

3. If you sexually harass another inmate, employee, visitor, contractor, volunteer, you will be subject to a Class 1 misconduct in accordance with Department policy **DC-ADM 801,** and it may be a violation of law. For more information, refer to Department policy **DC-ADM 008, "Sexual Harassment of or Sexual Contact with Inmates."**

4. Sexual contact with inmates is strictly prohibited by the Department. Sexual contact refers to any sexual behavior directed towards an inmate and includes, but is not limited to: rape; any acts or attempts to commit acts which involve sexual contact; sexual abuse or assault; the intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thighs, or buttocks. This does not refer to the

Exhibit "F"

physical contact that may occur during a search of an inmate's person, in accordance with Department policy, **DC-ADM 203.**

5. You will receive information on how to avoid sexual contact in prison, how to report an incident of sexual contact, and what to do if you are the victim of sexual assault.

6. If you are the victim of sexual contact you should report it to a staff member as soon as possible. All inmates, staff, visitors, contractors, and volunteers have a duty to report an incident of sexual contact. All complaints and allegations of sexual contact with an inmate will be investigated confidentially, thoroughly and promptly in accordance with Department policy **DC-ADM 008.**

C. Inmate Grievance System (DC-ADM 804)

1. If you have an emergency you should speak to the nearest staff person as soon as possible.

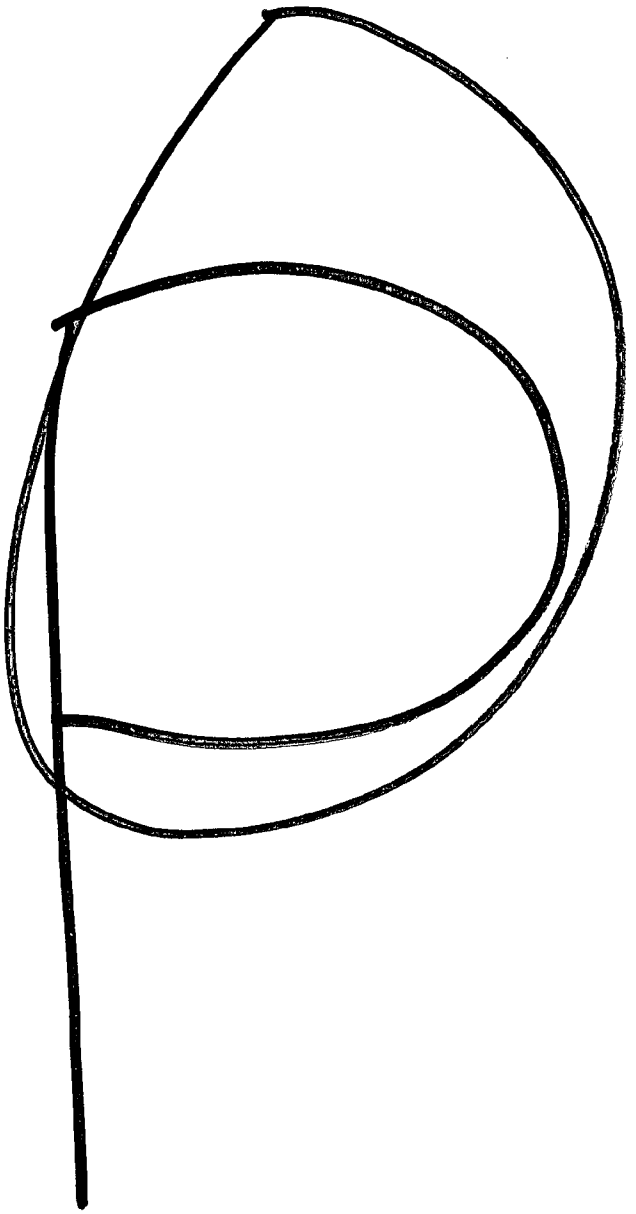
2. These procedures do not apply to issues under **DC-ADM 801, DC-ADM 802, "Administrative Custody Procedures"** or any other Department policy that states that the **DC-ADM 804** does not apply.

3. You should first try to solve a problem by speaking or writing to staff about it. If you write to staff, use a **DC-135A.**

4. If you choose to file a grievance, you must use form **DC-804, Part 1 – Official Inmate Grievance Form.** This form can be found on your housing unit. You must sign and date the form, keep the goldenrod copy and send the remaining copies of the form to the Facility Grievance Coordinator. The pink copy will be given back to you.

5. You must file the grievance within 15 days after the event on which the claim is based. If you wish to file an appeal, it must be done within 10 days from the date of the response to your grievance or appeal. You may only file your grievance or appeal after these timeframes if you are on a temporary transfer from the facility where the grievance should have been filed, you were permanently transferred to another facility from the facility where the grievance should have been filed, or you were on authorized temporary absence (ATA) for an extended period, or there were delays with mail delivery.

6. A grievance must be filed at the facility where the event occurred.



COMMONWEALTH OF PENNSYLVANIA
Department of Corrections
State Correctional Institution at Houtzdale
Office of the Superintendent
April 6, 2006

SUBJECT: Appeal of Misconduct #A664500

CA46

TO: Glynn Holder, EA7173
HA-05

FROM: George N. Patrick
Superintendent

I have reviewed this appeal, the first-level appeal to the PRC and their response, misconduct #A664500, and all supporting documentation.

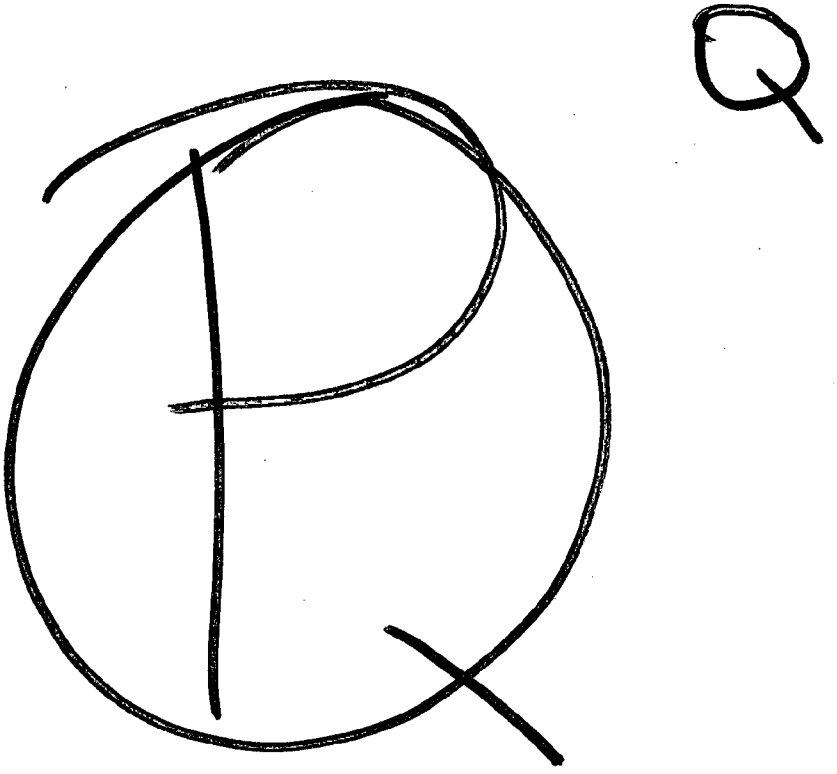
The appellant was charged with #19 (Engaging in sexual acts with others), #35 (Refusing to obey an order), and #37 (Violation of visiting regulations) relative to the behavior of his minor daughter during the course of a visit. The visit took place in the non-contact visit booth in the main visiting room. Although charge #19 was dismissed by the hearing examiner, the appellant was found guilty of #35 and #37 due to the continued misbehavior of the child despite orders issued to the appellant to control his visitor. I recognize that the appellant had limited control in this respect as he was restricted to his side of the non-contact window. However, I believe he could have exercised greater influence over his visitor's actions than he chose to. Therefore, I will sustain the finding of guilt in this case.

In light of the appellant's good behavior record, which reflects an absence of misconducts since 1999, I am inclined to extend leniency. Effective immediately, the level of this misconduct is reduced from a Class I to a Class II and the sanction is modified to DC time already served.

Reduce from Class I to Class II and modify DC sanction to time served.

GNP:mlb

c: Deputy Britton
Deputy Cameron
Mr. Hartnett
PRC
COI Swanson
Mr. Everhart
Mr. Reed
Case Record
file


Q
P
Q

AFFIDAVIT OF J.H. KLINGENSMITH JR. #FG-7644.

I, J.H.Klingensmith Jr. have worked with Holder for approx. (18) months, and I have observed him in worship service in the church here at S.C.I. Houtzdale and singing in the choir.

During this time he was a very pleasant person to be around.

During the first part of March 2006, he spoke of having a visit with his wife and child which he seem very excited about. Apparently at this visit he was accused and written up by Officer Swanson for Engaging in Sexual acts among other things. When I heard this, Ijust knew that the write up would be thrown out, because his visit was in the non-contact room. But he was placed into the Restricted Housing Unit.

I have personally heard very bad talk about Holder at work and in the church, not to exclude the yard, all inwhich if you know him as I do, is not believable.

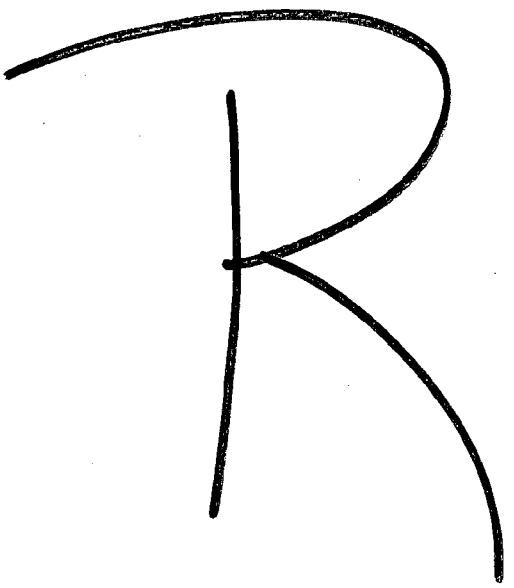
I have noticed that since he was released from the (R.H.U) he has been removed from the choir, and the talk continued. He seemed to be very down, hurt and in some what of a depressed state.

I have personally heard many diffrent inmates say very bad things about him and what was supposed to have happened, which I am very sure, by my observance of him, put a lot of stress on him and made it hard on him and his family.

I have not been offered or promised anything for my statement, and I give this statement Pursuant to the penalty of perjury and 18 PA C.S. §4904.

DATE: 12-22 - 2006

SIGNED: James H Klingensmith, Jr
JAMES H KLINGENSMITH, JR
FG-7644



Form DC-135A

INMATE'S REQUEST TO STAFF MEMBER

Commonwealth of Pennsylvania
Department of Corrections

INSTRUCTIONS
Complete items number 1-8. If you follow instructions in preparing your request, it can be responded to more promptly and intelligently.

1. To: (Name and Title of Officer)
Visiting Supervisor

2. Date:
19 Dec 2006

3. By: (Print Inmate Name and Number)
Dolde EA-7173

Inmate Signature

4. Counselor's Name:
Uebanic

5. Unit Manager's Name:
Everhart

6. Work Assignment:
N. Ft Bakery

7. Housing Assignment:
CA 46

8. Subject: State your request completely but briefly. Give details.

Request information about black Cards I received in Visiting Room on Dec 29 and 30th of 2005 And 12 March 2006

Thank you for your Prompt Assistance

Too Bad

9. Response: (This Section for Staff Response Only)

Those are for the officers records You know what you did wrong - I am sure the CO counseled you!

Redacted

To DC-14 CAR only ☐ | To DC-14 CAR and DC-15 IRS ☐

STAFF MEMBER NAME _____ _____ DATE _____
Print Signature

Form DC-135A

INMATE'S REQUEST TO STAFF MEMBER

Commonwealth of Pennsylvania
Department of Corrections

INSTRUCTIONS
Complete items number 1-8. If you follow instructions in preparing your request, it can be responded to more promptly and intelligently.

1. To: (Name and Title of Officer)
Capt. Irwin / Security Officer

2. Date:
21 Dec 2006

3. By: (Print Inmate Name and Number)
Holder EA-7173

Inmate Signature

4. Counselor's Name
Urbanic

5. Unit Manager's Name
Eveleth

6. Work Assignment
N. E Baker

7. Housing Assignment
CA 46

8. Subject: State your request completely but briefly. Give details.

I am requesting a copy of ~~your~~ the investigation report on the Misconduct DC-141 written by Officer Swanson against me.

This is the suggested formal request pursuant to Discovery PA. R.C.P.

9. Response: (This Section for Staff Response Only)

Discovery requests are done through our attorneys. Your request is denied

To DC-14 CAR only ☐ | To DC-14 CAR and DC-15 IRS ☐

Staff Member Name _____ / M.D. Chenchanish Date 12/26/06
Print Sign

Revised July 2000

c: Capt. Irwin

Form DC-135A

INMATE'S REQUEST TO STAFF MEMBER

Commonwealth of Pennsylvania
Department of Corrections

INSTRUCTIONS
Complete items number 1-8. If you follow instructions in preparing your request, it can be responded to more promptly and intelligently.

1. To: (Name and Title of Officer)
Block Counselor

2. Date:
21 Dec 2006

3. By: (Print Inmate Name and Number)
EA-7173 Holder

Inmate Signature

4. Counselor's Name
Uebanic

5. Unit Manager's Name
Everhart

6. Work Assignment
Nite Bakery

7. Housing Assignment
CA-46

8. Subject: State your request completely but briefly. Give details.

Requesting a copy of Grievance submitted by me including the out come, against Officer Swanson.

I was informed that this information could be found through my Block Counselor and obtained from my Recold / file.

Information is for Court and Directed by Counsel for D.O.C. Defendant. Debra Sue Rand Esq.

9. Response: (This Section for Staff Response Only)

Holder - You were already given a copy of your grievance and grievance answer. For an offical copy, you need to request that from the Inmate Records office. Due to this being a legal matter, you need to contact the Office of Chief Counsel at Central Office.

To DC-14 CAR only ☐

To DC-14 CAR and DC-15 IRS ☐

Staff Member Name _____ / J McBarnick Date 12/21/06
Print Sign

Revised July 2000

Form DC-135A

INMATE'S REQUEST TO STAFF MEMBER

Commonwealth of Pennsylvania
Department of Corrections

INSTRUCTIONS
Complete items number 1-8. If you follow instructions in preparing your request, it can be responded to more promptly and intelligently.

1. To: (Name and Title of Officer)
Unit Manager / Mr. Everhart

2. Date:
21 Dec. 2006

3. By: (Print Inmate Name and Number)
EA-7173 Holder

Inmate Signature

4. Counselor's Name
Ulbanic

5. Unit Manager's Name
Everhart

6. Work Assignment
Nite Bakery

7. Housing Assignment
CA-46

8. Subject: State your request completely but briefly. Give details.

Mr. Everhart:

I have been advised by Deber Sue Rand Esquire of the Office of Chief Counsel, Pursuant to PA. Rules of Civil procedures that:

1). I can obtain a copy of the Grievance written by me against officer Swanson, including the Out Come, and
2). Information on alleged block Cards written on me on 12-29-05, 12-30-05 and twice on 12 March 06.

* The Visiting Room Officers response was "Too Bad".

Your Assistance is Requested.
Thank You.

9. Response: (This Section for Staff Response Only)

Requests for official documents from the file must go through the Records Office. You were given a copy of any and all grievance responses already. Legal issues must be addressed to the office of Chief Counsel and/or Ms. Chenchark.

To DC-14 CAR only ☒ | To DC-14 CAR and DC-15 IRS ☐

Staff Member Name _____ / _____ Date 12/21/06
Print Sign

Revised July 2000

Form DC-135A **INMATE'S REQUEST TO STAFF MEMBER**	Commonwealth of Pennsylvania Department of Corrections INSTRUCTIONS Complete items number 1-8. If you follow instructions in preparing your request, it can be responded to more promptly and intelligently.
1. To: (Name and Title of Officer) Records office	2. Date: 22 Dec 06
3. By: (Print Inmate Name and Number) EA-7173 Holder J. A. Holder SC Inmate Signature	4. Counselor's Name Urbanic 5. Unit Manager's Name Everhart
6. Work Assignment N.Tr Baker	7. Housing Assignment CA-46

8. Subject: State your request completely but briefly. Give details.

I Am Requesting Copies of Blue Cards I received by Officer Swanson 12-29-05, 12-30-05 and twice on 12 March 05, the Investigation Report of the Submitted DC 141, by Security Captain Irwin and the grievance written by me against Officer Swanson including the Out come.

The Documents were Requested through Discovery, Submitted to Debra Sue Land Esq. of Office of Chief Counsel, whom Objected, stating that these Documents could be Retrieved through the visiting room, Blue officers or Unit Manager. I Request these Documents and have been denied, the Unit Manager Stated Request for official Documents must go through your Office. I Now make my final Request to you for these documents. Note: I have been granted forma pauperis Status in this Matter by the Court and this Request is pursuant Rules of Civil Procedures As to Discovery and Depositions.

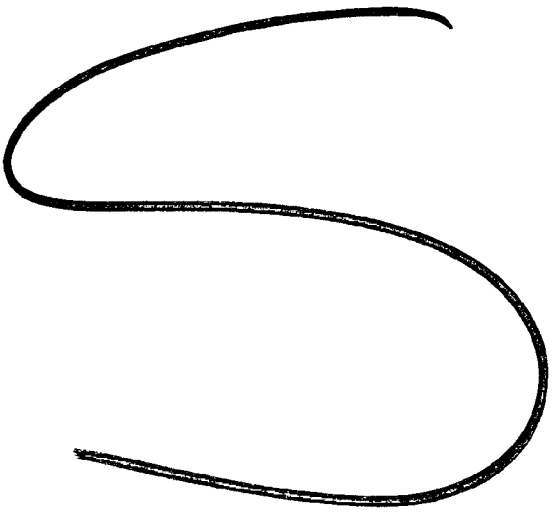
9. Response: (This Section for Staff Response Only)

Discovery requests are done through our attorneys. Your requests are denied.

To DC-14 CAR only ☐	To DC-14 CAR and DC-15 IRS ☐

Staff Member Name _____ / Ms. Ohencharish Date 12/26/06
Print Sign

Revised July 2000



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

GLENN A HOLDER, SR., Petitioner,	:	No. 06-894-CD
v.	:	
OFFICER SWANSON, et al., Respondents.	:	

ORDER

NOW, this 12th day of July 2006, in consideration of Petitioner's Pro Se Complaint transferred from the Pennsylvania Commonwealth Court, it is the ORDER of this Court as follows:

1. Petitioner's Request to Proceed In Forma Pauperis is hereby GRANTED.
2. The Prothonotary of Clearfield County shall accept and file Petitioner's Amended Petition for Review.
3. The Petitioner shall be solely responsible for service of process upon all parties in conformity with the Pennsylvania Rules of Civil Procedure.
4. Respondents shall have no more than 45 days from the date of this Order to file a responsive pleading or other appropriate legal document.

BY THE COURT,

/s/ Fredric J. Ammerman

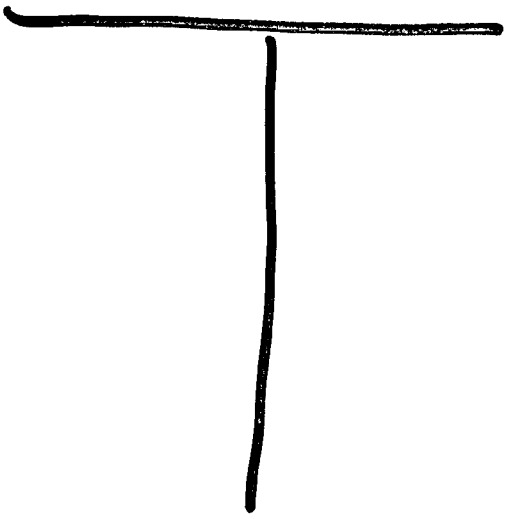
FREDRIC J. AMMERMAN
President Judge

I hereby certify this to be a true and attested copy of the original statement filed in this case.

JUL 14 2006

Attest.

Prothonotary/
Clerk of Courts



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

GLENN A. HOLDER, SR.
Petitioner,
vs.
OFFICER SWANSON, et al,
Respondents

No. 06-894-CD

ORDER

NOW, this 7th day of November, 2006, the Court being in receipt of the Defendant's "Response Motion for Order to Compel Discovery" filed November 3, 2006 and assuming the same is related to the Defendant's Request for Production of Documents filed September 29, 2006; with the Court referencing the Order of October 30, 2006 which removed all Defendants except Matthew Swanson, it is the ORDER of this Court that the Request for Production of Documents and Response Motion for Order to Compel Discovery be and are hereby DISMISSED as to all previously removed Defendants.

BY THE COURT,

/s/ Fredric J. Ammerman

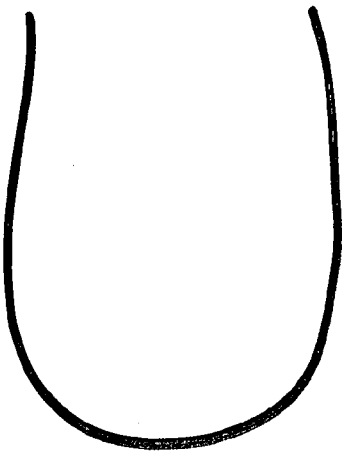
FREDRIC J. AMMERMAN
President Judge

I hereby certify this to be a true and attested copy of the original statement filed in this case.

NOV 08 2006

Attest.

Prothonotary/
Clerk of Courts



IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA CIVIL DIVISION

GLENN A. HOLDER, SR.,	:	
	:	
Plaintiff,	:	No. 06-894-CD
	:	
v.	:	(President Judge Fredric J. Ammerman)
	:	
OFFICER SWANSON, et al.	:	
	:	
Defendants.	:	

DEFENDANTS' ANSWER TO THE REQUEST FOR PRODUCTION OF DOCUMENTS

1. "Complete Employment Record of Officer Matthew Swanson, containing all disciplinary sanctions and actions, as well as the incident involving inmate Shaka Turner."

RESPONSE: **OBJECTION** in part to providing Swanson's complete employment record on the basis the request to overbroad and seeks material that is irrelevant. Further, there is material in the employment record the release of which, if known to inmates, could pose a security threat to Swanson. Swanson has never been the subject of any disciplinary actions or sanctions and, therefore, no such documents exist. **OBJECTION** to providing any evidence concerning inmate Shaka Tuner on the basis of relevancy.

2. "Complete investigation Report of DC-141 against the plaintiff."

RESPONSE: You have this document and it is attached to your amended complaint (Exs. A, D) mailed September 20, 2006.

3. "Complete Report written by the Program Review Committee concerning the said incident."

RESPONSE: You have this document and it is attached to your amended complaint (Ex. H) mailed September 20, 2006.

4. "Complete report of incident by Superintendant."

RESPONSE: You have this document and it is attached to your amended complaint (Ex. I) mailed September 20, 2006.

5. "Any and all rules and regulations and policies of S.C.I. Houtzdale concerning inmate visitation."

RESPONSE: The rules for visitation are in DC-ADM 812, available in the institution's library and the Inmate Handbook and are augmented by those posted in the visitor's room and are, therefore, already available to you.

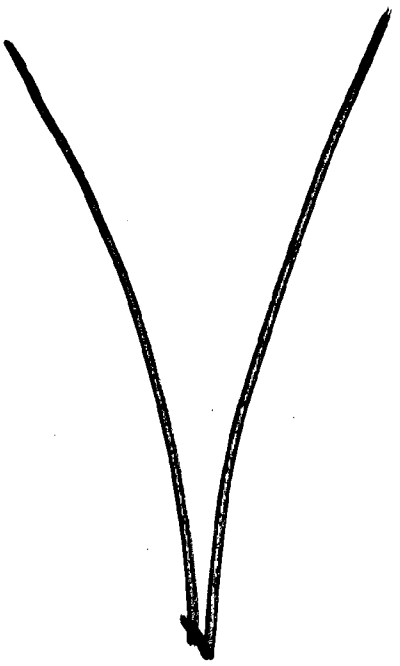
Respectfully submitted,

Office of General Counsel

By: Debra Sue Rand

Debra Sue Rand
Assistant Counsel
Attorney I.D. No. 41661
Pennsylvania Department of Corrections
Office of Chief Counsel
55 Utley Drive
Camp Hill, PA 17011
(717) 731-0444

Dated: October 27, 2006



IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA CIVIL DIVISION

GLENN A. HOLDER, SR.,	:	
	:	
Plaintiff,	:	No. 06-894-CD
	:	
v.	:	(President Judge Fredric J. Ammerman)
	:	
OFFICER SWANSON, ET AL.	:	
	:	
Defendants,	:	

REMAINING DEFENDANT SWANSON'S ANSWER TO PLAINTIFF'S AMENDED REQUEST FOR PRODUCTION OF DOCUMENTS

1. "any and all inmate grievance involving and/or against the Defendant."

RESPONSE: OBJECTION. This request is overly broad and not likely to lead to the discovery of admissible evidence.

2. "All DC-141 (Misconduct Reports) written by the Defendant to include the outcome of the misconduct from 2003-2006."

RESPONSE: OBJECTION. This request is overly broad and not likely to lead to the discovery of admissible evidence. In addition, the Department **OBJECTS** for security reasons to providing the disciplinary history of one inmate to another inmate.

3. "Inmate grievance written by the Plaintiff against the Defendant."

RESPONSE: You may have a copy of this at your expense. File an Inmate Request to Staff form.

4. "The complete incident report concerning inmate Chaka Turner BW-6610."

RESPONSE: There is no incident report concerning Inmate Chaka Turner **(Inmate No.** BW-6610).

5. "Any and all Block Cards written about or against the Plaintiff".

RESPONSE: OBJECTION. This request is overly broad and not likely to lead to the discovery of admissible evidence.

6. "The complete investigation report concerning the current matter, (DC-141 action of the Plaintiff.)

RESPONSE: The only report concerning this incident has already been provided to you.

Respectfully submitted,

Office of General Counsel

By: Debra Sue Rand

Debra Sue Rand
Assistant Counsel
Attorney I.D. No. 41661
Pennsylvania Department of Corrections
Office of Chief Counsel
55 Utley Drive
Camp Hill, PA 17011
(717) 731-0444

Dated: December 13, 2006

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

GLENN A. HOLDER SR. Plaintiff	:	
	:	No. 06-894-CD
V.	:	
	:	President Judge Fredric Ammerman
MATTHEW SWANSON	:	

PROOF OF SERVICE

I hereby certify that I have serve the attached document to the individuals listed below in a manner which satisfies the Pennsylvania Rules of Civil Procedures.

BY PRE-PAID, FIRST-CLASS MAIL

CLERK OF COURTS
COMMON PLEASE COURT OF CLEARFIELD
230 EAST MARKET STREET
CLEARFIELD, PA 16830

ORIG. AND 1 TO BE RETURNED

DEBRA SUE RAND ESQ.
OFFICE OF CHIEF COUNSEL
DEPARTMENT OF CORRECTIONS
55 UTLEY DRIVE
CAMP HILL, PA 17011

1 COPY

DATE: 5 Feb **2007**

SUBMITTED BY:
Mr. Glenn A. Holder sr. Pro-se
EA-7173
P.O. Box 1000
Houtzdale, PA 16698-1000


Interv.

IN THE COURT OFCOMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

GLENN A. HOLDER SR.
Plaintiff

No. 06-894-CD

V.

President Judge Fredric Ammerman

MATTHEW SWANSON
Defendant

SECOND SET OF INTERROGATORIES FOR REMAINING DEFENDANT SWANSON.

1). On the following dates of Dec. 29, 2005; Dec. 30, 2005 and March 12, 2006, the dates referenced from the DC-141 Misconduct, were there Visiting Rules and Regulations of the Department of Corrections Policy or S.C.I. Houtzdale's Supplement that stated that a minor child could not sit upon the desk/table in the non-contact booth in order to hear and talk to their parent, while on their visit?

YES_____ OR NO_____

2). What sexual misconduct act did you see the Plaintiff engaging in twice on March 12, 2006 ?

ANSWER:

3). What visiting room Rules and Regualtions did the Plaintiff break or violate?

ANSWER:

4). Is engaging in any type of sexual acts with a minor a Felony that should be brought to the attention of the authorities?

ANSWER:

FILED
JAN 09 2007
William A. Shaw
Prothonotary/Clerk of Courts
1 cert to

Page cont'

5). The Department of Corrections has a policy strictly prohibiting sexual behavior, which includes act directly or indirectly. On 12 March 2006, if infact what you alleged that you saw was sexual acts/misconduct, Why was the Plaintiff allowed to continue his visit ?

DATE: 7 Jan. 2007

Submitted By:

Mr. Glenn A. Holder Sr. Pro-se
EA-7173
P.O. Box 1000
Houtzdale, PA 16698-1000

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

GLENN A. HOLDER SR. Plaintiff	:	
	:	No. 06-894-CD
V.	:	
	:	President Judge Fredric Ammerman
MATTHEW SWANSON Defendant	:	

PROOF OF SERVICE

I hereby certify that I have served the attached documents to the individuals listed below in a manner that satisfies the PA. Rules of Civil Procedures.

BY PRE-PAID FIRST CLASS MAIL.

CLERK OF COURT
CLEARFIELD COMMON PLEAS COURT
P.O. BOX 549
CLEARFIELD, PENNSYLVANIA 16830

2 Copies, one to be returned Date stamped.

DEBRA SUE RAND
OFFICE OF CHIEF COUNSEL
DEPARTMENT OF CORRECTIONS
55 UTLEY DRIVE
CAMP HILL, PA 17011

One Copy

DATE: 7 Jan. 2007

SUBMITTED BY:

Mr. Glenn A. Holder Sr. Pro-se
EA-7173
P.O. Box 1000
Houtzdale, PA 16698-1000

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

FILED 1cc m/10:21/BA PHF
JAN 04 2007
William A. Shaw
Prothonotary/Clerk of Courts

GLENN A. HOLDER SR.
plaintiff

V.

MATTHEW SWANSON

No. 06-894-CD

Judge Fredric J. Ammerman

RESPONSE TO REMAINING DEFENDANT SWANSONS ANSWERS TO PLAINTIFF'S AMENDED REQUEST FOR PRODUCTION OF DOCUMENTS.

NOW COMES Glenn A. Holder Sr., pro-se Plaintiff in the above matter, with his response to the above Pursuant to PA. Rules of Civil Procedures 4003.2 thru 4003.6, 4011 (a)(b)(c)(d)(e) and 4009.12 and states the following:

1). Plaintiff filed Request for Production of Documents 27 Sept. 2006, entered 29 Sept. 2006.

2). Plaintiff recieved Defendants Answer to request for Production of Documents on 31 Oct. 2006.

3). Defendant Objections were to providing evidence concerning inmate shaka Turner based on relevancy; To complete investigation Report stating that plaintiff had document attached to complaint as exhibit A & D; Stating all other requested documents were in the posession of the plaintiff.

4). Plaintiff filed Motion for Order to Compel Discovery from Defendants, Swanson, Irwin, Patrick, Shirley, Hartnett, Cameron, Reed and Britton.

5). This Honorable Court on 7 Nov. 2006, Ordered that the Request for Production of Documents and Response Motion for Order to Compel Discovery be and are hereby DISMISSED as to all previously removed Defendants.

6). The Language in this Honorable Court Order Dismissed all Defendants except Swanson.

7). On 7 Dec. 2006, Plaintiff filed Amended Request for Production of Documents. SEE ATTACHED REQUEST "A"

#40

8). Plaintiff recieved Remaining Defendant Swansons Answer to Plaintiff's request for productions of Documents on 19 Dec. 2006.

9). Defendant objected to any and all inmate grievances involving and/or against the Defendant stating it was overly broad and not likely to lead to discovery of admissible evidence.

RESPONSE: Request would establish a pattern of behavior of the Defendants character, mind set, and propensity of the Defendant as a rogue racially discriminating officer. this request is in accordance to Rules of Civil Procedure and is permissible as well as admissible.

10). Defendant objects to all DC-141 Misconduct reports, including the outcome of the misconduct from 2003-2006, stating the request is overly broad and not likely to lead to discovery of admissible evidence and objects for security reasons.

RESPONSE: Plaintiff's request would establish the volume of misconducts written by the Defendant againsts inmates of color as well as the dismissals. Defendant uses security, as a smoke screen reason, Yet the Defendant casually side steps the fact that the plaintiff's request and sole concerns are that of the Defendant, and that the plaintiff seeks only to establish his claims throughly to this Honorable Court, and that it is clear that the Discovery Rules state, " Production for inspection and Copying". The Plaintiff's request is only for the purpose of his case, the disciplinary history of another inmate is of no importance to the Plaintiff, as the requested documents are pretaining to the actions of the Defendant.

11). Defendant objects to the grievance written by the Plaintiff against the Defendant (2000), stating that plaintiff may have a copy at his expense, and should file an inmate request.

RESPONSE: Plaintiff was granted leave to proceed in Formas Pauperis status, 12 July 2006, and this request is within the permissible limits of Discovery and is so requested. Plaintiff made request to the Block Counslor, Unit Manager on 21 Dec, 2006 and to the Records Office on the 22 of Dec 2006, and was denied. SEE REQUEST FORMS 1-B, 2-B, 3-B. The requested document is within the plaintiffs record acessable to all requested, however plainti was informed to get the document from the attorney,(Debra Sue Rand).

12). Defendant objects and is now stating that NO incident Report exist, prior stating that there was never a racial discriminatory incident involving inmate Chaka Turner and Swanson.

RESPONSE: Proof is forth comming and there are state employee's which are considering giving there testimony of this incident. In the alternative Plaintiff will request the court to subpeona Inmate Chaka Turner from S.C.I Camp Hill.

13). Defendant objects to any and all Block card written about the plaintiff stating that the request is overly broad and likely not to lead to the discovery of admissible evidence.

RESPONSE: Defendant stated that the plaintiff was block carded on 12-29-05; 12-30-05 and twice on 12 March 2006 fro the same type of infractions, (engaging in sexual acts, Refusing Orders and Violating Visiting room rules and regulation). Yet, just as every other discovery request, Defendant is refusing the production of said documents. On 19 Dec. 2006, Plaintiff made inmate request for the request Block Card, and recieved a response of "TOO BAD". SEE REQUEST FORM "C".

** 14). Plaintiff at this Request this Honorable Court to Warn the Defendant of attempting to make up Block Cards NOW to present to the court as Block Cards written ove (10) months ago.

15). Defendant objects to the complete investigation Report stating that the only report concerning this incident has already been provided to the plaintiff.

RESPONSE: Plaintiff was told by the defendant on 27 Oct. 2006 that the requested document was in his posession and attached to the amended complaint as exhibit A and D, which is untrue. The investigation is started and completed by the Security Officer, Captian Irwin. An investigation was inprocess, when the Plaintiff was called to the security office by Captian Irwin on Approx. 4 April 2006. This is known by the Plaintiff, due to Captian Irwin advising the Plaintiff that he was doing the investigation on the matter. On 21 Dec. 2006 Plaintiff thru inmate request, made a request to the security office, (Irwin) for this document and was denied. SEE REQUEST FORM "D".

The Language used by the Security Officer leads the Plaintiff to believe that infact an investigative report does exist, however the plaintiff must get it from the attorney, (Debra Sue Rand, whom acting for the Defendant has refused to comply with Pennsylvania Rules of Civil Procedures as to Discovery.

16). Defendant continues to mislead this Honorable Court in to believing that the plaintiff had requested documents, and with hold information, Requested Information which is permissible and admissible pursuant to R.C.P., which is a violation of these said rules as well as Due Process.

17). The only discovery that the Defendant had produced is the interrogatories, which are vague and contradicting.

18). It is very clear that the Defendant does not intend to comply with Discovery Rules, or produce any of the requested Documents in this matter, which is suspect and gives the appearance that the Defendant is hiding evidentual Truths.

Wherefore, for these reasons, Plaintiff prays that this Honorable Court will, again Order the Defendant to Produce the requested Documents, and Santion the Defendant for non-compliance with the 7 Nov. 2006 Order, Rule in Favor of the Plaintiff or any other Relief this Honorable Court Deems appropriate in this current matter.

DATE: 29 Dec 2006

Submitted by:

Mr. Glenn A. Holder Sr. Pro-se
EA-7173
P.O. Box 1000
Houtzdale, Pa 16698-1000

"A"

I hereby certify this to be a true and attested copy of the original statement filed in this case.

DEC 11 2006

Attest.

William L. Shaw
Prothonotary/
Clerk of Courts

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

GLENN A. HOLDER SR.
Plaintiff

V.

MATTHEW SWANSON

No. 06-894-CD

(President Judge Fredric Ammerman)

AMENDED
REQUEST FOR PRODUCTION OF DOCUMENTS.

NOW COMES, Glenn A. Holder Sr., pro-se, plaintiff in the above action, Pursuant to Pa. Rules of Civil Procedure 4009, Requesting that the above defendant produce for inspection the following documents:

1). any and all inmate grievance involving and/or against the Defendant.

2). All DC-141 (Misconduct Reports) written by the Defendant to include the outcome of the misconduct from 2003-2006.

3). Inmate grievance written by the Plaintiff against the Defendant.

4). The complete incident report concerning inmate Chaka Turner BW-6610.

5). Any and all Block Cards written about or against the Plaintiff.

6). The complete investigation report concerning the current matter, (DC-141 action of the Plaintiff).

The Plaintiff is not in posession of any of the above requested documents, and the requested is Material and releveant to the case at hand, will not impose undue burden or expenses to the Defendant and is permissible Discovery Request.

Date: 7 Dec. 2006

Submitted By:

Mr. Glenn A. Holder Sr. pro-se
EA-7173

"B-O"

Form DC-135A **INMATE'S REQUEST TO STAFF MEMBER**	Commonwealth of Pennsylvania Department of Corrections INSTRUCTIONS Complete items number 1-8. If you follow instructions in preparing your request, it can be responded to more promptly and intelligently.
1. To: (Name and Title of Officer) Block Counselor	2. Date: 21 Dec 2006
3. By: (Print Inmate Name and Number) EA-7173 Holder Inmate Signature	4. Counselor's Name Uebanic
	5. Unit Manager's Name Everhart
6. Work Assignment Nite Baker	7. Housing Assignment CA 46

8. Subject: State your request completely but briefly. Give details.

Requesting a copy of Grievance Submitted by me including the out come, against Officer Swanson.

I was informed that this information could be found through My Block Counselor and Obtained from my Record / file.

Information is for Court and Directed by Counsel for D.O.C. Defendant. Debra Sue Rand Esq.

9. Response: (This Section for Staff Response Only)

Holder - You were already given a copy of your grievance and grievance answer. For an official copy, you need to request that from the Inmate Records office. Due to this being a legal matter, you need to contact the Office of Chief Counsel at Central Office.

To DC-14 CAR only ☐ | To DC-14 CAR and DC-15 IRS ☐

Staff Member Name _____ / MBanick Date 12/21/06
Print Sign

Revised July 2000

"B-2

Form DC-135A **INMATE'S REQUEST TO STAFF MEMBER**	Commonwealth of Pennsylvania Department of Corrections INSTRUCTIONS Complete items number 1-8. If you follow instructions in preparing your request, it can be responded to more promptly and intelligently.
1. To: (Name and Title of Officer) Unit Manager / Ms. Everhart	2. Date: 21 Dec. 2006
3. By: (Print Inmate Name and Number) EA-7173 Holder Inmate Signature	4. Counselor's Name Urbanic 5. Unit Manager's Name Everhart
6. Work Assignment Nite Bakery	7. Housing Assignment CA-46

8. Subject: State your request completely but briefly. Give details.

Ms. Everhart:

I have been advised by Deben Sue Land Esquire of the Office of Chief Counsel, Pursuant to PA. Rules of Civil procedures that:

i). I can obtain a copy of the Grievance written by me against officer Swanson, including the Out Come, and

2). Information on alleged block Cards written on me on 12-29-05, 12-30-05 and twice on 12 March 06.

* The visiting Room officers response was "Too Bad".

Your Assistance is, Requested.

Thank You.

9. Response: (This Section for Staff Response Only)

Requests for official documents from the file must go through the Records Office. You were given a copy of any and all grievance responses already. Legal issues must be addressed to the office of Chief Counsel and/or Ms. Chenchark.

To DC-14 CAR only ☒ | To DC-14 CAR and DC-15 IRS ☐

Staff Member Name _____ / _____ Date 12/21/06
Print Sign

Revised July 2000

"B-3"

Form DC-135A **INMATE'S REQUEST TO STAFF MEMBER**	Commonwealth of Pennsylvania Department of Corrections INSTRUCTIONS Complete items number 1-8. If you follow instructions in preparing your request, it can be responded to more promptly and intelligently.
1. To: (Name and Title of Officer) Records office	2. Date: 22 DEC 06
3. By: (Print Inmate Name and Number) EA-7173 Holder J. A. Holder SC Inmate Signature	4. Counselor's Name Urbanic 5. Unit Manager's Name Everhart
6. Work Assignment N.E Bakery	7. Housing Assignment CA-46

8. Subject: State your request completely but briefly. Give details.

I Am Requesting Copies of Black Cards I received by Officer Swanson 12-29-05, 12-30-05 and twice on 12 March 05, The Investigation Report of The Submitted DC-141, by Security Captain Irwin And The Grievance written by me Against Officer Swanson including The Out Come.

The Documents were Requested Through Discovery, Submitted to Debra Sue Land Esq. of Office of Chief Counsel, whom Objected, Stating that These Documents could be Retrieved Through The visiting room, Block officer or Unit Manager. I Request These Documents and have been denied, The Unit Manager Stated Request for official Documents must go Through Your Office. I Now make my final Request To you for These documents. Note: I have been granted forma pauperis Status in This Matter by The Court and This Request is pursuant Rules of Civil Procedures As to Discovery and Depositions.

9. Response: (This Section for Staff Response Only)

Discovery requests are done through our attorneys. Your requests are denied.

To DC-14 CAR only ☐	To DC-14 CAR and DC-15 IRS ☐

Staff Member Name _____ / M.D. Chencharik Date 12/26/06
Print Sign

Revised July 2000

"C"

Form DC-135A **INMATE'S REQUEST TO STAFF MEMBER**	Commonwealth of Pennsylvania Department of Corrections INSTRUCTIONS Complete items number 1-8. If you follow instructions in preparing your request, it can be responded to more promptly and intelligently.
1. To: (Name and Title of Officer) Visiting Supervisor	2. Date: 19 DEC 2006
3. By: (Print Inmate Name and Number) Hobbs EA-7173 Inmate Signature	4. Counselor's Name: Uebanic 5. Unit Manager's Name: Everhart
6. Work Assignment: N.E Battery	7. Housing Assignment: CA 46

8. Subject: State your request completely but briefly. Give details.

Request information about black cards I received in visiting room on Dec 29 and 30th of 2005 and 12 March 2006

Thank you for your prompt assistance

Too Bad

9. Response: (This Section for Staff Response Only)

Those are for the officers records You know what you did wrong - I am sure the CO counseled you!

Redacted

To DC-14 CAR only ☐ | To DC-14 CAR and DC-15 IRS ☐

STAFF MEMBER NAME _____ _____ DATE _____
Print Signature

Form DC-135A

INMATE'S REQUEST TO STAFF MEMBER

Commonwealth of Pennsylvania
Department of Corrections

INSTRUCTIONS
Complete items number 1-8. If you follow instructions in preparing your request, it can be responded to more promptly and intelligently.

1. To: (Name and Title of Officer)
Capt. Irwin / Security Officer

2. Date:
21 Dec 2006

3. By: (Print Inmate Name and Number)
Holder EA-7173

Inmate Signature

4. Counselor's Name
Urbanic

5. Unit Manager's Name
Eveleth

6. Work Assignment
N.T.E. Bakery

7. Housing Assignment
CA 46

8. Subject: State your request completely but briefly. Give details.

I am requesting a copy of ~~your~~ the investigation report on the Misconduct DC-141 written by Officer Swanson against me.

This is the suggested formal request pursuant to Discovery PA. R.C.P.

9. Response: (This Section for Staff Response Only)

Discovery requests are done through our attorneys. Your request is denied

To DC-14 CAR only ☐ | To DC-14 CAR and DC-15 IRS ☐

Staff Member Name _____ / M.D. Chenchanish Date 12/26/06
Print Sign

Revised July 2000

c: Capt. Irwin

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

GLENN A. HOLDER SR.	:	
	:	
Plaintiff	:	NO. 06-894-CD
	:	
V.	:	
	:	
	:	
	:	
MATTHEW SWANSON	:	
	:	

PROOF OF SERVICE

I hereby certify that I have served upon the individuals listed below the attached document, True and Correct in form, by placing such in the First Class Mail Provided, which satisfies the Pennsylvania Rules of Civil Procedure.

BY PRE-PAID-FIRST -CLASS-MAIL

CLERK OF COURTS
CLEARFIELD COMMON PLEAS COURT
230 EAST MARKET ST.
P.O. BOX 549
CLEARFIELD, PA 16830-0549

Orig. and (1) copy to be returned
Date stamped.

DEBRA SUE RAND ESQ.
PA. DEPT. OF CORRECTIONS
55 UTLEY DRIVE
CAMP HILL, PA 17011

(1) Copy

DATE: 29 Dec 2006

SUBMITTED BY:
Mr. Glenn A. Holder Sr. pro-se
EA-7173
P.O. Box 1000
Houtzdale, PA 16698-1000

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

FILED 1cc Plff
m 10:21 BL
JAN 04 2007
William A. Shaw
Prothonotary/Clerk of Courts

GLENN A. HOLDER SR.
Plaintiff

V.

MATTHEW SWANSON
Defendant

NO. 06-894-CD

President Judge: Fredric Ammerman

RESPONSE TO MOTION TO STRIKE PLAINTIFF"S RESPONSE TO DEFENDANTS ANSWERS TO SECOND AMENDED PETITION FOR REVIEW.

NOW COMES, Glenn A. Holder Sr., pro-se, Plaintiff in the above matter and avers the following:

1). Defendant filed Motion to Strike plaintiff's response to Defendants Answers to Second Amended Petition For Review 18 Dec.'06.

2). Plaintiff filed the Original Petition for review in the Commonwealth Court under Pa. Rules of Appellate Procedures.

3). The Commonwealth Court transfered the matter to the Honorable Common Pleas Court, Due to the requested monatary Relief which was considered a Tort or Civil matter.

4). Rules of Appellate Procedures do not apply for this matter is Civil, Assigned a Civil docket Number and appliciable under Pa. Rules of Civil Procedures.

5). Defendant states PA. Rules of Civil Procedures do not provide for a response to an answer to a complaint, However PA. Rules of Civil procedures 1026 (a) cites;

> Except as provided bt subsection (b) every pleading subsequent to the complaint shall be filed within twenty (20) days after service of the prededing, But no pleading need be filed unless the pleading contains a Notice to Defend or is endorsed with a Notice to Plead.

6). Dedendant forwarded Answer to Plaintiff's Second Amended Petition for Review on 15 Dec. 2006, and it arrived at S.C.I. Houtzdale on 22 Nov. 2006 and served upon the Plaintiff. (SEE PHOTO COPY OF ENVELOPE, "A")

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7). Affixed by staple covered by tape, were the documents, in this order; Notice to Plead and Answer to Plaintiff's Second Amended Petition for review.

8). The Defendant gave answers from page 1, item #1 thru page 8, item #112, the states New Matter at page 9, item #113 thru page 11, item #134, then signs respectfully Submitted on page 12. (SEE ENLARGED UPPER LEFT CORNER OF NOTICE TO PLEAD ATTACHED "B").

9). Defendantsubmitts on complete submission, under the heading of an answer, and within this answer adds a new matter, then affixes a Notice to Plead to it all, attempting to instruct the Plaintiff to respond to only one part of the submission within (20) days of service.

10). The Defendant, throughly and Proffessionally train Attorney affixed the Notice to Plead to the Defendants Answer and the Plaintiff responed accordingly, pursuant to R.C.P. 1026 (a). NOTE: NO PLEADING NEED TO BE FILED UNLESS THE PLEADING CONTAINS A NOTICE TO DEFEND OR IS ENDORSED WITH A NOTICE TO PLEAD.

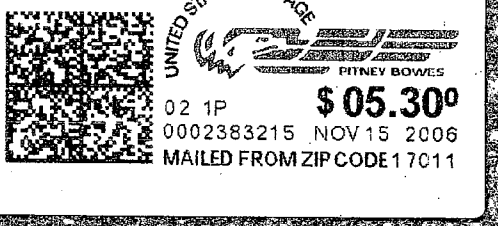
Wherefore the above, Plaintiff prays this Honorable Court moves forward accepting Plaintiff's filing as Admitted and any other Relief this Honorable Court Deems Appropriate.

DATE: 29 Dec. 2006

SUBMITTED BY:

Mr. Glenn A. Holder Sr. pro-se
EA-7173
P.O. Box 1000
Houtzdale, PA 16698-1000

A

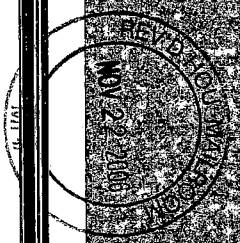


DC-266A

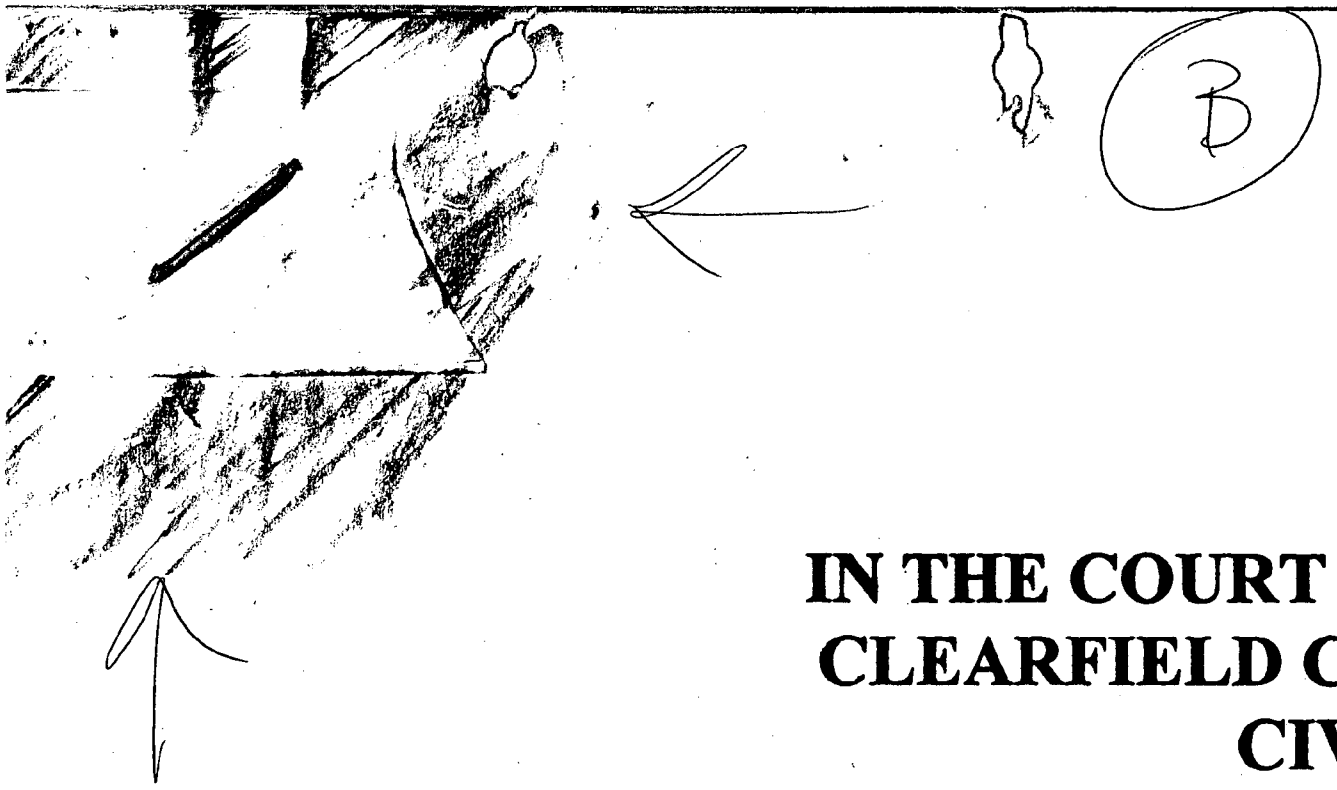
Debra Rand, Esquire
FROM – COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
GOVERNOR'S OFFICE OF GENERAL COUNSEL
55 UTLEY DRIVE CAMP HILL, PA 17011

CA 4.6

TO: GLENN A. HOLDER, SR., EA-7173
SCI-HOUTZDALE
P.O. BOX 1000
HOUTZDALE, PA 16698



THIS PARCEL MAY BE OPENED FOR POSTAL INSPECTION IF NECESSARY



IN THE COURT OF C
CLEARFIELD COUN
CIVIL D

GLENN A. HOLDER, SR., :
:
Plaintiff, :
:
v. :
:
OFFICER SWANSON, ET AL :
:
Defendants, :

NOTICE

TO: GLENN A. HOLDER, SR., EA-71
SCI-HOUTZDALE

FILED

JAN 04 2007

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA CIVIL DIVISION

GLENN A. HOLDER, SR.,	:	
	:	
Plaintiff,	:	No. 06-894-CD
	:	
v.	:	(President Judge Fredric J. Ammerman)
	:	
OFFICER SWANSON, ET AL.	:	
	:	
Defendants,	:	

ORDER

NOW, this 28th day of December 2006, upon consideration of remaining Defendant Swanson's Motion to Strike Plaintiff's "Response to Defendants Answers to Second Amended Petition for Review," it is hereby ORDERED that the Motion is **GRANTED** and the Response is **STRICKEN**.

BY THE COURT:

J.

FILED 1cc Atty Rand
01/10:07/01
JAN 03 2007
William A. Shaw
Prothonotary/Clerk of Courts

#38

FILED

JAN 03 2007

William A. Shaw
Prothonotary/Clerk of Courts

DATE: 1/3/07

X You are responsible for serving all appropriate parties.

____ The Prothonotary's office has provided service to the following parties:

____ Plaintiff(s) ____ Plaintiff(s) Attorney ____ Other

____ Defendant(s) ____ Defendant(s) Attorney

____ Special Instructions:

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA CIVIL DIVISION

FILED 1cc Atty Rand
m/10:36 BY
DEC 26 2006
William A. Shaw
Prothonotary/Clerk of Courts

GLENN A. HOLDER, SR.,	:	
	:	
Plaintiff,	:	No. 06-894-CD
	:	
v.	:	(President Judge Fredric J. Ammerman)
	:	
OFFICER SWANSON, et al.	:	
	:	
Defendants.	:	

MOTION TO STRIKE PLAINTIFF'S "RESPONSE TO DEFENDANTS ANSWERS TO SECOND AMENDED PETITION FOR REVIEW"

NOW, comes Debra Sue Rand, counsel for Matthew Swanson ("remaining Defendant") and files the following Motion to Strike Plaintiff's "Response to Defendants Answers to Second Amended Petition for Review."

1. Plaintiff is Glenn A. Holder, Sr., an inmate currently incarcerated at the State Correctional Institution at Houtzdale ("SCI-Houtzdale") under Inmate No. EA-7173.

2. Remaining Defendant Swanson is a Correctional Officer employed by the Pennsylvania Department for Corrections at SCI-Houtzdale.

3. In his Second Amended Petition for Review Plaintiff alleged that remaining Defendant Swanson issued him a misconduct based upon the conduct of his seven year old daughter when she went to visit Plaintiff at SCI-Houtzdale.

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4. Plaintiff further alleged that he is black and his wife is white; that remaining Defendant Swanson personally disapproves of inter-racial marriages between African-Americans and Caucasians; and, that this view caused him to discriminate against Plaintiff in issuing the misconduct.

5. Numerous other Department defendants have already been dismissed from this case and the only surviving claim is one for money damages against remaining Defendant Swanson.

6. On November 15, 2006 remaining Defendant Swanson served on Plaintiff his Answer to Plaintiff's Second Amended Petition for Review.

7. On December 15, 2006 undersigned Counsel received Plaintiff's "Response to Defendants Answers to Second Amended Petition for Review," which bore a certificate-of-service date of December 6, 2006.

8. The Pennsylvania Rules of Civil Procedure do not provide for a response to an answer to a complaint. *See* Pa. P.C.P. 1017.[1]

WHEREFORE, remaining Defendant Swanson respectfully requests that the Court strike Plaintiff's "Response to Defendants Answers to Second Amended Petition for Review."

[1] The term "Petition for Review" appears because this matter was originally filed in the Commonwealth Court's original jurisdiction under Chapter 15 of the Pennsylvania Rules of Appellate Procedure. Upon transfer, the case is proceeding in this Court under the civil rules. In any event, Pa. R.A.P. 1516 (b) also does not provide for a response to an answer.

Respectfully submitted,

Office of General Counsel

By: Debra Sue Rand

Debra Sue Rand
Assistant Counsel
Attorney I.D. No. 41661
Pennsylvania Department of Corrections
Office of Chief Counsel
55 Utley Drive
Camp Hill, PA 17011
(717) 731-0444

Dated: December 18, 2006

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA CIVIL DIVISION

GLENN A. HOLDER, SR.,	:	
	:	
Plaintiff,	:	No. 06-894-CD
	:	
v.	:	(President Judge Fredric J. Ammerman)
	:	
OFFICER SWANSON, ET AL.	:	
	:	
Defendants,	:	

CERTIFICATE OF SERVICE

I hereby certify that I am depositing in the U.S. mail a true and correct copy of the Motion to Strike Plaintiff's "Response to Defendants Answers to Second Amended Petition for Review" upon the person(s) in the manner indicated below:

Service by first-class mail
addressed as follows:

Glenn A. Holder, Sr., EA-7173
SCI-Houtzdale
P. O. Box 1000
Houtzdale, PA 16698

Kay Flohr
Clerk Typist 2
Pennsylvania Department of Corrections
55 Utley Drive
Camp Hill, PA 17011
(717) 731-0444

Dated: December 18, 2006

UM

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

GLENN A. HOLDER, SR.	*	
Plaintiff	*	
vs.	*	No. 06-894-CD
OFFICER MATTHEW SWANSON,	*	
Defendant	*	

ORDER

NOW, this 19th day of December, 2006, in consideration of the Defendant's Motion to Deem Remaining Defendant's New Matter Admitted, it is the ORDER of this Court that the Plaintiff serve a copy of his Reply filed on or about November 29, 2006 on Defendant's counsel, Debra Sue Rand, Esquire, within no more than 10 days from this date.

Plaintiff is directed to strictly comply with the provisions of Rule of Civil Procedure 440 relative all future filings.

BY THE COURT,

Fredric J. Ammerman

FREDRIC J. AMMERMAN
President Judge

FILED 2cc Atty Rand
03:17 BH
DEC 19 2006 1cc Plff-
EA7173
William A. Shaw SCI Houtzdale
Prothonotary/Clerk of Courts
GH

#39

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA CIVIL DIVISION

FILED
DEC 18 2006
William A. Shaw
Prothonotary/Clerk of Courts

GLENN A. HOLDER, SR.,	:	
Plaintiff,	:	No. 06-894-CD
v.	:	(President Judge Fredric J. Ammerman)
OFFICER SWANSON, ET AL.	:	
Defendants	:	

MOTION TO DEEM REMAINING DEFENDANT'S NEW MATTER ADMITTED

NOW, comes Debra Sue Rand, counsel for Matthew Swanson ("remaining Defendant") and files the following Motion to Deem Remaining Defendant's New Matter Admitted.

1. On November 15, 2006 undersigned Counsel mailed to the Court and Plaintiff remaining Defendant's "Answer to Plaintiff's Second Amended Petition for Review" ("Answer"), which also contained New Matter.

2. The Answer was endorsed with a Notice to Plead and was received by the Court on November 20, 2006.

3. Undersigned Counsel did not receive a Reply to the New Matter.

4. On December 12, 2006, undersigned Counsel called the Clearfield County Courthouse and spoke with a clerk in the Prothonotary's Office to be certain that Counsel had received all filings.

5. A clerk in the Prothonotary's Office informed undersigned Counsel that Plaintiff had filed a Reply to remaining Defendant's New Matter and that the document had been received in the Court's filing office on November 29, 2006.

6. To date counsel has ***still*** not received a copy of this filing.[1]

7. Under Pa. R.C. P. 1026 Plaintiff had twenty days from November 15, 2006, *i.e.*, until December 5, 2006, to file a reply to the New Matter.

8. Under Pa. R.C.P. 440 Plaintiff was required to serve his filing on undersigned Counsel.

9. Plaintiff has already sent one document (Plaintiff's Reconsideration of Motion for Order to Compel Discovery) to the wrong address and it did not arrive in Counsel's office until nineteen days after it was sent to the Court. (That document bore a November 10, 2006 certificate-of-service date and was not received by counsel until November 29, 2006.)

10. In order to provide a prompt response to that document, Counsel had to fax and mail her answer to the Court on December 1, 2006.

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[1] The Pennsylvania Department of Corrections ("Department") does not have a legal office anywhere near Clearfield County and, therefore, it is not practical for Counsel to obtain, in person, documents from the Court's filing office. Counsel was informed by the filing clerk that in order to have this document faxed to her she would have to pay a fee. The Department should not have to pay to receive a copy of a filing that the Plaintiff is obligated to serve on Counsel.

11. Plaintiff's mailing practices, whether careless or intentional, are handicapping Counsel's ability to represent her client expeditiously.

12. Plaintiff's *pro se* status does not entitle him to avoid the requirements of service under Pa. R.C.P. No. 440(a) with impunity.

WHEREFORE, remaining Defendant asks this Court to deem his New Matter admitted on the basis that Plaintiff has failed, for the second time, to properly serve a document on Counsel for remaining Defendant.

Respectfully submitted,

Office of General Counsel

By: Debra Sue Rand

Debra Sue Rand
Assistant Counsel
Attorney I.D. No. 41661
Pennsylvania Department of Corrections
Office of Chief Counsel
55 Utley Drive
Camp Hill, PA 17011
(717) 731-0444

Dated: December 14, 2006

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA CIVIL DIVISION

GLENN A. HOLDER, SR.,	:	
Plaintiff,	:	No. 06-894-CD
v.	:	(President Judge Fredric J. Ammerman)
OFFICER SWANSON, ET AL.	:	
Defendants,	:	

CERTIFICATE OF SERVICE

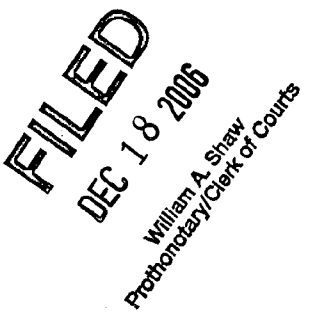
I hereby certify that I am depositing in the U.S. mail a true and correct copy of the Motion to Deem Remaining Defendant's New Matter Admitted upon the person(s) in the manner indicated below:

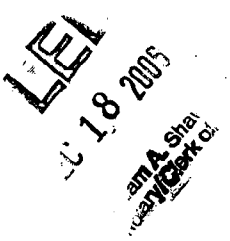
Service by first-class mail
addressed as follows:

Glenn A. Holder, Sr., EA-7173
SCI-Houtzdale
P. O. Box 1000
Houtzdale, PA 16698

Kay Flohr
Clerk Typist 2
Pennsylvania Department of Corrections
55 Utley Drive
Camp Hill, PA 17011
(717) 731-0444

Dated: December 14, 2006


FILED
DEC 18 2006
William A. Shaw
Prothonotary/Clerk of Courts


LED
18 2005

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

FILED NO CC
m/11:13 Bd
DEC 13 2006
William A. Shaw
Prothonotary/Clerk of Courts

GLENN A. HOLDER SR.
plaintiff

V.

MATTHEW SWANSON

No. 06-894-CD

Presiden Judge Fredric Ammerman

RESPONSE TO DEFENDANTS ANSWERS TO PLAINTIFFS "RECONSIDERATION OF MOTION FOR ORDER TO COMPEL DISCOVERY

NOW COMES, Glenn A. Holder Sr., Pro-se Plaintiff in this Response to Remaining Defensnats Answer to Reconsideration of Motion for Order to Compel Discovery, and state the following:

1). Plaintiff requested for Production of Discovery 27 Sept, 2006 in this one particular set of documents, requested were involving the incident which took place in the Officers Dinning Room between Defendant Swanson and inmate Chake Turner.

2). Oct. 27, 2006, Answer to this Request by Defendant, the Defendant Objected to providing any evidence concerning inmate Shaka Turner on basis of relevancy.

3). On 7 Nov. 2006 by Order of the Court the Request for Production of Documents and Response Motion for Order to compel Discovery be and are hereby Dismissed as to all previously removed Defendants.

4). Defendants have only complied with the discovery request by the submission of the requested Interrogatories of the remaining Defendant and continues to comply otherwise, as to the production of the Investigation report,(which the Plaintiff does not have) and the case relevant matter of Shaka Turner.

5). On Dec. 1, 2006, Defendant filed his response to the said Reconsideration Motion for Order to Compel Discovery.

6). At #5 of page 2, Defendant now states Inmate Chaka Turner (No. #BW-6610) has filed no grievance against Swanson and has never

(#34)

been the subject of a misconduct issued by Swanson. If there is some other report Plaintiff seeks regarding the "Turner incident," he has not identified it and counsel is unaware of it.

7). In the Plaintiffs Request for Production of Discovery, the Plaintiff not only request this particular incident, But the Plaintiff intentionally misspelled Mr. Turners first name, (shaka)

8). The Defendant not only at first Objected to providing any evidence concerning Shaka Turner, but (35) days later in short states that nothing exist, but has correctly spelled Mr. Turners first name, (Chaka), which gives the appearance that the Defendant has either viewed the document or is aware of the requested document as well as incident, which is very suspect.

9). Defendant complained, stating that the Plaintiff should be warned or santioned for not promptly mailing documents, which would be fraud against the court.

10). Plaintiff made a mistake in addressing the envelope. (SEE photo copy of envelope).

11). This envelope was placed in the mail box on 10 Nov. 06 at S.C.I. Houtzdale. Mail was not picked up of the 9th and 10th of November due to the Veterans Day Holiday and did not leave the facility until the 14th of Nov. 2006, (which is visibly seen on the envelope), and was not returned to the plaintiff until the afternoon of the 22 of Nov. 2006.

12). Plaintiff the correctly addressed the envelope and placed it back into the mail box on the same day. Due to the Thanksgiving Holiday, the mail was not picked up until the morning of the 27th of Nov. 2006, which makes the 29th of Nov. Timely by the mail to the Defendant.

WHEREFORE, This Plaintiff Prays this Honorable Court will Grant his Motion for Reconsideration of Motion for Order to Compel Discovery from the remaining Defendant, Deny Defendants Answer to said motion and move forward in this matter.

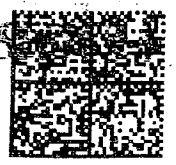
DATE: 7 Dec. 2006

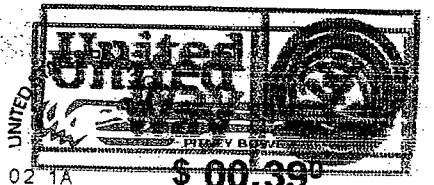
Submitted By:
Mr. Glenn A. Holder Sr. Pro-se
EA-7173

NAME Glenn A. Holder
NUMBER BA-7173
P.O. BOX 1000
HOUTZDALE PA 16698-1000

ALTOONA PA 166
ALTOONA PA 166

PA Dept of Corrections
Inmate Mail





02 1A $ 00.39⁰
0004629753 NOV 14 2006
MAILED FROM ZIP CODE 16695

Legal
Mail

~~Debra Sue Lord~~ NOT AT THIS ADDRESS
CA46 Office of Chief Counsel
Comm Penn Court
P.O.
Cle

A C S
☐ INSUFFICIENT ADDRESS
☒ ATTEMPTED NOT KNOWN
☐ NO SUCH NUMBER/ STREET
☐ NOT DELIVERABLE AS ADDRESSED - UNABLE TO FORWARD
☐ OTHER

RTS
RETURN TO SENDER

166981000 UNABLE TO FORWARD

Inmate Mail
PA Department of Corrections [redacted]

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

GLENN A. HOLDER SR.
Plaintiff

V.

MATTHEW SWANSON

No. 06-894-CD

PROOF OF SERVICE

I do hereby certify that on the affixed date I have served upon the individuals listed below the attached Documents, by placing such in the Mail Box provided by this Institution, in a manner which satisfied Rules of Civil Procedures.

BY FIRST-CLASS PRE-PAID MAIL

CLERK OF COURTS
CLEARFIELD COUNTY COURT
COMMON PLEAS COURT
P.O. BOX 549
CLEARFIELD, PA 16830

Orignal and one to be stamped and Returned

DEBRA SUE RAND
OFFICE OF CHIEF COUNSEL
DEPARTMENT OF CORRECTIONS
55 UTLEY DRIVE
CAMP HILL, PA 17011

One Copy

DATE: 7 DEC 06

SUBMITTED BY:

Mr. Glenn A. Holder Sr. Pro-se
EA-7173
P.OL box 1000
Houtzdale, PA 16698-1000

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

FILED
DEC 11 2006
m/9:00/ cert
William A. Shaw
Prothonotary/Clerk of Courts
No Cert Copies

GLENN A. HOLDER SR.
plaintiff

V.

MATTHEW SWANSON

No. 06-894-CD

Presiden Judge Fredric Ammerman

RESPONSE TO DEFENDANTS ANSWERS TO PLAINTIFFS "RECONSIDERATION OF MOTION FOR ORDER TO COMPEL DISCOVERY

NOW COMES, Glenn A. Holder Sr., Pro-se Plaintiff in this Response to Remaining Defensnats Answer to Reconsideration of Motion for Order to Compel Discovery, and state the following:

1). Plaintiff requested for Production of Discovery 27 Sept, 2006 in this one particular set of documents, requested were involving the incident which took place in the Officers Dinning Room between Defendant Swanson and inmate Chake Turner.

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6). At #5 of page 2, Defendant now states Inmate Chaka Turner (No. #BW-6610) has filed no grievance against Swanson and has never

#33

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7). In the Plaintiffs Request for Production of Discovery, the Plaintiff not only request this particular incident, But the Plaintiff intentionally misspelled Mr. Turners first name, (shaka)

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WHEREFORE, This Plaintiff Prays this Honorable Court will Grant his Motion for Reconsideration of Motion for Order to Compel Discovery from the remaining Defendant, Deny Defendants Answer to said motion and move forward in this matter.

DATE: 7 Dec. 2006

Submitted By:
Mr. Glenn A. Holder Sr. Pro-se
EA-7173

NAME Glenn A. Holden
NUMBER EA-7173
P.O. BOX 1000
HOUTZDALE PA 16698-1000

ALTOONA PA 166
ALTOONA PA 166
15 NOV 2006
PA Dept of Corrections
Inmate Mail

United States Postage
02 1A $ 00.39⁰
0004629753 NOV 14 2006
MAILED FROM ZIPCODE 16695

Legal
Mail

~~Debra Sue Ford~~ NOT AT THIS ADDRESS
CA46 Office of Chief Counsel
Comm Penn Court
P.O.
Cle

A ☐ INSUFFICIENT ADDRESS
C ☒ ATTEMPTED NOT KNOWN
S ☐ NO SUCH NUMBER/ STREET
☐ NOT DELIVERABLE AS ADDRESSED - UNABLE TO FORWARD
☐ OTHER

RTS
RETURN TO SENDER

16698100O UNABLE TO FORWARD

Inmate Mail
PA Department of Corrections

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

GLENN A. HOLDER SR.
Plaintiff

V.

MATTHEW SWANSON

No. 06-894-CD

PROOF OF SERVICE

I do hereby certify that on the affixed date I have served upon the individuals listed below the attached Documents, by placing such in the Mail Box provided by this Institution, in a manner which satisfied Rules of Civil Procedures.

BY FIRST-CLASS PRE-PAID MAIL

CLERK OF COURTS
CLEARFIELD COUNTY COURT
COMMON PLEAS COURT
P.O. BOX 549
CLEARFIELD, PA 16830

Orignal and one to be stamped and Returned

DEBRA SUE RAND
OFFICE OF CHIEF COUNSEL
DEPARTMENT OF CORRECTIONS
55 UTLEY DRIVE
CAMP HILL, PA 17011

One Copy

DATE: 7 Dec 06

SUBMITTED BY:

Mr. Glenn A. Holder Sr. Pro-se
EA-7173
P.O. box 1000
Houtzdale, PA 16698-1000

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY PENNSYLVANIA
CIVIL DIVISION

GLENN A. HOLDER SR.
Plaintiff

V.

MATTHEW SWANSON
Defendant

No. 06-894-CD

(President Judge Ammerman)

JURY TRIAL DEMANDED

FILED
DEC 11 2006
m/ 9:00/
William A. Shaw
Prothonotary/Clerk of Courts
1 cert to Plff

RESPONSE TO DEFENDANTS ANSWERS TO PLAINTIFF'S SECOND AMENDED PETITION FOR REVIEW.

NOW COMES, Glenn A. Holder Sr., pro-se Plaintiff in this Response to the Defendants Answers and files the following responses to the denied answers as follows:

11). The plaintiff stated the capasity inwhich the defendant was being sued, (individual and Official) and that each time the defendant is mentioned, he was infact at S.C.I. Houtzdale on duty acting under the color of state law, This is clear and any denial of any part proof is demanded.

13). The plaintiff stated that the Defendant knew he was fabricating the misconduct as he wrote it. Defendant denies this, Yet defendant states in his answer in #16, admitting that he was aware that there were NO RULES or Regulations stating that a minor child could not sit upon the table/desk to see their parent or had to remain seated for the duration of the visit. NOTE: Rules were posted in the non-contact booth after civil actions were filed. Defendant signed a 18 PA. C.S. §4904 statement, and has perjured himself in his statement, Plaintiff demands enforcement of statue.

14). Plaintiffs statement was that Defendants report stated that the plaintiff's minor child was standing on the table which was a false statement. Defendant in his answer denied this by which again perjured himself. When reviewing the actual written

#32

report, even though the plaintiff used the term table, it is clear that the object in reference is the same in the non-contact booth be it table or desk, therefore it is demanded enforcement of the 18 PA C.S. §4904 statement which the defendant signed.

17). Plaintiff has submitted statements by caucasion inmates of the Defendants allowance of perferential treatment and the defendant has clearly established that he does not intend on complying with Pennsylvania Rules of Civil Procedures as well as PA. Rules of Court, by his refusal of requested admissable and relevant discovery documents, which would establish the Plaintiff's claims in this matter. The Defendant was working in the Strip room on 12 March 2006. Again Defendant has violated his signed §4904 statement and the plaintiff demands the principles in §4904 are enforced.

18-20). Defendant refuses to comply with Pa. Rules of Civil Procedure, by the denial of non sencitive, relevant and admissible documents requested by the Plaintiff, therefoe the Plaintiff can not give a response.

21-24) Defendants answers again violates his signed §4904 statement, and his refusal to comply with Rules of Civil Procedure is clear admission of guilt, and a need to hide evidence, as well as a Due Process violation.

25). Clearly, if the misconduct was not fraudlent and did infact establish factual truth, WHY would the Superintendant contact Sec. Beard and request that the appeal is re-opened, Dismiss, Vacate and expunge the matter completely, then Give the plaintiff his job back, at the same rate, return the plaintiff to his minimun classification level, and reimburst the plaintiff pay lost due to the misconduct report written by the defendant. The matter is clear, fore if it was any truth in the report, the plaintiff would have recieved nothing, and got nothing back. The Defendants is intentionally causing delays in this matter, and the plaintiff request Court to inter Judgement.

26). Defendant claims it is due to the plaintiff's criminal history, that he believes that the action of the minor child was precieved by the plaintiff as sexual in nature. Proof is demanded of the defendants ability to read minds and/or of having professional training in Human behavior or psychology.

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26). Defendant claims it is due to the plaintiff's criminal history, that he believes that the action of the minor child was precieved by the plaintiff as sexual in nature. Proof is demanded of the defendants ability to read minds and/or of having professional training in Human behavior or psychology.

29). Defendant states that it is denied that the submitted misconduct report was fabricated, yet defendant states in his interrogatories at #4 that an inmate can not physically engage in sexual contact with their visitor, while in the non-contact booth, then in his report Defendant stated that heobserved the plaintiff's minor child standing on the desk in the non-contact booth bent over shaking her rear end at the plaintiff. Inmate Holder (plaintiff) was block carded for the same type of infractions on 12-29-05, 12-30-05 and twice today, which, the defendant charged the plaintiff with engaging in sexual acts with others, refusing to obey an order and Violations of visiting room rules and reglation, yet there was no rules or regulations that stated that a minor child must remain seated, and could not sit on the desk in order to see the parent they are visiting. At #9 of the answered interrogatories, the Defendant states that he has full knowledge and understanding of Department of Corrections policy and S.C.I. Houtzdale policy as it pretains to inmate visitation. If There is no rules in the policy or rules posted that state a minor child can not sit on the desk in order to see the parent, or has to remain seated through out the visit, where is the broken rule ? and If the plaintiff was block carded for the same type of infractions on previous dates, why was the plaintiff's visit not terminated and/or written up on the very first infraction, since the Department of correction strickly prohibits any type of sexualcontact, which according to the Department of Correction sexual contact refers to any sexual behavior, Therefore it is clear that the defendant is being evasive and his statements are not credible, Falsifying the report, though he signs an 18 PA. C.S. §4909 statement.

68). the Defendant states that it was not his intent to cause the Plaintiff, His wife and Child harm, and the misconduct was not issued with discriminatory motives or intent or for evil, illegal or improper motives or purpose, the Plaintiff demands proof that the Defendants actions were that of an honorable, pure and policy regulated purpose.

78-79). The defendant denys any knowledge of the letter of

yet this letter was Exhibit "A" in the Amended Petition for review and the Amended Complaint Pursuant to Rules of Civil Procedures 1028, and the May 1, 2006 letter was Exhibit "C" in the first above stated and Exhibit "G" in the latter, both which are in the posession of the defendant. Defendant signs a 18 PA. C.S. §4904 statement, and deny's knowledge of factual material in his posession. Plaintiff Request enforcement of this statue.

82-83). In approx. (2) weeks the Plaintiff will submit to the Defenadnt and the Court proof of injury suffered by the Plaintiff, By the Plaintiff's Wife and their Minor child, as a result of the Defendants actions.

85). Proof is forth comming as to the defendants intent to inflict more punishment over what the sentencing Court had already given by way of racial Discrimination and deprivation of Constitutional and Civil Rights.

87). Strick proof is forth comming as requested which will establish that the defendants actions violated the plaintiff, the Plaintiff's wife and their minor childs Civil and Constitutional Rights.

88-89). Defendant request strict proof of the actions of Defendants which the court has dismissed.

99). Defendant states that there is no wrong doings for which the Plaintiff is due redress, yet it is clear that this matter has been exhausted administratively, with out remedy.

100-112). Defendant denied that the Plaintiff is entitled to any relief and Strick proof is demamnded. This proof will be full established within the Court at the requested Jury Trial or if the Honorable Court moves on the forth comming to judgement.

Wherefore Plaintiff prayfully request that this Honorable Court reviews the above stated and upon reciept of the forth comming Enter Judgement for the Plaintiff, and Grant requested Relief as the Court deems appropriate.

DATE: 6 Dec. 2006

SUBMITTED BY:
Mr. Glenn A. Holder Sr. pro-se
EA-7173

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Mr. Glenn A. Holder Sr. pro-se
EA-7173

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

GLENN A. HOLDER SR.
Plaintiff

V.

MATTHEW SWANSON

No. 06-894-CD

PROOF OF SERVICE

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BY FIRST-CLASS PRE-PAID MAIL

CLERK OF COURTS
CLEARFIELD COUNTY COURT
COMMON PLEAS COURT
P.O. BOX 549
CLEARFIELD, PA 16830

Orignal and one to be stamped and Returned

DEBRA SUE RAND
OFFICE OF CHIEF COUNSEL
DEPARTMENT OF CORRECTIONS
55 UTLEY DRIVE
CAMP HILL, PA 17011

One Copy

DATE: 6 Dec 06

SUBMITTED BY:

Mr. Glenn A. Holder Sr. Pro-se
EA-7173
P.OL box 1000
Houtzdale, PA 16698-1000

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

GLENN A. HOLDER SR.
Plaintiff

V.

MATTHEW SWANSON

No. 06-894-CD

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Orignal and one to be stamped and Returned

DEBRA SUE RAND
OFFICE OF CHIEF COUNSEL
DEPARTMENT OF CORRECTIONS
55 UTLEY DRIVE
CAMP HILL, PA 17011

One Copy

DATE: 6 DEC 06

SUBMITTED BY:

Mr. Glenn A. Holder Sr. Pro-se
EA-7173
P.OL box 1000
Houtzdale, PA 16698-1000

Amended by

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

FILED
DEC 11 2006
M/9:00/
William A. Shaw
Prothonotary/Clerk of Courts
1 cert to Plff

GLENN A. HOLDER SR.
Plaintiff

V.

MATTHEW SWANSON

No. 06-894-CD

(President Judge Fredric Ammerman)

AMENDED
REQUEST FOR PRODUCTION OF DOCUMENTS.

NOW COMES, Glenn A. Holder Sr., pro-se, plaintiff in the above action, Pursuant to Pa. Rules of Civil Procedure 4009, Requesting that the above defendant produce for inspection the following documents:

1). any and all inmate grievance involving and/or against the Defendant.

2). All DC-141 (Misconduct Reports) written by the Defendant to include the outcome of the misconduct from 2003-2006.

3). Inmate grievance written by the Plaintiff against the Defendant.

4). The complete incident report concerning inmate Chaka Turner BW-6610.

5). Any and all Block Cards written about or against the Plaintiff.

6). The complete investigation report concerning the current matter, (DC-141 action of the Plaintiff).

The Plaintiff is not in posession of any of the above requested documents, and the requested is Material and releveant to the case at hand, will not impose undue burden or expenses to the Defendant and is permissible Discovery Request.

Date: 7 Dec. 2006

Submitted By:

Mr. Glenn A. Holder Sr. pro-se
EA-7173

#31

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

GLENN A. HOLDER SR.
plaintiff

V.

MATTHEW SWANSON

No. 06-894-CD

PROOF OF SERVICE

I do hereby certify that on the affixed date, I have served upon the individuals listed below, the attached Documents, by placing such in the mail Box provided by this institution, in a mann which satisfies Rules of Civil procedures.

BY FIRST-CLASS PRE-PAID MAIL

CLERK OF COURTS
CLEARFIELD COUNTY COURT
COMMON PLEASE COURT
P.O. BOX 549
CLEARFIELD, PA 16830

Original and one to be returned and Stamped dated.

DEBRA SUE RAND
OFFICE OF CHIEF COUNSEL
DEPARTMENT OF CORRECTIONS
55 UTLEY DRIVE
CAMP HILL, PA 17011

One Copy

DATE: 7 Dec. 06

SUBMITTED BY:
Mr. Glenn A. Holder Sr., Pro-se
Ea-7173
P.O. Box 1000
Houzdale, PA 16698-1000

FILED ICC Atty
m 10:34 Bot
DEC 04 2006 Rand
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA CIVIL DIVISION

GLENN A. HOLDER, SR.,	:	
	:	
Plaintiff,	:	No. 06-894-CD
	:	
v.	:	(President Judge Fredric J. Ammerman)
	:	
OFFICER SWANSON, ET AL.	:	
	:	
Defendants	:	

REMAINING DEFENDANT SWANSON'S ANSWER TO PLAINTIFF'S "RECONSIDERATION OF MOTION FOR ORDER TO COMPEL DISCOVERY"

NOW, comes Debra Sue Rand, Assistant Counsel for remaining Defendant Matthew Swanson and files the following answer to Plaintiff's "Reconsideration of Motion for Order to Compel Discovery":

1. In his motion for reconsideration of this Court's order dated November 7, 2006 and entered November 8, 2006, Plaintiff complains about being denied the following items in discovery: 1) disciplinary actions filed against Defendant Swanson and 2) a racial discrimination report concerning inmate Chaka Turner.

2. On October 31, 2006 Plaintiff mailed Swanson Interrogatories.

3. Swanson's timely answers to those Interrogatories were mailed to Plaintiff on November 30, 2006.

#30

4. In those answers Plaintiff was informed that there have been no disciplinary actions filed against Swanson and, therefore, there is nothing to produce.

5. Inmate Chaka Turner (No. BW-6610) has filed no grievances against Swanson and has never been the subject of a misconduct issued by Swanson. If there is some other report Plaintiff seeks regarding the "Turner incident," he has not identified it and Counsel is unaware of it.

6. Plaintiff also makes first-time requests for inmate grievances involving or filed against Swanson and for all "DC-141" (misconduct reports) written by Swanson from 2004-2006.

7. These requests for new discovery are not a proper subject for this petition for reconsideration.

WHEREFORE, the Court should deny the motion for reconsideration.

Swanson's Request for Further Relief in the Nature of a Warning to Plaintiff

8. Plaintiff's certificate of service on his Reconsideration Motion states that he placed it in the institution's mailbox on November 10, 2006.

9. Undersigned Counsel received the Motion on November 29, 2006 and the envelope bore a mailing date of November 27, 2006. *See* attached photostatic copy of envelope.

10. Plaintiff had money in his inmate account to pay for postage on November 10, 2006. *See* attached account of Plaintiff's inmate account for the period from October 3, 2006 through November 28, 2006.

11. Even allowing for the vagaries of the inmate mailbox rule, the date on the Certificate of Service when compared to the postmark date is suspect.

12. Counsel requests that the Court warn Plaintiff that he is expected to mail documents when so stated on the proof of service and that failure to do so is a fraud on the Court and subject to sanction.

Respectfully submitted,

Office of General Counsel

By: Debra Sue Rand

Debra Sue Rand
Assistant Counsel
Attorney I.D. No. 41661
Pennsylvania Department of Corrections
Office of Chief Counsel
55 Utley Drive
Camp Hill, PA 17011
(717) 731-0444

Dated: December 1, 2006

NAME Glenn A Holder SR
NUMBER EA-7173
P.O. BOX 1000
HOUTZDALE PA 16698-1000

ALTOONA PA 166

PA Dept of Corrections
Inmate Mail

United
02 1A
0004629753 NOV 27 20
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MAILED FROM ZIPCODE 16695

Legal
Mail

Deborah Sue Reed
Office of Gen Counsel
55 utley Drive
Camp Hill PA 17011

Inmate Mail
PA Department of Corrections 17011+8028-55 C036

Inmate #: EA7173 **ACTIVE** **Name:** HOLDER, Glynn **Cust Lvl:** 2 **Prog Cd:** **Perm Loc:** Houtzdale
Race: Black **DOB:** 03/13/1959 **Sex:** Male **Housing Unit:** C -A -2046-02 **Temp Loc:**
SID: [redacted] **FBI #:** [redacted] **PBPP #:** **Counselor:** Urbanick, Melissa J.
Detainers: NO **Green Sheet:** **Problematic offense:** YES

Batch Number	Date	Transaction Code Description	Transaction Sub Code Description	Institute Name	Transaction Amount	New Balance
8276	10/03/2006 32	Hou Commissary	00 For 10/03/2006	H5	$56.10	$2.30
9279	10/06/2006 10	Inmate Employment	00 Hou Payroll 2006 - 09 Grp 1	H5	$73.92	$76.22
0870	10/06/2006 37	Postage	00 Postage 10/06/06 Sci Hou	H5	$0.45	$75.77
0870	10/06/2006 37	Postage	00 Postage 10/06/06 Sci Hou	H5	$0.94	$74.83
0906	10/11/2006 38	Inside Purchases	00 Vendacard 10/11/06	H5	$3.00	$71.83
8284	10/11/2006 32	Hou Commissary	00 For 10/11/2006	H5	$51.06	$20.77
0915	10/12/2006 37	Postage	00 Postage 10/12/06 Sci Hou	H5	$0.24	$20.53
0917	10/12/2006 41	Medical	00 Medical Copay 10/11/06	H5	$4.00	$16.53
0951	10/16/2006 37	Postage	00 Charges: 10/16/06	H5	$0.72	$15.81
8290	10/17/2006 32	Hou Commissary	00 For 10/17/2006	H5	$12.87	$2.94
0992	10/19/2006 37	Postage	00 Postage 10/19/06 Sci Hou	H5	$0.24	$2.70
8299	10/26/2006 32	Hou Commissary	00 For 10/26/2006	H5	$2.64	$0.06
1062	10/26/2006 13	Personal Gift From	00 First Commonwealth #007109	H5	$75.00	$75.06
8299	10/26/2006 34	Hou Cable Tv	00 For 10/26/2006	H5	$11.56	$63.50
1081	10/27/2006 37	Postage	00 Postage 10/27/06 Sci Hou	H5	$0.45	$63.05
1081	10/27/2006 37	Postage	00 Postage 10/27/06 Sci Hou	H5	$0.45	$62.60
1106	10/30/2006 38	Inside Purchases	00 Vendacard 10/30/06	H5	$5.00	$57.60
1111	10/31/2006 37	Postage	00 Postage 10/31/06 Sci Hou	H5	$0.24	$57.36
1119	10/31/2006 30	Personal Gift To	00 Monique Holder - Gift	H5	$5.00	$52.36
1139	11/02/2006 37	Postage	00 Postage 11/02/06 Sci Hou	H5	$0.24	$52.12
1139	11/02/2006 37	Postage	00 Postage 11/02/06 Sci Hou	H5	$0.48	$51.64
8306	11/02/2006 32	Hou Commissary	00 For 11/02/2006	H5	$23.95	$27.69

JNET Inmate



New Search

Identification:
(Inmate #/SID/ Phil. Photo #/SSN)

Get

9306	11/02/2006	10	Inmate Employment	00	Hou Payroll 2006 - 10 Grp 1	H5	77.28	$104.97
1152	11/03/2006	37	Postage	00	Postage 11/03/06 Sci Hou	H5	$0.24	$104.73
1156	11/03/2006	38	Inside Purchases	00	Vendacard 11/03/06	H5	$5.00	$99.73
1165	11/06/2006	37	Postage	00	Postage 11/06/06 Sci Hou	H5	$0.48	$99.25
8312	11/08/2006	32	Hou Commissary	00	For 11/08/2006	H5	$70.34	$28.91
1258	11/14/2006	37	Postage	00	Postage 11/14/06 Sci Hou	H5	$0.48	$28.43
8318	11/14/2006	86	Hou Commissary Cr	32	For 11/14/2006	H5	$0.75	$29.18
8318	11/14/2006	86	Hou Commissary Cr	32	For 11/14/2006	H5	$1.50	$30.68
8324	11/20/2006	32	Hou Commissary	00	For 11/20/2006	H5	$9.24	$21.44
1401	11/28/2006	37	Postage	00	Postage 11-28-06 Sci Hou	H5	$1.35	$20.09
1401	11/28/2006	37	Postage	00	Postage 11-28-06 Sci Hou	H5	$0.48	$19.61
1401	11/28/2006	37	Postage	00	Postage 11-28-06 Sci Hou	H5	$0.45	$19.16

Back to Inmate Accounts

CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

GLENN A. HOLDER, SR.,	:	
	:	
Plaintiff,	:	No. 06-894-CD
	:	
v.	:	(President Judge Fredric J. Ammerman)
	:	
OFFICER SWANSON, ET AL.	:	
	:	
Defendants,	:	

CERTIFICATE OF SERVICE

I hereby certify that I am depositing in the U.S. mail a true and correct copy of the Remaining Defendant Swanson's Answer to Plaintiff's "Reconsideration of Motion for Order to Compel Discovery" upon the person(s) in the manner indicated below:

Service by first-class mail
addressed as follows:

Glenn A. Holder, Sr., EA-7173
SCI-Houtzdale
P. O. Box 1000
Houtzdale, PA 16698

Kay Flohr
Clerk Typist 2
Pennsylvania Department of Corrections
55 Utley Drive
Camp Hill, PA 17011
(717) 731-0444

Dated: December 1, 2006

CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

GLENN A. HOLDER, SR.,	:	
	:	
Plaintiff,	:	No. 06-894-CD
	:	
v.	:	(President Judge Fredric J. Ammerman)
	:	
OFFICER SWANSON, ET AL.	:	
	:	
Defendants,	:	

PROPOSED ORDER

NOW, _____ day of December 2006, upon consideration of Remaining Defendant Swanson's Answer to Plaintiff's "Reconsideration of Motion for Order to Compel Discovery", it is hereby ORDERED that Plaintiff's Motion for Reconsideration of this Court's order entered of November 8, 2006 is hereby **DENIED**. Plaintiff is hereby warned that failure to mail documents when so stated on the proof of service is a fraud on the Court and subject to sanction.

BY THE COURT:

_____
J.

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

GLENN A. HOLDER SR. Plaintiff	:	
V.	:	NO. 06-894-CD
	:	(President judge: Fredric J. Ammerman)
MATTHEW SWANSON Defendant	:	

FILED
NOV 29 2006
William A. Shaw
Prothonotary/Clerk of Courts
1 CERT TO PLFF

RESPONSE TO
NEW MATTER SUBMITTED BY DEFENDANT.

NOW COMES, petitioner Glenn A. Holder Sr. Pro-se Plaintiff in the above matter with his response to the defendants New Matter and submitts the following:

1). At #113 and 114 of the new matter, Defendant submitts charges, Trial Court docket as to the conviction which the plaintiff is currently serving and that the convictions alleged victims include minor children.

2). The defendant attempts to bring to light the plaintiff's conviction, (which is currently still in litigation) as a vain attempt to mislead the court and potential jury, tainting the plaintiff's case.

3). The plaintiff's case issues deal with racial Discrimination Filing of false charges, Civil and Constitutional Violations.

4). The Plaintiff's conviction is irrelevant to the matter at hand, and should be considered inadmissible and stricken from this case completely.

5). The matter of the Plaintiff's contact visitation was an issue while Superintendant George Patrick was a Defendant.

6). On Oct. 30, 2006, the Court Ordered that the petition for Review is Dismissed as to all parties except Swanson and as to all counts.

#29

7). This Order Dismissed Superintendant Patrick from this matter, and therefore the matter of contact visitation is moot.

8). At #115 of new matter, Defendant claims that the nature of the plaintiff's crime is why he is allowed only contact visitation with his child.

9). The plaintiff is only allowed non-contact visits with his child, due to a policy which came into affect in July 2000, after an inmate in SCI Mahaneoy, (inmate Simms, who was incarcerated for robbery), was reported to be molesting his niece in the visiting room.

10). Prior to this and from Dec 22, 1999 thru June 2000, the Plaintiff had contact visitation with his child without incident.

11). The plaintiff's child was not yet born at the time of his arrest.

12). The plaintiff's child is not a victim or alleged victim in his case.

13). At #116 Defendant states that what he viewed waswed was Sexual provacative in lite of the plaintiff's personal criminal history.

*** 14). BY the defendants own admission, it is only the Defendant that claimed what he saw the plaintiff's minor child doing was sexually provacative, giving way to the defendants own personal demons.

15). The Defendant has no proof of an education or professional training as a psychologist or a mind reader, therefore the Defendant can not say what was on the mind of the Plaintiff.

16). The plaintiff has no Personal Criminal History of Sexual Offenses, with the exception of the current conviction, which is Currently in litigation.

*** 17). The act/admission @ #116 byt he Defendant establishes proof not only of a propensity of discriminatory actions, But clear discrimination against the plaintiff due to his personal beliefs

of the plaintiff and the conviction of the plaintiff.

18). At #117 the Defendant states that the plaintiff's answer did not seeem plausible.

19). At #116 and #117 the Defendant answers and is mislead--ing the court into believeing that the plaintiff's minor child was standing on the table or desk.

20). The Plaintiffs child was sitting on the table, and a child sitting can not be in the position the defendant claims.

21). Doc. 1, Exhibit G, the April 21, 2006, letter to George Patrick and Sec. Beard, the plaintiff's wife states clearly that the child was sitting on the table, as well as in Exhibit J.

22). The plaintiff's wife wrote a letter again to Patrick, stating that she allowed the child to sit on the table, so that she could hear her daddy, (the Plaintiff).

23). Evidence is forth comming to even further establish that the child was not standing on the table and that the dances that the plaintiff referred to were done on the floor by the child, not on the desk/table.

24). At #118, Defendant claims that the Plaintiff could have done more to control his child.

25). The child has never been out of control at a visit and proof of this is demanded.

26). At #119 the Defendant again uses his alleged honesty to cover his discriminatory acts.

27). At #120-123, the plaintiff can not answer, due to the Defendant refusing discovery, therefore it is DENIED.

28). At #124 Defendant states that he has never allowed any visitor to stand on the desk/table in the non-contact booth, This is DENIED and Proof is Demanded.

29). AT #125-129, Proof of propensity and actual acts can be clearly established in the Shaka Turner incident, which is part of the discovery that the defendant refuses to release.

30). At #130 Defendant claims to be immuned from liability acting under the color of state Law. DENIED

31). At #131 Defendant claims to be protected by Qualified Immuity.

32). Qualified Immunity is an allowable defense when the official or employee is acting within the scope of their official duties, However when the official knew or should have known that their actions violated clearly established law and thereby deprived someone of their rights, they are not immuned from claims for damages.

33). An official can not claim a defense of Qualified immunity when that officials actions Violate Constitutional rights.

34). The Courts have also held that a public official or employee may not be immuned for actions that impact an individual or a group based upon race, gender, age, religion disablilty or nationality.

35). To over come qualified immunity my complaint must include facts that show; a). My families rights were violated; b). The rights violated were clearly established and, c). The defendant was personally responsible for the violation of our rights.

36). Defendant hand wrote the fraudlent Misconduct, and of his own admission.

37). It is a clearly established Right Not to be racially Discriminated against, and Law.

38). The Equal Protection, Equal Treatment of the United States Constitution, as well as Article 1 of the Constitution of the Commonwealth of Pennsylvania are clearly established rights.

39). Defendant Swanson is not Protected by Qualified Immunity or immune from liability.

40). At #132, the purpose of the Misconduct appeal process is to further justify the actions of the correction official submitting the misconduct and to have the inmate submit to the misconduct.

41). In the matter at hand, after Superintendant patrick recieved the letter by the plaintiff's wife, he immediately called Secretary Beard and requested the appeal re-opened, not only dismissing the matter, but Vacating and the complete expungement of the misconduct.

42). This action is clear, and established that Defendant Swanson was wrong and the misconduct should have never taken place fore, the Superintendant returned the plaintiff to his previous classification level, minimum Security Level 2, Gave the Plaintiff his Job back at the top pay previously recieved and reimburt the plaintiff the pay lost due to the inappropriate action by Defendant Swanson.

43). At #133 the Defendant states the plaintiff has unsucessfully litigated to obtain contact visitation and submits copies of past litigations, Denied.

44). The first matter is dealing with the new policy, factually because the plaintiff had been recieveing contact visitation and had not had an inappropriate actions which would releave him of his visits, Act 84 Deductions and the Read To Your Childrens Program that the Plaintiff had been in for over a year and a half, which he was removed from, for personal reasons.

45). The second matter is totally irelevant to this present action.

46). Both matters should be considered moot, being that they have nothing to do with the current action.

47). The plaintiff is not an attorney and is not skilled in the dark actions of litigation and his resources are limited.

48). The matter of contact visitation again is moot, have absolutly nothing to do with the current action and should be stricken from the record in this matter.

49). Defendant claims that the present action is brought for the sole purpose of obtaining contact visitation.

50). This action is brought due to the false charges brought

against the plaintiff, the plaintiff's wife and their child by the defendant.

51). This action is brought due to the Racial Discrimination and profiling actions against the plaintiff, the plaintiff's wife and their child by Defendant Swanson.

52). This action is brought due to the violation of the Plaintiff's , The Plaintiff's Wife, and the Plaintiff's minors childs Constitutional and Civil Rights.

53). This action is brought due to the plaintiff being placed in the HOLE, (Restricted Housing Unit) for Disciplinary punishment/Custody, for a lie purpertrated by Defendant Swanson due to his own personal feelings and beliefs.

54) This action is brought due to the additional pain and suffering placed upon the Plaintiff's wife and minor child, due to Defendant Swansons Fraudlent Report and Discriminatory actions.

55). This action is brought to put an end to Defendant Swansons Rampant Racial Discriminatory actions as well as unprofessional behavior due to his personal feelings.

56). The plaintiff is placed in the Department of Corrections as punishment, not for continued punishment by Defendant Swanson, and most certianly not for Defendant Swanson to punish the plaintiff's Wife and minor child.

57) This Law Suit has factual premise, and are more clearly establishe by the facts that the Defendant refuses Discovery, in an attempt to with hold documented evidence

Wherefore all of the above reasons, this plaintiff prays that this Honorable Court will move forward in this matter, Dismissing this New Matter completely, Rule that the Plaintiffs conviction and past litigations are inadmissible in this current matter and that the Defendant forward the requesred Discovery.

DATE: 28 November 2006

Submitted By:
Glenn A. Holder Sr. Pro-se

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA

CIVIL DIVISION

GLENN A. HOLDER SR. Plaintiff	:	
V.	:	NO. 06-894-CD
MATTHEW SWANSON Defendant	:	(President Judge; Fredric J. Ammerman)

PROOF OF SERVICE

I hereby certify that on this date I have served upon the individuals listed below the attached response to Defendants New Matter, in a manner that satisfies the Pa. Rules of Civil Procedures.

BY FIRST-CLASS PRE-PAID MAIL.

CLERK OF COURTS
COMMON PLEASE COURT OF CLEARFIELD
230 EAST MARKET STREET
CLEARFIELD, PA 16830

ORIG AND ONE TO BE RETURNED
DATE TIME STAMPED.

DEBRA SUE RAND ESQ.
OFFICE OF CHIEF COUNSEL
DEPARTMENT OF CORRECTIONS
55 UTLEY DRIVE
CAMP HILL, PA 17011

ONE COPY

DATE: 28 November 2006

Submitted By:

Mr. Glenn A. Holder Sr.

Glenn A. Holder Sr. Pro Se

EXHIBIT "H"

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA CIVIL DIVISION

GLENN A. HOLDER, SR.,	:	
	:	
Plaintiff,	:	No. 06-894-CD
	:	
v.	:	(President Judge Fredric J. Ammerman)
	:	
OFFICER SWANSON, et al.	:	
	:	
Defendants.	:	

MOTION TO STRIKE PLAINTIFF'S "RESPONSE TO DEFENDANTS ANSWERS TO SECOND AMENDED PETITION FOR REVIEW"

NOW, comes Debra Sue Rand, counsel for Matthew Swanson ("remaining Defendant") and files the following Motion to Strike Plaintiff's "Response to Defendants Answers to Second Amended Petition for Review."

1. Plaintiff is Glenn A. Holder, Sr., an inmate currently incarcerated at the State Correctional Institution at Houtzdale ("SCI-Houtzdale") under Inmate No. EA-7173.

2. Remaining Defendant Swanson is a Correctional Officer employed by the Pennsylvania Department for Corrections at SCI-Houtzdale.

3. In his Second Amended Petition for Review Plaintiff alleged that remaining Defendant Swanson issued him a misconduct based upon the conduct of his seven year old daughter when she went to visit Plaintiff at SCI-Houtzdale.

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA CIVIL DIVISION

GLENN A. HOLDER, SR.,	:	
	:	
Plaintiff,	:	No. 06-894-CD
	:	
v.	:	(President Judge Fredric J. Ammerman)
	:	
OFFICER SWANSON, ET AL	:	**Jury Trial Demanded**
	:	
Defendants,	:	

FILED
NOV 20 2006
m/8:30/cwa
William A. Shaw
Prothonotary/Clerk of Courts
1 cert to Att'y

NOTICE TO PLEAD

TO: GLENN A. HOLDER, SR., EA-7173
SCI-HOUTZDALE
P.O. BOX 1000
HOUTZDALE, PA 16698

You are hereby notified to file a written response to the enclosed New Matter within twenty (20) days from service hereof or a default judgment may be entered against you.

Respectfully submitted,
Office of General Counsel

By: Debra Sue Rand

Debra Sue Rand
Assistant Counsel
Attorney I.D. No. 41661
Pennsylvania Department of Corrections
Office of Chief Counsel
55 Utley Drive
Camp Hill, PA 17011
(717) 731-0444

Dated: November 15, 2006

#28

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA CIVIL DIVISION

GLENN A. HOLDER, SR.,	:	
	:	
Plaintiff,	:	No. 06-894-CD
	:	
v.	:	(President Judge Fredric J. Ammerman)
	:	
OFFICER SWANSON, et al.	:	**Jury Trial Demanded**
	:	
Defendants.	:	

ANSWER TO PLAINTIFF'S SECOND AMENDED PETITION FOR REVIEW

NOW, comes Debra Sue Rand, Assistant Counsel for Matthew Swanson ("answering defendant") and files the following Answer to Plaintiff's Second Amended Petition for Review.

1. **DENIED.** By way of further answer, jurisdiction is vested in this Court under Section 931 of the Judicial Code, 42 Pa. C.S. § 931.

2. **ADMITTED.**

3. **ADMITTED.**

4-10. These allegations do not pertain to answering defendant.

11. **ADMITTED** in part and **DENIED** in part. To the extent this averment contains conclusions of law, no responses are necessary. To the extent it attempts to characterize or vary the allegations in the Second Amended Petition

such allegations are **DENIED**. To the extent it avers that the answering defendant was at SCI-Houtzdale on March 12, 2006, this averment is **ADMITTED**.

12. **ADMITTED**.

13. **DENIED**. This allegation is specifically **DENIED** and strict proof thereof is demanded.

14. **DENIED** as stated. By way of further answer, answering defendant stated that the minor child was standing on a "desk," not a table. It is specifically **DENIED** that this statement was untrue.

15. **ADMITTED** in part and **DENIED** in part. It is **ADMITTED** that answering defendant stated that Plaintiff's minor child was bent over and shaking her rear at Plaintiff. It is specifically **DENIED** that this statement is untrue.

16. **ADMITTED**. It is **ADMITTED** that at the time the incident occurred there was no posted rule requiring that visitors in the non-contact booth remain seated. By way of further answer, Plaintiff's daughter was not using the chairs and desk in the non-contact booth for their intended purposes and was engaging in a safety risk by standing on the desk. Further, Plaintiff had been counseled previously by a lieutenant on the need for him and his visitors to remain seated at all times.

17. **DENIED**. It is specifically **DENIED** that answering defendant ever knowingly allowed visitors of any race to stand or climb on desks in the

non-contact booths. By way of further answer, the incident in question occurred before there were cameras in the non-contact booths. Answering defendant was assigned to the desk in the general visiting room area from which the interior of the non-contact booths was not visible. In order to view the interior of the non-contact booths answering defendant had to leave the desk and walk over to the booths. Further, at the time before cameras were placed in the non-contact booths the visual monitoring of the occurrences in those booths was the responsibility of the strip room officer, a position not held by answering defendant.

18. **DENIED**. This allegation is specifically **DENIED** and strict proof thereof is demanded.

19. **DENIED**. This allegation is specifically **DENIED** and strict proof thereof is demanded.

20. **DENIED.** This allegation is specifically **DENIED** and strict proof thereof is demanded.

21. **DENIED**. It is **DENIED** that answering defendant described the conduct of December 29 & 30 2005 as the "very same" conduct. By way of further answer Exhibit A to the Second Amended Petition speaks for itself and states that Plaintiff had been block carded on December 29 & 30, 2005 for the "same type of infractions."

22. **ADMITTED** in part and **DENIED** in part. It is **ADMITTED** that answering defendant never terminated any of Plaintiff's visits. By way of further answer, he has no authority to do so. Only the shift commander can order a visit to be terminated. It is **DENIED** that answering defendant stated that he had seen these "inappropriate events" on four occasions. It is **DENIED** that policy and normal procedure required that the visit be immediately terminated and that Plaintiff immediately be placed in the Restrictive Housing Unit ("RHU").

23. **DENIED**. It is specifically **DENIED** that answering defendant retaliated against Plaintiff for any grievances Plaintiff may have filed against him and strict proof thereof is demanded.

24. **DENIED**. It is specifically **DENIED** that answering defendant has ever been placed on a misconduct restriction and specifically **DENIED** that he has ever fabricated any misconduct reports and strict proof thereof is demanded.

25. **DENIED**. It is specifically **DENIED** that answering defendant was aware he had written a fraudulent misconduct and specifically **DENIED** that he wrote a fraudulent misconduct and strict proof thereof is demanded.

26. **DENIED**. By way of further answer, given Plaintiff's criminal history answering defendant believed that the actions of the minor child were perceived by Plaintiff as sexual in nature.

27. **ADMITTED**.

28. **DENIED**. By way of further answer, answering defendant honestly believed that the allegations listed in misconduct report No. 664500 were true.

29. **ADMITTED** in part and **DENIED** in part. It is **ADMITTED** that answering defendant was sworn in and stated that the information in his misconduct report was true to the best of his information knowledge and belief. It is **DENIED** that answering defendant submitted a fabricated misconduct report.

30-67. These allegations do not pertain to answering defendant.

68. **DENIED**. It is specifically **DENIED** that answering defendant had any intent to cause harm or injury to Plaintiff, his wife or his minor child due to answering defendant's personal beliefs and strict proof thereof is demanded. By way of further answer, it is **DENIED** that answering defendant issued the misconduct because of any racial bias or prejudice, discriminatory motive or intent or for any evil, illegal or improper motive or purpose.

69. This averment does not pertain to answering defendant.

70-73. **ADMITTED.**

74. **ADMITTED** in part. It is **ADMITTED** that Plaintiff appealed the misconduct to Superintendent Patrick. By way of further answer, the Superintendent's reply speaks for itself.

75. **ADMITTED**.

76. It is **ADMITTED** that Plaintiff filed an appeal to the Chief Hearing Examiner on April 12, 2006 and that it was **DENIED** on April 21, 2006. Answering defendant does not know that date Plaintiff received the decision and, therefore, the allegation that he received it on May 1, 2006 is **DENIED**.

77. **ADMITTED** in part. It is **ADMITTED** that the April 21, 2006 letter contains that language. By way of further answer, the letter speaks for itself.

78. **DENIED**. Answering defendant is without knowledge as to the truth of this averment and therefore it is **DENIED**.

79. **DENIED**. Answering defendant does not know the date Plaintiff received the letter and this allegation is, therefore, **DENIED**. By way of further answer, the May 1, 2006 letter speaks for itself.

80. **ADMITTED** in part and **DENIED** in part. It is **ADMITTED** that Plaintiff filed this action initially in the Commonwealth Court of Pennsylvania. It is **ADMITTED** that the Commonwealth Court transferred the matter to this Court. Answering defendant is without knowledge as to the date the matter was "forwarded" by the Commonwealth Court to this Court and the allegation that it did so on May 17, 2006 is, therefore, **DENIED**.

81. **DENIED.** This allegation is **DENIED** and strict proof thereof is demanded.

82. **DENIED**. This allegation is **DENIED** and strict proof thereof is demanded, if relevant. By way of further answer, Plaintiff's wife is not a party to this action and, therefore, any injuries she may have suffered are irrelevant to this litigation.

83. **DENIED**. This allegation is **DENIED** and strict proof thereof is demanded, if relevant. By way of further answer, Plaintiff's minor child is not a party to this action and, therefore, any injuries she may have suffered are irrelevant to this litigation.

84. This statement does not aver any facts for which a response is needed.

85. **DENIED**. This statement is **DENIED** and strict proof thereof is demanded.

86. No facts are averred and, therefore, no answer required.

87. **DENIED**. It is specifically **DENIED** that answering defendant racially profiled, discriminated against, harassed or filed fraudulent claims against Plaintiff, his wife or minor child and strict proof thereof is demanded. It is specifically **DENIED** that answering defendant violated any civil or constitutional rights of Plaintiff, his wife or minor child and strict proof thereof is demanded.

88-98. These allegations do not pertain to answering defendant. To the extent they may be construed as doing so, the averments are **DENIED** and strict proof thereof is demanded.

99. **DENIED**. By way of further answer, it is **DENIED** that there is any wrongdoing for which Plaintiff is due redress.

100-112. No response is required to the request for relief. To the extent that the Court deems a response necessary, it is **DENIED** that Plaintiff is entitled to any of the relief he seeks and strict proof thereof is demanded.

NEW MATTER

113. Plaintiff is serving a sentence for rape, corruption of minors, endangering the welfare of children and indecent assault without consent. *See* Exs. A & B to this Answer.

114. Plaintiff's criminal victims included minor children.

115. Because of the nature of his crimes Plaintiff is allowed only non-contact visits with his child.

116. When answering defendant observed Plaintiff's minor daughter facing away from Plaintiff and shaking her rear at him during her non-contact visit with Plaintiff, answering defendant viewed the conduct as sexually provocative in light of Plaintiff's personal criminal history.

117. In light of answering defendant's personal observation of the events, Plaintiff's explanation that his daughter was performing a dance that she had learned in church did not seem plausible to answering defendant.

118. Answering defendant honestly believed that Plaintiff could have controlled his daughter's behavior by asking his wife, who was present in the non-contact room with the child, to control her.

119. Answering defendant honestly believed that the conduct of Plaintiff's minor daughter, while probably innocent from her standpoint, represented sexually suggestive conduct from Plaintiff's standpoint.

120. Answering defendant is protected by the affirmative defense of justification.

121. Answering defendant has been a corrections officer for ten years.

122. Answering defendant has never been the subject of a disciplinary action.

123. Answering defendant has never been sanctioned for writing too many misconducts.

124. Answering defendant does not allow visitors to stand on the desk in the non-contact room and anytime he views such conduct, he insists, without regard to race, that the person step down off the desk.

125. Answering defendant does not discriminate against persons, including inmates, on the basis of race or other illegal or improper reasons.

126. Answering defendant did not discriminate against Plaintiff, who is African-American, on the basis that he is married to a white woman.

127. Answering defendant did not discriminate against Plaintiff's wife, who is white, on the basis that she is married to an African-American man.

128. Answering defendant did not discriminate against Plaintiff's minor child on the basis that she is the product of an interracial union.

129. Answering defendant has no objection to interracial marriages personally and performs his job duties without regard to whether an inmate is a spouse in an interracial marriage.

130. Answering defendant was at all times acting within the course and scope of his employment and is, therefore, immune from liability.

131. Answering defendant did not violate any clearly established rights of Plaintiff and is, therefore, protected by qualified immunity.

132. Ultimate vacation of the misconduct by Secretary Beard does not mean that the misconduct was issued wrongfully or for an improper purpose; were that the case, corrections officials could never vacate a misconduct without exposure to legal liability and the misconduct appeal process would have no purpose.

133. Plaintiff has litigated unsuccessfully in the past to obtain contact visits with his minor daughter. *See* Ex. C to this Answer.

134. Plaintiff's lawsuit has no legitimate factual premise and is brought solely as an attempt to obtain contact visits with his minor child.

Respectfully submitted,

Office of General Counsel

By: Debra Sue Rand

Debra Sue Rand
Assistant Counsel
Attorney I.D. No. 41661
Pennsylvania Department of Corrections
Office of Chief Counsel
55 Utley Drive
Camp Hill, PA 17011
(717) 731-0444

Dated: November 15, 2006

COURT OF COMMON PLEAS OF YORK COUNTY

DOCKET

Docket Number: CP-67-CR-0004275-1998

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania
v.
Glynn A. Holder

CASE INFORMATION

Judge Assigned: Kennedy, John S.
Date Filed: 09/23/1998 Initiation Date: 09/23/1998
OTN: F1729571
Lower Court Docket No: CR-0000243-98
Initial Issuing Authority: William J. Farrell
Final Issuing Authority: Linda L. Williams
Arresting Agency: York City Police Dept
Arresting Officer: Ward, Dana C. Jr.
Case Local Number Type(s)
Legacy Docket Number
Case Local Number(s)
1998CA4275

STATUS INFORMATION

Case Status: Adjudicated
Processing Status: Awaiting Appellate Court Decision
Arrest Date: 07/30/1998
Complaint Date: 07/30/1998

DEFENDANT INFORMATION

Year Of Birth: 1959
City/State/Zip:

CASE PARTICIPANTS

Participant Type	Name
Defendant	Holder, Glynn Anthony (Pro Se)

BAIL INFORMATION

Holder, Glynn Anthony

Nebbia Status: None

Bail Action	Date	Bail Type	Percentage	Amount	Bail Posting Status	Posting Date
Set	01/01/1980	Monetary		$50,000.00		

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COURT OF COMMON PLEAS OF YORK COUNTY

DOCKET



Docket Number: CP-67-CR-0004275-1998

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania
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Glynn A. Holder

CHARGES

Sequence	Grade	Section/ Description	Statute Description	Offense Date	OTN
1	F1	**18 § 3121 §§A1**	Rape Forcible Compulsion	12/01/1997	F1729571
2	F1	**18 § 3123 §§A1**	IDSI Forcible Compulsion	12/01/1997	F1729571
3		**18 § 902 §§A**	Criminal Solicitation	12/01/1997	F1729571
4		**18 § 4304 §§A**	Endangering Welfare Of Children	12/01/1997	F1729571
5		**18 § 3126 §§1**	Indecent Assault Without Consent	12/01/1997	F1729571
6		**18 § 6301 §§A**	Corruption Of Minors	12/01/1997	F1729571

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COURT OF COMMON PLEAS OF YORK COUNTY

DOCKET

Docket Number: CP-67-CR-0004275-1998

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania
v.
Glynn A. Holder

DISPOSITION SENTENCING/PENALTIES

Disposition Case Event Sequence/Description Sentencing Judge Sentence/Diversion Program Type Sentence Conditions	Disposition Date Offense Disposition Sentence Date Incarceration/Diversionary Period	Final Disposition Section Credit For Time Served Start Date
Migrated Disposition		
Migrated Dispositional Event	09/16/1998	Final Disposition
1 / Rape Forcible Compulsion	Guilty	**18 § 3121 §§A1**
Migrated, Judge	09/16/1998	
Confinement	Min of 70.00 Months Max of 1.00 Years 40.00 Months	
Migrated, Judge	09/16/1998	
Financial Assessments	Min of 70.00 Months Max of 1.00 Years 40.00 Months	
4 / Endangering Welfare Of Children	Guilty	**18 § 4304 §§A**
Migrated, Judge	09/16/1998	
Financial Assessments		
5 / Indecent Assault Without Consent	Guilty	**18 § 3126 §§1**
Migrated, Judge	09/16/1998	
Financial Assessments		

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COURT OF COMMON PLEAS OF YORK COUNTY

DOCKET



Docket Number: CP-67-CR-0004275-1998

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania
v.
Glynn A. Holder

COMMONWEALTH INFORMATION	ATTORNEY INFORMATION

Name: Anthony T. McBeth, Esq.
Private
Supreme Court No: 053729
Counsel Status: Active
Address:
First Fl
407 N Front St
Harrisburg PA 17101
(Phone) (717) 238-3686
(Fax) 717
(Office):

Representing: Holder, Glynn Anthony

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COURT OF COMMON PLEAS OF YORK COUNTY

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Court Case

Commonwealth of Pennsylvania
v.
Glynn A. Holder

ENTRIES

Document Number	CP Filed Date	Document Date	Filed By
Title			
Comments			
Registry Entry			
Issue Date	Service Type		Service To

1 08/18/1998 Migrated, Filer

08-18-98 - EUGENE CAMPBELL, ESQ. IS

08-18-98 - EUGENE CAMPBELL, ESQ. IS APPOINTED OCUNSEL. MJB 08/19/98- SERVICE DA, PD, ATTY. CAMPBELL

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1 09/16/1998 Migrated, Filer

Migrated Disposition

Migrated Automatic Registry Entry (Disposition) Text

---

2 09/16/1998 Migrated, Filer

Migrated Sentence

Migrated Sentence

---

1 09/23/1998 Unknown Filer

Original Papers Received from Lower Court

---

1 10/08/1998 Migrated, Filer

10-08-98 - NOTICE OF CONSOLIDATION W/427

10-08-98 - NOTICE OF CONSOLIDATION W/4274 CA 98 & W/DOROTHY ABRAMSON

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1 10/09/1998 Migrated, Filer

10-09-98 - ARRAIGNED 10/09/98 FOR ARRAIG

10-09-98 - ARRAIGNED 10/09/98 FOR ARRAIGNMENT 10/09/98; PRO-SE
10-09-98 - RETURN W/COUNSEL 10/19/98 @ 8:30AM.; PRE-TRIAL CONF. 12/15/98 @ 9:AM. BEFORE JUDGE KENNEDY, CT.RM.#1. JCU

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COURT OF COMMON PLEAS OF YORK COUNTY

DOCKET

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CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania
v.
Glynn A. Holder

ENTRIES

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Registry Entry			
Issue Date	Service Type		Service To

1 10/14/1998 Migrated, Filer

10-14-98 - ATTY E. CAMPBELL ENTERED

10-14-98 - ATTY E. CAMPBELL ENTERED APPEARANCE. JSK

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1 10/15/1998 Migrated, Filer

4278 & 4279 CA 98.

4278 & 4279 CA 98.

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1 12/14/1998 Migrated, Filer

12-14-98 - YORK COUNTY CHILDREN & YOUTH

12-14-98 - YORK COUNTY CHILDREN & YOUTH SERVICE ARE DIRECTED TO PRODUCE RECORDS TO DEFENSE COUNSEL. JSK SERVICE DA,ATTY E. CAMPBELL, CHILDREN SERVICES

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1 12/16/1998 Migrated, Filer

12-16-98 - CONTINUED FOR TRIAL. JSK

12-16-98 - CONTINUED FOR TRIAL. JSK

---

1 01/15/1999 Migrated, Filer

01-15-99 - MOTION FOR CONTINUANCE UNTIL

01-15-99 - MOTION FOR CONTINUANCE UNTIL MARCH TRIAL TERM AND RULE 1100 WAIVER, GRANTED. JSK

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1 02/11/1999 Migrated, Filer

ORDER FILED RE:
CASE SCHEDULED FOR

ORDER FILED RE:
CASE SCHEDULED FOR 02/17 CURRENT BUSINESS. JSK

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COURT OF COMMON PLEAS OF YORK COUNTY

DOCKET

Docket Number: CP-67-CR-0004275-1998

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania
v.
Glynn A. Holder

ENTRIES

Document Number	CP Filed Date	Document Date	Filed By
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Comments			
Registry Entry			
Issue Date	Service Type		Service To

1 02/17/1999 Migrated, Filer

02-17-99 - CASE HELD FOR TRIAL, MARCH

02-17-99 - CASE HELD FOR TRIAL, MARCH TERM. JSK

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1 02/24/1999 Migrated, Filer

02-24-99 - THE FOLLOWING COUNSEL WILL

02-24-99 - THE FOLLOWING COUNSEL WILL BE ATTACHED FOR THE CASE FOR THE FIRST DAY OF TRIAL, 03/01/99 UNTIL THE CASE IS COMPLETE. EDWARD PASKY, ESQ. FOR THE COMMONWEALTH, RICHARD ROBINSON, ESQ. FOR DEFENDNAT ABRAMSON, EUGENE CAMPBELL, ESQ. FOR DEFENDANT HOLDER. SERVICE E. PASKY, ESQ., R. ROBINSON, ESQ., E. CAMPBELL, ESQ.

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1 03/01/1999 Migrated, Filer

03-01-99 - LETTER FROM DEFENDANT MADE

03-01-99 - LETTER FROM DEFENDANT MADE PART OF RECORD, MOTION TO APPOINT NEW COUNSEL, WITHDRAWN. JSK

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1 03/03/1999 Migrated, Filer

03-03-99 - JURY TRIAL, GUILTY OF RAPE,

03-03-99 - JURY TRIAL, GUILTY OF RAPE, INVOLUNTARY DEVIATE SEXUAL INTERCOURSE, CRIMINAL SOLICITATION TO COMMIT RAPE, CRIMINAL SOLICITATION TO COMMIT INVOLUNTARY DEVIATE SEXUAL INTERCOURSE, ENDANGERING WELFARE OF CHILDREN, INDECENT ASSAULT, CORRUPTION OF MINORS. COMPLETE PRE-SENTENCE, EVALUATION BY SEXUAL OFFENDERS EVALUATION BOARD. SENTENCING 04/26/99 @9:30 AM. JSK

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COURT OF COMMON PLEAS OF YORK COUNTY

DOCKET



Docket Number: CP-67-CR-0004275-1998

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania
v.
Glynn A. Holder

ENTRIES

Document Number	CP Filed Date	Document Date	Filed By
Title			
Comments			
Registry Entry			
Issue Date	Service Type		Service To

1 04/06/1999 Migrated, Filer

04-06-99 - A FULL ASSESSMENT OF THIS

04-06-99 - A FULL ASSESSMENT OF THIS CASE SHALL BE DONE BECAUSE IT MEETS THE MEGAN'S LAW REQUIREMENTS. HOWEVER, CASE NO. 4274 CA 98 DOES NOT MEET THE REQUIREMENTS AND AN ASSESSMENT DOES NOT TO BE DONE ON THAT CASE. JSK
SERVICE: DA, ATTY CAMPBELL, FAXED TO THE ASSEMENT BOARD.

---

1 04/15/1999 Migrated, Filer

04-15-99 - SENTENCE CONTINUED TO 05/24/9

04-15-99 - SENTENCE CONTINUED TO 05/24/99 @ 9:30AM. DEFENDNAT WAIVED SENTENCE TIME FRAME. JSK.

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1 04/20/1999 Migrated, Filer

CONCURRENTLY TO COUNTS 1,2,3, ENDANGERIN

CONCURRENTLY TO COUNTS 1,2,3, ENDANGERING WELFARE OF CHILDREN (COUNT 5), INDECENT ASSAULT (COUNT 6), CORRUPTION OF MINORS (COUNT 7) MERGE FOR SENTENCING PURPOSES, COSTS. TOTAL SCI SENTENCE 20 YEARS TO 40 YEARS. TOTAL IN THIS CASE AND 4274 CA 98 IS 31 1/2 YEARS TO 63 YEARS. JSK

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1 04/29/1999 Migrated, Filer

04-29-99 - PETITION FOR FURLOUGH TO

04-29-99 - PETITION FOR FURLOUGH TO ATTEND MATRIMONIAL CEREMONY FILED AND GRANTED. FURLOUGH FOR 05/03/99 FROM 2:30 PM TO 4:30 PM, TO BE TRANSPORTED TO DISTRICT JUSTICE KESSLER'S OFFICE BY CONSTABLE KEITH DEARDORFF. JSK
04-29-99 - NOTICE OF OPPOSITION TO PETITION FOR FURLOUGH FILED. JSK
04-29-99 - TRANSPORTATION ORDER FILED AND GRANTED. DEFENDANT TO BE RELEASED TO KEITH DEARDORFF ON 05/03/99 @2:15 PM AND TO BE RETURNED TO YCP AFTER CEREMONY IS COMPLETED. JSK

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COURT OF COMMON PLEAS OF YORK COUNTY

DOCKET

Docket Number: CP-67-CR-0004275-1998

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania
v.
Glynn A. Holder

ENTRIES

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Title			
Comments			
Registry Entry			
Issue Date	Service Type		Service To

1 05/24/1999 Migrated, Filer

05-24-99 - MEGAN'S LAW HEARING, DEFENDAN

05-24-99 - MEGAN'S LAW HEARING, DEFENDANT FOUND TO BE A SEXUALLY VIOLENT PREDIATOR, BUT IT IS FOUND TO BE UNCONSTITUTIONAL REMOVE EUGENE CAMPBELL, ESQ AS ATTORNEY FOR THE DEFENDANT COURT TO APPOINT NEW COUNSEL FOR APPEAL PURPOSES. JSK
05-24-99 - SENTENCE: RAPE (COUNT 1), SCI, 7 YEARS TO 14 YEARS, INVOLUNTARY DEVIATE SEXUAL INTERCOURSE, (COUNT 2), SCI, 7 YEARS TO 14 YEARS, CONSECTIVE TO COUNT 1, SOLICITATION TO COMMIT RAPE, (COUNT 3), SCI, 6 YEARS TO 12 YEARS, CONSECTIVE TO COUNTS 1 AND 2, SOLICIT INVOLUNTARY DEVIATE SEXUAL INTERCOURSE (COUNT 4), SCI, 6 YEARS TO 12 YEARS,

1 05/27/1999 Migrated, Filer

05-27-99 - FRANK ARCURI, ESQ. IS APPOINT

05-27-99 - FRANK ARCURI, ESQ. IS APPOINTED TO REPRESENT DEFENDANT. JSK. SERVICE: DA, EUGENE CAMPBELL, ESQ., FRANK ARCURI, ESQ.

1 06/03/1999 Migrated, Filer

06-03-99 - PRO-SE MOTION TO MODIFY SENTE

06-03-99 - PRO-SE MOTION TO MODIFY SENTENCE FILED.
06-03-99 - MOTION TO RECONSIDER SENTENCE FILED.

1 06/09/1999 Migrated, Filer

06-09-99 - ALLEN H. SMITH, ESQ ENTERS

06-09-99 - ALLEN H. SMITH, ESQ ENTERS HIS APPEARANCE.

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COURT OF COMMON PLEAS OF YORK COUNTY

DOCKET

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CRIMINAL DOCKET

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Commonwealth of Pennsylvania
v.
Glynn A. Holder

ENTRIES

Document Number	CP Filed Date	Document Date	Filed By
Title			
Comments			
Registry Entry			
Issue Date	Service Type		Service To

1 06/22/1999 Migrated, Filer

PETITION FOR LEAVE TO PROCEED INFORMA

PETITION FOR LEAVE TO PROCEED INFORMA PAUPERIS
NOTICE OF APPEAL FILED
INFORMA PAUPERIS GRANTED

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1 06/23/1999 Migrated, Filer

PROOF OF SERVICE FILED

PROOF OF SERVICE FILED

---

1 06/24/1999 Migrated, Filer

NOTICE OF APPEAL FILED
BY COMMONWEALTH.

NOTICE OF APPEAL FILED
BY COMMONWEALTH.

---

1 07/13/1999 Migrated, Filer

DEFT. FILE STATEMENT MATTERS COMPLAINED

DEFT. FILE STATEMENT MATTERS COMPLAINED W/APPEAL
DIRECTED TO COMMONWEALTH. JSK. SERVICE TO DA AND ALLEN SMITH, ESQ.

---

1 07/14/1999 Migrated, Filer

TRANSCRIPT FILED RE:
PRE-TRIAL CONFEREN

TRANSCRIPT FILED RE:
PRE-TRIAL CONFERENCE 10/14/98 FILED W/CASE.

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COURT OF COMMON PLEAS OF YORK COUNTY

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CRIMINAL DOCKET

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Glynn A. Holder

ENTRIES

Document Number	CP Filed Date	Document Date	Filed By
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Comments			
Registry Entry			
Issue Date	Service Type		Service To

1 07/16/1999 Migrated, Filer

SUPERIOR COURT DOCKET NUMBER
1106 AMD
SUPERIOR COURT DOCKET NUMBER
1106 AMD 1107 MDA 99

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1 07/20/1999 Migrated, Filer

ATTORNEY'S FEES PETITION FILED
ATTORNEY
ATTORNEY'S FEES PETITION FILED
ATTORNEY'S FEES PETITION GRANTED
JSK SERVICE: CERTIFIED COPY TO PURCHASING

---

1 07/23/1999 Migrated, Filer

TRANSCRIPT FILED RE:
JURY TRIAL 3/1-3/9
TRANSCRIPT FILED RE:
JURY TRIAL 3/1-3/99.
DEFT. FILE STATEMENT MATTERS COMPLAINED W/APPEAL
SERVICE DA, ALLEN SMITH, ESQ.

---

1 08/02/1999 Migrated, Filer

DEFENDANT'S STATEMENT MATTERS COMPLAINED
DEFENDANT'S STATEMENT MATTERS COMPLAINED W/APPEAL

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1 08/05/1999 Migrated, Filer

COMMONWEALTH'S STATEMENT OF MATTERS
COMMONWEALTH'S STATEMENT OF MATTERS RE: 1925(B) FILED.

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COURT OF COMMON PLEAS OF YORK COUNTY

DOCKET

Docket Number: CP-67-CR-0004275-1998

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ENTRIES

Document Number	CP Filed Date	Document Date	Filed By
Title			
Comments			
Registry Entry			
Issue Date	Service Type		Service To

1 08/24/1999 Migrated, Filer

OPINION PURSUANT TO PA. RAP. 1925A
JSK.
OPINION PURSUANT TO PA. RAP. 1925A
JSK. SERVICE TO DA AND ALLEN SMITH, ESQ.
CASE TRANSMITTED TO SUPERIOR COURT

---

1 08/25/1999 Migrated, Filer

COMMITMENT ISSUED SCI
COMMITMENT ISSUED SCI

---

1 09/22/2000 Migrated, Filer

CASE RETURNED FROM SUPERIOR COURT JUDGME
CASE RETURNED FROM SUPERIOR COURT JUDGMENT/ORDER
SENTENCE AFFIRMED.

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1 01/10/2001 Migrated, Filer

POST CONVICTION ACT FILED
POST CONVICTION ACT FILED

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COURT OF COMMON PLEAS OF YORK COUNTY

DOCKET

Docket Number: CP-67-CR-0004275-1998

CRIMINAL DOCKET

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Commonwealth of Pennsylvania
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Glynn A. Holder

ENTRIES

Document Number	CP Filed Date	Document Date	Filed By
Title			
Comments			
Registry Entry			
Issue Date	Service Type		Service To

1 01/12/2001 Migrated, Filer

POST CONVICTION ACT HEARING SCHEDULED

3

POST CONVICTION ACT HEARING SCHEDULED
3-28-01 @ 1:30PM. JSK.
INFORMA PAUPERIS GRANTED
JSK.
COUNSEL APPOINTED
JSK. ATTORNEY - HARGETT-ROBINSON, DEBORAH
SERVICE RE:
PETITION AND ORDER TO DA AND ATTY HARGETT ROBINSON AND DEFENDANT
SERVICE RE:
ORDER TO ATTY SMITH ATTY ARCURI, ATTY CAMBLELL

---

1 01/17/2001 Migrated, Filer

TRANSPORTATION ORDER FILED RE:
FROM

TRANSPORTATION ORDER FILED RE:
FROM HOUTZDALE FOR PCRA 3-28-01 BY 3-21-00. JSK.SERVICE DA.FAXED YCP

---

1 01/19/2001 Migrated, Filer

TRANSPORTATION ORDER DELIVERED TO SHERIF

TRANSPORTATION ORDER DELIVERED TO SHERIFF
CERTIFIED

Recent entries made in the court filing offices may not be immediately reflected on these docket sheets. Neither the Court of Common Pleas nor the Administrative Office of Pennsylvania Courts assume any liability for inaccurate or delayed data, errors or omissions on these docket sheets. Docket Sheet information should not be used in place of a criminal history background check which can only be provided by the Pennsylvania State Police. Moreover an employer who does not comply with the provisions of the Criminal History Record Information Act may be subject to civil liability as set forth in 18 Pa.C.S. Section 9183.

COURT OF COMMON PLEAS OF YORK COUNTY

DOCKET

Docket Number: CP-67-CR-0004275-1998

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania
v.
Glynn A. Holder

ENTRIES

Document Number	CP Filed Date	Document Date	Filed By
Title			
Comments			
Registry Entry			
Issue Date	Service Type		Service To

1 03/29/2001 Migrated, Filer

POST CONVICTION ACT HEARING CONTINUED
F
POST CONVICTION ACT HEARING CONTINUED
FROM 03/30/01 @11:00 AM UNTIL 04/06/01 @8:30 AM, AT REQUEST OF ATTY D. HARGETT-ROBINSON. DEFENDANT TO REMAIN IN YCP UNTIL COMPLETION OF HEARING THEN RETURN TO SCI HOUTZDALE. JSK
SERVICE RE:
DA, ATTY D. HARGETT-ROBINSON, ATTY E. CAMPBELL

---

1 04/06/2001 Migrated, Filer

PCRA HEARING CONTINUED. RELIEF DENIED.
PCRA HEARING CONTINUED. RELIEF DENIED. JSK.

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1 05/01/2001 Migrated, Filer

NOTICE OF APPEAL FILED
AND VERIFIED
NOTICE OF APPEAL FILED
AND VERIFIED STATEMENT UNDER PA.R.A.P.551 FILED PRO SE.

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1 05/02/2001 Migrated, Filer

DEFT. FILE STATEMENT MATTERS COMPLAINED
DEFT. FILE STATEMENT MATTERS COMPLAINED W/APPEAL
JSK. SERVICE TO DA, DEFENDANT, AND DEBORAH HARGETT ROBINSON, ESQ.

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1 05/09/2001 Migrated, Filer

TRANSCRIPT FILED RE:
PCRA CONTINUED
TRANSCRIPT FILED RE:
PCRA CONTINUED 03/28/01.

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COURT OF COMMON PLEAS OF YORK COUNTY

DOCKET

Docket Number: CP-67-CR-0004275-1998

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania
v.
Glynn A. Holder

ENTRIES

Document Number	CP Filed Date	Document Date	Filed By
Title			
Comments			
Registry Entry			
Issue Date	Service Type		Service To

1 05/14/2001 Migrated, Filer

PETITION FOR EXTENSION OF TIME FILED
PR

PETITION FOR EXTENSION OF TIME FILED
PRO SE RE: STATEMENT OF MATTERS PURUANT TO PA.R.A.P.1925(B).

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1 05/15/2001 Migrated, Filer

SUPERIOR COURT DOCKET NUMBER
790 MDA

SUPERIOR COURT DOCKET NUMBER
790 MDA 2001. CASE DUE: 06/11/01.

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1 05/17/2001 Migrated, Filer

TRANSCRIPT FILED RE:
PCRA 04/06/01.

TRANSCRIPT FILED RE:
PCRA 04/06/01.

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1 05/21/2001 Migrated, Filer

ORDER FILED RE:
PETITION FOR TRANSCRIPT

ORDER FILED RE:
PETITION FOR TRANSCRIPTS DENIED. DEFENDANT TO CONTACT COUNSEL OF
OF RECORD FOR TRANSCRIPTS. JSK.
MOTION FOR TRANSCRIPTION OF TESTIMONY FILED
PRO SE.
DEFENDANT'S STATEMENT MATTERS COMPLAINED W/APPEAL

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COURT OF COMMON PLEAS OF YORK COUNTY

DOCKET

Docket Number: CP-67-CR-0004275-1998

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania
v.
Glynn A. Holder

ENTRIES

Document Number	CP Filed Date	Document Date	Filed By
Title			
Comments			
Registry Entry			
Issue Date	Service Type		Service To

1 05/22/2001 Migrated, Filer

SERVICE RE:
DEFENDANT AND DEBORAH HARGE
SERVICE RE:
DEFENDANT AND DEBORAH HARGET-ROBINSON, ESQ.

---

1 05/31/2001 Migrated, Filer

PRO SE MOTION FILED. RE; TRANSRIPTS.
PRO SE MOTION FILED. RE; TRANSRIPTS.

---

1 06/01/2001 Migrated, Filer

ORDER FILED RE:
SUPERIOR COURT ORDER:
ORDER FILED RE:
SUPERIOR COURT ORDER: PETITION FOR WRIT OF MANDAMUS AND/OR EXTRAORDINARY RELIEF DENIED.

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1 06/07/2001 Migrated, Filer

OPINION PURSUANT TO PA. RAP. 1925A
JSK.
OPINION PURSUANT TO PA. RAP. 1925A
JSK. SERVICE TO DA AND DEFENDANT.

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1 06/08/2001 Migrated, Filer

CASE TRANSMITTED TO SUPERIOR COURT
CASE TRANSMITTED TO SUPERIOR COURT

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COURT OF COMMON PLEAS OF YORK COUNTY

DOCKET

Docket Number: CP-67-CR-0004275-1998

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania
v.
Glynn A. Holder

ENTRIES

Document Number	CP Filed Date	Document Date	Filed By
Title			
Comments			
Registry Entry			
Issue Date	Service Type		Service To

1 06/13/2001 Migrated, Filer

ORDER FILED RE:
SUPERIOR COURT ORDER:
ORDER FILED RE:
SUPERIOR COURT ORDER: PETITION FOR WRIT OF MANDAMUS AND/OR EXTRAORDINARY RELIEF DENIED.

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1 06/18/2001 Migrated, Filer

ADDENSUM OF STATEMENTS OF MATTERS COMPLA
ADDENSUM OF STATEMENTS OF MATTERS COMPLAINED OF PURSUANT TO 1925(B).

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1 06/19/2001 Migrated, Filer

ORDER FILED RE:
APPELLANT'S ADDENDUM
ORDER FILED RE:
APPELLANT'S ADDENDUM OF STATEMENT OF MATTERS ACKNOWLEDGED. DUE TO RECORD HAVING BEEN TRANSMITTED UNABLE TO RESPOND TO ISSUED. JSK.
SUPPLEMENTAL RE:
TRANSMITTED TO SUPERIOR COURT.

---

1 06/21/2001 Migrated, Filer

MOTION FOR TRANSCRIPTION OF TESTIMONY
MOTION FOR TRANSCRIPTION OF TESTIMONY FILED
PRO SE
PCRA TRANSCRIPTS DENIED. NO ACCESS. JSK.

---

1 06/22/2001 Migrated, Filer

SERVICE RE:
DEFT, DA
SERVICE RE:
DEFT, DA

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COURT OF COMMON PLEAS OF YORK COUNTY

DOCKET

Docket Number: CP-67-CR-0004275-1998

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania
v.
Glynn A. Holder

ENTRIES

Document Number	CP Filed Date	Document Date	Filed By
Title			
Comments			
Registry Entry Issue Date	Service Type		Service To

1 06/27/2001 Migrated, Filer

DEBORAH HARGETT-ROBINSON WITHDRAWS AS
DEBORAH HARGETT-ROBINSON WITHDRAWS AS COUNSEL.

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1 08/10/2001 Migrated, Filer

CASE RETURNED FROM SUPERIOR COURT JUDGME
CASE RETURNED FROM SUPERIOR COURT JUDGMENT/ORDER
MOTION TO REMAND CASE TO ALLOW COUNSEL TO AMEND 1925(B) STATEMENT GRANTED.. REMANDED TO TRIAL COURT FOR A PERIOD OF SIXTY (60) DAYS. COUNSEL DIRECTED TO FILE AND AMENDED PA.R.A.P.1925(B) STATEMENT WITHIN 20 DAYS OF THE DATE OF THIS ORDER. THE TRIAL COURT SHALL ADDRESS THE ISSUES RAISED IN THE PA.R.A.P.1925(B) STATEMENT IN A PA.R.A.P.1925(A) OPINION. JURISDICTION RETAINED.

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1 08/30/2001 Migrated, Filer

DEFENDANT'S STATEMENT MATTERS COMPLAINED
DEFENDANT'S STATEMENT MATTERS COMPLAINED W/APPEAL

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1 09/10/2001 Migrated, Filer

OPINION PURSUANT TO PA. RAP. 1925A
JSK.
OPINION PURSUANT TO PA. RAP. 1925A
JSK.

---

1 09/12/2001 Migrated, Filer

CASE TRANSMITTED TO SUPERIOR COURT
CASE TRANSMITTED TO SUPERIOR COURT

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COURT OF COMMON PLEAS OF YORK COUNTY

DOCKET

Docket Number: CP-67-CR-0004275-1998

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania
v.
Glynn A. Holder

ENTRIES

Document Number	CP Filed Date	Document Date	Filed By
Title			
Comments			
Registry Entry			
Issue Date	Service Type		Service To

1 09/19/2001 Migrated, Filer

MISCELLANEOUS PAPERS MADE PART OF RECORD

MISCELLANEOUS PAPERS MADE PART OF RECORD PER PRO SE REQUEST.
SUPPLEMENTAL RE:
MISCELLANEOUS PAPERS TRANSMITTED TO SUPERIOR COURT.

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1 10/17/2001 Migrated, Filer

MOTION TO WITHDRAW AS COUNSEL FILED

MOTION TO WITHDRAW AS COUNSEL FILED

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1 10/23/2001 Migrated, Filer

CASE RETURNED FROM SUPERIOR COURT JUDGME

CASE RETURNED FROM SUPERIOR COURT JUDGMENT/ORDER
REMANDED: TRIAL COURT TO HOLD HEARING FOR MOTION TO BE RELEASED AS
COUNSEL. HEARING TO BE HELD WITHIN 60 DAYS. RETAIN JURISDICTION.

---

1 10/26/2001 Migrated, Filer

HEARING SCHEDULED
FOR MOTION TO BE

HEARING SCHEDULED
FOR MOTION TO BE RELEASED AS COUNSEL ON 11/09/01 @9:30 AM IN
CT.RM. #5. JSK
SERVICE RE:
DA, ATTY D. HARGETT-ROBINSON, DEFENDANT

---

1 10/30/2001 Migrated, Filer

TRANSPORTATION ORDER FILED RE:
TO DELIV

TRANSPORTATION ORDER FILED RE:
TO DELIVER DEFENDANT ON OR BEFORE 11/8/01 FROM SCI.

Recent entries made in the court filing offices may not be immediately reflected on these docket sheets. Neither the Court of Common Pleas nor the Administrative Office of Pennsylvania Courts assume any liability for inaccurate or delayed data, errors or omissions on these docket sheets. Docket Sheet information should not be used in place of a criminal history background check which can only be provided by the Pennsylvania State Police. Moreover an employer who does not comply with the provisions of the Criminal History Record Information Act may be subject to civil liability as set forth in 18 Pa.C.S. Section 9183.

COURT OF COMMON PLEAS OF YORK COUNTY

DOCKET

Docket Number: CP-67-CR-0004275-1998

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania
v.
Glynn A. Holder

ENTRIES

Document Number	CP Filed Date	Document Date	Filed By
Title			
Comments			
Registry Entry			
Issue Date	Service Type		Service To

1 11/01/2001 Migrated, Filer
TRANSPORTATION ORDER DELIVERED TO SHERIF
TRANSPORTATION ORDER DELIVERED TO SHERIFF
TO TRANSPORT DEFENDANT ON OR BEFORE 11/8/01 FROM SCI. MJB.
TRANSPORTATION ORDER DELIVERED TO SHERIFF
DA, YORK COUNTY PRISON.

1 11/09/2001 Migrated, Filer
HEARING HELD
TO RELEASE ATTY D. HARGETT
HEARING HELD
TO RELEASE ATTY D. HARGETT-ROBINSON AS COUNSEL WAS DENIED. JSK

1 11/19/2001 Migrated, Filer
SERVICE OF ORDER TO DEFENSE ATTORNEY
OR
SERVICE OF ORDER TO DEFENSE ATTORNEY
ORDER OF 11/09/01 TO ATTY D. HARGETT-ROBINSON

1 12/04/2001 Migrated, Filer
CASE TRANSMITTED TO SUPERIOR COURT
CASE TRANSMITTED TO SUPERIOR COURT

1 02/12/2002 Migrated, Filer
MOTION FILED RE:
FOR TRANSPORTATION
MOTION FILED RE:
FOR TRANSPORTATION TO SCI, PRO-SE.

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COURT OF COMMON PLEAS OF YORK COUNTY

DOCKET

Docket Number: CP-67-CR-0004275-1998

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania
v.
Glynn A. Holder

ENTRIES

Document Number	CP Filed Date	Document Date	Filed By
Title			
Comments			
Registry Entry			
Issue Date	Service Type		Service To

1 02/15/2002 Migrated, Filer

MOTION/PETITION GRANTED RE:
PRO-SE
MOTION/PETITION GRANTED RE:
PRO-SE MOTION FOR TRANSPORTATION. JSK
SERVICE RE:
DA, FAXED YCP, DEFENDANT

---

1 09/10/2002 Migrated, Filer

CASE RETURNED FROM SUPERIOR COURT JUDGME
CASE RETURNED FROM SUPERIOR COURT JUDGMENT/ORDER
COMMON PLEAS COURT ORDER DENYING PCRA RELIEF AFFIRMED.

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1 01/07/2003 Migrated, Filer

PRO SE MOTION FILED
TO VACATE COSTS
PRO SE MOTION FILED
TO VACATE COSTS AND FINES

---

1 01/09/2003 Migrated, Filer

COURT WOULD RECONSIDER IF DEFT CAN NOT
COURT WOULD RECONSIDER IF DEFT CAN NOT PAY AFTER HIS IS PAROLED. JSK

---

1 01/10/2003 Migrated, Filer

SERVICE RE:
DA, DEFT @ HOUTZDLE
SERVICE RE:
DA, DEFT @ HOUTZDLE

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COURT OF COMMON PLEAS OF YORK COUNTY

DOCKET

Docket Number: CP-67-CR-0004275-1998

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania
v.
Glynn A. Holder

ENTRIES

Document Number	CP Filed Date	Document Date	Filed By
Title			
Comments			
Registry Entry			
Issue Date	Service Type		Service To

1 03/10/2003 Migrated, Filer
PRO SE DOCUMENT SENT TO COUNSEL OF RECOR
PRO SE DOCUMENT SENT TO COUNSEL OF RECORD

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1 04/22/2003 Migrated, Filer
ORDER FILED RE:
SUPREME COURT ORDER:
ORDER FILED RE:
SUPREME COURT ORDER: PETITION FOR ALLOWANCE OF APPEAL DENIED.

---

1 04/23/2003 Migrated, Filer
ACT 84 PETITION DISMISSED. JSK.
ACT 84 PETITION DISMISSED. JSK.

---

1 04/25/2003 Migrated, Filer
SERVICE RE:
DA, COUNTY SOLICITOR CRAUN
SERVICE RE:
DA, COUNTY SOLICITOR CRAUN DEFT @ SCI HOUTZDALE

---

1 05/07/2003 Migrated, Filer
NOTICE OF APPEAL FILED
PRO SE
NOTICE OF APPEAL FILED
PRO SE

---

1 05/09/2003 Migrated, Filer
DEFT. FILE STATEMENT MATTERS COMPLAINED
DEFT. FILE STATEMENT MATTERS COMPLAINED W/APPEAL
JSK. SERVICE TO DA AND DEFENDANT.

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DOCKET

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CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania
v.
Glynn A. Holder

ENTRIES

Document Number	CP Filed Date	Document Date	Filed By
Title			
Comments			
Registry Entry			
Issue Date	Service Type		Service To

1 05/15/2003 Migrated, Filer

SUPERIOR COURT DOCKET NUMBER
721 MDA

SUPERIOR COURT DOCKET NUMBER
721 MDA 2003. DUE DATE: 06/23/03.

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1 06/06/2003 Migrated, Filer

DEFENDANT'S STATEMENT MATTERS COMPLAINED

DEFENDANT'S STATEMENT MATTERS COMPLAINED W/APPEAL

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1 07/17/2003 Migrated, Filer

OPINION PURSUANT TO PA. RAP. 1925A
JSK.

OPINION PURSUANT TO PA. RAP. 1925A
JSK. SERVICE TO DA AND DEFENDANT.

---

1 07/22/2003 Migrated, Filer

CASE TRANSMITTED TO SUPERIOR COURT

CASE TRANSMITTED TO SUPERIOR COURT

---

1 10/07/2003 Migrated, Filer

ATTORNEY'S FEES PETITION FILED

ATTORNEY'S FEES PETITION FILED

---

1 10/31/2003 Migrated, Filer

ATTORNEY'S FEES PETITION GRANTED
JSK.

ATTORNEY'S FEES PETITION GRANTED
JSK. CERTIFIED TO PURCHASING.

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COURT OF COMMON PLEAS OF YORK COUNTY

DOCKET

Docket Number: CP-67-CR-0004275-1998

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania
v.
Glynn A. Holder

ENTRIES

Document Number	CP Filed Date	Document Date	Filed By

Title

Comments

Registry Entry

Issue Date	Service Type	Service To

1 08/30/2004 Migrated, Filer

CASE RETURNED FROM SUPERIOR COURT JUDGME

CASE RETURNED FROM SUPERIOR COURT JUDGMENT/ORDER
ORDER OF 04/23/04 DENYING RELIEF DUE TO NO JURISDICTION AFFIRMED.
CASE RETURNED WITH 3 TRANSCRIPTS AND 1 PKT. EXHIBITS.

---

1 09/12/2005 Holder, Glynn Anthony

Post-Conviction Relief Act Petition Filed

---

1 09/15/2005 Kennedy, John S.

Order Denying Post-Conviction Relief Act Petition

Motion is untimely filed.

09/15/2005 4:02 pm	First Class	Holder, Glynn Anthony
09/15/2005 4:02 pm	Interoffice	York County District Attorney's Office

---

1 09/28/2005 Kennedy, John S.

Order Denying Reconsideration of Post-Conviction Relief Act Petition

09/29/2005 9:52 am	First Class	Holder, Glynn Anthony
09/29/2005 9:52 am	Interoffice	York County District Attorney's Office

---

2 09/28/2005 Holder, Glynn Anthony

Motion to Vacate and Reconsider Denial of PCRA Relief

---

1 10/11/2005 Holder, Glynn Anthony

Appeal Filed in Superior Court

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1 10/17/2005 Holder, Glynn Anthony

Appeal Filed in Superior Court

---

1 12/22/2005 Kennedy, John S.

Concise Statement Order

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COURT OF COMMON PLEAS OF YORK COUNTY

DOCKET

Docket Number: CP-67-CR-0004275-1998

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania
v.
Glynn A. Holder

ENTRIES

Document Number	CP Filed Date	Document Date	Filed By
Title			
Comments			
Registry Entry			
Issue Date	Service Type		Service To
12/30/2005 8:52 am	First Class		Holder, Glynn Anthony
12/30/2005 8:52 am	Interoffice		York County District Attorney's Office
1	12/23/2005		Superior Court of Pennsylvania - Middle District
Docketing Statement From Superior Court			
Superior Court Appeal Docket No. 2137 MDA 2005 Due Date: 1/31/2006			
1	01/11/2006		McBeth, Anthony T.
Entry of Appearance			
2	01/11/2006		McBeth, Anthony T.
Defendant's Supplemental Motion for Extension of Time in Which to File Rule 1925(b) Statement			
1	01/12/2006		Holder, Glynn Anthony
Statement of Matters Complained of on Appeal Pursuant to PA. R.A.P. 1925(b)			
1	01/13/2006		Kennedy, John S.
Order Granting Defendant's supplemental Motion for Extension of Time in Which to File Rule 1925(b) S			
02/03/2006 4:04 pm	First Class		McBeth, Anthony T.
02/03/2006 4:03 pm	Interoffice		York County District Attorney's Office
1	05/26/2006		Kennedy, John S.
Opinion Pursuant to PA.R.A.P. 1925A			
06/28/2006 8:07 am	First Class		McBeth, Anthony T.
06/28/2006 8:07 am	Interoffice		York County District Attorney's Office
1	06/28/2006		O'Shell, Don R.
Original Record Sent to Superior Court			

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COURT OF COMMON PLEAS OF YORK COUNTY

DOCKET

Docket Number: CP-67-CR-0004275-1998

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania
v.
Glynn A. Holder

ENTRIES

Document Number / Title / Comments / Registry Entry	CP Filed Date	Document Date	Filed By
2		06/28/2006	O'Shell, Don R.
Certificate and Transmittal of Record to Appellate Court			
06/28/2006 2:36 pm First Class			McBeth, Anthony T.
06/28/2006 2:36 pm Interoffice			York County District Attorney's Office
1		08/15/2006	Court of Common Pleas - York County
Delinquency Notice Filed - 2237 Days Overdue			

PAYMENT PLAN SUMMARY

Payment Plan No / Responsible Participant	Payment Plan Freq.	Next Due Date	Active / Suspended	Overdue Amt / Next Due Amt
67-2006-P11768	Annually	06/30/2000	True	$5,651.28
Holder, Glynn Anthony			False	$1,000.00

Payment Plan History:

CASE FINANCIAL INFORMATION

Last Payment Date: 04/21/2006

Total of Last Payment: ($24.50)

Holder, Glynn Anthony Defendant	Assessment	Payments	Adjustments	Non Monetary Payments	Total
Costs/Fees					
JCP	$5.00	$0.00	$0.00	$0.00	$5.00

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COURT OF COMMON PLEAS OF YORK COUNTY

DOCKET

Docket Number: CP-67-CR-0004275-1998

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania
v.
Glynn A. Holder

Holder, Glynn Anthony Defendant	Assessment	Payments	Adjustments	Non Monetary Payments	Total
Domestic Violence Compensation (Act 44 of 1988)	$10.00	$0.00	$0.00	$0.00	$10.00
CRIM Court Cost - 101 (York)	$264.32	$0.00	$0.00	$0.00	$264.32
Subpoena Costs (York)	$102.20	$0.00	$0.00	$0.00	$102.20
Constable Costs (York)	$33.25	$0.00	$0.00	$0.00	$33.25
Victim Witness Services (Act 111 of 1998)	$15.00	$0.00	$0.00	$0.00	$15.00
State Court Cost (Act 204 of 1976)	$9.28	$0.00	$0.00	$0.00	$9.28
Commonwealth Cost - HB627 (Act 167 of 1992)	$13.92	$0.00	$0.00	$0.00	$13.92
Transport Costs (York)	$154.75	$0.00	$0.00	$0.00	$154.75
Constable Education Training Act (Act 44 of 1991)	$5.00	$0.00	$0.00	$0.00	$5.00
Crime Victims Compensation (Act 96 of 1984)	$15.00	$0.00	$0.00	$0.00	$15.00
Firearm Education and Training Fund (158 of 1994)	$5.00	$0.00	$0.00	$0.00	$5.00
Photostatic Copies - Per Sheet (York)	$24.50	($24.50)	$0.00	$0.00	$0.00
Costs/Fees Totals:	$657.22	($24.50)	$0.00	$0.00	$632.72
Grand Totals:	$657.22	($24.50)	$0.00	$0.00	$632.72

** - Indicates assessment is subrogated

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COURT OF COMMON PLEAS OF YORK COUNTY

DOCKET

Docket Number: CP-67-CR-0004274-1998

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania
v.
Glynn Anthony Holder

CASE INFORMATION

Judge Assigned: Kennedy, John S.
OTN: F1729965
Initial Issuing Authority: William J. Farrell
Arresting Agency: Other
Case Local Number Type(s)
Legacy Docket Number

Date Filed: 09/23/1998 Initiation Date: 09/23/1998
Lower Court Docket No: CR-0000294-98
Final Issuing Authority: Linda L. Williams
Arresting Officer: Affiant
Case Local Number(s)
1998CA4274

STATUS INFORMATION

Case Status: Adjudicated Processing Status: Awaiting Appellate Court Decision Arrest Date: 09/08/1998
Complaint Date: 09/08/1998

DEFENDANT INFORMATION

Year Of Birth: 1959 City/State/Zip:

CASE PARTICIPANTS

Participant Type	Name
Defendant	Holder, Glynn Anthony (Pro Se)

BAIL INFORMATION

Holder, Glynn Anthony **Nebbia Status: None**

Bail Action	Date	Bail Type	Percentage	Amount	Bail Posting Status	Posting Date
Set	01/01/1980	Monetary		$50,000.00		

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COURT OF COMMON PLEAS OF YORK COUNTY

DOCKET

Docket Number: CP-67-CR-0004274-1998

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania
v.
Glynn Anthony Holder

CHARGES

Sequence	Grade	Section/ Description	Statute Description	Offense Date	OTN
1	F3	**18 § 4304 §§A**	Endangering Welfare Of Children	03/01/1998	F1729965
2	M1	**18 § 6301 §§A**	Corruption Of Minors	03/01/1998	F1729965
3	F2	**18 § 902 §§A**	Criminal Solicitation	03/01/1998	F1729965

DISPOSITION SENTENCING/PENALTIES

Disposition
Case Event
Sequence/Description
Sentencing Judge
Sentence/Diversion Program Type
Sentence Conditions
Disposition Date
Offense Disposition
Sentence Date
Incarceration/Diversionary Period
Final Disposition
Section
Credit For Time Served
Start Date

Migrated Disposition

Migrated Dispositional Event	09/16/1998	Final Disposition
1 / Endangering Welfare Of Children	Guilty	**18 § 4304 §§A**
Migrated, Judge	09/16/1998	
Confinement	Min of 1.00 Months 80.00 Days Max of 3.00 Months 60.00 Days	
Migrated, Judge	09/16/1998	
Financial Assessments	Min of 1.00 Months 80.00 Days Max of 3.00 Months 60.00 Days	
2 / Corruption Of Minors	Guilty	**18 § 6301 §§A**
Migrated, Judge	09/16/1998	
Confinement	Min of 50.00 Months Max of 1.00 Years	
Migrated, Judge	09/16/1998	
Financial Assessments	Min of 50.00 Months Max of 1.00 Years	

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COURT OF COMMON PLEAS OF YORK COUNTY

DOCKET

Docket Number: CP-67-CR-0004274-1998

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania
v.
Glynn Anthony Holder

COMMONWEALTH INFORMATION	ATTORNEY INFORMATION

Name: Anthony T Mcbeth, Esq.
Private
Supreme Court No: 053729
Counsel Status: Active
Address:
First Fl
407 N Front St
Harrisburg PA 17101
(Phone) (717) 238-3686
(Fax) 717
(Office):

Representing: Holder, Glynn Anthony

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COURT OF COMMON PLEAS OF YORK COUNTY

DOCKET



Docket Number: CP-67-CR-0004274-1998

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania
v.
Glynn Anthony Holder

ENTRIES

Document Number	CP Filed Date	Document Date	Filed By
Title			
Comments			
Registry Entry			
Issue Date	Service Type		Service To

1 09/16/1998 Migrated, Filer
Migrated Disposition
Migrated Automatic Registry Entry (Disposition) Text

2 09/16/1998 Migrated, Filer
Migrated Sentence
Migrated Sentence

1 09/23/1998 Unknown Filer
Original Papers Received from Lower Court

1 10/08/1998 Migrated, Filer
10-08-98 - NOTICE OF CONSOLIDATION W/427
10-08-98 - NOTICE OF CONSOLIDATION W/4275 CA 98 & W/DOROTHY ABRAMSON

1 10/09/1998 Migrated, Filer
10-09-98 - ARRAIGNED 10/09/98 FOR ARRAIG
10-09-98 - ARRAIGNED 10/09/98 FOR ARRAIGNMENT 10/09/98; PRO-SE
10-09-98 - RETURN W/COUNSEL 10/19/98 @ 8:30AM.; PRE-TRIAL CONF.
12/15/98 @ 9:AM. BEFORE JUDGE KENNEDY, CT.RM.#1. JCU

1 10/14/1998 Migrated, Filer
10-14-98 - ATTY E. CAMPBELL ENTERED
10-14-98 - ATTY E. CAMPBELL ENTERED APPEARANCE. JSK
10-14-98 - YORK COUNTY CHILDREN & YOUTH SERVICES ARE DIRECTED TO PRODUCE RECORDS TO DEFENSE COUNSEL.JSK SERVICE CHILDREN SERVICES, ATTY CAMPBELL, DA

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COURT OF COMMON PLEAS OF YORK COUNTY

DOCKET

Docket Number: CP-67-CR-0004274-1998

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania
v.
Glynn Anthony Holder

ENTRIES

Document Number / Title / Comments / Registry Entry Issue Date	CP Filed Date / Service Type	Document Date	Filed By / Service To
1 4278 & 4279 CA 98. 4278 & 4279 CA 98.	10/15/1998		Migrated, Filer
1 12-16-98 - CONTINUED TO TRIAL. JSK 12-16-98 - CONTINUED TO TRIAL. JSK	12/16/1998		Migrated, Filer
1 01-15-99 - MOTION FOR CONTINUANCE UNTIL 01-15-99 - MOTION FOR CONTINUANCE UNTIL MARCH TRIAL TERM AND RULE 1100 WAIVER, GRANTED. JSK	01/15/1999		Migrated, Filer
1 ORDER FILED RE: LIST DEFENDANT FOR ORDER FILED RE: LIST DEFENDANT FOR 02/17 CURRENT BUSINESS. JSK.	02/11/1999		Migrated, Filer
1 02-17-99 - CASE HELD FOR TRIAL MARH 02-17-99 - CASE HELD FOR TRIAL MARH TERM. JSK	02/17/1999		Migrated, Filer
1 02-24-99 - THE FOLLOWING COUNSEL WILL 02-24-99 - THE FOLLOWING COUNSEL WILL BE ATTACHED FOR THE CASE FOR THE FIRST DAY OF TRIAL, 03/01/99 UNTIL THE CASE IS COMPLETED. EDWARD PASKY, ESQ. FOR THE COMMONWEALTH, RICHARD ROBINSON, ESQUIRE FOR DEFENDANT ABRAMSON, EUGENE CAMPBELL, ESQ. FOR DEFENDANT HOLDER. SERVICE E. PASKY, ESQ., R. ROBINSON, ESQ., E. CAMPBELL, ESQ.	02/24/1999		Migrated, Filer

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COURT OF COMMON PLEAS OF YORK COUNTY

DOCKET

Docket Number: CP-67-CR-0004274-1998

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania
v.
Glynn Anthony Holder

ENTRIES

Document Number	CP Filed Date	Document Date	Filed By
Title			
Comments			
Registry Entry			
Issue Date	Service Type		Service To

1 03/01/1999 Migrated, Filer

03-01-99 - LETTER FROM DEFENDANT MADE

03-01-99 - LETTER FROM DEFENDANT MADE PART OF RECORD. MOTION TO APPOINT NEW COUNSEL BY THE DEFENDANT WITHDRAWN. COUNT 5 AMENDED TO INCLUDE BUY/SELL LIQUOR/DRUGS TO MINORS. JSK

1 03/03/1999 Migrated, Filer

03-03-99 - JURY TRIAL, GUILTY OF ENDANGE

03-03-99 - JURY TRIAL, GUILTY OF ENDANGERING WELFARE OF CHILDREN, CRIMINAL SOLICITATION TO COMMIT STATUTORY SEXUAL ASSAULT. COMPLETE PRE-SENTENCE, EVALUATION BY SEXUAL OFFENDERS EVALUATION BOARD. SENTENCING, 04/26/99 @9:30 AM. JSK

1 04/05/1999 Migrated, Filer

ASSESSMENT BOARD.

ASSESSMENT BOARD.

1 04/06/1999 Migrated, Filer

04-06-99 - THIS CASE DOES NOT MEET THE

04-06-99 - THIS CASE DOES NOT MEET THE REQUIREMENTS OF MEGAN'S LAW. THEREFORE, AN ASSEESSMENT OF THIS CASE DOES NOT NEED TO BE DONE. HOWEVER CASE NO. 4275 CA 98 DOES MEET THE REQUIREMENTS AND AN ASSESSMENT IS TO BE DONE ON THAT CASE. JSK SERVICE: DA, ATTY E. CAMPBELL, FAXED TO THE

1 04/15/1999 Migrated, Filer

04-15-99 - SENTENCE CONTINUED TO 05/24/9

04-15-99 - SENTENCE CONTINUED TO 05/24/99 @ 9:30AM. DEFENDANT WAIVED SENTENCE TIME FRAME. JSK.

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COURT OF COMMON PLEAS OF YORK COUNTY

DOCKET

Docket Number: CP-67-CR-0004274-1998

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania
v.
Glynn Anthony Holder

ENTRIES

Document Number	CP Filed Date	Document Date	Filed By
Title			
Comments			
Registry Entry			
Issue Date	Service Type		Service To

1 05/24/1999 Migrated, Filer

05-24-99 - SENTENCE: ENDANGERING WELFAR

05-24-99 - SENTENCE: ENDANGERING WELFARE OF CHILDREN (COUNT 1), SCI 18 MONTHS TO 36 MONTHS, CORRUPTION OF MINORS (COUNT 2), SCI, 9 MONTHS TO 18 MONTHS, CONCURRENT WITH COUNT 1, CORRUPTION OF MINORS (COUNT 3), SCI, 2 1/2 YEARS TO 5 YEARS, CONSECTIVE WITH COUNT 1, SOLICITATION TO COMMIT STATUTATORY SEXUAL ASSAULT (COUNT 4), SCI, 5 YEARS TO 10

---

1 05/25/1999 Migrated, Filer

YEARS, CONSECTIVE TO COUNTS 1 AND 3,

YEARS, CONSECTIVE TO COUNTS 1 AND 3, CORRUPTION OF MINORS (COUNT 5), SCI, 2 YEARS TO 5 YEARS, CONSECTIVE TO COUNTS 1,3,4, COSTS. TOTAL IN THIS CASE, SCI, 11 1/2 YEARS TO 23 YEARS. TOTAL FOR BOTH CASES 4274 CA 98 AND 4275 CA 98 SCI, 31 1/2 YEARS TO 63 YEARS. JSK

---

1 05/27/1999 Migrated, Filer

05-27-99 - FRANK ARCURI, ESQ. IS APPOINT

05-27-99 - FRANK ARCURI, ESQ. IS APPOINTED TO REPRESENT DEFENDANT. JSK. SERVICE: DA, EUGENE CAMPBELL, ESQ., FRANK ARCURI, ESQ.

---

1 06/03/1999 Migrated, Filer

RECONSIDERATION OF SENTENCE FILED
06-03

RECONSIDERATION OF SENTENCE FILED
06-03-99 - PRO-SE MOTION TO MODIFY SENTENCE FILED.
06-03-99 - MOTION TO RECONSIDER SENTENCE FILED.

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COURT OF COMMON PLEAS OF YORK COUNTY

DOCKET



Docket Number: CP-67-CR-0004274-1998

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania
v.
Glynn Anthony Holder

ENTRIES

Document Number	CP Filed Date	Document Date	Filed By
Title			
Comments			
Registry Entry			
Issue Date	Service Type		Service To

1 06/08/1999 Migrated, Filer

06-08-99 - REQUEST FOR PAYMENT OF ATTORN

06-08-99 - REQUEST FOR PAYMENT OF ATTORNEY FEES FILED.

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1 06/09/1999 Migrated, Filer

06-09-99 - ALLEN H. SMITH, ESQ ENTERS

06-09-99 - ALLEN H. SMITH, ESQ ENTERS HIS APPEARANCE.

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1 06/11/1999 Migrated, Filer

ATTORNEY'S FEES PETITION GRANTED
JSK.

ATTORNEY'S FEES PETITION GRANTED
JSK. SERVICE: DA, EUGENE CAMPBELL, ESQ., CERTIFIED TO PURCHASING

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1 06/22/1999 Migrated, Filer

PETITION FOR LEAVE TO PROCEED INFORMA

PETITION FOR LEAVE TO PROCEED INFORMA PAUPERIS
NOTICE OF APPEAL FILED
INFORMA PAUPERIS GRANTED

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1 06/23/1999 Migrated, Filer

PROOF OF SERVICE FILED

PROOF OF SERVICE FILED

---

1 06/24/1999 Migrated, Filer

NOTICE OF APPEAL FILED
BY COMMONWEALTH.

NOTICE OF APPEAL FILED
BY COMMONWEALTH.

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COURT OF COMMON PLEAS OF YORK COUNTY

DOCKET

Docket Number: CP-67-CR-0004274-1998

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania
v.
Glynn Anthony Holder

ENTRIES

Document Number	CP Filed Date	Document Date	Filed By
Title			
Comments			
Registry Entry			
Issue Date	Service Type		Service To

1 07/13/1999 Migrated, Filer
DEFT. FILE STATEMENT MATTERS COMPLAINED
DEFT. FILE STATEMENT MATTERS COMPLAINED W/APPEAL
DIRECTED TO COMMONWEALTH. JSK. SERVICE TO DA AND ALLEN SMITH, ESQ.

1 07/14/1999 Migrated, Filer
TRANSCRIPT FILED RE:
PRE-TRIAL CONFEREN
TRANSCRIPT FILED RE:
PRE-TRIAL CONFERENCE 10/14/98 FILED W/CASE.

1 07/16/1999 Migrated, Filer
SUPERIOR COURT DOCKET NUMBER
1106 &
SUPERIOR COURT DOCKET NUMBER
1106 & 1107 MDA 99

1 07/20/1999 Migrated, Filer
ATTORNEY'S FEES PETITION FILED
ATTORNEY
ATTORNEY'S FEES PETITION FILED
ATTORNEY'S FEES PETITION GRANTED
JSK SERVICE: CERTIFIED COPY TO PURCHASING

1 07/23/1999 Migrated, Filer
TRANSCRIPT FILED RE:
JURY TRIAL 3/1-3/9
TRANSCRIPT FILED RE:
JURY TRIAL 3/1-3/99.
DEFT. FILE STATEMENT MATTERS COMPLAINED W/APPEAL
SEVICE DA, ALLEN SMITH, ESQ.

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COURT OF COMMON PLEAS OF YORK COUNTY

DOCKET

Docket Number: CP-67-CR-0004274-1998

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania
v.
Glynn Anthony Holder

ENTRIES

Document Number	CP Filed Date	Document Date	Filed By
Title			
Comments			
Registry Entry			
Issue Date	Service Type		Service To

1 08/02/1999 Migrated, Filer
DEFENDANT'S STATEMENT MATTERS COMPLAINED
DEFENDANT'S STATEMENT MATTERS COMPLAINED W/APPEAL

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1 08/05/1999 Migrated, Filer
COMMONWEALTH'S STATEMENT OF MATTERS
COMMONWEALTH'S STATEMENT OF MATTERS RE: 1925(B) FILED.

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1 08/24/1999 Migrated, Filer
OPINION PURSUANT TO PA. RAP. 1925A
JSK.
OPINION PURSUANT TO PA. RAP. 1925A
JSK. SERVICE TO DA AND ALLEN SMITH, ESQ.
CASE TRANSMITTED TO SUPERIOR COURT

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1 08/25/1999 Migrated, Filer
COMMITMENT ISSUED SCI
COMMITMENT ISSUED SCI

---

1 09/22/1999 Migrated, Filer
CASE RETURNED FROM SUPERIOR COURT JUDGME
CASE RETURNED FROM SUPERIOR COURT JUDGMENT/ORDER
SENTENCE AFFIRMED.

---

1 01/10/2001 Migrated, Filer
POST CONVICTION ACT FILED
POST CONVICTION ACT FILED

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COURT OF COMMON PLEAS OF YORK COUNTY

DOCKET

Docket Number: CP-67-CR-0004274-1998

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania
v.
Glynn Anthony Holder

ENTRIES

Document Number	CP Filed Date	Document Date	Filed By

Title

Comments

Registry Entry

Issue Date	Service Type	Service To

1 01/12/2001 Migrated, Filer

POST CONVICTION ACT HEARING SCHEDULED

3

POST CONVICTION ACT HEARING SCHEDULED
3-28-01 @ 1:30PM. JSK.
INFORMA PAUPERIS GRANTED
JSK.
COUNSEL APPOINTED
JSK. ATTORNEY - HARGETT-ROBINSON, DEBORAH
SERVICE RE:
PETITION AND ORDE TO DA AND ATTY HARGETT ROBINSON.
SERVICE RE:
ORDER TO ATTY SMITH, ATTY ARCURI, ATTY CAMPBLELL AND DEFENDANT

---

1 01/17/2001 Migrated, Filer

TRANSPORTATION ORDER FILED RE:
FROM

TRANSPORTATION ORDER FILED RE:
FROM HOUTZDALE PCRA 3-28-01 BY 3-21-01. JSK. SERVICE DA. FAXED YCP

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1 01/19/2001 Migrated, Filer

TRANSPORTATION ORDER DELIVERED TO SHERIF

TRANSPORTATION ORDER DELIVERED TO SHERIFF
CERTIFIED

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1 03/28/2001 Migrated, Filer

HEARING HELD
IN PART. CONTINUATION

HEARING HELD
IN PART. CONTINUATION 3-30-01 @ 11AM. JSK.

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COURT OF COMMON PLEAS OF YORK COUNTY

DOCKET

Docket Number: CP-67-CR-0004274-1998

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania
v.
Glynn Anthony Holder

ENTRIES

Document Number	CP Filed Date	Document Date	Filed By

Title

Comments

Registry Entry

Issue Date	Service Type	Service To

1 03/29/2001 Migrated, Filer

POST CONVICTION ACT HEARING CONTINUED
F
POST CONVICTION ACT HEARING CONTINUED
FROM 03/30/01 @11:00 AM UNTIL 04/06/01 @8:30 AM AT REQUEST OF
ATTY D. HARGETT-ROBINSON, DEFENDANT SHALL REMAIN IN YCP UNTIL
COMPLETION OF HEARING THEN RETURN TO SCI HOUTZDALE. JSK
SERVICE RE:
DA, ATTY D. HARGETT-ROOBINSON, ATTY E. CAMPBELL

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1 04/06/2001 Migrated, Filer

PCRA HEARING CONTINUED. RELIEF DENIED.
PCRA HEARING CONTINUED. RELIEF DENIED. JSK.

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1 05/01/2001 Migrated, Filer

NOTICE OF APPEAL FILED
AND VERIFIED
NOTICE OF APPEAL FILED
AND VERIFIED STATEMENT UNDER PA.R.A.P.551. PRO SE.

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1 05/02/2001 Migrated, Filer

DEFT. FILE STATEMENT MATTERS COMPLAINED
DEFT. FILE STATEMENT MATTERS COMPLAINED W/APPEAL
JSK. SERVICE TO DA, DEFENDANT, AND DEBORAH HARGETT ROBINSON, ESQ.

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1 05/09/2001 Migrated, Filer

TRANSCRIPT FILED RE:
PCRA CONTINUED
TRANSCRIPT FILED RE:
PCRA CONTINUED 03-28-01.

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COURT OF COMMON PLEAS OF YORK COUNTY

DOCKET

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CRIMINAL DOCKET

Court Case

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Glynn Anthony Holder

ENTRIES

Document Number	CP Filed Date	Document Date	Filed By
Title			
Comments			
Registry Entry			
Issue Date	Service Type		Service To

1 05/14/2001 Migrated, Filer

PETITION FOR EXTENSION OF TIME FILED
PR
PETITION FOR EXTENSION OF TIME FILED
PRO SE RE: STATEMENT OF MATTERS PURSUANT TO PA.R.A.P.1925(B).

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1 05/15/2001 Migrated, Filer

SUPERIOR COURT DOCKET NUMBER
790 MDA
SUPERIOR COURT DOCKET NUMBER
790 MDA 2001. CASE DUE: 06/11/01.

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1 05/17/2001 Migrated, Filer

TRANSCRIPT FILED RE:
PCRA 04/06/01.
TRANSCRIPT FILED RE:
PCRA 04/06/01.

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1 05/21/2001 Migrated, Filer

ORDER FILED RE:
PETITION FOR TRANSCRIPT
ORDER FILED RE:
PETITION FOR TRANSCRIPTS DENIED. DEFENDANT TO CONTACT COUNSEL FOR
OF RECORD FOR TRANSCRIPTS. JSK.
MOTION FOR TRANSCRIPTION OF TESTIMONY FILED
PRO SE.
DEFENDANT'S STATEMENT MATTERS COMPLAINED W/APPEAL
PRO SE.

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Glynn Anthony Holder

ENTRIES

Document Number	CP Filed Date	Document Date	Filed By
Title			
Comments			
Registry Entry			
Issue Date	Service Type		Service To

1 05/22/2001 Migrated, Filer

SERVICE RE:
DEFENDANT AND DEBORAH HARGE
SERVICE RE:
DEFENDANT AND DEBORAH HARGETT-ROBINSON, ESQ.

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1 05/31/2001 Migrated, Filer

PRO SE MOTION FILED. RE: TRANSCIRIPTS.
PRO SE MOTION FILED. RE: TRANSCIRIPTS. SERVICE B. ADAMS, COURT ADMI
DEFT.

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1 06/01/2001 Migrated, Filer

ORDER FILED RE:
SUPERIOR COURT ORDER:
ORDER FILED RE:
SUPERIOR COURT ORDER: PETITION FOR WRIT OF MANDAMUS AND/OR
EXTRAORDINARY RELIEF DENIED.

---

1 06/07/2001 Migrated, Filer

OPINION PURSUANT TO PA. RAP. 1925A
JSK.
OPINION PURSUANT TO PA. RAP. 1925A
JSK. SERVICE TO DA AND DEFENDANT.

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1 06/08/2001 Migrated, Filer

CASE TRANSMITTED TO SUPERIOR COURT
CASE TRANSMITTED TO SUPERIOR COURT

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COURT OF COMMON PLEAS OF YORK COUNTY

DOCKET

Docket Number: CP-67-CR-0004274-1998

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania
v.
Glynn Anthony Holder

ENTRIES

Document Number	CP Filed Date	Document Date	Filed By

Title

Comments

Registry Entry

Issue Date	Service Type	Service To

1 06/13/2001 Migrated, Filer

ORDER FILED RE:
SUPERIOR COURT ORDER:
ORDER FILED RE:
SUPERIOR COURT ORDER: PETITION FOR WRIT OF MANDAMUS AND /OR EXTRAORDINARY RELIEF DENIED.

---

1 06/18/2001 Migrated, Filer

ADDENDUM OF STATEMENTS OF MATTERS COMPLA
ADDENDUM OF STATEMENTS OF MATTERS COMPLAINED OF PURSUNT 1925(B).

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1 06/19/2001 Migrated, Filer

ORDER FILED RE:
APPELLANT'S ADDENDUM
ORDER FILED RE:
APPELLANT'S ADDENDUM OF STATEMENT OF MATTERS ACKNOWLEDGED. RECORD HAVING ALREADY BE TRANSMITTED UNABLE TO RESPOND TO ISSUES. JSK.
SERVICE RE:
ORDER OF 06/19/01 TO DA AND DEFENDANT.
SUPPLEMENTAL RE:
TRANSMITTED TO SUPERIOR COURT.

---

1 06/21/2001 Migrated, Filer

MOTION FOR TRANSCRIPTION OF TESTIMONY
MOTION FOR TRANSCRIPTION OF TESTIMONY FILED
PRO SE
PCRA TRANSCRIPTS DENIED. NO ACCESS. JSK.

Recent entries made in the court filing offices may not be immediately reflected on these docket sheets. Neither the Court of Common Pleas nor the Administrative Office of Pennsylvania Courts assume any liability for inaccurate or delayed data, errors or omissions on these docket sheets. Docket Sheet information should not be used in place of a criminal history background check which can only be provided by the Pennsylvania State Police. Moreover an employer who does not comply with the provisions of the Criminal History Record Information Act may be subject to civil liability as set forth in 18 Pa.C.S. Section 9183.

COURT OF COMMON PLEAS OF YORK COUNTY

DOCKET

Docket Number: CP-67-CR-0004274-1998

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania
v.
Glynn Anthony Holder

ENTRIES

Document Number	CP Filed Date	Document Date	Filed By
Title			
Comments			
Registry Entry			
Issue Date	Service Type		Service To

1 06/22/2001 Migrated, Filer

SERVICE RE:
DEFENDANT, DA
SERVICE RE:
DEFENDANT, DA

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1 07/02/2001 Migrated, Filer

DEBORAH HARGETT-ROBINSON WITHDRAWS AS
DEBORAH HARGETT-ROBINSON WITHDRAWS AS COUNSEL.

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1 07/31/2001 Migrated, Filer

THE FOLLOWING PAPERS TAKEN TO JSK ON
THE FOLLOWING PAPERS TAKEN TO JSK ON 7-30-01 LETTER DATED 7-16-01, DOCUMENT ADDRESSED TO CHIEF JUSTICE DATED 7-17-01,PETITION FOR PETITION FOR APPT OF CONFLICT DATED 7-16-01, AFFIDAVIT SPECIAL POWER OF ATTORNEY. 7-31-01 JUDGE KENNEDY STATED HE WILL TAKE NO ACTION ON THESE DOCUMENTS.

---

1 08/10/2001 Migrated, Filer

CASE RETURNED FROM SUPERIOR COURT JUDGME
CASE RETURNED FROM SUPERIOR COURT JUDGMENT/ORDER MOTION TO REMAND CASE TO ALLOW COUNSEL TO AMEND 1925(B) STATEMENT GRANTED.. REMANDED TO TRIAL COURT FOR A PERIOD OF SIXTY (60) DAYS. COUNSEL DIRECTED TO FILE AN AMENDED PA.R.A.P.1925(B) STATEMENT WITHIN 20 DAYS OF THE DATE OF THIS ORDER. THE TRIAL COURT SHALL ADDRESS THE ISSUES RAISED IN THE PA.R.A.P.1925(B) STATEMENT IN A PA.R.A.P.1925(A) OPINION. JURISDICTION RETAINED.

---

1 08/30/2001 Migrated, Filer

DEFENDANT'S STATEMENT MATTERS COMPLAINED
DEFENDANT'S STATEMENT MATTERS COMPLAINED W/APPEAL

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COURT OF COMMON PLEAS OF YORK COUNTY

DOCKET

Docket Number: CP-67-CR-0004274-1998

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania
v.
Glynn Anthony Holder

ENTRIES

Document Number	CP Filed Date	Document Date	Filed By
Title			
Comments			
Registry Entry			
Issue Date	Service Type		Service To

1 09/10/2001 Migrated, Filer

OPINION PURSUANT TO PA. RAP. 1925A
JSK.

OPINION PURSUANT TO PA. RAP. 1925A
JSK.

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1 09/12/2001 Migrated, Filer

CASE TRANSMITTED TO SUPERIOR COURT

CASE TRANSMITTED TO SUPERIOR COURT

---

1 09/19/2001 Migrated, Filer

MISCELLANEOUS PAPERS MADE PART OF RECORD

MISCELLANEOUS PAPERS MADE PART OF RECORD PER PRO SE REQUEST.
CASE TRANSMITTED TO SUPERIOR COURT
SUPPLEMENTAL - MISCELLANEOUS PAPERS.

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1 10/23/2001 Migrated, Filer

CASE RETURNED FROM SUPERIOR COURT JUDGME

CASE RETURNED FROM SUPERIOR COURT JUDGMENT/ORDER
CASE REMANDED: TRIAL COURT TO HEAR MOTION TO BE RELEASED AS
AS COUNSEL. HEARING TO BE HELD WITHIN 60 DAYS. RETAIN JURISDICTION.

---

1 10/25/2001 Migrated, Filer

HEARING SCHEDULED
FOR MOTION TO BE

HEARING SCHEDULED
FOR MOTION TO BE RELEASED AS COUNSEL ON 11/09/01 @9:30 AM IN

Recent entries made in the court filing offices may not be immediately reflected on these docket sheets. Neither the Court of Common Pleas nor the Administrative Office of Pennsylvania Courts assume any liability for inaccurate or delayed data, errors or omissions on these docket sheets. Docket Sheet information should not be used in place of a criminal history background check which can only be provided by the Pennsylvania State Police. Moreover an employer who does not comply with the provisions of the Criminal History Record Information Act may be subject to civil liability as set forth in 18 Pa.C.S. Section 9183.

COURT OF COMMON PLEAS OF YORK COUNTY

DOCKET

Docket Number: CP-67-CR-0004274-1998

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania
v.
Glynn Anthony Holder

ENTRIES

Document Number	CP Filed Date	Document Date	Filed By

Title

Comments

Registry Entry

Issue Date	Service Type	Service To

1 10/26/2001 Migrated, Filer

CT.RM. #5. JSK
SERVICE RE:
DA, ATTY
CT.RM. #5. JSK
SERVICE RE:
DA, ATTY D. HARGETT-ROBINSON, DEFENDANT

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1 10/30/2001 Migrated, Filer

TRANSPORTATION ORDER FILED RE:
TO TRANS
TRANSPORTATION ORDER FILED RE:
TO TRANSPORT DEFENDANT ON OR BEFORE 11/8/01 FROM SCI.

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1 11/01/2001 Migrated, Filer

TRANSPORTATION ORDER DELIVERED TO SHERIF
TRANSPORTATION ORDER DELIVERED TO SHERIFF
TO TRANSPORT DEFENDANT ON OR BEFORE 11/8/01 FROM SCI. MJB.
TRANSPORTATION ORDER DELIVERED TO SHERIFF
DA, YORK COUNTY PRISON.

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1 11/09/2001 Migrated, Filer

HEARING HELD
TO RELEASE ATTY D. HARGETT
HEARING HELD
TO RELEASE ATTY D. HARGETT-ROBINSON AS COUNSEL WAS DENIED. JSK

---

1 11/19/2001 Migrated, Filer

SERVICE OF ORDER TO DEFENSE ATTORNEY
OR
SERVICE OF ORDER TO DEFENSE ATTORNEY
ORDER OF 11/09/01 TO ATTY D. HARGETT-ROBINSON

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DOCKET

Docket Number: CP-67-CR-0004274-1998

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania
v.
Glynn Anthony Holder

ENTRIES

Document Number	CP Filed Date	Document Date	Filed By
Title			
Comments			
Registry Entry			
Issue Date	Service Type		Service To

1 12/04/2001 Migrated, Filer
CASE TRANSMITTED TO SUPERIOR COURT
CASE TRANSMITTED TO SUPERIOR COURT

1 09/10/2002 Migrated, Filer
CASE RETURNED FROM SUPERIOR COURT JUDGME
CASE RETURNED FROM SUPERIOR COURT JUDGMENT/ORDER
COMMON PLEAS COURT ORDER DENYING PCRA RELIEF IS AFFIRMED.

1 01/07/2003 Migrated, Filer
PRO SE MOTION FILED
VACATE COSTS AND
PRO SE MOTION FILED
VACATE COSTS AND FINES.

1 01/09/2003 Migrated, Filer
COURT WOULD RECONSIDER IF DEFT CAN NOT
COURT WOULD RECONSIDER IF DEFT CAN NOT PAY AFTER HE IS PAROLED.JSK.

1 01/10/2003 Migrated, Filer
SERVICE RE:
DA, DEFT @ HOUTZDALE
SERVICE RE:
DA, DEFT @ HOUTZDALE

1 03/06/2003 Migrated, Filer
LETTER FROM DEFENDANT RE: COSTS AND
LETTER FROM DEFENDANT RE: COSTS AND FINES. TAKEN TO JSK.

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COURT OF COMMON PLEAS OF YORK COUNTY

DOCKET

Docket Number: CP-67-CR-0004274-1998

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania
v.
Glynn Anthony Holder

ENTRIES

Document Number	CP Filed Date	Document Date	Filed By
Title			
Comments			
Registry Entry			
Issue Date	Service Type		Service To

1 03/10/2003 Migrated, Filer
PRO SE DOCUMENT SENT TO COUNSEL OF RECOR
PRO SE DOCUMENT SENT TO COUNSEL OF RECORD

---

1 04/22/2003 Migrated, Filer
ORDER FILED RE:
SUPREME COURT ORDER:
ORDER FILED RE:
SUPREME COURT ORDER: PETITION FOR ALLOWANCE OF APPEAL DENIED.

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1 05/07/2003 Migrated, Filer
NOTICE OF APPEAL FILED
PRO SE.
NOTICE OF APPEAL FILED
PRO SE.

---

1 05/09/2003 Migrated, Filer
DEFT. FILE STATEMENT MATTERS COMPLAINED
DEFT. FILE STATEMENT MATTERS COMPLAINED W/APPEAL
JSK. SERVICE TO DA AND DEFENDANT.

---

1 05/15/2003 Migrated, Filer
SUPERIOR COURT DOCKET NUMBER
721 MDA
SUPERIOR COURT DOCKET NUMBER
721 MDA 2003. DUE DATE: 06/23/03.

---

1 06/05/2003 Migrated, Filer
DEFENDANT'S STATEMENT MATTERS COMPLAINED
DEFENDANT'S STATEMENT MATTERS COMPLAINED W/APPEAL

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DOCKET

Docket Number: CP-67-CR-0004274-1998

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania
v.
Glynn Anthony Holder

ENTRIES

Document Number	CP Filed Date	Document Date	Filed By
Title			
Comments			
Registry Entry			
Issue Date	Service Type		Service To

1 07/17/2003 Migrated, Filer

OPINION PURSUANT TO PA. RAP. 1925A
JSK.

OPINION PURSUANT TO PA. RAP. 1925A
JSK. SERVICE TO DA AND DEFENDANT.

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1 07/18/2003 Migrated, Filer

CASE TRANSMITTED TO SUPERIOR COURT

CASE TRANSMITTED TO SUPERIOR COURT

---

1 07/22/2003 Migrated, Filer

CASE TRANSMITTED TO SUPERIOR COURT

CASE TRANSMITTED TO SUPERIOR COURT

---

1 10/07/2003 Migrated, Filer

ATTORNEY'S FEES PETITION FILED

ATTORNEY'S FEES PETITION FILED

---

1 10/31/2003 Migrated, Filer

ATTORNEY'S FEES PETITION GRANTED
JSK.

ATTORNEY'S FEES PETITION GRANTED
JSK. CERTIFIED COPY TO PURCHASING.

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1 08/30/2004 Migrated, Filer

CASE RETURNED FROM SUPERIOR COURT JUDGME

CASE RETURNED FROM SUPERIOR COURT JUDGMENT/ORDER
ORDER OF 04/23/04 DENING RELIEF DUE TO NO JURIDICTION IS AFFIRMED.
CASE RETURNED WITH 4 TRANS AND 1 PKT. EXHIBITS.

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COURT OF COMMON PLEAS OF YORK COUNTY

DOCKET

Docket Number: CP-67-CR-0004274-1998

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania
v.
Glynn Anthony Holder

ENTRIES

Document Number / Title / Comments / Registry Entry / Issue Date	CP Filed Date	Document Date	Filed By / Service Type / Service To
1 Post-Conviction Relief Act Petition Filed	09/12/2005		Holder, Glynn Anthony
1 Order Denying Post-Conviction Relief Act Petition Motion is untimely filed. 09/15/2005 4:02 pm 09/15/2005 4:02 pm	09/15/2005		Kennedy, John S. First Class — Holder, Glynn Anthony Interoffice — York County District Attorney's Office
1 Order Denying Reconsideration of Post-Conviction Relief Act Petition 09/29/2005 9:52 am 09/29/2005 9:52 am	09/28/2005		Kennedy, John S. First Class — Holder, Glynn Anthony Interoffice — York County District Attorney's Office
2 Motion to Vacate and Reconsider Denial of PCRA Relief	09/28/2005		Holder, Glynn Anthony
1 Appeal Filed in Superior Court	10/11/2005		Holder, Glynn Anthony
1 Appeal Filed in Superior Court	10/17/2005		Holder, Glynn Anthony
1 Concise Statement Order 12/30/2005 8:52 am 12/30/2005 8:52 am	12/22/2005		Kennedy, John S. First Class — Holder, Glynn Anthony Interoffice — York County District Attorney's Office

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DOCKET

Docket Number: CP-67-CR-0004274-1998

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania
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Glynn Anthony Holder

ENTRIES

Document Number / Title / Comments / Registry Entry	CP Filed Date	Document Date	Filed By
1 Docketing Statement From Superior Court Superior Court Appeal Docket No. 2137 MDA 2005 Due Date: 1/31/2006		12/23/2005	Superior Court of Pennsylvania - Middle District
1 Entry of Appearance		01/11/2006	Mcbeth, Anthony T.
2 Defendant's Supplemental Motion for Extension of Time in Which to File Rule 1925(b) Statement		01/11/2006	Mcbeth, Anthony T.
1 Statement of Matters Complaned of on Appeal Pursuant to PA. R.A.P. 1925(b)		01/12/2006	Holder, Glynn Anthony
1 Order Granting Defendant's Supplemental Motion for Extension of Time in Which to File Rule 1925(b) S 02/03/2006 4:05 pm First Class — Mcbeth, Anthony T. 02/03/2006 4:01 pm Interoffice — York County District Attorney's Office		01/13/2006	Kennedy, John S.
1 Opinion Pursuant to PA.R.A.P. 1925A 06/28/2006 8:07 am First Class — Mcbeth, Anthony T. 06/28/2006 8:07 am Interoffice — York County District Attorney's Office		05/26/2006	Kennedy, John S.
1 Original Record Sent to Superior Court		06/28/2006	O'Shell, Don R.
2 Certificate and Transmittal of Record to Appellate Court		06/28/2006	O'Shell, Don R.

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Docket Number: CP-67-CR-0004274-1998

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Court Case

Commonwealth of Pennsylvania
v.
Glynn Anthony Holder

ENTRIES

Document Number	CP Filed Date	Document Date	Filed By
Title			
Comments			
Registry Entry			
Issue Date	Service Type		Service To
1	08/15/2006		Court of Common Pleas - York County
Delinquency Notice Filed - 2237 Days Overdue			

PAYMENT PLAN SUMMARY

Payment Plan No	Payment Plan Freq.	Next Due Date	Active	Overdue Amt
Responsible Participant			Suspended	Next Due Amt
67-2006-P11768	Annually	06/30/2000	True	$5,651.28
Holder, Glynn Anthony			False	$1,000.00

Payment Plan History:

CASE FINANCIAL INFORMATION

Last Payment Date:

Total of Last Payment: $0.00

Holder, Glynn Anthony Defendant	Assessment	Payments	Adjustments	Non Monetary Payments	Total
Costs/Fees					
Victim Witness Services (Act 111 of 1998)	$15.00	$0.00	$0.00	$0.00	$15.00
Transport Costs (York)	$834.66	$0.00	$0.00	$0.00	$834.66
CRIM Court Cost - 101 (York)	$213.77	$0.00	$0.00	$0.00	$213.77
State Court Cost (Act 204 of 1976)	$9.28	$0.00	$0.00	$0.00	$9.28

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DOCKET

Docket Number: CP-67-CR-0004274-1998

CRIMINAL DOCKET

Court Case

Commonwealth of Pennsylvania
v.
Glynn Anthony Holder

Holder, Glynn Anthony Defendant	Assessment	Payments	Adjustments	Non Monetary Payments	Total
Commonwealth Cost - HB627 (Act 167 of 1992)	$13.92	$0.00	$0.00	$0.00	$13.92
Crime Victims Compensation (Act 96 of 1984)	$15.00	$0.00	$0.00	$0.00	$15.00
Domestic Violence Compensation (Act 44 of 1988)	$10.00	$0.00	$0.00	$0.00	$10.00
Subpoena Costs (York)	$102.20	$0.00	$0.00	$0.00	$102.20
JCP	$5.00	$0.00	$0.00	$0.00	$5.00
Firearm Education and Training Fund (158 of 1994)	$5.00	$0.00	$0.00	$0.00	$5.00
Costs/Fees Totals:	$1,223.83	$0.00	$0.00	$0.00	$1,223.83
Grand Totals:	$1,223.83	$0.00	$0.00	$0.00	$1,223.83

** - Indicates assessment is subrogated

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FORM TO BE USED BY A PRISONER IN FILING A CIVIL RIGHTS COMPLAINT

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

EA-7173
(Inmate Number)

GLYNN ANTHONY HOLDER
(Name of Plaintiff)

INSTITUTION DRIVE
P.O. BOX 1000; Houtzdale,PA. 16698-1000
(Address of Plaintiff)

~~MXRKXAMXJXXXK@XKX@KE@R@EXRATRXEK~~
~~KRANKXHARTNETTXX@RAIGXHARRSTER~~

vs.

S.C.I. HOUTZDALE
WILLIAM J. LOVE/GEORGE PATRICK
FRANK HARTNETT, CRAIG HARPSTER
DAVID PERRY, RICHARD MOYER
LEE BAER, RANDY ZITTERBART
(Names of Defendants)

1:CV-03-1056
(Case Number)

(AMENDED) COMPLAINT

FILED
SCRANTON
JUL 25 2003
PER _____
DEPUTY CLERK

TO BE FILED UNDER: __X__ **42 U.S.C. § 1983 - STATE OFFICIALS**
____ **28 U.S.C. § 1331 - FEDERAL OFFICIALS**

I. Previous Lawsuits

A. If you have filed any other lawsuits in federal court while a prisoner please list the caption and case number including year, as well as the name of the judicial officer to whom it was assigned:
GLYNN A. HOLDER V. YORK COUNTY PRISON ET AL. 1:CV-02-0629
JUDGE CONNER; MAGISTRATE JUDGE BLEWITT.

II. Exhaustion of Administrative Remedies

A. Is there a grievance procedure available at your institution?
__X__ Yes ____ No

B. Have you filed a grievance concerning the facts relating to this complaint?
__X__ Yes ____ No

If your answer is no, explain why not N/A

C. Is the grievance process completed? __X__ Yes ____ No

III. Defendants

(In Item A below, place the full name of the defendant in the first blank, his/her official position in the second blank, and his/her place of employment in the third blank. Use Item B for the names, positions and places of employment of any additional defendants.)

A. Defendant WILLIAM J. LOVE is employed as WARDEN at STATE CORRECTIONAL INSTITUTE @ HOUTZDALE Institutional Drive; Houtzdale; P.O. BOX 1000; Houtzdale, PA. 16698-1000

B. Additional defendants Mr. George Patrick; Assistant/Acting Superintendant @ S.C.I. Houtzdale;P.O. BOX 1000; Houtzdale, Pa. 16698-1000/ Frank Hartnett Corrections Program Manager; @ S.C.I. Houtzdale;P.O. BOX 1000; Houtzdale, Pa. 16698-1000/ Craig Harpster; Activities Manager @ S.C.I. Houtzdale; P.O. Box 1000, Houtzdale, Pa. 16698-1000/ David Perry; Business Manager @ S.C.I. Houtzdale, PA. 16698-1000/ Richard Moyer; Accountant @ S.C.I. Houtzdale; P.O. Box 1000, Houtzdale, PA. 16698-1000/ Lee Baer; Unit Manager C Block @ S.C.I. Houtzdale, Pa. 16698-1000 and Randy Zitterbart; CA Unit Counslor @ S.C.I. Houtzdale, P.O. Box 1000, Houtzdale, PA. 16698-1000.

IV. Statement of Claim

(State here as briefly as possible the facts of your case. Describe how each defendant is involved, including dates and places. Do not give any legal arguments or cite any cases or statutes. Attach extra sheets if necessary.)

1. Act 84 deductions of 20% have been removed from my inmate account since Nov. 1999. I recieved a form letter from the D.O.C. stating that they had recieved a Court Order Authorizing ACT 84 deductions. On several occasions I wrote to Mr. William Love, S.C.I. Houtzdale Superintendant questioning why these deductions were occuring. After recieving nio relief, I filed a grievance (#49542), stating that ACT 84 deductions were occuring without autnorization from the sentencing Court. Mr. Love stated that he had a Court Order and would continue to deduct from my inmate account until the sentencing Court tells him diffrent. I informed Mr. Love that there was

(SEE ATTACHED)

2. I made a request to make a video tape for my child in the Redd to your Childrens Program to Mr. Craig Harpster, Activities Manager. I have been approved for this program since the summer of 2000 and after completing phase I, I entered phase II inwhich video tapes could be made to send home to my child. Mr. Harpster informed me that I was not allowed to participate in the program any longer due to policy. I filed a Grievance #52731 in complaint. The grievance was answered and denied by Mr. Harpster, instead of the grievance counslor Ms. Doretta Chincherick (sic) The Bullitem put out on the block by Mr. Harpster stated and I

3. I am not allowed contact visits with my child, while other inmates with the same conviction at a greater risk are allowed to have contact with their children. It is a requirement by DOC to complete a DC-313A Special Visitor Inquiry inwhich gives knowlegde (sic) of convictions and requires authorization from the parent and/or guardian. This form was completed Dec. 1999 and was approved here at SCI Houtzdale. Then on the following pages mid way the page it states something totally diffrent. This policy is unclear and allows other inmates of the

CLAIM #1 CONT"

no Court Order authorizing the ACT 84 deductions, further, I forwarded a Copy of the Court Order, **(ATTACHED EXHIBIT I)** stating that no authorizati was given, nor was there a request to the Clerk of Courts concerning ACT 8 deductions in my case. Mr. Love ignored the facts and the weight of the p presented Court Order.

Mr. Richard Moyer, Accountant, atfer being informed by way of request by myself, that there was no Court Order Authorizing ACT 84 deductions and requesting a Copy of the said Court Order supposingly giving them (him) authorization, Continued the ACT 84 deductions and informed me that a Copy of the Court Order could be obtained from the County. I sent Mr. Moyer a Copy of the April 23, 2003 Court Order from the sentencing Court, Mr. Moyer ignored the weight of the Order.

Mr. David Perry, Business Office Manager, after recieving a request from me concerning the illegal ACT 84 deductions, allowed the ACT 84 deductions to continue and informed me that the Court Order is property of the D.O.C.

DC-ADM-005, Procedure VI (A)(3) Inmate records Office recieves Orders involving inmate debts, files original copies of Orders, sends photocopies to institutional Business Office and serves as the point of coordination for all inmate information recieved and/or distributed.

(D)(1) When the County Clerk of Courts provides a copy(s) of an Order(s) for restitution reparation, fees, cost, fines and/or penalties associated with the criminal proceedings, the Record Office shall file the original and shall forward a Copy of the Order to the Business office of the institution having custody of the inmate. The Court Order or supporting information must indicate the status of the debt, including the current balance due and any special conditions which would effect payment.

There was never such a Court Order. Mr. William Love, Mr. Goerge Patrick Superintendant; Mr. David Perry Business Office Manger and Mr. Richard Moyer Accountant were informed that there was no such Court Order authorizing the ACT 84 deductions, enev after seeing the April 23, 2003 Court Order stating that NO AUTHORIZATION had been given, chose to continue the ACT 84 deductions, turning a blind eye to the Court Order, taking it upon themselves to deprive me of my property (monies). Their personal involvement deprives me of DUE PROCESS of LAW, by removing 20% of all incomming funds from my account since Nov. 1999 to present, without Court Authorization. **(SEE COURT ORDER)**. The defendants were aware of the presented facts and chose to ignore it.

This practice by the above named defendants deprived me from obtaining hygiene items such as dedorderant (sic), toothpast etc., in which is a necessity in life. (GOOD HYGIENE) and placed an increased burden upon my wife to send monies for these items, inwhich still a 20% deduction occured. In order for me to meet deadlines with the Courts in Appealing my case, I was forced to smell like an animal due to the lack of funds which is depriation of my 8th Amendment rights, as well as depriation of DUE Process, including, 5th Amendment deprivation by the taking of and deprivation of property (monies) without Due Process of Law. The above defendants being personally involved, knowingly and intentionally deprived me of my property (monies) without the proper authorization.

CLAIM #2 CONT'

Quote," ANY INMATE IN GEMERAL PIOPULATION MAY PARTICIPATE IN THE READ TO YOUR CHILDRENS PROGRAM, IF YOU HAVE CHILDREN BETWEEN THE AGES OF 3 AND 12 YEARS OF AGE, AFTER YOUR STATUS AS A PARENT HAS BEEN VERIFIED YOU WILL BE NOTIFIED" End Quote. (SEE ATTACHED Bulletin)

I requested a copy of this policy from Mr. Harpster, and was denied. I then requested a copy of this said policy from Mr. Hartnett, the program manager and was told that I could not participate in the RTYC program, because of policy and denied my request for a copy of the policy. I made every attempt to obtain this said policy, then I made a request to the unit mANagement team, inwhich consists of the Unit Manager Mr. Lee Baer, and the Unit Counslor Mr. Randy Zitteerbart. This because the unit management team personally assist in making the decision rather or not, if I can participate in the RTYC program. I was informed that i was not allowed to participate in the RTYC program due to policy by the Unit management team. The request for the said policy was denied.

Anoxither request was sent to mr. Harpster for a copy of the policy or the policy number, this time I was told that the policy could be found in the library. **(ATTACHED IS A COPY OF ALL THE POLICIES, ADMS, IN THE LIBRARY)** There is no such policy in existance. The above defendants have taken it upon themselves, injecting their personal feelings as to if I should participate in this program or not, adding punishment to the already given punishment for my case, inwhich is still in litigation. Denying me the right as well as privilege to participate in the RTYC program, when at the same timem other inmates with the very same conviction are curreltly making video tapes for their children with the RTYC program, inwhich is a deprivation of the Equal Protection Clause and discriminates against me personally, abbitary and capricious behavior, Depravation of 14th Amendement, U.S. Constitution.

The above defendants being personally involved and in a position acting under the color of Law, that the knowing of policy is a require--ment, knowingly and intentionally and purposefully deprived me of Equal Protection and treatment that Violates this 14th Amendment of U.S. Constitution.

CLAIM #3 CONT'.

the liberty of having contact visits with their children, depriving me of the very same right.

Again the Unit Management Team of Mr. Lee Baer and Mr. Randy Zitterbart personally involved not only chose to assist in depriving me of this right, but personally aided in the denial of the special requested contact visit of June 7, 2003, with my momther, mother in Law, My wife, daughter and my daughters God Mother, for fathers day.

I was informed June 2000 that there would no longer be contact visits for me, but it was not until this year that It was brought to my attention that other inmates of the same conviction or more serious crimes were having contact visits with their children. I then viewed the policy (**ATTACHED**) and noticed how unclear it is as well how it clearly discriminates against inmates with sex offenses still in litagation and barred by time, yet at the same time allowing inmates convicted of strong Armed robbery, 1st, 2nd, and 3rd. Degree Murder contact visits, as well as inmates with serious mental issues. This is a Violation of the 14th Amendment of the Constitution where as the Defendants are allowing one crime to visit and denying the other crime when there are really no diffrence in the crimes, when both cause harm to humans. This is discrimination knowingly and intentionally as well as purposely.

CLAIM #3 CONT'.

Since a depravation of a Civil Right/Constitutional Right has no statue of limitations, I present this claim naming Mr. William Love; Mr. George Patrick Superintendent personally having the direct hand in visits and who can have them, Contact/Non-Contact; Mr. Lee Baer and Mr. Randy Zitterbart, Unit Management Team whom personally make the decisions, relaying their say in wether or not I have Contact Visits, Such as with the June 7, 2003 Visit request, even though I have been approved, and all family members being aware of what my conviction is, still insit that I have contact visits with my Child.

In a well lite visiting Room with roaming Correctional Officers, Video cameras, hundreds of other visiting family members and inmates as well as their children, of whom I am surrounded by, Yet when my child comes, it is behind glass.

The above defendants knowingly, intentionally and intelleigently (sic) deprived me of Equal Treatment (14th Amendment) denying me the same right to contact visits with my child as other inmates have, personally treating me diffrent and discriminating against the said crime and conviction that i am under.

V. Relief

(State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.)

1. PUNITIVE DAMAGES IN THE AMOUNT OF $150,000.00: NOMINAL DAMAGES IN THE AMOUNT OF $20,000.00 PER DEFENDANT: FILING FEES OF $150.00; AND LEGAL FEES IN THE AMOUNT OF $750,00; COMPENSITORY DAMAGES IN THE AMOUNT OF $800.00. AND TO STOP THESE ACT 84 DEDUCTIONS AT ONCE.

2. PUNITIVE DAMAGES IN THE AMOUNT OF $250,000.00; NOMINAL DAMAGES IN THE AMOUNT OF $25,000.00 PER DEFENDANT; FILING FEES IN THE AMOUNT $150.00; LEGAL FEES IN THE AMOUNT OF $750.00. AND TO BE ALOOWED TO CONTINUE PARTICIPATION IN THE READ TO YOUR CHILDRENS PROGRAM, AND TO BE FREE, FROM THE DEFENDANTS RETALIATION IN ANY FORM, SUCH AS EXCESSIVE CELL SEARCHES, DENIAL OF PRIVILEGES AND UNDO HARASSMENT DUE TO THE FILING OF THIS CIVIL ACTION, NOR TRANSFER.

3. PUNITIVE DAMAGES IN THE AMOUNT OF $1,000,000.00; NOMINAL DAMAGES IN THE AMOUNT OF $75,000.00 PER DEFENDANT: FILING FEES IN THE AMOUNT OF $150.00; LEGAL FEES IN THE AMOUNT OF $750.00; and to BE ALLOWED TO HAVE CONTACT VISITS WITH MY CHILD.

Signed this 16 day of JULY, 2003.

MR. GLYNN ANTHONY HOLDER EA-7173
(Signature of Plaintiff)

I declare under penalty of perjury that the foregoing is true and correct.

16 JULY 2003
(Date)

GLYNN ANTHONY HOLDER
(Signature of Plaintiff)

CLAIM 1

EXHIBITS

EXHIBIT A I

COMMONWEALTH OF PENNSYLVANIA
Department of Corrections
State Correctional Institution
at Camp Hill
Business Department

Date:

SUBJECT: Collection of Inmate Debts
Re: DC-ADM 005

The Business Office received court order(s) as listed on the attached report(s) directing the collection of applicable restitutions, fees, costs, and fines, from your institution account in accordance with Department of Corrections' policy DC-ADM 005. Accordingly, your institution account has been assessed for the collection and transmittal of monies to them.

The Business Office through deductions from your institution account will collect monies owed in accordance with the Department's policy by :

- Deducting initial payment of 20-percent from your institution's account balance regardless of source.

- Deducting subsequent payments of 20-percent from all of your monthly income provided that you have a balance which exceeds $10.

In addition, if you owe other debts dealing with federal or state court orders and filing fees, or monies owed to the Department of Corrections resulting from inmate misconducts, or monies owed for postage, they shall also be collected from your institution account by the Department's policy.

Question concerning the deductions made from your institution account by the Business Office must be directed by you to the county that sent the court order for collection of the debt. The Business Office only posts the authorized deduction by the county from inmate accounts.

cc: Central File
File

IN THE COURT OF COMMON PLEAS OF YORK COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA : No. 4275 CA 1998

VS.

GLYNN HOLDER

ORDER

On April 12, 2003, the Defendant filed a Writ of Habeas Corpus alleging that deductions are being made from his account at the state penitentiary pursuant to Act 84 and requests that the Court schedule a hearing pursuant to Boofer vs. Lotz. Boofer vs. Lotz holds that before the Clerk of Courts may request Act 84 deductions, the Court must hold a hearing and authorize said deductions.

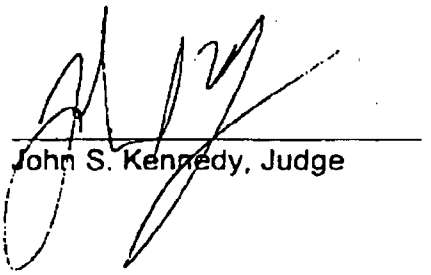
However, Commonwealth vs. Fleming, a Superior Court decision, states that there are two separate ways that Act 84 deductions may occur. The first is upon the request of the Clerk of Courts after being authorized by a Judge after a hearing. The second is an independent action of the Department of Correction officials in their own right without any prior Court action.

Since numerous defendants have filed Petitions regarding Act 84 deductions following the Commonwealth Court decision in Boofer vs. Lotz, the Court has made inquiry of the Clerk of Courts as to whether Act 84 deductions had been requested in any York County criminal case. The Clerk has advised that no such requests have been made. Therefore, the Court concludes that if Act 84 deductions

are occurring, it is pursuant to the independent authority of the Department of Correction officials, who are acting without being authorized by Court.

This Court has no jurisdiction to hear a challenge to an action by state correctional officials. Therefore, the defendant's Petition is dismissed without prejudice to his right to pursue his claim in the proper jurisdiction.

BY THE COURT,



John S. Kennedy, Judge

Date: April 23, 2003

CLAIM #2

EXHIBITS

COMMONWEALTH OF PENNSYLVANIA
Department of Corrections
State Correctional Institution at Houtzdale
Activities Department
March 6, 2003

SUBJECT: Read to Your Children Program

TO: All Concerned

From: Craig A. Harpster
Acting Activities Manager II

THROUGH: Frank Hartnett
CCPM

The Activities Department is starting three new Read to Your Children Program sessions for inmates who have children between the ages 3 and 12. Read to Your Children is an inter-generational literacy program designed for inmates and their families. It offers inmates an opportunity to improve reading skills and develop closer ties with their families. The program consists of classes where the participant will learn the value of children's literature and the appropriateness of selected books for their children. During this time, inmates select books, prepare written and oral presentations and create one video tape for each child. The video- tape and the book are sent to the inmate's family by Activities Department staff. The expense for mailing the books and tapes will be paid out of the I.G.W.F.

Sessions will run on the following schedule:

Group #1	Monday	9:00 – 11:00 a.m.
Group #2	Tuesday	9:00 – 11:00 a.m.
Group #3	Wednesday	9:00 – 11:00 a.m.

These sessions will be run by Mr. Witherite, and the Activities Department.
Any inmate in general population may participate in the Read to Your Children Program. If you have children ages 3 and 12 or under, and would like to participate in the Program, please send a request slip to Mrs. Posmoga, Activities Manager I. The Program is limited to the first 40 inmates who send a request slip. You do not need to provide information about your children on your request slip. Your status as a parent will be verified by reviewing your Classification Summary prior to acceptance into the program.

Page 2: **SUBJECT:** Read to Your Children Program

After your status as a parent has been verified you will be notified when the program will begin. Any additional requests received over 40 will be placed on a waiting list. Names will then be added on an ongoing basis as space becomes available.

c: Superintendent
Deputy Superintendent, Centralized Services
Deputy Superintendent, Facilities Management
CCPM
Major, Security
Major, Unit Management
Control
Unit Managers
Activities Staff
Block Officers - **PLEASE POST**
File

Claim 2 Exh. 1.75

11 July 2003

CONTENTS

DC-ADM	POLICY SUBJECT	EFFECTIVE DATE
001	INMATE ABUSE ALLEGATION MONITORING	JANUARY 14, 2002
002	INMATE CABLE TELEVISION SERVICE	JANUARY 1, 2003
003	RELEASE OF INFORMATION	APRIL 9, 2001
004	CRIMINAL VIOLATIONS	APRIL 4, 1999
005	COLLECTION OF INMATE DEBTS	OCTOBER 16, 1998
006	REASONABLE ACOMODATIONS FOR INMATES W/DISABILITIES	AUGUST 16, 1999
007	ACCESS TO PROVIDED LEGAL SERVICES	JUNE 28, 1999
008	SEXUAL HARASSMENT/SEXUAL ABUSE OF INMATES	MAY 8, 2000
009	NEWS MEDIA RELATIONS	FEBRUARY 4, 2001
201	USE OF FORCE	NOVEMBER 15, 1999
201-1	USE OF FORCE	JULY 10, 2001
203	SEARCHES OF INMATES/CELLS	JULY 10, 2000
203-1	SEARCHES OF INMATES/CELLS	APRIL 17, 2001
610	FOOD SERVICES	SEPTEMBER 16, 2002
801	INMATE DISCIPLINE	APRIL 17, 2000
801-3	INMATE DISCIPLINE	OCTOBER 5, 2001
802-8	ADMINISTRATIVE CUSTODY PROCEDURES	SEPTEMBER 25, 1999
802-9	ADMINISTRATIVE CUSTODY PROCEDURES	APRIL 17, 2000
802-10	ADMINISTRATIVE CUSTODY PROCEDURES	OCTOBER 5, 2001
803	INMATE MAIL/INCOMING PUBLICATIONS	SEPTEMBER 30, 2000

Claim 2 Exhibit B Copied for Box Holder

DC-ADM	POLICY SUBJECT	EFFECTIVE DATE
804	INMATE GRIEVANCE SYSTEM	MAY 1, 2002
805	APPLICATION, REVIEW, AND APPROVAL FOR INMATES REQUESTING PRERELEASE STATUS, PLACEMENT IN OPERATION OUTWARD REACH, AND OUTSIDE ASSIGNMENTS	DECEMBER 1, 2002
807	INMATE HYGIENE & GROOMING	DECEMBER 16, 1997
812	INMATE VISITING PRIVILEGES	MAY 24, 2000
813	GUEST SPEAKERS	AUGUST 30, 1999
815	PERSONAL PROPERTY, BASIC/ STATE ISSUED ITEMS AND COMMISSARY/OUTSIDE PURCHASES	SEPTEMBER 3, 2002
816	INMATE COMPENSATION	JANUARY 20, 2000
818	AUTOMATED INMATE TELEPHONE SYSTEM	DECEMBER 3, 2001
819	RELIGIOUS ACTIVITIES	JULY 15, 2002
820	CO-PAYMENT FOR MEDICAL SERVICES	MAY 18, 1998
820-1	CO-PAYMENT FOR MEDICAL SERVICES	MAY 18, 1998
821	INMATE MARRIAGES	APRIL 9, 2001
822	GUIDELINES FOR INMATE ORGANIZATION PICNICS/ BANQUETS, RELIGIOUS MEALS, AWARDS CEREMONIES, INMATE FUND RAISERS, FAMILY DAY VISITS	MAY 1, 1997

CLAIM #3

EXHIBITS

DEPARTMENT OF CORRECTIONS
INMATE HANDBOOK
2002 EDITION

TAKEN FROM PAGE 29

In accordance with **DC-ADM 812**, you will be screened to determine if you are a sex offender. If you were convicted of a sexual offense involving a minor, you will not be permitted to have the victim attend any of the events.

APPROVED VISITORS LIST PAGE 56
VISITING PRIVILEGES (DC-ADM 812)

1. All visitors on your list are subject to be approved. You must give the visitors name, date of birth, relationship and address. If this information is not given, the visitor will not be approved. The superintendent may remove the name of any visitor from your list.

2. RULES AND REGULATIONS (e) PAGE 57
If a minor child comes to visit you, a parent/legal guardian,County children/youth services agency staff, or an adult immediate family member approved by the parent/legal guardian must be with the child.

4. INMATE-VISITOR PHYSICAL CONTACT PAGE 58
(b) If at any time during the visit the Visiting Room Officer has concerns regarding your or your visitors behavior,the Visiting Room Officer will direct you and your visitor to separate.
(c) You may only hold small children on your lap. The Visiting Room Office will closely watch when you are holding a small child, orwhen a small child is sitting on your lap, and the amount of time the child is being held on your lap. If the Visiting Room Officer has any concern regarding the size/age of a child, the amount of time you have held the child, the Visiting Room Officer will direct you to remove the child from your lap.
(d) If you break the visiting room rules for holding of small children or for physical contact with any visitor, you risk bith your visiting privileges and those of the visitor. Any serious or repeated violations of these rules may result in a misconduct and/or ban of contact visits.

5. SPECIAL INQUIRIES
(a) The DOC will notify the parent or legal guardian of a minor child including a child of yours, if you request to add the name of a minor child to your DC-311A. The childs parent or legal guardian must

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

GLYNN ANTHONY HOLDER,	:	CIVIL ACTION NO. **1:CV-03-1056**
Plaintiff	:	(Judge Conner)
v.	:	(Magistrate Judge Blewitt)
JEFFREY BEARD, PENNSYLVANIA DEPARTMENT OF CORRECTIONS, et al.,	:	
Defendants	:	

REPORT AND RECOMMENDATION

The Plaintiff, presently incarcerated at the State Correctional Institution at Houtzdale ("SCI-Houtzdale"), filed this 42 U.S.C. § 1983 civil rights action on June 25, 2003. (Doc. 1). The Plaintiff filed an Application to Proceed *in forma pauperis*. (Doc. 2).

Pursuant to the Prison Litigation Reform Act of 1995,[1] (the "Act"), we shall conduct a preliminary screening of Plaintiff's complaint. *See* 28 U.S.C. § 1915. The Prison Litigation Reform Act of 1995 obligates the Court to engage in a screening process when a prisoner files a complaint. Specifically, 28 U.S.C. § 1915A, which was created by § 805 of the Act, provides:

> **(a) Screening.**- The court shall review, before docketing if feasible or, in any event, as soon as practicable after docketing, a complaint in a civil action in which a prisoner seeks redress from a governmental entity or officer or employee of a governmental entity.
>
> **(b) Grounds for dismissal.**- On review, the court shall identify cognizable claims or dismiss the complaint, or any portion of the complaint, if the complaint-

1. Pub. L. No. 104-134, 110 Stat. 1321 (April 26, 1996).

> **(1)** is frivolous, malicious, or fails to state a claim upon which relief may be granted; or
>
> **(2)** seeks monetary relief against a defendant who is immune from such relief.

We have reviewed the allegations of the complaint and have determined that it is subject to dismissal pursuant to 28 U.S.C. § 1915A(b)(1) and (2).

In an action brought pursuant to 42 U.S.C. § 1983, the Plaintiff must prove the following two essential elements in order to state a claim: (1) that the conduct complained of was committed by a person acting under color of state law; and (2) that the conduct complained of deprived the Plaintiff of rights, privileges or immunities secured by the law or the Constitution of the United States. *Parratt v. Taylor*, 451 U.S. 527 (1981).

I. Discussion.

A. Allegations of Claim #1 of the Complaint.

The Plaintiff asserts three unrelated claims in his action. As his first claim, the Plaintiff alleges that since November, 1999, while he was an inmate at SCI-Houtzdale, twenty percent (20%) deductions were taken from his inmate account pursuant to PA Act 84, even though the York County Court of Common Pleas sentencing judge did not order any such deductions. (Doc. 1, p. 2, ¶ IV. 1.). Plaintiff states that he informed the Pennsylvania Department of Corrections ("DOC") that no deductions should be taken from his account, but that the DOC responded that it received a court order authorizing the deductions. Plaintiff claims that no such court order was entered and that, in April 2003, the sentencing court issued an order providing that no 20% deductions were directed to be taken from Plaintiff's account. (*Id.*). Plaintiff alleges that he wrote to Defendant Beard, Secretary of the DOC, requesting a copy of the order of the sentencing court which

authorized his account deduction, but was advised *via* a form letter that the order was sent to the prison business office. Plaintiff states that he submitted a grievance about the incident, which was denied, and Defendant William Love, Superintendent at SCI-Houtzdale, denied his grievance appeal. Further, Plaintiff claims that he wrote to Defendants David Perry and Richard Moyer, prison accountants for the business office, requesting a copy of the order authorizing the deduction from his account, and they informed him that he had to write to the county for a copy of the order. (*Id.*). Plaintiff states that all of the stated Defendants in his first claim were aware that there was no court order authorizing the 20% deduction, yet the deductions continued to be made. (*Id.*).

The Plaintiff avers that his due process rights were violated and that the Defendants' conduct amounted to cruel and unusual punishment. (*Id.*).[2]

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2. Plaintiff clearly fails to state an Eighth Amendment claim in his first cause of action. In *Farmer v. Brennan*, 511 U.S. 825, 832, 114 S.Ct. 1970 (1994)(quoting *Rhodes v. Chapman*, 452 U.S. 337, 349, 101 S.Ct. 2392, (1981)), the Supreme Court stated that "[I]t is now settled that 'the treatment a prisoner receives in prison and the conditions under which he is confined are subject to scrutiny under the Eighth Amendment.' " *Farmer*, 511 U.S. at 832, 114 S.Ct. 1970 (quoting *Helling v. McKinney*, 509 U.S. 25, 31, 113 S.Ct. 2475 (1993)). Under *Farmer*, conditions of confinement will violate the Eighth Amendment if the following two-prong test is met: (1) the deprivation is sufficiently serious; and (2) deliberate indifference by the prison official Defendants. *Id.* at 834. Stated simply, an Eighth Amendment violation exists when the prisoner is denied "the minimal civilized measure of life's necessities" and the prison official acted with recklessness. *Farmer*, 511 U.S. at 834-35 (quoting *Rhodes*, 452 U.S. at 347, 101 S.Ct. 2392); *Wilson v. Seiter*, 501 U.S. 294, 303, 111 S.Ct. 2321 (1991). In order to find an Eighth Amendment violation regarding conditions of confinement, the evidence must show that the prison official was "both aware of facts from which the inference could be drawn that a substantial risk of serious harm exists, and he must also draw the inference." *Farmer*, 511 U.S. at 837.

Here, Plaintiff contends that the Eighth Amendment was violated because 20% was deducted from his prison account without an order from the sentencing court. Plaintiff states that, as a result of the deductions, he is not able to buy "cosmetics" from the prison commissary. (Doc. 1, Claim #1). He does not allege that these practices presented a serious risk of harm to him, or that he was deprived of the minimal civilized measure of life's necessities. Thus, no Eighth Amendment claim is stated. (*Id.*).

As relief, Plaintiff seeks nominal, compensatory and punitive damages *(Id.* at p. 3, Section V. 1.).[3]

All of the Defendants named in claim #1 of the Complaint are subject to dismissal. Defendant Pennsylvania DOC should be dismissed based on the Eleventh Amendment. Further, the Plaintiff seeks to sue DOC Defendants who did not have sufficient personal involvement, and all of these parties should be dismissed. Finally, the two accountant Defendants, as well as the DOC Secretary and the Superintendent, should be dismissed for failure to state a claim against them.

1. Eleventh Amendment.

In his pleading, the Plaintiff names the Pennsylvania DOC as a Defendant. (*Id.* at p. 1(caption) and Section III. A.). The Plaintiff's action as against this agency of the Commonwealth of Pennsylvania Defendant is barred by the Eleventh Amendment. In the absence of consent by the state, a suit in federal court against the state or one of its agencies is barred by the Eleventh Amendment. *See Alabama v. Pugh*, 438 U.S. 781, 782 (1978). This Court has also held in several cases that Section 1983 does not override a state's Eleventh Amendment immunity. *See Quern v. Jordan*, 440 U.S. 332, 342 (1979). Moreover, the DOC is not a person under § 1983. *Will v. Mich.*

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3. In his Complaint, the Plaintiff does not specify if his action is against all of the Department of Corrections employees in their individual and official capacities. In any event, Defendants could not be sued in their official capacities under the Eleventh Amendment.

Dept. of State Police, 491 U.S. 558 (1989). Therefore, the Pennsylvania DOC Defendant is immune from suit in the present case under the Eleventh Amendment and should be dismissed.

2. Respondeat Superior.

In Section IV., ¶1. of the Complaint, the Plaintiff alleges that Secretary of Corrections Beard and Superintendent Love did not send him a copy of the sentencing court's order authorizing the 20% deduction and denied his grievance appeal.

It is well established that personal liability under section 1983 cannot be imposed upon a state official based on a theory of *respondeat superior*. *See, e.g., Rizzo v. Goode*, 423 U.S. 362 (1976); *Hampton v. Holmesburg Prison Officials*, 1546 F.2d 1077, 1082 (3d Cir. 1976); *Parratt, supra*. It is also well settled in the Third Circuit that personal involvement of defendants in alleged constitutional deprivations is a requirement in a § 1983 case and that a complaint must allege such personal involvement. *Id.* Each named defendant must be shown, through the complaint's allegations, to have been personally involved in the events or occurrences upon which Plaintiff's claims are based. *Id.* As the Court stated in *Rode v. Dellarciprete*, 845 F.2d 1195, 1207 (3d Cir. 1998):

> A defendant in a civil rights action must have personal involvement in the alleged wrongs . . . . [P]ersonal involvement can be shown through allegations of personal direction or of actual knowledge and acquiescence. Allegations of participation or actual knowledge and acquiescence, however, must be made with appropriate particularity. (Citations omitted).

Courts have also held that an allegation seeking to impose liability on a defendant based on supervisory status, without more, will not subject the official to section 1983 liability. *See Rode*, 845 F.2d at 1208; *Ayers v. Coughlin*, 780 F.2d 205, 210 (2d Cir.1985) (per curiam) (a mere "linkage

in the prison chain of command" is not sufficient to demonstrate personal involvement for purposes of section 1983). Permitting supervisory liability where a defendant, after being informed of the violation through the filing of grievances, reports or appeals, failed to take action to remedy the alleged wrong is not enough to show that the defendant has the necessary personal involvement. *Rizzo, supra.* By allowing only a letter sent to an official to be sufficient to impose supervisory liability would permit an inmate to subject defendants to potential liability in any case in which the prisoner merely transmitted correspondence to the official. *Id.* Thus, several courts have held that "it is well-established that an allegation that an official ignored a prisoner's letter of protest and request for an investigation of allegations made therein is insufficient to hold that official liable for the alleged violations." *Greenwaldt v. Coughlin*, 1995 WL 232736, at *4 (S.D.N.Y. Apr.19, 1995) (citations omitted); *accord Rivera v. Goord*, 119 F.Supp.2d 327, 344 (S.D.N.Y. 2000) (allegations that inmate wrote to prison officials and was ignored insufficient to hold those officials liable under section 1983); *Woods v. Goord*, 1998 WL 740782, at *6 (S.D.N.Y. Oct. 23, 1998) ("Receiving letters or complaints ... does not render [prison officials] personally liable under § 1983."); *Watson v. McGinnis*, 964 F.Supp. 127, 130 (S.D.N.Y. 1997) ("The law is clear that allegations that an official ignored a prisoner's letter are insufficient to establish liability.") (citations omitted). The Second Circuit Court has recently stated that "if mere receipt of a letter or similar complaint were enough, without more, to constitute personal involvement, it would result in liability merely for being a supervisor, which is contrary to the black-letter law that § 1983 does not impose *respondeat superior* liability." *Walker v. Pataro*, 2002 WL 664040, at *12 (S.D.N.Y. Apr.23, 2002).

Plaintiff has alleged that he informed Defendants Beard and Love about his claim that there was not a court order requiring the 20% deductions. Plaintiff claims that these Defendants did not take any action to stop the deductions. As noted, Plaintiff's allegations cannot create personal liability. Mere awareness of a constitutional violation is insufficient to impose liability. As in *Rizzo, supra*, a contrary holding would subject the Secretary of the DOC as well as the Superintendent to liability in many cases in which an aggrieved prisoner only sent their offices complaints or correspondences. There are no allegations that the stated Defendants had any personal involvement in the alleged improper deductions from Plaintiff's account. Therefore, these Defendants cannot be held liable for the alleged acts of others, as the Plaintiff is attempting to do. Thus, the stated two supervisor Defendants should be dismissed from this case.

3. Accountant Defendants.

Plaintiff alleges that the prison accountants, namely Defendants Perry and Moyer, did not send him a copy of the sentencing court order authorizing the 20% deduction and informed him that he had to get it from the county.

There is no claim that these two Defendants were in any way involved in violating Plaintiff's due process rights. Plaintiff only claims that these Defendants did not send him a copy of the sentencing court's order and advised him to get a copy of the order from the county court. No personal involvement of either of these Defendants is alleged with respect to the violation of any recognizable constitutional right. Therefore, Defendants Perry and Moyer should be dismissed.

4. Defendant Love, Grievance Appeal.

The Plaintiff alleges that Defendant Love denied his grievance appeal regarding the continued 20% deductions from his account. The Plaintiff has not alleged a constitutional violation with respect to the claimed improper handling of his grievances, and with respect to his disagreement with the outcome of the grievance process.

The law is well-settled that there is no constitutional right to a grievance procedure. *See Jones v. North Carolina Prisoners' Labor Union, Inc.* 433 U.S. 119, 137-138 (1977). This very court has also recognized that grievance procedures are not constitutionally mandated. *See Chimenti v. Kimber*, Civil No. 3:CV-01-0273, slip op. at p. 18 n. 8 (March 15, 2002) (Vanaskie, C.J.). Even if the state provides for a grievance procedure, as Pennsylvania does, violations of those procedures do not amount to a §1983 cause of action. *Mann v. Adams*, 855 F. 2d 639, 640 (9th Cir 1988), *cert denied*, 488 U.S. 898 (1988); *Hoover v. Watson*, 886 F. Supp. 410, 418 (D. Del. 1995), aff'd 74 F. 3d 1226 (3d Cir. 1995).

As discussed above, Plaintiff's allegations against Defendant Love deal with the decision he made regarding Plaintiff's grievance appeal. Thus, Plaintiff asserts that his rights were violated by the Defendant's failure to properly review his grievance. We find that the Plaintiff's claim against Defendant Love, in which he disputes the manner in which his grievance was handled, as well as Defendant Love's decision regarding it, is subject to dismissal as it does not amount to a constitutional violation.

Therefore, claim #1 should be dismissed in its entirety as to all Defendants named therein.

B. Allegations of Claim #2.

Plaintiff alleges that, after he requested scheduling to make video tapes for the Read to Your Children Program ("RYC"), he was advised by Defendant Harpster, activities manager, that he was not allowed to participate in the program any longer. (*Id.* p. 2, ¶ IV. 2.). Plaintiff states that he had been in the program since the summer of 2000. Plaintiff states that he filed a grievance and was subsequently allowed to continue to be in the program. However, Plaintiff now avers that Defendant Harpster has again refused to allow him to participate in the program. (*Id.*). Plaintiff sates that he wrote to Defendant Witherite, program instructor, in May, 2003, telling him that he was qualified under the program requirements and that he was allowed to participate after he filed a grievance. Plaintiff states that Defendant Harpster responded to his May, 2003, inquiry, and that the Defendant indicated to him that despite his time in the program, it did not "grant him further violation of policy or procedure." (*Id.*). Plaintiff alleges that, prior to his grievance, he spoke to block counselor Defendant Zitterbart, who told him that he would produce the policy that prevented Plaintiff's participation in the program. Plaintiff states that no policy was found by the Defendant or shown to Plaintiff. Plaintiff then states that his grievance was denied and that Superintendent Love and incoming Superintendent Defendant Patrick denied his appeal. Plaintiff also states that he appealed his grievance to Defendant Beard and that no response was received.

In June, 2003, Plaintiff states that he wrote to Defendants Love, Harpster, Hartnett and Zitterbart asking for a copy of the local policy which they claimed denied him participation in the RYC program. Plaintiff also states that Defendant Pogmosa, Activities Manager, denied him participation in the program due to local policy. Plaintiff avers that all of his requests for a copy of the policy were returned to him, and that his request was denied. Plaintiff states that unit team

manager Defendant Baer, along with Defendant Zitterbart, have also made the decision not to allow him to participate in the program.

Plaintiff claims that he is being denied access to the program even though no local policy exists which prevents him from doing so. Plaintiff states that other inmates with the same convictions as his are allowed in the program.

Plaintiff states that, by being denied access to the program, he has suffered undue emotional stress and an increase in his hives medication. Plaintiff also states that his child has been emotionally affected. Plaintiff claims that the Defendants' alleged conduct in claim #2 violates the Eighth Amendment.

There is no Eighth Amendment violation alleged in claim #2. The denial of Plaintiff's grievance by Defendants Beard, Love and Patrick does not state a claim. Further, there is no § 1983 action permitted for only emotional distress, and Plaintiff does not have a constitutional right to participate in the RYC program.

The Eighth Amendment prohibits Defendants from acting deliberately indifferent to conduct which places an inmate in substantial risk of serious harm. *See Farmer, supra.* The alleged conduct of all of the Defendants in claim #2 fails to meet this standard. Plaintiff does not claim any substantial risk of harm to himself by his lack of participation in the Read to Your Children Program. "The Eighth Amendment prohibits any punishment which violates civilized standards of humanity and decency." *Young v. Quinlan*, 960 F.2d 351, 359 (3d Cir. 1992). As noted, to prove a violation of the Eighth Amendment, an inmate must show that he has been deprived of the 'minimal civilized measure of life's necessities.' *Id.* This includes that the deprivation was sufficiently serious, and that a prison official acted with deliberate indifference in subjecting him to that deprivation. *Id.* at 361.

Griffin v. Vaughn, 112 F.3d 703 (3d Cir. 1997). The Plaintiff does not allege that he is being denied any basic human needs while he is not allowed to be in the Read to Your Children Program (claim #2).

Also as discussed above, Plaintiff has no constitutional right to a grievance process, and the denial of his grievance appeal by Defendants Beard, Love and Patrick does not amount to a § 1983 claim. *Jones, supra*.

The law is also clear that an inmate may not file a federal civil rights action based on a claim of mental or emotional injury seeking compensatory damages without any prior showing of physical injury. This is what Plaintiff is attempting to do in his claim # 2 of his pleading, as he does not claim any physical injury. Plaintiff only states that he has had an increase in his hives medication for stress. This is not sufficient, as Plaintiff does not claim that he has been physically injured in any way or that the medication does not address the stress problem. Such a claim is precluded. *Allah v. Al-Hafeez,* 226 F.3d 247, 250-251(3d Cir. 2000).

In this case, Plaintiff seeks as relief monetary damages for his claim #2. (Doc. 1, p. 3, ¶ V. 2.). A majority of Circuits, including the Third Circuit, have held that 42 U.S.C. § 1997e(e) applies to claims in which a Plaintiff alleges constitutional violations so that the Plaintiff cannot recover compensatory damages for mental or emotional injury for a constitutional violation in the absence of a showing of actual physical injury. *See Fontroy v. Owens*, 150 F. 3d 239, 244 (3d Cir. 1998) (Federal law does not provide inmates, who suffer no present physical injury, a cause of action for damages for emotional distress allegedly caused by exposure to asbestos); *Thompson v. Carter*, 284 F. 3d 411, 417 (2d Cir. 2002); *Herman v. Holiday*, 238 F.3d 660, 665 (5th Cir. 2001) (applying § 1997e(e) to an Eighth Amendment claim where Plaintiff made no showing of physical injury); *Allah*,

226 F. 3d at 250 (rejecting Plaintiff's argument that his First Amendment claim, on which he sought to recover compensatory damages without alleging a physical injury, was not subject to § 1997e(e)); and *Harper v. Showers*, 174 F. 3d 716, 719 (5th Cir. 1999) (applying § 1997e(e) to bar damages for emotional suffering resulting from alleged Eighth Amendment violation).

In this case, as stated, Plaintiff has not alleged any physical injury. Thus, Plaintiff's damages claim for undue emotional stress is barred.[4]

Finally, in claim #2, Plaintiff states that other inmates who have committed the same offenses as he has are allowed to make videos for their children for the Read to Your Children Program. Plaintiff implicates the Fourteenth Amendment Equal Protection Clause.

The Equal Protection Clause does not require that all persons be treated alike, but instead, a plaintiff must show that the differential treatment to those similarly situated was unreasonable, or involved a fundamental interest or individual discrimination. *Tigner v. Texas*, 310 U.S. 141, 147 (1940); *Price v. Cohen*, 715 F.2d 87, 91 (3d Cir. 1983), *cert. denied*, 465 U.S. 1032 (1984).

---

4. The Third Circuit in *Allah*, 226 F.3d at 252, n. 5, found that § 1997e(e) did not bar plaintiff Allah's claim seeking nominal and punitive damages for the violation of his First Amendment rights. Thus, § 1997e(e) would not bar Plaintiff's request for nominal and punitive damages in his claim #2 against the Defendants if he properly showed it was related to the deprivation of his constitutional rights. However, as discussed, Plaintiff has failed to make such a showing.

It is well-settled that a litigant, in order to establish a viable equal protection claim, must show an intentional or purposeful discrimination. *Snowden v. Hughes*, 321 U.S. 1, 8 (1944); *Wilson v. Schillinger*, 761 F.2d 921, 929 (3d Cir. 1985), *cert. denied*, 475 U.S. 1096 (1986); *E & T Realty v. Strickland*, 830 F.2d 1107, 1113-14 (11th Cir. 1987), *cert. denied* 485 U.S. 961 (1988). This "state of mind" requirement applies equally to claims involving (1) discrimination on the basis of race, religion, gender, alienage or national origin, (2) the violation of fundamental rights, and (3) classifications based on social or economic factors. *See, e.g., Britton v. City of Erie*, 933 F. Supp. 1261, 1266 (W.D. Pa. 1995), *aff'd*, 100 F.3d 946 (3d Cir. 1996); *Adams v. McAllister*, 798 F. Supp. 242, 245 (M.D. Pa.), *aff'd*. 972 F.2d 1330 (3d Cir. 1992).

Plaintiff has failed to allege any facts from which it can be concluded that the Defendants in claim #2 engaged in intentional or purposeful discrimination or that he was treated differently than similarly situated individuals on the basis of his race, religion, gender, alienage, or national origin, nor has Plaintiff alleged the violation of any fundamental right.

Therefore, the Plaintiff's Equal Protection claim is of no merit and should be dismissed as to all Defendants.

C. Allegations of Claim #3.

In his third and final claim, Plaintiff alleges that from September, 1999, through June, 2000, he had contact visits with his child. However, Plaintiff states that his contact visits were taken away due to the conduct of another inmate at another prison. (Doc. 1, p. 2, ¶ IV. 2.). Plaintiff states that he was punished for actions with which he was not involved. Plaintiff alleges that this violated his

Eighth Amendment rights. Plaintiff has failed to state a claim, and the statute of limitations has expired.

There is no right to contact visits. The law is well-settled that there is no constitutional right of a prisoner to visitation. *See Flanagan v. Shively*, 783 F. Supp. 922, 934 (M.D. Pa. 1992), *aff'd* 980 F. 2d 722 (3d Cir. 1992), *cert. denied*, 510 U.S. 829, 114 S. Ct. 95 (1993) ("Inmates have no constitutional right to visitation." "Prison authorities have discretion to curtail or deny visitation if they deem appropriate, and no due process right is implicated in the exercise of that discretion.").

Thus, no liberty interest is implicated in claim #3 because there is no right to visitation. *Sandin v. Conner*, 515 U.S. 472, 496 (1995).

Moreover, Plaintiff's claim #3 is barred by the statute of limitations. All of the Plaintiff's alleged injuries in claim #3 admittedly commenced one year after April, 1999, and lasted until June, 2000.[5] (*See* ¶ IV. 3., Doc. 1). The Plaintiff discovered his cause of action in this case in April, 2000, over two years before he filed this matter. Plaintiff acknowledges that he was well aware of his loss of contact visits in April, 2000. (*Id.*). The law is clear that Section 1983 claims are subject to a two-year statute of limitations. *See Bougher v. University of Pittsburgh*, 882 F. 2d 74, 78-79 (3d Cir. 1989); *Fitzgerald v. Larson*, 769 F. 2d 160, 162 (3d Cir. 1985). Further, under Pennsylvania's discovery rule, the statute of limitations begins to run when the Plaintiff has discovered his injury or, in the exercise of reasonable diligence, should have discovered his injury. *Doe v. Kohn, Nast & Graf, P.C.*, 866 F. Supp. 190 (E.D. Pa. 1994). It is abundantly clear in this case, and readily admitted by the Plaintiff, that he discovered his cause of action in April of 2000 , as he

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5. It is unclear if Plaintiff is typing "June 2000" or "June 2001," (Doc. 1, p. ,¶ IV. 3.) but regardless, the claim is time barred.

knew he was deprived of his contact visits after the misconduct of another inmate at that time. Therefore, claim #3 is also subject to dismissal since the statute of limitations has expired.

II. Recommendation.

Based on the foregoing, it is respectfully recommended that the Complaint be dismissed as against all of the Defendants and as to all three claims against them pursuant to 28 U.S.C. §1915A(b)(1) and (2).

s/ Thomas M. Blewitt
THOMAS M. BLEWITT
United States Magistrate Judge

Dated: July 8 , 2003

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

GLYNN ANTHONY HOLDER,	:	CIVIL ACTION NO. **1:CV-03-1056**
Plaintiff	:	(Judge Conner)
v.	:	(Magistrate Judge Blewitt)
JEFFREY BEARD, PENNSYLVANIA DEPARTMENT OF CORRECTIONS, et al.,	:	
Defendants	:	

NOTICE

NOTICE IS HEREBY GIVEN that the undersigned has entered the foregoing **Report and Recommendation** dated **July 8, 2003.**

Any party may obtain a review of the Report and Recommendation pursuant to Rule 72.3, which provides:

> Any party may object to a magistrate judge's proposed findings, recommendations or report addressing a motion or matter described in 28 U.S.C. § 636 (b)(1)(B) or making a recommendation for the disposition of a prisoner case or a habeas corpus petition within ten (10) days after being served with a copy thereof. Such party shall file with the clerk of court, and serve on the magistrate judge and all parties, written objections which shall specifically identify the portions of the proposed findings, recommendations or report to which objection is made and the basis for such objections. The briefing requirements set forth in Local Rule 72.2 shall apply. A judge shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made and may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge, however,

need conduct a new hearing only in his or her discretion or where required by law, and may consider the record developed before the magistrate judge, making his or her own determination on the basis of that record. The judge may also receive further evidence, recall witnesses or recommit the matter to the magistrate judge with instructions.

S/ Thomas M. Blewitt
THOMAS M. BLEWITT
United States Magistrate Judge

Dated: July 8, 2003

129MRW

Time of Request: Monday, November 06, 2006 09:06:32 EST
Client ID/Project Name:
Number of Lines: 32
Job Number: 1842:128094051

Research Information

Service: Terms and Connectors Search
Print Request: Current Document: 1
Source: Federal Court Cases, Combined
Search Terms: name (glynn anthony holder)

Send to: RAND, DEBRA
PA DEPT OF CORRECTIONS
55 UTLEY DR
CAMP HILL, PA 17011-8028

1 of 1 DOCUMENT

GLYNN ANTHONY HOLDER v. PATRICK GALLAGHER; THOMAS HOGAN; YORK COUNTY PRISON; PRISON HEALTH, COUNSELOR ANDY; PRISON HEALTH, PRISON HEALTH SERVICES, INC.; ROGER THOMAS; DENNIS BOWEN; BONNIE ANDRUS; PRISON HEALTH SERVICES, INC., GLYNN A. HOLDER, Appellant

No. 03-3317

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

95 Fed. Appx. 462; 2004 U.S. App. LEXIS 9133

April 1, 2004, Submitted For Possible Dismissal Under 28 U.S.C. § 1915(e)(2)(B) or Summary Action Under Third Circuit LAR 27.4 and I.O.P. 10.6
April 21, 2004, Filed

NOTICE: [*1] DECISION WITHOUT PUBLISHED OPINION

PRIOR HISTORY: On Appeal From the United States District Court For the Middle District of Pennsylvania. (D.C. Civ. No. 02-CV-00629). District Judge: Honorable Christopher C. Conner.

JUDGES: BEFORE: ALITO, FUENTES and CHERTOFF, CIRCUIT JUDGES.

OPINION:

Affirmed.

129MRW

********** Print Completed **********

Time of Request: Monday, November 06, 2006 09:06:32 EST

Print Number: 1842:128094051
Number of Lines: 32
Number of Pages:

Send To: RAND, DEBRA
PA DEPT OF CORRECTIONS
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CAMP HILL, PA 17011-8028

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

GLYNN ANTHONY HOLDER,	:	**CIVIL ACTION NO. 1:CV-03-1056**
Plaintiff	:	
v.	:	
JEFFREY BEARD, PENNSYLVANIA DEPARTMENT OF CORRECTIONS, et al.,	:	**(Judge Conner)**
Defendant	:	

ORDER

AND NOW, this 5th day of September, 2003, upon consideration of the Report and Recommendation of the Magistrate Judge, dated July 8, 2003 (Doc. 7), the plaintiff's objections thereto (Doc. 10), and upon independent review of the record, it is hereby ORDERED that the Magistrate Judge's report is adopted. It is further ordered in accordance with the Magistrate Judge's recommendation that the complaint is DISMISSED under 28 U.S.C. § 1915A(b)(1). The Clerk of Court shall close this file.

S/ Christopher C. Conner
CHRISTOPHER C. CONNER
United States District Judge

VERIFICATION

I, Matthew Swanson, have reviewed the foregoing Answer to second Amended Petition for Review and I declare under penalty of perjury that the factual averments set forth herein are true and correct, to the best of my knowledge information and belief, and that I give this verification subject to the criminal penalties relating to unsworn falsification to authorities, 18 Pa.C.S. §4904.

11-1326
Date

Matthew Swanson
Corrections Officer I
SCI-Houtzdale
Pennsylvania Department of Corrections

VERIFICATION

I, George Patrick, have reviewed the foregoing Answer to second Amended Petition for Review and I declare under penalty of perjury that the factual averments set forth herein are true and correct, to the best of my information knowledge and belief, and that I give this verification subject to the criminal penalties relating to unsworn falsification to authorities, 18 Pa.C.S. §4904.

11/14/06
Date

George Patrick
Superintendent
SCI-Houtzdale
Pennsylvania Department of Corrections

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA CIVIL DIVISION

GLENN A. HOLDER, SR.,	:	
	:	
Plaintiff,	:	No. 06-894-CD
	:	
v.	:	(President Judge Fredric J. Ammerman)
	:	
OFFICER SWANSON, et al.	:	**Jury Trial Demanded**
	:	
Defendants.	:	

CERTIFICATE OF SERVICE

I hereby certify that I am depositing in the U.S. mail a true and correct copy of the Answer to Plaintiff's Second Amended Petition for Review upon the person(s) in the manner indicated below:

Service by first-class mail
addressed as follows:

Glenn A. Holder, Sr., EA-7173
SCI-Houtzdale
P. O. Box 1000
Houtzdale, PA 16698

Kay Flohr
Clerk Typist 2
Pennsylvania Department of Corrections
55 Utley Drive
Camp Hill, PA 17011
(717) 731-0444

Dated: November 15, 2006

IN THE COURT OF COMMON PLEAS OF CLEARFIELD, PENNSYLVANIA
CIVIL DIVISION

GLENN A. HOLDER SR.
Plaintiff

V.

MATTHEW SWANSON
Defendant

No. 06-894-CD

Pres. Judge; Fredric Ammerman

FILED
NOV 15 2006
William A. Shaw
Prothonotary/Clerk of Courts

RECONSIDERATION OF MOTION FOR ORDER TO COMPEL DISCOVERY.

Plaintiff moves Honorable Court for Reconsideration of Motion for Order to Compel Discovery and avers the following:

1). Plaintiff requested for Production of Documents from Defendants in the above matter Pursuant to PA R.C.P. 4009.12 and 4011 (a) thru (e).

2). Defendants refuse ALL Request Oct. 27, 2006, by objectiing to crucial evidence of Shaka Ruener and insisting that the plaintiff had the requested documents attached to his Amended Complaint, which if reviewed would establish the fact of a clear attempt to mislead the court and consealment of requested document by the defendant.

3). On 7 November 2006, this Honorable Court Ordered that the Request for Production of Documents and Response Motion for Order to Compel Discovery be and Hereby Dismissed as to all Previously removed Defendants, Except Matthew Swanson.

4). Plaintiff is/has requested documents which are not sensitive, of vital statical nature or irrelevant to the plaintiffs claim of racial discrimination, racial profiling and filing false charges/allegations against the plaintiff, his wife and their child as well as documentation which will establish a pattern of Swansons discriminatory behavior.

5). Documents requested were/are as followed;

(a) Any and all grievances, disciplinary reports, santions and actions involving and or against Swanson,

(b) Racial discrimination report, incident and outcome of the shaka Turner incident,

(c) Complete Investigation Report of DC-141 Misconduct against the plaintiff.

6). Plaintiff request are not a burden to the defendant to produce and are within the requirements of PA Rules of Civil Procedure 4011 (a) thru (e).

7). Plaintiffs request is supported and within the requirements of permissible discovery Under PA Rules of Civil Procedures 4003.2 through 4003.6, including the above cited Rules of Civil Procedure.

8). Defendant objected to providing the documents concerning the Shaka Turner incident, when this particular incident will establish Swanson propensity including character in the use of racial slurs as well as Swansons racial discriminatory practices.

9). The plaintiffs case involves racial discrimination by Swanson, including his propensity to write fraudlent reports against African-american inmates.

10). Plaintiff at this time wishes to request All and any DC-141 written by Swanson, including the outcome from 2004 -2006.

11). The investigation report is requested to further establish the plaintiffs claim of racial discrimination to include that the entir matter was a fabrication by Swanson and the confinement in the Restricted Housing Unit for disciplinary custody was due to the fraudelent acts thereof.

12). Pursuant to PA Rules of Civil Procedure 4003.1 (a), a party may obtain discovery regarding any matter which is relevant to the subject matter involved in the pending action whether it relates to the claim or defense of the party seeking discovery, (b) It is not grounds for objection if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

13). To this date defendant refuses to produce any requested discovery or documents and contends that other known factu#al information is already in the plaintiffs posession, which again is an attempt to mislead the court and conseal documents.

Wherefore, for the above said reasons, this Plaintiff prays this Honrable Court will Grant this Motion Compelling Defendant to produce Requested Discovery and any other relief this Honorable Court deems just.

Date: 10 November 2006

SUBMITTED BY:

Mr. Glenn A. Holder Sr. pro-se
EA-7173
P.O. Box 1000
Houtzdale, PA 16698-1000

No Action

IN THE COURT OF COMMON PLEAS OF CLEARFIELD, PENNSYLVANIA
CIVIL DIVISION

GLENN A. HOLDER SR.
Plaintiff

V.

MATTHEW SWANSON
Defendant

No. 06-894-CD

PROOF OF SERVICE

I hereby certify that upon this date, I have served upon the individuals listed below the attached Reconsideration of Motion For Order to Compel Discovery, by placing such in the First-Class mail box provided by this institution, Pre-Paid, in which satisfies the Pa. Rules of Civil Procedures.

BY PRE-PAID FIRST-CLASS MAIL.

CLERK OF COURTS
CLEARFIELD COUNTY COURT
COMMON PLEAS COURT
P.O. BOX 549
CLEARFIELD, PA 16830

(2) COPIES
1 RETURN TIME DATED

DEBRA SUE RAND ESQ.
OFFICE OF CHIEF COUNSEL
DEPARTMENT OF CORRECTIONS
55 UTLEY DRIVE
CAMP HILL, PA 17011

(1) COPY

Date: 10 November 2006

SUBMITTED BY:

Mr. Glenn A. Holder Sr. Pro-se
EA-7173
P.O. Box 1000
Houtzdale, PA 16698-1000

FILED
NOV 15 2006
William A. Shaw
Prothonotary/Clerk of Courts
NO ORDER ATTACHED
MAILED TO ATTORNEY
CERT. TO PLFF.
11-15-06



1st Interrogatories

Motion compel
disc Req.

Compl Order

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

GLENN A. HOLDER, SR. Petitioner, vs. OFFICER SWANSON, et al, Respondents	* * * * *	No. 06-894-CD

ORDER

NOW, this 7th day of November, 2006, the Court being in receipt of the Defendant's "Response Motion for Order to Compel Discovery" filed November 3, 2006 and assuming the same is related to the Defendant's Request for Production of Documents filed September 29, 2006; with the Court referencing the Order of October 30, 2006 which removed all Defendants except Matthew Swanson, it is the ORDER of this Court that the Request for Production of Documents and Response Motion for Order to Compel Discovery be and are hereby DISMISSED as to all previously removed Defendants.

BY THE COURT,

FREDRIC J. AMMERMAN
President Judge

FILED
01:02/01
NOV 08 2006

William A. Shaw
Prothonotary/Clerk of Courts

1 CC Plff: EA 7173 SCI Houtzdale
1 CC Atty Rand
GLO

#26

DATE: 11/8/06

____ You are responsible for serving all appropriate parties.

__X__ The Prothonotary's office has provided service to the following parties:

__X__ Plaintiff(s) ____ Plaintiff(s) Attorney ____ Other

____ Defendant(s) __X__ Defendant(s) Attorney

____ Special Instructions:

FILED

NOV 08 2006

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD, PENNSYLVANIA
CIVIL DIVISION

FILED
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NOV 06 2006
William A. Shaw
Prothonotary/Clerk of Courts
1cc Piff

GLENN A. HOLDER SR.
Plaintiff

V.

MATTHEW SWANSON, ET AL.,
Defendants

No. 06-894-CD

President Judge;
Fredric J. Ammerman

PLAINTIFFS FIRST SET OF INTERROGATORIES TO DEFENDANTS.

INTERROGATORIES OF
SUPERINTENDENT GEORGE N. PATRICK
S.C.I. HOUTZDALE
HOUTZDALE, PENNSYLVANIA.

In accordance with Rules of Civil Procedures 4004, 4005 and 4006, Plaintiff request that defendant Patrick answer the following interrogatories, Unser Oath and Sworn, and that the answers be signed by the person making them, and be served on the Plaintiff with in (30) days of service of these interrogatories.

If you cannot answer the following interrogatories in full, after exercising due diligence to secure the information to do so, so state and answer to the extent possible, specifying your inability to answer the remainder and stating whatever information or knowledge you have concerning the unanswered portions.

Statements Sworn and given under Oath are subject to the penalty of perjury, Pursuant to Pa. C.S. §4904.

These interrogatories shall be deemed continuing, so as to require supplemental answers, as new and diffrent information come available or materializes.

Todays Date:_____2006 Time:_____ Place:_____

Counsel for Defendant:_____

#25

1. State Name, Official Position and date of position.

ANSWER:

2. Do you have full knowledge of D.O.C. Policy as well as S.C.I. Houtzdales Supplemental Visiting Rules and regulation?

ANSWER:

YES_____ NO_____

3. How long has Officer Swanson been under your supervision?

ANSWER:

4. Is it your responsibility for the safety of inmates, including the actions of your officers?

ANSWER:

YES_____ NO_____

5. Are you aware of the actions of your Officers?

ANSWER:

YES_____ NO____

6. Were you informed of the misconduct written by your officer on 16 March 2006, (2) days after the plaintiff was placed in the restricted Housing Unit?

ANSWER:

YES____ NO_____

7. Were you aware that the alleged incident took place in the non-contact booth?

ANSWER:

YES____ NO____

8. Are you aware that there are no Rules or regulations that state that a minor child must remain seated during the duration of the visit?

ANSWER:

YES____ NO____

9. Why did you wait (23) days before releasing the plaintiff from the Restricted Housing Unit?

ANSWER:

10. On or about May 1, 2006, upon your request to Sec. Beard, the appeal was reopened, there after Dismissed, Vacated, and expunged from the plaintiffs institutional fines, Why?

ANSWER:

11. What visiting room Rules and regulations did the plaintiff, his wife and their child violate?

ANSWER:

12. What D.O.C. Classification is the plaintiff?

ANSWER:

13. Was there ever any inappropriate reportswhich has happend during a visit, Specificially during the peroid of Dec. 1999 thru June 2001 ? If so what was it?

ANSWER:

14. Was there any other violations committed by the plaintiff, his wife and/or their child on any other noted dates?

ANSWER:

15. Has Officer Swanson ever been placed on a Misconduct Restriction due to writing many errored/untrue misconducts, or been warned about any discriminatory behavior, while under your supervision?

ANSWER:

16. The Misconduct written by your officer stated that the charges were, Engaging in Sexual Acts with Others, Refusing and Order and Violating Visiting Room rules and regulations, yet you stated that the plaintiff was punished due to the behavior of the minor child, when the minor child was doing as others have done, which was sit on the table in order to see the plaintiff, which is not a violation of any rule. Why did you see it fitting to punish the plaintiff?

ANSWER:

17. Was there a Investigation Report written on this incident?

ANSWER:

YES_____ NO_____

18. Was the Misconduct DC-141 Written by Officer Swanson a true and factual Misconduct, representing the Truth Beyond any Reasonable Doubt?

ANSWER:

YES_____ NO____

Signed by_____

Submitted By;

_____

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

GLENN A. HOLDER SR. Plaintiff	:	
V.	:	NO. 06-894-CD
MATTHEW SWANSON, ET AL., Defendants	:	

PROOF OF SERVICE

I hereby certify that upon this date, I have served upon the individuals listed below the attached Interrogatories, by placing such in the First-Class Mail box provided by this Institution, Pre-Paid mail, which satisfies the Pa. Rules of Civil Procedures.

BY PRE-PAID FIRST-CLASS MAIL.

CLERK OF COURTS
CLEARFIELD COUNTY COURT
COMMON PLEAS
P.O BOX 549
CLEARFIELD, PA 16830

(2) COPIES
Return The Stamp

DEBRA SUE RAND ESQ.
OFFICE OF CHIEF COUNSEL
DEPARTMENT OF CORRECTIONS
55 UTLEY DRIVE
CAMP HILL, PA 17011

(1) Copy

Date: 3 November 2006

Submitted by

Mr. Glenn A. Holder Sr. pro-se
EA-7173
P.O. Box 1000
Houtzdale, PA 16698-1000

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

GLENN A. HOLDER SR.
Plaintiff

V.

MATTHEW SWANSON, ET AL.,
Defendants

NO. 06-894-CD
(President Judge: Fredric J. Ammerman)

FILED
NOV 03 2006
William A. Shaw
Prothonotary/Clerk of Courts

RE:

RESPONSE
MOTION FOR ORDER TO COMPEL DISCOVERY.

Plaintiff moves this Honorable Court for an Order to Compel Defendants, Swanson, Trwin, Patrick, Shirley, Hartnett, Cameron, Reed and Britton to Produce the requested documents for inspection and copying, Pursuant to Pa. Rule of Civil Procedure 4009.12.

1). Plaintiff filed a request for Production of Documents 27 Sept. 2006, being entered into the court Sept. 29, 2006.

2). Plaintiffs request is for the sole purpose of obtaining factual documentation of evidence relevant to his case, to further establish his claims.

3). The documents requested are not a burden to the defendants to produce for inspection and copying, are within the requirements of Pa. Rule of Civil Procedure 4011 (a) thru (e),and upon information and belief these documents are presently located here at S.C.I. Houtzdale.

4). Plaintiff recieved defendants Answer to the Request for Production of Documents on 31 Oct. 2006.

5). Defendants object to the production of Swansons employment record stating that it is security risk.

6). The plaintiff's reasoning for reqiesting the employment record of Swanson was not for vital statistics, but for the sole purpose of obtaining the disciplinary actions, sanctions, reprimands and grievances which involve Swanson, and to further establish this plaintiff's claims.

#24

7). The request of this document is supported and within the requirements of permissible discovery under Rule 4003.2 through Rule 4003.6 and Rule 4011 (c), as well as within the limits of 4011 (a)(b)(d) and (e).

8). Defendants state that Swanson has never been the subject of any disciplinary actions or santions.

9). The Plaintiff respectfully request this Honorable Court to remind the defendants of the following Commonwealth Penal Codes, a). 18 Pa. C.S.A. §4902, Third Degree Felony Perjury; b). 18 Pa. C.S.A. § 4903, False Swearing, (1) and (2); and c). 18 Pa. C.S.A. §4910, Tampering, Second Degree misdemeanor, (1) alters, destroys, Concerals or removes any record, document or thing with intent to impair its verity or availability in an offical proceeding with the intent to mislead a public servant whom may be engaged in such proceedings or investigation.

10). Plaintiff respectfully request this Honorable Court to issue a subpoena for this record in it's entirity, for the plaintiff to extract the needed information, and that nothing be remove prior to this.

11). Defendants object to the production of Discovery concern--ing inmate Shaka Turner on the basis of relevancy.

12). One of the plaintiff's claims are of racil Discrimination. The matter concerning inmate shaka Turner involves Racial Discrimin--ation and the utterance of racial slurs to the inmate, made by Defendant Swanson to inmate Shaka Turner.

13). This information will not only assist, but will further establish this plaintiffs claim of Racial Discrimination against this defendant.

14). Upon information, visualization and Belief, Defendants are attempting to conceal known information and documents which are in exisitance, in an attempt to mislead this Honorable Court.

15). Defendants refuse Discovery of the Complete Investigation Report against the plaintiff, stating that the plaintiff has the

requested documents attached to his Amended Complaint as Exhibits A and D.

16). Plaintiff respectfully request that this Honorable Court review Exhibit of the Amended Comlaint. It will find only a copy of the actual DC-141 Misconduct Report, written by Swanson.

17). Upon review of Exhibit D, the Court will find only a copy of the findings of the Hearing Examiner,(defendant Reed) at the conclusion of the Disciplinary Hearing.

18). These two documents may be included in an investigative report, However they are not the Investigation Report, which was said to be conducted by the Security Captian, (defendant Irwin).

19). If the defendants statement is of fact and truth, that the DC-141 Misconduct Report and the Results of the Hearing are the Investigation Report, then it must be clearly assumed that there was never an investigation in the matter, which opens the door for a Due Process Claim.

20). Defendants refuse to produce Discovery of the complete Report Written by the Program Review Committee, which include Defendants Cameron, Hartnett, Britton and Patrick, stating that again the plaintiff has the attached requested documents as Exhibit H of the amended Complaint.

21). Upon review of this document, Exhibit H, only a copy of the Decision of the Program Review Committe, which again may be a part of the investigation Report, but is not the Investigation Report.

22). If the Program Review Committee's decision is the investigation Report, again it must be assumed that there was never and investigation in this matter.

23). The reason for requesting any and all Rules and regulations and policies of S.C.I. Houtzdale concerning inmate visitation, was to establish that the alleged rules which were broken, did not exist and to prevent the defendants from inserting additionalrules.

24). The plaintiff has made copies of the Department of Corrections Inmate Visitation Rules, as well as S.C.I. Houtzdale Supplemented Rules, approx. the last week of April 2006, and at that time the rules in question still did not exist.

25). The plaintiff also moves for an Order requiring the aforesaid Defendants to pay the sum of $15.75 as a reasonable expense in obtaining this Order, on the grounds that the defendants refusal to produce the documents and had no substancial justification with the exception of consealment.

Wherefore, for the above stated, the Plaintiff prays this Honorable Court will grant all Requested Relief for Discovery and any other relief deemed appropriate.

Date: 3 Nov. 2006

Submitted By:
Glenn A. Holder Sr. Pro-se
EA-7173
P.O. Box 1000
Houtzdale, PA 16698-1000

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

GLENN A. HOLDER SR.
Plaintiff

V.

MATTHEW SWANSON, ET AL.,
Defendnats

No. 06-894-CD

PROOF OF SERVICE

I hereby certify that upon this date, Ihave served the attached Motion to Compel Discovery w/ attachments upon the individuals listed below by placing such in the First-Class Mail box provided by S.C.I. Houtzdale, Pre-Paid, which satisfies th PA Rules of Civil Procedures.

BY PRE-PAID FIRST-CLASS MAIL.

CLERK OF COURTS
CLEARFIELD COUNTY COURT
COMMON PLEAS COURT
P.O. BOX 549
CLEARFIELD, PA 16830

(2) copies

DEBRA SUE RAND ESQ.
OFFICE OF CHIEF COUNSEL
DEPARTMENT OF CORRECTIONS
55 UTLEY DRIVE
CAMP HILL, PA 17011

(1) Copy

DATE: 3 **Nov. 2006**

SUBMITTED BY:

Mr. Glenn A. Holder Sr. Pro-se
EA-7173
P.O. Box 1000
Houtzdale, PA 16698-1000

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA CIVIL DIVISION

GLENN A. HOLDER, SR.,	:	
	:	
Plaintiff,	:	No. 06-894-CD
	:	
v.	:	(President Judge Fredric J. Ammerman)
	:	
OFFICER SWANSON, et al.	:	
	:	
Defendants.	:	

DEFENDANTS' ANSWER TO THE REQUEST FOR PRODUCTION OF DOCUMENTS

1. "Complete Employment Record of Officer Matthew Swanson, containing all disciplinary sanctions and actions, as well as the incident involving inmate Shaka Turner."

RESPONSE: **OBJECTION** in part to providing Swanson's complete employment record on the basis the request to overbroad and seeks material that is irrelevant. Further, there is material in the employment record the release of which, if known to inmates, could pose a security threat to Swanson. Swanson has never been the subject of any disciplinary actions or sanctions and, therefore, no such documents exist. **OBJECTION** to providing any evidence concerning inmate Shaka Tuner on the basis of relevancy.

2. "Complete investigation Report of DC-141 against the plaintiff."

RESPONSE: You have this document and it is attached to your amended complaint (Exs. A, D) mailed September 20, 2006.

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA CIVIL DIVISION

GLENN A. HOLDER, SR.,	:	
	:	
Plaintiff,	:	No. 06-894-CD
	:	
v.	:	(President Judge Fredric J. Ammerman)
	:	
OFFICER SWANSON, et al.	:	
	:	
Defendants.	:	

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RESPONSE: **OBJECTION** in part to providing Swanson's complete employment record on the basis the request to overbroad and seeks material that is irrelevant. Further, there is material in the employment record the release of which, if known to inmates, could pose a security threat to Swanson. Swanson has never been the subject of any disciplinary actions or sanctions and, therefore, no such documents exist. **OBJECTION** to providing any evidence concerning inmate Shaka Tuner on the basis of relevancy.

2. "Complete investigation Report of DC-141 against the plaintiff."

RESPONSE: You have this document and it is attached to your amended complaint (Exs. A, D) mailed September 20, 2006.

3. "Complete Report written by the Program Review Committee concerning the said incident."

RESPONSE: You have this document and it is attached to your amended complaint (Ex. H) mailed September 20, 2006.

4. "Complete report of incident by Superintendant."

RESPONSE: You have this document and it is attached to your amended complaint (Ex. I) mailed September 20, 2006.

5. "Any and all rules and regulations and policies of S.C.I. Houtzdale concerning inmate visitation."

RESPONSE: The rules for visitation are in DC-ADM 812, available in the institution's library and the Inmate Handbook and are augmented by those posted in the visitor's room and are, therefore, already available to you.

Respectfully submitted,

Office of General Counsel

By: Debra Sue Rand

Debra Sue Rand
Assistant Counsel
Attorney I.D. No. 41661
Pennsylvania Department of Corrections
Office of Chief Counsel
55 Utley Drive
Camp Hill, PA 17011
(717) 731-0444

Dated: October 27, 2006

GOVERNORS OFFICE OF GENERAL COUNSEL
DEPARTMENT OF CORRECTIONS
55 UTLEY DRIVE
CAMP HILL, PA 17011

2 November 2006

Dear Ms. Debra Sue Rand:

I am in reciept of the Answer of the Requested Discovery.

I am responding to you in Good Faith, of not only my intent, but of my knowledge of the exitance of known documents, as well as, Suppoena will follow within the next (2) weeks. Be of advise that these individuals are not only inmates whom have had direct involment with Swanson.

If you review my record, you will find that I am not a person whom causes trouble within this institution, but rather your defendants have chose to bother me, and my family without cause, other than their own personal dislikes.

All information that I currently have is not infavor of the defendants. and it is very clear that the complete matter is of an intent not only to harm me and my family, but was totally untrue and uncalled for. This established by defendant Patrick, upon recieving a letter of intent from my wife, immediately calling Sec. beard and requesting that the matter is Dismissed, Vacated and Expunged from my institutional files.

Had this been true, I would have had my visit terminated at the alleged first incident, Dec. 29, 2005, and I would have been charged, and the very same for my wife.

I do not believe that I need to go any further. At any time the defendants can bring this matter to an end. Until then I will continue to persue this matter.

Violations of Constitutional and Civil Rights are serious matters, just as Racial Discrimination, Even more so, against my wife and Child whom are not incarcerated.

You have my Address, and I am available anytime you wish to end this.

Respectfully Submitted:

Mr. Glenn A. Holder Sr. Pro-se
EA-7173
P.O. Bxo 1000
Houtzdale, PA 16698-1000

cc;file
Common Pleas court,(civil Division)

IN THE COURT OF COMMON PLEAS OF CLEARFIELD, PENNSYLVANIA
CIVIL DIVISION

GLENN A. HOLDER SR.
Plaintiff

V.

MATTHEW SWANSON, ET AL.,
Defendants

NO. 06-894-CD

President Judge:
Fredric J. Ammerman

PLAINTIFF FIRST SET OF INTERROGATORIES TO DEFENDANTS.

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William A. Shaw
Prothonotary/Clerk of Courts

INTERROGATORIES OF
CORRECTION OFFICER MATTHEW A. SWANSON
PLACE OF EMPLOYMENT; S.C.I. HOUTZDALE
HOUTZDALE, PENNSYLVANIA.

In accordance with Rules of Civil Procedures 4004, 4005 and 4006, Plaintiff request that Defendant Swanson answer the following interrogatories, Under Oath, and that the answers be signed by the person making them, and be served on the Plaintiff within (30) days of service of these interrogatories.

If you cannot answer the following interrogatories in full, after exercising due diligence to secure the information to do so, so state and answer to the extent possible, specifying your in ability to answer the remainder and stating whatever information or knowledge you have concerning the unanswered portions.

Statements given under Oath are subject to the penalty of perjury, Pursuant to Pa. C.S. §4904.

These interrogatories shall be deemed continuing, so as to require supplemental answers, as new and diffrent information materializes.

Todays Date:_____**2006 Time:**_____ **Place:**_____

Counsel for Defendant:_____

#23

1). State complete name, Official Employment Position, Place of Employment and Date of Employment.

Answer:

2). Were you on duty in the Visiting room on April 8, 2006 ?

Answer:

YES_____ or NO_____

3). Did you make rounds visually observing inmate activity in the visiting room as well as the non-contact booth ?

Answer:

4). Can an inmate physically engage in sexual contact with their visitor, while visiting in the non-contact booth ?

Answer:

YES_____ or NO_____

5). Did you see the plaintiff engaging in Sexual Acts or conduct with his minor child or anybody on 12-29-05 ?

Answer:

YES_____ or NO_____

6). Did you see the plaintiff engaging in sexual misconduct or acts with his minor child or anybody while visiting in the non-contact booth no 12-30-05 ?

Answer:

YES_____or NO_____

7). Did you see the plaintiff engaging in sexual misconduct with his minor child or anybody at anytime while in the non-contact booth on 12 March 2006 ?

Answer:

YES_____ or NO_____

8). Is it not policy or procedure to terminate an inmates visit and place the inmate in the restrictive housing unit, once sexual misconduct is observed ?

9). Do you have full knowledge and understanding of Department of Corrections policy and S.C.I. Houtzdale Policy as it pretains to inmate visitation?

Answer:

YES_____ **or** **NO**_____

10). Have you ever been disciplined, Santioned, Reprimanded, Suspended, Placed on Restriction or Warned about Racial Discrimination against African-american inmates or inmates ?

Answer:

YES_____ **or** **NO**_____

11). Have you ever been disciplined, Santioned, Reprimanded, Suspended, Placed on Restriction or Warned or Placed on a Restriction from writing Misconducts, due to writing many misconducts which are found in error ? If so, When?

Answer:

12). Does the Department of Correction have a policy against all types of Discrimination?

Answer:

13). Was the misconduct written in your hand, charging the Plaintiff his wife and their child of Engaging in Sexual Acts with others, Refusing to obey Orders and Violating Visiting Room Rules and Regulations a true and Factual misconduct?

Answer:

YES_____ **or** **NO**_____

Answers by:_____

Administered BY:_____

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

GLENN A. HOLDER SR.
Plaintiff

V.

MATTHEW A. SWANSON, ET AL.,
Defendants

No. 06-894-CD

PROOF OF SERVICE

I hereby certify that upon this date, I have served the attached Interogatories upon the individuals listed below, by placing such in the First-Class Mail Box provided by S.C.I. Houtzdale, Pre-Paid, whichsatisfies the Pa. Rules of Civil Procedures.

BY PRE-PAID FIRST-CLASS MAIL.

CLERK OF COURTS
CLEARFIELD COUNTY COURT
P.O. BOX 549
CLEARFIELD, PA 16830

(2) Copies

DEBRA SUE RAND ESQ,
OFFICE OF CHIEF COUNSEL
DEPARTMENT OF CORRECTIONS
55 UTLEY DRIVE
CAMP HILL, PA 17011

(1) Copy

DATE: 31 Oct. 2006

SUBMITTED BY:
Mr. Glenn A. Holder sr. Pro-se
EA-7173
P.O. Box 1000
Houtzdale, PA 16698-1000

CA

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

GLENN A. HOLDER, SR., Plaintiff	*	
vs.	*	NO. 06-894-CD
OFFICER SWANSON, et al, Defendants	*	

ORDER

NOW, this 30th day of October, 2006, upon consideration of Defendants' Preliminary Objections, it is hereby ORDERED that the Preliminary Objections are SUSTAINED and the Second Amended Petition for Review is DISMISSED as to all parties except Swanson and as to all counts except for monetary damages.

BY THE COURT,

FREDRIC J. AMMERMAN
President Judge

FILED
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OCT 31 2006

William A. Shaw
Prothonotary/Clerk of Courts

ICC Plff-
EA 7173
SCI Houtzdale
ICC Atty Rand
GR

F22

DATE: 10/31/06

____ You are responsible for serving all appropriate parties.

__X__ The Prothonotary's office has provided service to the following parties:

__X__ Plaintiff(s) ____ Plaintiff(s) Attorney ____ Other

____ Defendant(s) __X__ Defendant(s) Attorney

____ Special Instructions:

FILED

OCT 31 2006

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA CIVIL DIVISION

GLENN A. HOLDER, SR.,	:	
	:	
Plaintiff,	:	No. 06-894-CD
	:	
v.	:	(President Judge Fredric J. Ammerman)
	:	
OFFICER SWANSON, et al.	:	
	:	
Defendants.	:	

PRAECIPE FOR ENTRY OF APPEARANCE

TO THE PROTHONOTARY:

Please enter my appearance as counsel on behalf of Defendant, Glenn E. Irwin in the above-captioned matter.

Respectfully submitted,

Office of General Counsel

By: Debra Sue Rand

Debra Sue Rand
Assistant Counsel
Attorney I.D. No. 41661
Pennsylvania Department of Corrections
Office of Chief Counsel
55 Utley Drive
Camp Hill, PA 17011
(717) 731-0444

Dated: October 19, 2006

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OCT 23 2006 copy to CIA
William A. Shaw
Prothonotary/Clerk of Courts

#21

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA CIVIL DIVISION

GLENN A. HOLDER, SR.,	:	
	:	
Plaintiff,	:	No. 06-894-CD
	:	
v.	:	(President Judge Fredric J. Ammerman)
	:	
OFFICER SWANSON, ET AL.	:	
	:	
Defendants,	:	

CERTIFICATE OF SERVICE

I hereby certify that I am depositing in the U.S. mail a true and correct copy of the Praecipe for Entry of Appearance upon the person(s) in the manner indicated below:

Service by first-class mail
addressed as follows:

Glenn A. Holder, Sr., EA-7173
SCI-Houtzdale
P. O. Box 1000
Houtzdale, PA 16698

Kay Flohr
Clerk Typist 2
Pennsylvania Department of Corrections
55 Utley Drive
Camp Hill, PA 17011
(717) 731-0444

Dated: October 19, 2006

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

GLENN A. HOLDER SR.
Plaintiff

V.

OFFICER MATTHEW SWANSON, ET AL.,
Defendants

No.: 06-894-CD

(President Judge:
Fredric J. Ammerman)

PLAINTIFF'S RESPONSE TO DEFENDANTS PRELIMINARY OBJECTIONS.

NOW COMES, Glenn A. Holder Sr., Pro-se Plaintiff in the above matter with his Response to the Defendants Amended Preliminary Objections, of the Plaintiff's Amended Complaint Pursuant to Rules of Civil Procedure 1928, and submitts the following:

1). Plaintiff confined at State Correctional Institution at Houtzdale, Houtzdale, Pennsylvania. D.O.C.#EA-7173.

2). Plaintiff filed the present actions due to a fraudlent misconduct report written by Officer Swanson, Motivated by racial Discrimination, alleging that the plaintiff, the plaintiff's wife and their Child refused to Obey Orders, Violated visiting room rules and regulations, and the plaintiff Engaged in Sexual Acts with others,(His minor child) on 12-29-05, 12-30-05 and twice on 3-12-06.

3). Thedefendants are Officers of the Department of Correction employed at S.C.I. Houtzdale, Houtzdale, Pennsylvania.

4). Counsel for defendants continues to represent Irwin, when she has not entered an appearance for him. (SEE PRAECIPE FOR ENTRY OF APPEARANCE.)

5). Counsel states on pg. 2, at #3, Defendant Swanson had issued the plaintiff a misconduct based upon the conduct of the seven year old daughter of the plaintiff.

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William A. Shaw
Prothonotary/Clerk of Courts
1 CERT TO PLFF
#20

6). Upon review of the plaintiff's Amended complaint, and the present submission, as well as the fraudlent misconduct report, the alleged charges and fabrications were directed not only at the plaintiff, but the plaintiff's wife and their child.

7). Plaintiff was charged, said guilty and punished for what was clearly a total fabrication, which the remaining defendants went along with.

DEFENDANTS FIRST PRELIMINARY OBJECTIONS.

8). Counsel states that there are no allegations of personal involvement as to defendants, Shirley, Reed, Britton, Cameron, Hartnett, Irwin and Patrick.

9). If the Court would review the Amended Petition, pg. 4, #30 through pg. 11, #69, there will be clear specific allegations of direct involvement by the above named defendants.

10). Counsel states that liability for Civil Rights Violations must be imposed, based upon personal involvement and may not be imposed on a theory of Respondeat Superior. Pg. 3, #9.

11). Plaintiff shows Direct participation of each Defendant, Acting Under the Color of State Law. Defendants who directly participate in Constitutional Violations may be held liable for their own actions. Cortez-Quinones V. Jiminez-Nettleship, 842 F.2d 556, 559-61 (1988)

12). Plaintiff shows in his amended complaint that each defendant Acting Under the Color of State Law, and in their capacity failed to act. Prison personnel maybe held liable for their failure to act if it causes a constitutional violation. Acts of omission are actionable....To the same extent as acts of commission. Smith V. Ross, 482 F.@D 33, 36, (1978), accord. Estelle V. Gamble, 429 U.S. 97, 106, 97 S.CT. 285 (1976). Officials or emplotees who know or reasonably should know of another employees actions and of a constitutional violation may be held liable **if** they fail to do anything about it. Alexander V. Perril, 916 F.2d 1392, 1395 (1990) cites, Prison officials can't just sit on your duff and not do anything to prevent violations of rights.

13). Plaintiff IS NOT using Respondeat Superior theory. The Plaintiff is holding the defendants responsible on the following theory;

a). Officer Swansons supervisors, hereafter, the defendants, learned of the violations of the plaintiffs rights; Were aware of swansons discriminatory history and fraudlent misconduct writings and failed to do anything to correct the situation.
b). The defendants created a custom allowing and/or encouraging violations of constitutional and civil rights, AND
c). The defendants were grossly negligent in managing the people they are suppose to supervise or have supervision over.

14). The defendants did not uphold the decision of the hearing examiner, but failed to act on a matter known to be fraudlently written.

15). The procedural error that existed was the holding of a disciplinary hearing and conviction on charges fabricated, due to racial Discrimination.

16). Counsel for the defendants cites authority under Section 1983, which is a Federal Action. The Common Pleas Court is a State Court, which has it's own Local Rules , as well as Rules of Court. There for the citing of Section 1983 Authority is inappropriate in this matter.

WHEREFORE, the Plaintiff respectfully request that this Honorable Court, rule Liberally fro the Pro-se Plaintiff and Dismiss the Defendants First Preliminary Objections and move forward with the Defendants, Shirley, Reed, Britton, Cmaeron, Hartnett, Irwin and Patrick in this case.

DEFENDANTS SECOND PRELIMINARY OBJECTION IS TO INJUNTIVE RELIEF.

17). Counsel for the defendants state that request is speculative and not proper. Pg. 5, #13.

18). Plaintiff request injuntive relief is due to the known practices of administration for the past (8) years, to retaliate against any inmate who brings correction, civil actions or go over

heads on any matter.

19). As soon as plaintiff filed this current action, rules were posted in the non-contact booth, stating that the family can no longer take photos for their family member; that all visitors must remain seated at all times during the visit, etc. (SEE EXHIBIT "M" IN AMENDED PETITION)

20). Photos have always been taken by my family and given to me after my visit was over. To state that my visitors must remain seated, while other visitors raom freely is discrimination, and it also prevents my child from seeing me due to the obstructions in place. The only way to communicate is to raise my vioce, due to no hearing devices. The administration is aware of these things, yet posted these retalitory rules, knowing that they would directly effect the plaintiff and his family..

21). On 29 July 2006, plaintiff urged his wife to return for a visit with their child, and due to the newly retailatory rules, the plaintiffs child became physically upset and sick, because she was unable to see her daddy nor hear what he was saying, and the visit ended after only one hour and a half.The plaintiff has not had a visit since.

22). While other visitors move around at will, plaintiffs visitors had to remain seated, including the minor child, who just rode 3½ hours for the visit.

23). The plaintiff request injuntive relief across the board for Racial Discrimination and Discrimination peroid.

24). The Plaintiff request injuntive relief for Harassment which follows civil actions or the filing there of, and indeed can be seen on a daily basis.

25). The plaintiff request injuntive relief from tranfer, for a tranfer will cause a financial and undue burden to the family, for the normal retaliation procedd is to send the inmate to a prison as far away from the inmates home as possible, which cause additional harm to the family.

26). Upon review of the plaintiffs institutional records, it will reveal that the plaintiff is not a trouble maker and follows the rules governing the institution.

27). The plaintiffs only request to admisnistration was to be left alone, free from verbal, mental and physical abuse, or being singled out.

WHEREFORE, plaintiff prays this Honorable Court will Grant all Injuntive Relief requested.

DEFENDANTS THIRD PRELIMINARY OBJECTION IS TO VISITATION RULES.

28). Plaintiff establishes that the new rules posted in the non-contact booth are retialitory.

29). The New Rules posted in the non-contact booth do not apply to other visitors outside of the non-contact booth.

30). Defendants state that an inmate has no right tovisitation privileges, Yet the Department of Ocrrections ha policies that give inmates visitation. Model Sentencing and Corrections Act §4-115 (b)(3)(2001) state that Private Visits are Required for any inmate that is not classified as dangerous.

31). The authority used by the counsel for defendants concern an inmate that is suing the department of Correction for visitation rights.

32). The plaintiff is suing in regards to the violation of his , as well as his wife and childs 14th amendment rights, as to Equal treatment, being free od racial discrimination.

33). The plaintiff has not been classified as dangerous. ABA STANDARDS FOR CRIMINAL JUSTICE, STANDARD 23.6.2 (C) (1986) states that Contact Visiting is required; MODEL SENTENCING AND CORRECTION ACT §4-115 (b)(3)(2001) State that private visits are required for any inmate not classified as dangerous.

34). Defendants clearly discriminate against the plaintiff due to race and the conviction the plaintiff is under.

35). The inability for a child to touch their parent can be a trumatic experience. Block V. Rutherford, 468 U.S. 576, 598, 104 S. Ct. 3227, 82 L.Ed. 2d 438 (1984),; For inmates with small children, a non-contact visit is almost no visit at all. Boudin V. Thomas, 533 F. Supp. 786, 792-93 (1982).

36). Contact visits are emotionally and socially constructive, O'Bryan V. Saginaw County, Mich., 529 F. Supp. 206 209 (1981) Visiting in that matter tends to reduce inmate and visitors apprehe-nsion and tension, thus it is widely reconized that contact visiting can contribute to the easing of tension within a correctional facility and can contribute to the rehabilitation of inmates. Rhem V. Malcom, 371 F. Supp. 594, 507 F.2d 333 (1974).

WHEREFORE, Plaintiff prays that this Honorable Court will rule Liberally for the pro-se plaintiff and Order Retailitory Rules removed and Grant Contact Visitation for the plaintiff with his entire family.

DEFENDANTS FOURTH PRELIMINARY OBJECTIONS

37). Defendants state plaintiff has no right toobtain damages for alleged injuries to non-parties.

38). Plaintiff seeks remedy and damages for actions against himself, as wellas gainst his wife and their child.

39). Defendant Swansons fraudlent misconduct report states that the plaitiff's minor child was standing on the table, The minor child was bent over shaking her rear end at the plaintiff, and the minor child was engaged, thus being a victim, in sexual acts with the plaintiff, Her daddy, and finally that these acts happen on (4) different occasions. These were against the minor child.

40). The racial discrimination, Civil Rights Violations and 14th Amendment violation as it pretains to Equal Protection and Equal Treatment, were against the plaintiff, the plaintiffs wife and their child. SEE AMEND PETITION #14 thru 20, #28, #33, #40, #46, #53, #57, #59 thru #61 and #65 thru #68, all envolve the plaintiff, the wife of the plaintiff and their child.

WHEREFORE, the Plaintiff prays that this Honorable Court will Grant all Relief Requested in the Submitted Petition, overruling the Defendants Preliminary Objections in it's entirity.

DATE: 6 Oct. 2006

Respectfully Submitted:

Mr. Glenn A. Folder Sr. Pro-se
EA-7173
P.O. Box 1000
Houtzdale, Pa 16698-1000

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

GLENN A. HOLDER SR. :

V. :

OFFICER MATTHEW SWANSON, ET AL., :

PROOF OF SERVICE

I hereby on this date serve upon the individuals listed the attached, by placing such in the First-Class mail box provided, Pre-Paid, which satisfies the Rules of Civil Procedures.

BY FIRST-CLASS PRE-PAID MAIL.

CLERK OF COURTS
COMMON PLEAS COURT OF CLEARFIELD
230 EAST MARKET STREET
CLEARFIELD, PA 16830

ORIG AND (2)

DEBRA SUE RAND ESQ.
OFFICE OF CHIEF COUNSEL
DEPARTMENT OF CORRECTIONS
55 UTLEY DRIVE
CAMP HILL, PA 17011

(1) Copy

DATE: 6 Oct. 2006

SUBMITTED BY:

Glenn A. Holder Sr. Pro-se
EA-7173P.O. Box 1000
Houtzdale, Pa 16698-1000

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA CIVIL DIVISION

GLENN A. HOLDER, SR.,	:	
	:	
Plaintiff,	:	No. 06-894-CD
	:	
v.	:	(President Judge Fredric J. Ammerman)
	:	
OFFICER SWANSON, ET AL,	:	
	:	
Defendants,	:	

ORDER

NOW, this 2nd day of October 2006, upon consideration of Defendants' Application to have the Preliminary Objections Decided Without Oral Argument, it is hereby ORDERED that Preliminary Objections in the above-captioned matter shall be decided without oral argument.

~~In the alternative, Defendants shall submit a Praecipe for Argument and Proposed Scheduling Order in compliance with local rules.~~ FJA

BY THE COURT:

J.

FILED 1cc Atty Rand
OCT 03 2006 12:48/BA
William A. Shaw
Prothonotary/Clerk of Courts

DATE: 10/3/06

X You are responsible for serving all appropriate parties.

____ The Prothonotary's office has provided service to the following parties:

____ Plaintiff(s) ____ Plaintiff(s) Attorney ____ Other

____ Defendant(s) ____ Defendant(s) Attorney

____ Special Instructions:

FILED

OCT 03 2006

William A. Shaw
Prothonotary/Clerk of Courts

FILED
OCT 02 2006
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA CIVIL DIVISION

GLENN A. HOLDER, SR.,	:	
	:	
Plaintiff,	:	No. 06-894-CD
	:	
v.	:	(President Judge Fredric J. Ammerman)
	:	
OFFICER SWANSON, ET AL,	:	
	:	
Defendants,	:	

APPLICATION TO HAVE THE PRELIMINARY OBJECTIONS DECIDED WITHOUT ORAL ARGUMENT

Defendants hereby request that this matter be decided without oral argument because the Plaintiff in this civil matter is an inmate currently incarcerated at the State Correctional Institution at Houtzdale, who is proceeding pro se, and because the law as pertains to the preliminary objections is well settled.

Respectfully submitted,

Office of General Counsel

By: Debra Sue Rand

Debra Sue Rand
Assistant Counsel
Attorney I.D. No. 41661
Pennsylvania Department of Corrections
Office of Chief Counsel
55 Utley Drive
Camp Hill, PA 17011
(717) 731-0444

Dated: September 28, 2006

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA CIVIL DIVISION

GLENN A. HOLDER, SR.,	:	
	:	
Plaintiff,	:	No. 06-894-CD
	:	
v.	:	(President Judge Fredric J. Ammerman)
	:	
OFFICER SWANSON, ET AL,	:	
	:	
Defendants,	:	

CERTIFICATE OF SERVICE

I hereby certify that I am depositing in the U.S. mail a true and correct copy of the Application to have the Preliminary Objections Decided Without Oral Argument upon the person(s) in the manner indicated below:

Service by first-class mail
addressed as follows:

Glenn A. Holder, Sr., EA-7173
SCI-Houtzdale
P. O. Box 1000
Houtzdale, PA 16698

Stacy M. Jarvis
Clerical Supervisor 2
Pennsylvania Department of Corrections
55 Utley Drive
Camp Hill, PA 17011
(717) 731-0444

Dated: September 28, 2006

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA CIVIL DIVISION

GLENN A. HOLDER, SR.,	:	
	:	
Plaintiff,	:	No. 06-894-CD
	:	
v.	:	(President Judge Fredric J. Ammerman)
	:	
OFFICER SWANSON, ET AL,	:	
	:	
Defendants,	:	

SCHEDULING ORDER

NOW, this _____ day of _____ 2006, it is hereby ORDERED that Argument on Defendants' Preliminary Objections in the above-captioned matter is hereby scheduled for _____.

BY THE COURT:

_____
J.

#18

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA CIVIL DIVISION

FILED 1cc
m 10:50 Bst Atty
OCT 02 2006
William A. Shaw
Prothonotary/Clerk of Courts

GLENN A. HOLDER, SR.,	:	
	:	
Plaintiff,	:	No. 06-894-CD
	:	
v.	:	(President Judge Fredric J. Ammerman)
	:	
OFFICER SWANSON, ET AL,	:	
	:	
Defendants,	:	

PRAECIPE FOR ARGUMENT

To the Court Administrator:

Please schedule an argument date for consideration of Defendants' Preliminary Objections in compliance with Local Rule 1028(c).

Respectfully submitted,

Office of General Counsel

By: Debra Sue Rand

Debra Sue Rand
Assistant Counsel
Attorney I.D. No. 41661
Pennsylvania Department of Corrections
Office of Chief Counsel
55 Utley Drive
Camp Hill, PA 17011
(717) 731-0444

Dated: September 28, 2006

#18

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA CIVIL DIVISION

GLENN A. HOLDER, SR.,	:	
	:	
Plaintiff,	:	No. 06-894-CD
	:	
v.	:	(President Judge Fredric J. Ammerman)
	:	
OFFICER SWANSON, ET AL,	:	
	:	
Defendants,	:	

CERTIFICATE OF SERVICE

I hereby certify that I am depositing in the U.S. mail a true and correct copy of the Praecipe for Argument upon the person(s) in the manner indicated below:

Service by first-class mail
addressed as follows:

Glenn A. Holder, Sr., EA-7173
SCI-Houtzdale
P. O. Box 1000
Houtzdale, PA 16698

Stacy M. Jarvis
Clerical Supervisor 2
Pennsylvania Department of Corrections
55 Utley Drive
Camp Hill, PA 17011
(717) 731-0444

Dated: September 28, 2006

FILED 1cc
OCT 02 2006 10:55 Atty
William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA CIVIL DIVISION

GLENN A. HOLDER, SR.,	:	
	:	
Plaintiff,	:	No. 06-894-CD
	:	
v.	:	(President Judge Fredric J. Ammerman)
	:	
OFFICER SWANSON, ET AL,	:	
	:	
Defendants,	:	

NOTICE TO PLEAD

To: Glenn A. Holder, Sr., EA-7173
SCI-Houtzdale
P.O. Box 1000
Houtzdale, PA 16698

You are hereby notified to file a written response to the enclosed Preliminary Objections within twenty (20) days from service hereof or a default judgment may be entered against you.

Respectfully submitted,
Office of General Counsel

By: Debra Sue Rand

Debra Sue Rand
Assistant Counsel
Attorney I.D. No. 41661
Pennsylvania Department of Corrections
55 Utley Drive
Camp Hill, PA 17011
(717) 731-0444

Dated: September 28, 2006

#17

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA CIVIL DIVISION

GLENN A. HOLDER, SR.,	:	
	:	
Plaintiff,	:	No. 06-894-CD
	:	
v.	:	(President Judge Fredric J. Ammerman)
	:	
OFFICER SWANSON, ET AL,	:	
	:	
Defendants,	:	

DEFENDANTS' PRELIMINARY OBJECTIONS

NOW, comes Debra Sue Rand, Assistant Counsel for the Department of Corrections ("Department") and files the following Amended Preliminary Objections to the "Amended Petition for Review," dated September 20, 2006 and referred to hereafter as "Second Amended Petition for Review" on behalf of all named Defendants:

Background

1. Plaintiff is Glenn A. Holder, Sr., an inmate currently incarcerated at the State Correctional Institution at Houtzdale ("SCI-Houtzdale") under Inmate No. EA-7173.

2. Defendants are officers and employees of the Department.

3. In his Second Amended Petition for Review Plaintiff alleges that Defendant Swanson issued him a misconduct based upon the conduct of his seven year old daughter when she went to visit Plaintiff at SCI-Houtzdale.

4. The misconduct listed as the charges: "refusing to obey an order," "engaging in sexual acts with others" and "violation of visiting room regulations." (Ex. A to Second Amended Petition for Review).

5. Plaintiff further alleges that Defendant Shirley approved the issuance of the misconduct; that Defendant Reed, as a Hearing Examiner, issued a sanction based upon the behavior alleged in the misconduct; that on appeal Defendant Patrick reduced the misconduct from Class I to Class II and reduced the sanction; that Defendants Britton, Cameron, Hartnett and Patrick, as members of the Program Review Committee, were aware that no rules required a minor child to remain seated during visits with an incarcerated parent; that Defendant Irwin, as the investigating officer, permitted the misconduct to stand; and that, ultimately, Jeffrey A. Beard, Ph.D., Secretary of the Department directed that the misconduct be vacated.

6. Plaintiff further alleges that he is black and his wife is white; that Officer Swanson personally disapproves of inter-racial marriages between African-Americans and Caucasians; and, that this view caused him to discriminate against Plaintiff in issuing the misconduct.

7. As relief, Plaintiff seeks to have this Court declare that his state and federal constitutional rights have been violated; to enjoin the named Defendants from harassing him, transferring him, discriminating against him, or retaliating against him; to be permitted contact, as opposed to non-contact, visits with his family; and, to remove visiting room rules posted after the filing of this case. He also seeks various forms of money damages.

First Preliminary Objection
Pa.R.Civ.P. No. 1028(a)(4)
Demurrer[1]

(NO ALLEGATIONS OF PERSONAL INVOLVEMENT AS TO DEFENDANTS SHIRLEY, REED, BRITTON CAMERON, HARTNETT, IRWIN AND PATRICK)

8. There are no specific allegations in the Second Amended Petition for Review of direct involvement by Defendants Shirley, Reed, Britton Cameron, Hartnett, Irwin and Patrick.

9. Liability for civil rights violations must be imposed based upon on personal involvement and may not be imposed on a theory of *respondeat superior*. *Rode v. Dellarciprete*, 845 F.2d 1195 (3d Cir. 1988).

[1] When ruling on preliminary objections, a court considers as true all well-pleaded facts which are material and relevant. A preliminary objection in the nature of a demurrer is deemed to admit all well-pleaded facts and all inferences reasonably deduced therefrom. In determining whether to sustain a demurrer this Court need not accept as true conclusions of law, unwarranted inferences from the facts, argumentative allegations, or expressions of opinion. *Silo v. Ridge*, 728 A.2d 394, 397-398 (Pa. Cmwlth. 1999); *Giffin v. Chronister*, 616 A.2d 1070, 1072 (Pa. Cmwlth. 1992).

10. Allegations of participation or actual knowledge and acquiescence must be made with appropriate particularity. *Id.* Defendants, who merely uphold the decisions of hearing examiners when there are no procedural errors at the hearing, are not liable to the inmate under Section 1983. *Whittington v. Vaughn*, 289 F.Supp.2d 621 (E.D. Pa. 2003); *see also Bey v. Pennsylvania Dept. of Corrections*, 98 F.Supp.2d 650, 664 (E.D. Pa. 2000) (official who upheld decisions with respect to misconduct charges against a prisoner was not liable under Section 1983).

11. Accordingly, even if Plaintiff's filing were construed as stating an alleged Constitutional violation, it fails to state a *prima facie* claim against Defendants Shirley, Reed, Britton Cameron, Hartnett, Irwin and Patrick and they should, therefore, be dismissed from this case.

WHEREFORE, the Defendants respectfully request that the Court sustain this preliminary objection and dismiss Defendants Shirley, Reed, Britton, Cameron, Hartnett, Irwin and Patrick from this case.

Second Preliminary Objection
Pa.R.Civ.P. No. 1028(a)(4)
Demurrer

(INJUNCTIVE RELIEF)

12. Plaintiff seeks injunctive relief asking that this Court enjoin any **future** retaliation, harassment, discrimination or transfer actions.

13. This request is speculative only and not a proper subject for injunctive relief. *International Association of Firefighters v. Lofus*, 471 A.2d 605, 608 (Pa. Cmwlth. 1984).

WHEREFORE, Plaintiff has failed to state a cause of action for such relief.

Third Preliminary Objection
Pa.R.Civ.P. No. 1028(a)(4)
Demurrer

(VISITATION POLICIES)

14. Plaintiff seeks to have the Department remove new rules for visitors.

15. An inmate has no right to visitation privileges. *Wei Chem*, 725 A.2d at 229 n.2 (citing *Kentucky Department of Corrections v. Thompson*, 490 U.S. 454 (1989)); *see also Robles v. Department of Corrections*, 718 A.2d 882 (Pa. Cmwlth. 1998). Therefore, he cannot be heard to complain about constitutionally permissible visitation restrictions applied to all non-contact visitations.

WHEREFORE, Plaintiff has failed to state a cause of action for such relief.

Fourth Preliminary Objection
Pa.R.Civ.P. No. 1028(a)(5)
Lack of Capacity

LACK OF CAPACITY TO SUE

16. Plaintiff seeks to obtain damages for his wife and daughter, who are not parties in his case.

17. Plaintiff has no right to obtain damages for alleged injuries to non-parties.

WHEREFORE, Plaintiff's request for relief to non-parties should be dismissed.

Respectfully submitted,

Office of General Counsel

By: Debra Sue Rand

Debra Sue Rand
Assistant Counsel
Attorney I.D. No. 41661
Pennsylvania Department of Corrections
Office of Chief Counsel
55 Utley Drive
Camp Hill, PA 17011
(717) 731-0444

Dated: September 28, 2006

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA CIVIL DIVISION

GLENN A. HOLDER, SR.,	:	
	:	
Plaintiff,	:	No. 06-894-CD
	:	
v.	:	(President Judge Fredric J. Ammerman)
	:	
OFFICER SWANSON, ET AL,	:	
	:	
Defendants,	:	

CERTIFICATE OF SERVICE

I hereby certify that I am depositing in the U.S. mail a true and correct copy of the Defendants' Preliminary Objections upon the person(s) in the manner indicated below:

Service by first-class mail
addressed as follows:

Glenn A. Holder, Sr., EA-7173
SCI-Houtzdale
P.O. Box 1000
Houtzdale, PA 16698

Stacy M. Jarvis
Clerical Supervisor 2
Pennsylvania Department of Corrections
55 Utley Drive
Camp Hill, PA 17011
(717) 731-0444

Dated: September 28, 2006

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

GLENN A. HOLDER SR.
Plaintiff

V.

MATTHEW SWANSON
CAPTIAN MARSHALL SHIRLEY
HEARING EXAMINER ROBERT REED
DEPUTY RANDALL E. BRITTON
DEPUTY KENNETH R. CAMERON AND
FRANK HARTNETT PROGRAM REVIEW
COMMITTEE. INTELLIGENCE CAPTIAN
IRWIN AND SUPERINTENDANT GEORGE
PATRICK.
Individually and in their Official
Official Capacities.
Defendants

No. 06-894-CD

President Judge Fredric J. Ammerman

FILED 1 CC PAFS
m 10:19 30
SEP 29 2006
William A. Shaw
Prothonotary/Clerk of Courts

REQUEST FOR PRODUCTION OF DOCUMENTS

NOW COMES, Glenn A. Holder Sr. Pro-se, Plaintiff in the above action, Pursuant to **PA. Rules of Civil Procedures 4009.11 (a) and (b)**, Requesting that the above said defendants Produce for inspect--ion and copying the following documents:

1). Complete Employment Record of Officer Matthew Swanson, containing all disciplinary sanctions and actions, as well as the incident involving inmate Shaka Turner.

2). Complete investigation Report of DC-141 against the plaintiff.

#16

3). Complete Report written by the Program Review Committee concerning the said incident.

4). Complete report of incident by Superintendant.

5). Any and all rules and regulations and policies of S.C.I. Houtzdale concerning inmate visitation.

These requested documents are relevant to the plaintiff's case and does not and will not impose undue burden or expense to S.C.I. Houtzdale, and will be admissable, and is of record at S.C.I. Houtzdale Prison.

DATE: 27 Sept. 2006

Submitted By:
Mr. Glenn A. Holder Sr. pro-se

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

GLENN A. HOLDER SR.
Plaintiff

V.

MATTHEW SWANSON, et al.,
Defendants

No. 06-894-CD

PROOF OF SERVICE

I hereby certify that upon this date, I have served the attached Request For Production of Documents upon the individual listed below by placing such in the First-Class Mail box provided by S.C.I. Houtzdale, Pre-Paid, which satisfies the PA. Rules of Civil Procedures.

BY PRE-PAID FIRST-CLASS MAIL.

CLERK OF COURTS
CLEARFIELF COUNTY COURT
COMMON PLEAS COURT
P.O. BOX 549
CLEARFIELD, PA 16830

(2) Copies

DEBRA SUE RAND ESQ.
OFFICE OF CHIEF COUNSEL
DEPARTMENT OF CORRECTIONS
55 UTLEY DRIVE
CAMP HILL, PA 17011

(1) COPY

DATE: 27 Sept. 2006

SUBMITTED BY:
Mr. Glenn A. Holder Sr. pro-se
EA-7173
P.O. BOX 1000
Houtzdale, PA 16698-1000

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

GLENN A. HOLDER SR.
Plaintiff

V.

MATTHEW SWANSON
CAPT. MARSHALL SHIRLEY, ROBERT
HEARING EXAMINER;ROBERT REED,
DEPUTY RANDALL E. BRITTON,
DEPUTY KENNETH R. CAMERON, and
FRANK HARTNETT,PROGRAM REVIEW
COMMITTE. INTELLIGENCE CAPTIAN
IRWIN, and SUPERINTENDANT GEORGE
PATRICK,
INDIVIDUALLY AND IN THEIR
OFFICIAL CAPACITIES.
Defendants

No. 06-894-CD

CIVIL COMPLAINT

(President Judge Fredic J. Ammerman)

FILED 3cc Piff
m/2:18/30
SEP 21 2006
William A. Shaw
Prothonotary/Clerk of Courts

AMENDED COMPLAINT
PURSUANT TO RULES OF CIVIL PROCEDURE 1028

NOW COMES, Glenn A. Holder Sr.,Pro-se, plaintiff in the above said, in compliance to R.C.P. 1028 and Order dated, 5 Sept. 2006 by this Honorable Court as follows:

1). This Court has Jurisdiction over this natter pursuant to Section 736 of the Judicial Code 42 PA C.S. §763.

PLAINTIFF

2). Plaintiff, Glenn Anthony Holder Sr., is and was at all times mentioned herein a prisoner of the state of Pennsylvania, in the custody of the PA Department of Corrections. Plaintiff is currently confined in State Correctional Institution at Houtzdale, in the city of Houtzdale, Pennsylvania.

DEFENDANTS.

3). Defendant Matthew Swanson is a Correctional Officer of the PA Department of Correction, who at all times mentioned in this complaint was assigned to S.C.I. Houtzdale.

4). Defendant Marshall J. Shirley is a Correctional Officer of the PA Department of Corrections, who at all times mentioned in

#15

this complaint was assigned to S.C.I. Houtzdale, holding the rank of Captian as Shift Supervisor.

5). Defenant Robert Reed is an employee of the PA Department of Correction, who at all times mention in this complaint was assigned to S.C.I. Houtzdale as Hearing Examiner.

6). Defendant Randall Britton is an Officer of th PA. Department of Corrections, who at all times mentioned in this complaint was assigned to S.C.I Houtzdale. As Deputy Superintendant. he is legally responsible in assisting in the operation of S.C.I. Houtzdale , for the welfare of all inmates in S.C.I. Houtzdale and a member of the Program Review Committee.

7). Defendant Kenneth Cameron is an Officer of th PA Department of Corrections, who at all times mentioned in this complaint was assigned to S.C.I. Houtzdale as Deputy Superintendant, Legally responsible in assisting in the operation of S.C.I. Houtzdale, For the welfare of the inmates in S.C.I. Houtzdale and a member of the Program Review Committee.

8). Defendant Frank Hartnett is an employee of the PA Department of Corrections, who at all times mentioned in this complaint was assigned to S.C.I Houtzdale as Classification/Program Manager and is a member of the Program review Committee.

9). Defendant Irwin is a Correctional Officer of PA Department of Correction, who at all times mentioned in this complaint was assigned to S.C.I. Houtzdale, as Intelligence Officer, holding the rank of Captian and the investigating officer in this matter.

10. Defendant George Patrick is Superintendant of S.C.I. Houtzdale. He is legally responsible for the operation of S.C.I. Houtzdale and for the welfare of the inmates of that prison. He is also the fourth member of the Program Review Committee.

11). Each defendant is sued individually and in his official capacity. At all times mentioned in this complaint each defendant was present at S.C.I. Houtzdale and acted under the color of State Law.

FACTS:

12). Defendant Swanson submitted a misconduct report on 12 March 2006, stating plaintiff was Engaging in Sexual Acts with others; Refused an Order and Violated Visiting Room Regulations. (SEE EXHIBIT "A").

13). Defendant Swanson knew this report was being fabricated as he wrote it.

14). Defendant Swanson stated that plaintiff minor child was standing on the table, which is untrue. (SEE EXHIBIT "G" THIRD PARAGRAPH).

15). Defendant Swanson stated that the plaintiff's minor child was bent over shaking her rear at the plaintiff, which is untrue. (SEE EXHIBIT "G", THIRD PARAGRAPH).

16). Defendant Swanson was aware that ther was no such rule or policy which stated that a minor child could not sit on the table or that a minor child must remain seated throughout the entire visit. (SEE D.O.C. VISITING ROOM RULES, EXHIBIT "B").

17). Upon information and Belief, Defendant Swanson allows caucasion inmates visitors not only to stand, but allows their minor children to stand on the table in the non-contact booth making it easy for the child to communicate with the incarcerated parent. (SEE EXHIBIT "C" STATEMENTS).

18). Upon information and Belief, Defendant Swanson deprives the plaintiff, who is African-american, the same liberties he freely allows caucasion inmates.

19). Upon information and Belief, Defendant Swanson Racially Discriminated, (Willfully and intentionally) against the plaintiff , the plaintiffs wife and his child, due to the plaintiff being married to a caucasion woman, and having a child as a product of the marriage.

20). Upon information and Belief, Defendant Swanson has an employment history at S.C.I. Houtzdale of Racial Discriminatory behavior and practices, against African american inmates.

21). Defendant Swanson submitted a misconduct report,(EX."A") stating that the very same inappropriate conduct occurred on 12-29-05 and 12-30-05 and twice on 3-12-06, which he was aware was untrue.

22). Defendant Swanson never terminated any of the Plaintiffs visits, though he claims that these inappropriate events occured, being seen by him on (4) four diffrent occassions, when it is policy and the normal procedure to immediately terminate the visit and place the inmate in the Restricted Housing Unit.

23). Upon information and Belief, this action by Defendant Swanson, was also retialitory due to the grievance written by the Plaintiff against the Defendant.

24). Upon information and Belief, Defendant Swanson was just off of the misconduct restriction, he was placed on for writing many fabricated misconduct reports, such as this instant report.

25). Upon information and Belief, Defendant Swanson was aware that the misconduct report he penned was fraudlent.

26). Upon information and Belief, Defendant Swanson was awrae that the plaintiff has not and did not engange in sexual acts with his minor child or anyone else during any visit at S.C.I. Houtzdale.

27). Upon information and Belief, Defendant Swanson being an Officer for PA. Department of Corrections, assigned at S.C.I. Houtzdale has full knowledge of the D.O.C. Policies as they pretain to visiting.

28). Upon information and Belief, Defendant Swanson is fully aware that the Plaintiff, nor his wife or his minor child violated NO rules or regulations set for the visiting room at S.C.I. Houtzdale.

29). During the Disiciplinary (sic) Hearing and upon information and Belief Defendant Swanson raised his right hand being sworn in, stated all information in his submitted report was true and correct, when in fact it was a total fabrication.

30). Upon information and Belief Defendant Shirley, being defendant Swanson supervisor and employed at S.C.I Houtzdale with Defendant Swanson, as his superior, and Defendant Swanson Co-worker for more than (3) years, was aware of Defendant Swanson discriminatory practices, (racial).

31). Upon information and Belief, Defendant Shirley was the ranking Officer and Shift Supervisor on 12 March 2006, and authorized the submitted misconduct report. (SEE EXHIBIT "A")

32). Upon information and Belief, Defendant Shirley was aware not only of Defendant Swanson Racial Discriminatory conduct, but aware that Defendant Swanson had been placed on a misconduct restriction, for writing many fraudlent reports, and authorized this misconduct anyway.

33). Upon information and Belief, Defendant Shirley in his capacity, being of full knowledge of policy, and aware that the visit, as well as alleged events were said to take place in the non contact booth, with the plaintiff being seperated from his visitors reviewed the report giving it an okay, this condoning the behavior of Defendant Swanson, Directly participating in the injury to the Plaintiff and his wife and child.

34). Upon information and Belief, Defendant Shirley, upon his independant review of the alleged seriousness of the charges, allowed the plaintiff to remain in he present status, when if the alleged was thought to be true, the plaintiff would have been placed in the restricted Housing unit until the hearing.

35). Upon information and Belief, Defendant Shirley was aware that the report was suspicious, but willfully, knowingly and intelligently authorized it.

36). Upon information and Belief Defendant Reed (Hearing Examiner) was aware that there was NO evidence of such acts on video tape.

37). Upon information and Belief, Defenadnt Reed is bias due to the plaintiffs incarcerated conviction, stating to the plaintiff "It says here that you are here for rape."

38). Upon information and Belief, Defendant Reed established his Bias, demonstrating such, by stating that he believes the officer (Defendant Swansons) written report over the plaintiff.(SEE EXHIBIT "D")

39). Upon information and Belief, Defendant Reed refused to allow the plaintiffs witness, whom was present during the visit, stating that the witness was not necessary, further establishing his bias and made up mind prior to the plaintiffs account of event. (SEE EXHIBIT "E")

40). Upon information and Belief, Defendant Reed, having full knowledge of D.O.C. policy concerning the visiting room, stated that the plaintiffs minor child violated visiting room rules, when there were NO SUCH RULES, stating that a minor child had to remain seated throughout the entire visit, nor any rules governing the non-contact booth at that time. (SEE EXHIBIT "D").

41). Upon information and Belief, Defendant Reed, having personal feeling involved, waivered in his decision, by first marking that the verdict was NOT GUILTY, then after leaving the room to speak with Defendant Swanson returned and santioned the plaintiff to (60) days in the Retricted Housing Unit. Santions for fraudlent chArges. (SEE EXHIBIT "D").

42). Upon information and Belief, Defendant Reed had personal involvement, participating is assisting Defendant Swanson in Racially Discriminating against the plaintiff, his wife and their child by, his statement that he believed Defendant Swanson, due to the plaintiffs incarcerated conviction of rape and stating that the plaintiffs minor child violated visiting room rules that did not exist.

43). Upon information and Belief, Defendant Reed having knowledge that Defendant Swanson has a history of Racial Discriminatory practices/behavior, as well as Defendant Swanson being on a misconduct restriction for writing many fabricated reports, willfull, knowingly and intelligently chose to take an active part in this miscarriage of administrative justice.

44). Upon information and Belief, Defendant Reed santioned the plaintiff to the Restricted Housing Unit for a peroid of (60) days for charges that were eligible for informal resolution, and did not require placement in the restricted housing unit, confining the plaintiff in the RHU under and due to the fraudlent report. (SEE EXHIBIT "F")

45). Upon information and Belief, Defendant Britton, inhis position with full knowledge of Department of Corrections Policy as it is to Visitation, as well as his knowledge of Defendant Swansons Racial Discriminatory practices and being one of the (4) deciding members on the Program Review Committee, Knowingly, willfully and intelligently chose to sustain ALL ASPECTS of the misconduct report. (SEE EXHIBIT "H").

46). Upon information and Belief, Defendant Britton was aware that the visit took place in the non-contact booth, and that not only was it impossible for the plaintiff to engage in sexual acts with others, but that there was NO SUCH RULE in the visiting rules and regulations that stated that a minor child must remain seated at all times during a visit.

47). Upon information and Belief, Defendant Britton in his capacity, was aware that Defendant Swanson had been Placed on a Misconduct Restriction for writing many Fabricated Misconduct reports, yet chose to knowingly, intelligently, willfully, and intentionally participate, involving himself in assisting Defendant Swanson in his injury to the plaintiff, his wife and their child.

NOTE: THE FACTS STATED ABOVE IN ITEM NUMBER (45) (46) and (47) ALSO ARE FACTS UPON INFORMATION AND BELIEF FOR DEFENDANT CAMERON: DEFENDANT HARTNETT; and DEFENDANT PATRICK.

48). Upon information and Belief Defendant Irwin, being the Security investigator and employed here at S.C.I. Houtzdale more that (3) years, having knowledge of Defendant Swanson derogatory Racial Discriminatory behaviors and History, Knowingly, Willfully and Intelligently condoned Defendant Swanson actions.

49). Upon information and Belief Defendant Irwin, being the investigating Officer, during the investigation interview with the plaintiff, Stated, " When I first saw this thing, I laughed, because I know that it is impossible for you to engage in sexual acts with others in the non-contact booth"., Yet, Defendant Irwin continued by Stating to the Plaintiff, that the charges will stand and remain in the petitioners record.

50). Upon information and Belief, Defendant Irwin was aware that Defendant Swanson had been on a misconduct restriction for writing many fraudlent misconduct reports.

51). Upon information and Belief Defendant Irwin during the investigation interview, instead of focusing on the issue at hand, Defendant adding insult to injury, peppered the plaintiff with questions , inquiring the plaintiff about becomming a snitch for him, or a confidential informant, and that the plaintiff could have a code name like Dancing Bear, this in it'self attempting to lure the plaintiff in harms way.

52). Upon information and belief, Defendant Irwin instead of getting the facts of the fabricated misconduct, offered the plaintiff Ice cream tickets, free cable, soups, free phone calls, a television and other commissary items to work for him and as remedy to a wrong done by Defendant Swanson.

53). Upon information and Belief, Defendant Irwin was aware that the misconduct by Defendant Swanson was false, but willfully, Knowingly, intelligently and intentionally participated in assisting Defendant Swanson in the injury to the plaintiff, the plaintiffs wife and their child.

54). Upon information and Belief Defendant Patrick, being the Superintendent at S.C.I Houtzdale, had knowledge of Defendant Swanson being placed on a misconduct restriction for writing many false misconduct reports.

55). Upon information and belief, Defendant partick in his capacity has full knowledge of the D.O.C. Policy comcerning Visitation, and was aware that there was NO SUCH RULES that stated that **a minor** child must remain seated during the visit.

56). Upon information and belief Defenant Patrick was aware that the misconduct report was false, and attempted to justify defendant Swansons actions by stating that the plaintiff was punished for the behavior of the child despite orders issued to the plaintiff to control his child, making it sound that the child was

being disruptive, which is far from the truth.SEE EXHIBIT "I") ALSO SEE EXHIBIT "G" 2ND PAGE, 2ND PARAGRAPH).

57). Upon information and Belief Defendant Partick, knowing the report was fraudlent, sustained the finding of guilt, stating that #37 of Misconduct was due to the continued misbehavior of the child despite orders issued to the appellant to control his visitor, when this numbered charge is violation of visiting regulations, which did not, and does not exist, concerning this matter. (SEE EXHIBIT "F").

58). Upon information and Belief, Defendant Patrick, reduced the misconduct from a Class I to a Class II misconduct, modified the santion to disciplinary Custody Time Served , after the plaintiff had served (23) days in disciplinary custody (RHU), After Defendant Patrick recieved, (EXHIBIT "G") from the plaintiffs wife, which is a Complaint/Intent letter, Defendant Patrick requested to the Chief Hearing Examiner in Camp Hill to re-open the appeal, recommending that the decision of guilty and the charges be Vacated at final review, to prohibit recharge, rehearing and the misconduct dismissed. Defendant Patrick was aware that the misconduct was false, thus his actions to get rid of the misconduct establishes the fact.

SEC. JEFFERY BEARD INFORMED DEFENDANT PATRICK TO ENSURE THAT HIS STAFF EXPUNGED ALL RECORD OF THE MISCONDUCT FROM THE PLAINTIFFS INSTITUTIONAL FILES. SEE EXHIBIT "L"

59). Upon information and Belief, Defendant Patrick willfully knowingly, intelligently and intentionally participated in directly by having knowledge of Defendant Swanson, whom he is charge of, yet failed to act, until the threat of Civil Actions from the plaintiffs wife.

60). Upon information and Belief Defendant Patrick, knowingly, Intelligently, Willfully and Intentionally allowed his Officer, Defendant Swanson to profile and Racially Discriminate against the plaintiff, the plaintiffs wife and their child.

61). Upon information and belief Defendant Patrick wilfully discriminates against the plaintiff in refusing contact visits for the plaintiff and his biological child, whon is not involved in his case, even though plaintiff has several affidavits from family members

who support the plaintiff for his contact visitation with his child.

62). Upon information and Belief, Defendant Patrick refuses plaintiff contact visitation with his biological child, due to a discriminatory policy against the plaintiff, due to the offense which has the plaintiff currently under incarceration, and which is also in the appellate courts at this moment.

NOTE: THE PLAINTIFF IS ON NON CONTACT STATUS DUE TO THE ACTIONS OF AN INMATE NAMED SIMMS IN S.C.I. MAHANEOY.

63). Upon information and belief, Defendant Patrick willfully and purposefully discriminates against the plaintiff, due to the nature of his incarcerated offense, while at the same time allowing inmates with burtal murder, physical assaults, Multiple murders as well as some caucasion inmates with sex offenses to have contact visits with their children.

64). Upon information and Belief Security and Defendant Patrick state that the plaintiff is a security risk,as a reason that the plaintiff has no contact visitation in the non contact booth with his child, Yet, the plaintiff is cleared by the Defendant and security to work through the night with a female employee, with next to no supervision.

65). Upon information and Belief Defendant Patrick, after the filing of the original complaint, has allowed retialatory rules to be placed in the non-contact booth, that now will not allow the plaintiffs wife and child to take photographs for the plaintiff, which are given to the plaintiff after the visit, which is some thing that the Defendant is aware that the plaintiff buys photo tickets for, prior to his visits. These rules also state that all visitors must remain seated for the duration of the visit, That there is no loud talking.(SEE RULES, EXHIBIT "M" AND THE DATE POSTED IS JUNE 13, 2006 APPROX. A MONTH AFTER FILING)

66). Upon information and Belief Defendant Patrick is aware that if the plaintiffs minor child remains seated, the child will not be able to see the plaintiff, nor the plaintiff her, And given this situation, the only way for the plaintiff to speak to the child would be to raise his vioce, just as the child would have to.

67). Upon information and belief, Defendant Patrick acknowledges the fact that the plaintiff, the plaintiff's wife and their child were racially discriminated against,and False claims and charges were alleged against them by Defendant Swanson, by his actions, to rid the matter upon his request to the Secretary of Corrections to reopen the matter having the matter dismissed, Vacated and expunged from the plaintiffs records. However the damage has already been done.

68). Upon information and belief, Defendant Swanson had intent to cause harm/injury to the plaintiff, the plaintiffs wife and their child, due to his personal beliefs and racial discriminatory evil motive.

69). Upon information and belief, the reamining defendants fail to act and acted in a manner that clearly established that the defendants condoned the racial discriminatory acts and the approved the fraudlent report filed.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

70). Plaintiff used appellate procedures available at S.C.I. Houtzdale to try to solve the problem.

71). Plaintiff recieved DC-141, Misconduct Report on 12 March 2006.

72). Plaintiff had a Disciplinary Hearing 14 March 2006, where the plaintiff was found guilty, sanctioned to (60) Disciplinary Custody in the Restricted Housing Unit immediately.

73). Plaintiff filedAdministrative Appeal according to D.O.C. Policy DC-ADM-801, 14 March 2006, to the Program Review Committee, whom Sustained EVERY ASPECT OF THE MISCONDUCT on March 21, 2006.

74).Plaintiff appealed to the Facility Manager,(Defendant Patrick), who reduced the misconduct to Class II, citing charge diffrent from those alleged in the misconduct report.

75). Plaintiff was released from the restricted Housing unit/ disciplinary custody, after serving (23) days of confinement, in the HOLE, 6 April 2006.

76). Plaintiff filed an appeal to the Chief Hearing Examiner

in Camp Hill, on 12 April 2006, Timely, and relief was denied 21 April 2006, being recieved on 1 May 2006. (SEE EXHIBIT J)

77). Examiner stated that Defendant Patrick throughly and fairly reviewed the facts of this misconduct. (Ex. K)

78). Plaintiff's wife, upon request by the plaintiff, forward a letter of intent (EXHIBIT "G") to Defendant Patrick and Sec. Beard.

79). On 11 May, 2006, Plaintiff recieved letter from Sec. Beard Dated 1 May 2006, (EXHIBIT "L"), stating upon request from Defendant Patrick to re-open the appeal, Vacate, Dismiss and expunge misconduct from all of the plaintiffs institutional files.

80). Plaintiff filed Pettion for Review in Commonwealth Court, which forwarded matter to the Clearfield Common Pleas Court 17 May 2006.

LEGAL CLAIMS.

81). As a result of the actions of the Defendants, the Plaintiff has suffered ridicule from inmates as well as officers, and damage to his low keyed reputaion, and has had to withdraw from his regular activities.

82). Plaintiff's wife has suffered sever depression, her reputation has been damaged and is in grave fear in returning to this institution or any other institution due to the actions of the named defendants.

83). These actions have brought trauma upon the plaintiff's child, making the plaintiff's child a victim, and has harmed the child emotionally.

84). The plaintiff is incarcerated as punishment, not for punishment.

85). The named defendants have taken it upon themselves to inflict more punishment over top of what the court has given, in the way of Racial Discrimination, and deprivation of Constitutional Rights, as well as Civil Rights, and inflicting punishment on the Plaintiff's family.

86). Plaintiff realleges and incorporates paragraph 2-80.

87). Defendant Swanson acting under the color of State Law,in his actions against the plaintiff, racially profiled; Racially Discriminated; Racially Harassed and Filed fraudlent claims against the plaintiff, The Plaintiff's wife and their child, Violating their Civil Rights,; Equal Protection and Equal Treatment Rights and Due Process Rights as Guaranteed by the Constitution of the Commonwealth of Pennsylvania, and the Constitution of the United States of America.

88). Defendant Reed, acting under the Color of State Law, Violated the Plaintiffs Due Process Rights in Denying witnesses and his Failure to Act, Acts of omission to the same extent as acts of comission, Directly participated in the Violation of the Plaintiffs Civil Rights as well as PA and United States Constitutional Rights.

89). Defendant Shirley acting under the color of State Law, wilfully, knowingly having knowledge of Defendant Swansons Racial Discriminatory actions, Directly participated with Defendant Swanson in Racially Harassing and Racially Discriminating against the Plaintiff, the plaintiff's wife and their child, when he autnorized the known fraudlent misconduct.

90). Defendant Shirley acting under the color of State Law, Directly participated and his failure to act, acts of omission, which areactionable to the same extent as acts of comission, is liable in the Violationn of the plaintiff, the plaintiff's wife and their childs Rights protected by the Equal protection/Equal treatment Clause of the Constitution and Civil Rights, due to his knowledge of the Racial Discrimination. Racial Harassment, Defendant Swansons behavior and authorization of the fraudlent claims and his failure to do anything about it.

91). Defendants Britton, Cameron and Hartnett acting individually and collectively as the Program Review Committee, and under the color of State Law, having knowledge of Defendant Swansons racial Discriminatory actions, behavior and fraudlent misconduct writings as well as Department policy are liable in their failure to act, whoch omissions are actionable to the same extent as acts of comission, to the Constitional Violations above stated, as well as Civil Rights Violations against the plaintiff the plaintiff's wife and their child, with their knowledge of these

facts and their failure to do anything about it, establishes their direct participation.

92). Each of the above said defendants, in thier individual wrong doings, caused the plaintiff to be subjected to a deprivation of rights guaranteed by the Pa. Constitution and the United States Constitution, having personal involvement. Not respondent superior, but each in thier own individual offical capacity, with knowledge of acts, and their omissions leads to their Personal Involvement.

93). Defendant Irwin, Investigating Officer, acting under the color of State Law, having knowledge of Defendant Swansons Racial Discriminatory actions and behavior; Acknowledgement of the fraudlent Misconduct and Knowledge of th Department of Corrections Policy, Directly participated, having personal involvement in the Racial Discrimination, Racial Harassment, Equal Protection/Equal Treatment Clause of the Constitution and Civil Rights Violations against the Plaintiff, the plaintiff's wife and their child, with his knowledge of the said acts and violations, is liable in his failure to act, which omissions are actionable to the same extent as acts of comission and his failure to do anything about it.

94). Defendant Patrick, the Superintendant of S.C.I. Houtzdale and the supervisor of all above said defendants Directly participated in the Violations of Rights Guaranteed by the PA Constitution and The United States Constitution as they do apply to the plaintiff, the plaintiff's wife and their child, including the violation of their Civil Rights, when Defendant Patrick having knowledge of the fraudlent miconduct writings, Racial Discriminatory behaviors of is Officer, being fully aware of Department of Corrections Policies and failed to act, to the extent which is the same as acts of commission of the Violations. Defendant Patrick at this time was acting under the color of state Law in his capacity.

95). Defendant Patrick, Superintendant of S.C.I. HOutzdale acting under the color of State Law Had personal Involvement and Direct Participation, subjecting the plaintiff, the plaintiff's wife and their child to the above state Constitutional Violations and Civil Rights Violations, when .this Defendant chose to attempt to

cover up the fraudlent charges, fraudlent Misconduct, Racial Discrimination, Racial Harassment, resulting in Equal Protection/ Equal Treatment Clause Violations of the United States Constitution, PA. Constitution, Civil Rights Violations, all with intent to harm, when this defendant attempted to justify all actions of Defendant Swanson on the Plaintiff's Minor Child, which was clearly untrue.

96). Defendant Patrick, Superintendant of S.C.I. Houtzdale acting under the color of State Law, having the above said knowledge allow retialatroy rules to be posted, after claim was filed with the intent to further cause harm to the plaintiff and his family, by restricting photographs by the plaintiff's wife and child, insisting that the plaintiff's minor child remain seated, after her (3½) hour ride to visit, knowing that this will prevent the minor child from being able to see or hear the plaintiff, and stating that there is to be NO LOUD talking, knowing that this would be the only way for the plaintiff to communicate with the child and his wife effectively. There are no hearing devices only a (4 inch) hole in the glass approx. a foot and a half above the plaintiffs head for communication, Thus continuing to cause injury to the family.

97). Defendant Patrick, Superintendent of S.C.I. Houtzdale acting under the color of State Law, Wilfully, Purposefully and Intentionally carry out a policy that discriminates against the plaintiff due to his conviction by insisting that the plaintiff can only have visits with his child in the non contact booth. Equal protection / Treatment violated

98). Defendant Patrick, Superintendant of S.C.I Houtzdale Knowingly and Wilfully Voilates the Plaintiffs Equal Treatement Rights by allowing caucasion inmates similiar situated with same conviction, and not completed program to have contact visits with thir children, even though Plaintiff has completed all required forms and has supporting affidavits from family members of boths sides of his family.

99). The Plaintiff has no plain, adequate or complete remedy at law to redress the wrongs described herein. The Plaintiff has been and will continue to be irreparably injured by the conduct of the Defendants unless this Honorable Court Grants declaratory and injuntive

relief which the plaintiff seeks.

PRAYER FOR RELIEF.

WHEREFORE, Plaintiff respectfully prays that this Honorable Court enter Judgement granting plaintiffs:

100). A declaration that the acts and omissions described herein violated plaintiff's rights under the PA. Constitution, and the Constitution and Laws of the United States.

101). A preliminary and permanent injunction ordering the Defendants to cease Racial Discriminatory Practices against the Plaintiff, the plaintiff's wife and thier child.

102). A preliminary and permanent injunction Ordering the Defndants to cease harassment and retailitory actions, including Transferring the plaintiff due to these actions.

103).A prelimianary injunction Ordering Defendant Patrick to cease the discriminary actions that keeps plaintfiff from having contact visitation with his biological child, while allowing other inmates the same liberty.

104). A preliminary and permanet injunction Ordering Defendant Patrick to remove retialitory Rules posted 6-13-06, after the filing of this matter.

105). Compensatory damages in the amount of $2000.00 against each Defendant jointly and severally.

106). Punitive damages in the amount of $2500.00 against each of the Defendants Jointly and severally.

107). $1000.00 a day for (23) days of confinement in the Hole due to the Constitutional and Civil Rights Violations by the Defendants.

108). Punitive Damages in the amount of $50,000.00 against Defendant Swanson each for the Plaintiff, the plaintiff's wife and their child.

109). Emotional and Psychological damages in the amount of $25,000.00, due to Constitutional violations.

110). Recompensation for this present legal action and Appeal in the amount of $2500.00 as estimated by attoreny average rate.

111). Plaintiff **RESPECTFULLY DEMANDS A TRIAL**, To further establish facts and Request an appointment of Counsel to assist in this matter, and Discovery.

112). Any additional relief this Honorable Court deems just, proper and equitable.

DATE: 20 September 2006

RESPECTFULLY SUBMITTED BY:

Mr. Glenn A. Holder Sr. Pro-se
EA-7173
P.O. BOX 1000
Houtzdale, PA 16698-1000

CL-2

A

FORM DC-141 PART 1
Rev. 3/00

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS

A 664500

☒ MISCONDUCT REPORT ☐ OTHER ☐ DC-ADM 801 INFORMAL RESOLUTION

DC Number	Name	Facility	Incident Time 24 Hr. Base	Incident Date	Date of Report
EA-7173	Holder, Glenn	SCI HOU	1920	3-12-06	3-12-06
Quarters	Place of Incident				
CA44	Non-Contact Visit booth				

OTHER INMATES OR STAFF INVOLVED OR WITNESSES (CHECK I OR W)

DC Number	Name	I	W	DC Number	Name	I	W

MISCONDUCT CHARGE OR OTHER ACTION CLASS I #35 Refusing to obey an order CLASS I #19 Engaging in Sexual Acts With others, CLASS I #37 Violation of Visiting Room Regulations

STAFF MEMBER'S VERSION On the above date and time, I observed inmate Holder's (EA-7173) minor female visitor standing on the desk in the Non-Contact Visit Area. I also observed this minor female bent over sharing her rear end at inmate Holder. Inmate Holder has a Non-Contact with Minors Restriction. Inmate Holder was blocked on 12-29-05, 12-30-05 and twice today for the same type of infractions. On 12-29-05 inmate Holder was counseled by Lt. Gill and was ordered to have this visitor seated in the chair provided at all times.

IMMEDIATE ACTION TAKEN AND REASON Reviewed & Warranted. Inappropriate for an informal resolution due to the serious nature of the mis-conduct. Inmate is to remain in his present status pending review of this report by the Hearing Examiner.

PRE-HEARING CONFINEMENT	IF YES	
	TIME	DATE
☐ YES		
☒ NO		

FORMS GIVEN TO INMATE
☑ REQUEST FOR WITNESSES AND REPRESENTATION ☑ INMATE'S VERSION

REPORTING STAFF MEMBER SIGNATURE AND TITLE	ACTION REVIEWED AND APPROVED BY RANKING C.O. ON DUTY SIGNATURE AND TITLE	DATE AND TIME INMATE GIVEN COPY	
		DATE	TIME 24 HOUR BASE
CCPT Lua (GUARD)	Lt. Shirley COIII (SHIRLEY)	3/12/06	1753

YOUR HEARING MAY BE SCHEDULED ANY TIME AFTER		MISCONDUCT CATEGORY		Signature of Person Serving Notice
DATE	TIME	☑ CLASS 1	☐ CLASS 2	
3.14.06	0800			

NOTICE TO INMATE

You are scheduled for a hearing on the allegation on the date and time indicated or as soon thereafter as possible. You may remain silent if you wish. Anything you say will be used against you both at the misconduct hearing and in a court of law, if this matter is referred for criminal prosecution. If you choose to remain silent, the hearing committee/examiner may use your silence as evidence against you. If you indicate that you wish to remain silent, you will be asked no further questions. If you are found guilty of a Class 1 misconduct, any pre-release status you have will be removed.

WHITE — DC-15 YELLOW — Inmate PINK — Reporting Staff Member GOLDENROD — Deputy Superintendent Facility Management

occurs, you should talk to your counselor

ıtion and Corrections Officer overtime are
:e or the inmate's family, and must be paid

)M 009)

ews media representative in person, you
lual's name be on your approved visiting
tment policy **DC-ADM 812**.

/s media representative on the telephone,
ividual's name be added to your approved
with Department policy **DC-ADM 818**.

'or participating in a media-related visit or

ıtive is permitted the same visiting and
:s as the public. Therefore, no special
for the news media. All communications
media shall be conducted in accordance
ADM 812 and **DC-ADM 818.**

related visit or telephone call, you must
Form before any statements you make
e **Inmate Waiver Form** should be sent to
Officer.

12)

‹e a list of visitors during your initial
thorized visitors list may contain up to 40
oved list may be made using a **DC-312A,**
Visitors form. All visitors on your list are
ıt give all the information asked for on the
rs, and the **DC-312A** forms for a visitor to
the visitor's name, address, date of birth,
of this information is not given, the visitor

will not be approved. The Facility Manager may remove the name of any visitor from your list.

2. Visiting Rules

a. While you are in general population, you are permitted to have visits in the general population visiting room during the approved visiting hours.
b. Only attorneys and religious advisors on your approved visiting list can visit you during the first 10 days following commitment to the Diagnostic Classification Center.
c. Visits will be no less than one hour in duration and shall occur during regularly scheduled visiting hours. Longer periods may be allowed depending upon your custody level and available space.
d. The number of visitors you may have at any one time may be limited based upon available space. If the visiting area gets full, and more visits are to be conducted, visits will be ended on a "first in/first out" basis, if the visit has been at least one hour.
e. If a minor child comes to visit you, a parent/legal guardian, County children/youth services agency staff, or an adult approved by the parent/legal guardian must be with the child.
f. Unless the Facility Manager/designee grants special permission, no person may be on more than one inmate's visiting list at any one facility except in cases where the person is part of the immediate family of more than one inmate. A visitor may be granted visiting privileges at more than one facility.
g. Your visitor's privileges may be limited, suspended, or restricted (such as non-contact visits only or a restriction on visiting at more than one facility) if information becomes available suggesting that allowing the individual to visit poses a threat to the safety and security of any Department facility.
h. When you have a visit, you must wear underwear and a Department supplied attire and shoes. If you report to the visiting changing area and you are not wearing underwear, (under shorts for males, under shorts and bra for females), you will be denied the visit. If you damage any of the visiting room clothing, you may be issued a misconduct and be made to pay to have the item repaired or replaced.
i. All tobacco products are prohibited in visiting areas.

3. Visitor Identification and Registration

Your visitors must have proper identification when they come to visit you. If one of your visitors cannot produce proper identification he/she

04/08/06

"C"

ON SAT 04/08/06 I HAD A VISIT FROM MY WIFE + GRAND DAUGHTER Jessie FRITZ + JEANNINE MARTIN. AT ONE POINT IN TIME I TOOK NOTICE THAT A LITTLE GIRL WAS STANDING ON A TABLE OR DESK TALKING TO SOME ONE IN THE NON CONTACT VISITING ROOM. THIS I BELIEVE WAS PROBLY BETWEEN 1300 HRS AND 1400 HRS.

THIS is MY NAME

FRITZ WILSON FY5228
BLOCK CA CELL 18

Wilson Fritz

I, CARMINE LAURO, DOC# DU-1558, HEREBY SWEAR AND ATTEST THAT THE FOLLOWING IS TRUE AND CORRECT AS WITNESSED BY ME, THIS DAY, APRIL 8, 2006, TO THE BEST OF MY RECOLLECTION:

WHILE VISITING WITH MY GIRLFRIEND MS. DENISE BOSLAND, OF MARLTON, N.J. AT THE VISITING ROOM IN SCI-HOUTZDALE STATE PRISON, I WITNESSED THE FOLLOWING, IN THE NON-CONTACT VISIT ROOM NEAREST TO THE INMATE ENTRY/EXIT, BETWEEN 13:00 HOURS AND 14:50 HOURS INTERMITTENTLY:

TWO SMALL GIRLS, AGES APPROXIMATELY 4-7 YRS., DANCING ON THE TABLE, SOMETIMES FACING THE INMATE, AND OTHER TIMES FACING AWAY, WITH THEIR BACKS TO HIM. JUMPING, SITTING, AND STANDING ON THE TABLE.

SOME OF THE TIME THE YOUNGER GIRL WAS ON THE TABLE, OTHER TIMES BOTH WERE. ONLY ONCE DID I SEE A LIEUTENANT TAP ON THE INMATES DOOR, HOWEVER, THE GIRLS REMAINED ON THE TABLE.

THIS WAS HARD NOT TO NOTICE, AS IT WAS IN OUR DIRECT LINE OF SIGHT AND THE JUMPING WAS A DISTRACTION TO THE OTHERWISE DOCILE SURROUNDINGS.

AT NO TIME DID I NOTICE THE C.O. ON DUTY IN THE VISITING ROOM ATTEMPT TO HAVE THE GIRLS REMAIN SEATED, OR ISSUE ANY TYPE OF WARNING, THOUGH HE DID DO SEVERAL ROUNDS OF RANDOMLY WALKING AROUND THE VISITING AREA, AS IS USUAL.

I STATE THE ABOVE UNDER THE PENALTY OF LAW, 18 PA. C.S. 4904.

Carmine Lauro 4-8-06

DC-141 Part 2B
Rev. 6-84

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS

DISCIPLINARY HEARING REPORT

DC Number	Name	Facility	Hearing Date	Hearing Time	No. from Part 1
EA-7173	HOLDER, Glynn	SCI-HOU	3-14-06	1005	A664500

INMATE PLEA: ☐ Guilty ☐ No Plea ☑ Not Guilty ☐ Other

Verdict: ☐ Guilty ☑ Not Guilty

HEARING ACTION

CHARGES
19 = Engaging in sexual acts with others or sodomy
35 = Refusing to obey an order
37 = Violation of visiting regulations

FINDINGS OF FACT, VERDICT AND SANCTIONS IMPOSED

INMATE HOLDER PLEADS NOT GUILTY. Provides A written Statement.

CO I SWANSON present to explain the reasons why he wrote the Misconduct. CO I SWANSON Stated the minor child was bent over showing the Inmate her buttocks. CO I SWANSON States that the minors clothing remained in-tact At ALL times. CO I SWANSON explained under oath how the minor girl behaved. CO I SWANSON claims that the behavior was Nothing he had ever seen in an Easter Program. He has been excited to see his father, but never showed him his rear end. This entire incident took place while the Inmate was separated from his visitors by A glass partician.

HEB believes the CO I's written report over the denial of Inmate Holder, that Inmate holder did refuse to obey an order to keep his child off the table in the visiting room non-contact booth. Inmate Holders minor visitor violated visiting room Rules. It is the responsibility of the Inmate and adult visitors to maintain control of the minor visitor. Inmate Holder has been given numerous warnings about his behavior as well as his visitors behavior while on a visit.

Dismiss: #19, Guilty: #35 + #37 - 60 days DC effective 3-14-06

☑ YES	☐ NO	The inmate has heard the decision and has been told the reason for it and what will happen.
☑ YES	☐ NO	The circumstances of the charge have been read and fully explained to the inmate.
☑ YES	☐ NO	The opportunity to have the inmate's version reported as part of the record was given.
☑ YES	☐ NO	The inmate has been advised that within 15 days a request for a formal review may be submitted and that this request must contain specific reasons for the review.

Written Version. Witness Request

SEE APPENDICES ☐

NAME(S) OF HEARING EXAMINER/COMMITTEE (TYPED OR PRINTED)

R. Reed, Hearing Examiner

Hearing Report and all appended information must be signed. Signature indicates finished report with appendices.

Robt Reed

SIGNATURE OF HEARING EXAMINER/COORDINATOR

WHITE - DC-15 YELLOW - Inmate Copy PINK - Client ... COURTESY

"E"

141 PART 2A COMMONWEALTH OF PENNSYLVANIA
6-94
MATE REQUEST FOR DEPARTMENT OF CORRECTIONS
REPRESENTATION AND WITNESSES

DC Number	Name	Facility	Date	Number as on Part I
EA7173	Holder, G	S.C.I Mout	12 MAR '06	

You have been charged with a misconduct. You may request assistance and/or witnesses to appear at your hearing by completing the section(s) below.

In order to have assistance or witnesses at your hearing, you must complete this form and present all copies to one of your housing officers no later than 9:00 a.m. the first working day after you receive notice of the misconduct.

Assistance: ☑ I do not request assistance
☐ I request assistance by _____
(The person requested must be willing to assist you)

Witnesses: You may request witnesses in accord with DC-ADM 801. State the relevance and importance of the testimony the witness will give

1. Name of Witness: If Inmate No. Quarters
Dawn Holder 717-815-0577
Why is this person's testimony relevant and important?
Relevant because she was present, the mother of my child and would never allow or participate in such an alleged Claim.

DO NOT WRITE IN THIS SECTION
For Use by Hearing Examiner
Witness permitted? If not, why not?
No - not necessary to establish facts.

2. Name of Witness: If Inmate No. Quarters
AM64500
Why is this person's testimony relevant and important?

14 MAR. 06 Witness permitted? If not, why not?
X

3. Name of Witness: If Inmate No. Quarters
Why is this person's testimony relevant and important?

Witness permitted? If not, why not?

G Holder SR EA-7173
Inmate's Signature

This section to be completed by Housing Officer only
Received completed form _____ hours _____
Time Date

Housing Officer's Signature

Hearing Examiner's Signature

WHITE – DC-15 YELLOW – Inmate's Copy To Be Given After Action By Hearing Examiner

Misconduct Charges

A. Class I Charges (Formal Resolution Only)

1. Assault
2. Murder
3. Rape
4. Arson
5. Riot
6. Escape
7. Robbery
8. Burglary
9. Kidnapping
10. Unlawful restraint
11. Aggravated assault
12. Voluntary manslaughter
13. Extortion by threat of violence
14. Involuntary deviate sexual intercourse
15. Threatening an employee or his/her family with bodily harm
16. Fighting
17. Threatening another person
18. Threatening, harassing, or interfering with a Department K-9 or mounted patrol horse
19. Engaging in sexual acts with others or sodomy
20. Wearing a disguise or mask
21. Failure to report an arrest for any violation of the Pennsylvania Crimes Code (Community Corrections Centers only)
22. Possession or use of a dangerous or controlled substance
23. Possession or use of intoxicating beverages
24. Extortion or blackmail
25. Sexual Harassment
26. Any criminal violation of the Pennsylvania Crimes Code not set forth above (must be specified)
27. Tattooing, or other forms of self-mutilation
28. Indecent exposure
29. Engaging in, or encouraging unauthorized group activity
30. Breaking restriction, quarantine or informal resolution sanction
31. Gambling or conducting a gambling operation or possession of gambling paraphernalia
32. Possession or circulation of a petition, which is a document signed by two or more persons requesting or demanding that something happen or not happen, without the authorization of the Facility Manager
33. Using abusive, obscene, or inappropriate language to an employee
34. Violating a condition of a pre-release program

B. Class I Charges (Eligible for Informal Resolution)

35. Refusing to obey an order
36. Possession of contraband including money, implements of escape, non-prescribed drugs (or drugs which are prescribed, but which the inmate is not authorized to possess), drug paraphernalia, poisons, intoxicants, materials used for fermentation, property of another, weapons or other items which in the hands of an inmate present a threat to the inmate, others or to the security of the facility.
37. Violation of visiting regulations
38. Destroying, altering, tampering with, or damaging property.
39. Refusing to work, attend school or attend mandatory programs or encouraging others to do the same
40. Unauthorized use of the mail or telephone
41. Failure to stand count or interference with count
42. Lying to an employee
43. Presence in an unauthorized area
44. Loaning or borrowing property
45. Failure to report the presence of contraband
46. Theft of services (i.e. cable TV or other facility services).

If you are charged under section B with possession of an item of contraband which is a weapon or an item which in your hands presents a threat to others or to the security of the facility, and the item also has a legitimate use in the area discovered, credible evidence that the item has been used only for the legitimate purpose may reduce the rule violation to a Class II. Possession of drugs (as determined by laboratory analysis), alcohol, poisons, and/or weapons are not eligible for informal resolution.

C. Class II Charges (Eligible for Informal Resolution)

47. Body punching, or horseplay
48. Taking unauthorized food from the dining room or kitchen
49. Failure to report or unexcused absence from work, school, or mandatory programs
50. Smoking where prohibited
51. Possession of any items not authorized for retention or receipt by the inmate not specifically enumerated as **Class I** contraband
52. Any violation of a rule or regulation in the Inmate Handbook not specified as a **Class I** misconduct charge

Any attempt to commit any of the above listed charges is a misconduct of the same classification as the completed act.

Misconduct Charges

A. Class I Charges (Formal Resolution Only)

1. Assault
2. Murder
3. Rape
4. Arson
5. Riot
6. Escape
7. Robbery
8. Burglary
9. Kidnapping
10. Unlawful restraint
11. Aggravated assault
12. Voluntary manslaughter
13. Extortion by threat of violence
14. Involuntary deviate sexual intercourse
15. Threatening an employee or his/her family with bodily harm
16. Fighting
17. Threatening another person
18. Threatening, harassing, or interfering with a Department K-9 or mounted patrol horse
19. Engaging in sexual acts with others or sodomy
20. Wearing a disguise or mask
21. Failure to report an arrest for any violation of the Pennsylvania Crimes Code (Community Corrections Centers only)
22. Possession or use of a dangerous or controlled substance
23. Possession or use of intoxicating beverages
24. Extortion or blackmail
25. Sexual Harassment
26. Any criminal violation of the Pennsylvania Crimes Code not set forth above (must be specified)
27. Tattooing, or other forms of self-mutilation
28. Indecent exposure
29. Engaging in, or encouraging unauthorized group activity
30. Breaking restriction, quarantine or informal resolution sanction
31. Gambling or conducting a gambling operation or possession of gambling paraphernalia
32. Possession or circulation of a petition, which is a document signed by two or more persons requesting or demanding that something happen or not happen, without the authorization of the Facility Manager
33. Using abusive, obscene, or inappropriate language to an employee
34. Violating a condition of a pre-release program

B. Class I Charges (Eligible for Informal Resolution)

35. Refusing to obey an order
36. Possession of contraband including money, implements of escape, non-prescribed drugs (or drugs which are prescribed, but which the inmate is not authorized to possess), drug paraphernalia, poisons, intoxicants, materials used for fermentation, property of another, weapons or other items which in the hands of an inmate present a threat to the inmate, others or to the security of the facility.
37. Violation of visiting regulations
38. Destroying, altering, tampering with, or damaging property.
39. Refusing to work, attend school or attend mandatory programs or encouraging others to do the same
40. Unauthorized use of the mail or telephone
41. Failure to stand count or interference with count
42. Lying to an employee
43. Presence in an unauthorized area
44. Loaning or borrowing property
45. Failure to report the presence of contraband
46. Theft of services (i.e. cable TV or other facility services).

If you are charged under section B with possession of an item of contraband which is a weapon or an item which in your hands presents a threat to others or to the security of the facility, and the item also has a legitimate use in the area discovered, credible evidence that the item has been used only for the legitimate purpose may reduce the rule violation to a Class II. Possession of drugs (as determined by laboratory analysis), alcohol, poisons, and/or weapons are not eligible for informal resolution.

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TO: Mr. Jeffery Beard
Department of Corrections
P.O. Box 598
Camp Hill, Pennsylvania 17001-598

Mr. George N. Patrick; Superintendant
State Correctional Institution @ Houtzdale
P.O. Box 1000
Houtzdale, Pennsylvania 16698-1000

FROM: Mrs. Dawn E. Holder
1247 West Market Street
York, Pennsylvania 17404

DATE: April 21, 2006

RE: COMPLAINT/INTENT.

Dear Madam/Sirs:

This is an advisory of my intent.

On March 14, 2006, Inmate, EA-7173; Glenn A. Holder Sr. My Husband was charged and placed into the Restricted Housing Unit. Found guilty of allegations made by Officer Swanson, that my husband engaged in sexual acts with others; this others being our child, during our visits, which take place in the non-contact booth in your facility. This lie also accuses me, because I was present at every visit with our child. This lie was/is documented by Officer Swanson and S.C.I Houtzdale, not only against my husband, but me as well as our child. Yet, the Hearing Examiner, Mr. Reed, states that he believes Officer Swanson, even though, Mr. Swanson claimed these said acts took place over a peroid of (4) four days, he personally observed this, rather these acts each time, but chose not to terminate our visit, call authorities or take the appropriate actions. Over (50) human beings in the visiting room, but, Mr. Swanson was the only person who observed this. Though this was said to be dismissed, the damage has been done and it remains in my husbands file.

My husband has a non-contact status, due to another inmates actions in another facility. Our child was not born, when he was arrested, and his case is still in litigation.

Our family was also charged with violating visiting room rules and regulations; Mr. Swanson alleged that our child was standing on the table bent over shaking her rear end at her daddy. Which is a lie, Then Mr, Swanson charges us with refusing to obey an order. First of all, as i stated, our child was never standing on the table. Mr. Swanson insisted that our (7) year old child remain seated the entire visit of (5) hours, in that little booth after riding (3½) hours for the visit. I have reviewed the Visiting Rules (DC-ADM-812) and there is no such rule or regulation that states that a minor child must remain seated during the visit, nor can it be found in the most recent houtzdale supplement. I have personally observed

children running all over the visiting room, on Dec. 29; Dec. 30, 2005 and on March 12, 2006, While Mr. Swanson was on duty, and Mr. Swanson said nothing to any of them, instead, Mr. Swanson chose to personally harass my family. It has been brought to my attention that Mr. Swanson allows white inmates to not only stand, but allow their minor children to stand on the table during their non-contact visit, during their visit. SEE ATTACHED STATEMENTS. This is the very thing that Mr. Swanson gave my husband a misconduct for, and charged my family with. Discrimination, Racial discrimination of any type is against the Laws governed by the United States, which includes central Pennsylvania and Houtzdale.

The response from the Superintendant stated that, "Due to the continued misbehavior of the child despite orders issued to the appellant to control his visitor," My husband was found guilty. Our child has never misbehaved during any of our visits, as you claim. We have not allowed this, nor have we ever condoned bad conduct by our child, for we are aware that the facility will use anything to further burden our family , to discontinue our visitation with Glenn. It is clear to me that your statement is made to cover up the wrong of Mr. Swanson, and I understand that you have to stand up for your officers, so that they will feel safe and that they have support. However, when you are wrong, you are wrong. and there is no justification for Mr. Swansons bad conduct.

It is very clear that Mr. Swanson has and is racially profiling my family and has been for some time, due to the diffrence in the make up of my family. I am white and my husband is African-american. It has also come to my attention that Mr. Swanson has a history of racial discrimination, as well as use of the "N" word.

This is a Civil Rights claim, ripe for Civil Action. Just because my husband is there in your facility, does not give you the right, or any one else the right to make false allegations against him, and for Mr. Swanson to allege that I allowed such actions, took part of such action or even condone such action was wrong.

I forgive Mr. Swanson and those involved for their actions against our family, However there are Laws against what has been done, and what is being done to my husband. These actions have cause great harm to my entire family.

I have been **informed** by counsel to take this matter into the court.

Yours' Truly

Mrs. Dawn E. Holder

Dawn Holder

ATTACHMENTS:

NOTE: FROM JULY 2000 THROUGH MARCH 2006, THERE HAS BEEN NOT TYPE OF RULES OR INSTRUCTIONS AFFIXED TO THE TABLE IN THE NON-CONTACT BOOTH.

SCIH-141 III

COMMONWEALTH OF PENNSYLVANIA

[X] MISCONDUCT APPEAL [ ] PERIODIC REVIEW [ ] OTHER **DEPARTMENT OF CORRECTIONS**

DC NUMBER	NAME	INSTITUTION	DATE OF REVIEW	NO. FROM PART 1
EA7173	Holder, Glynn	SCI-HOU	March 21, 2006	A664500

PROGRAM REVIEW COMMITTEE'S DECISION AND ITS RATIONALE

Mr. Holder appeals Misconduct Number A664500 on the grounds that [ ] The procedures employed were contrary to law or Administrative Directive 801; [X] The punishment is disproportionate to the offense; [ ] The Evidence was insufficient to support the decision.

The PRC reviews Inmate Holder's misconduct appeal on the grounds noted.

The sanction imposed by the hearing examiner is within DOC guidelines and sustained.

The PRC sustains all aspects of this misconduct.

Sustain.

DECISION RELATIVE TO HEARING COMMITTEE'S VERDICT

[ ] NOT APPLICABLE [X] SUSTAIN [ ] SUSTAIN-AMEND [ ] REFER BACK FOR FURTHER STUDY [ ] EXONERATE INMATE

NAMES OF PROGRAM REVIEW COMMITTEE MEMBERS	SIGNATURES	DATE
F. Hartnett, C.C.P.M.		03/21/06
R. E. Britton, Deputy Superintendent for Facilities Management		03/21/06
K. Cameron, Deputy Superintendent for Centralized Services		03/21/06

ORIGINAL - DC-15 COPY 2 - Inmate Cited COPY 3 - Staff Member Reporting Misconduct COPY 4 - Deputy Superintendent

SCIH-141 III

COMMONWEALTH OF PENNSYLVANIA

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K. Cameron, Deputy Superintendent for Centralized Services	COT	03/21/06

ORIGINAL - DC-15 COPY 2 - Inmate Cited COPY 3 - Staff Member Reporting Misconduct COPY 4 - Deputy Superintendent

COMMONWEALTH OF PENNSYLVANIA
Department of Corrections
State Correctional Institution at Houtzdale
Office of the Superintendent
April 6, 2006

SUBJECT: Appeal of Misconduct #A664500

CA46

TO: Glynn Holder, EA7173
HA-05

FROM: George N. Patrick
Superintendent

I have reviewed this appeal, the first-level appeal to the PRC and their response, misconduct #A664500, and all supporting documentation.

The appellant was charged with #19 (Engaging in sexual acts with others), #35 (Refusing to obey an order), and #37 (Violation of visiting regulations) relative to the behavior of his minor daughter during the course of a visit. The visit took place in the non-contact visit booth in the main visiting room. Although charge #19 was dismissed by the hearing examiner, the appellant was found guilty of #35 and #37 due to the continued misbehavior of the child despite orders issued to the appellant to control his visitor. I recognize that the appellant had limited control in this respect as he was restricted to his side of the non-contact window. However, I believe he could have exercised greater influence over his visitor's actions than he chose to. Therefore, I will sustain the finding of guilt in this case.

In light of the appellant's good behavior record, which reflects an absence of misconducts since 1999, I am inclined to extend leniency. Effective immediately, the level of this misconduct is reduced from a Class I to a Class II and the sanction is modified to DC time already served.

Reduce from Class I to Class II and modify DC sanction to time served.

GNP:mlb

c: Deputy Britton
Deputy Cameron
Mr. Hartnett
PRC
COI Swanson
Mr. Everhart
Mr. Reed
Case Record
file

TO: CHIEF HEARING EXAMINER
1451 N. Market Street
Elizabethtown, PA 17022

FROM: Mr. Glenn A. Holder Sr.
DOC. INST.#EA-7173
P.O. Box 1000
Houtzdale, PA 16698-1000

DATE: 12 April 2006

RE: APPEAL MISCONDUCT #A664500

On March 12, 2006, I was given a misconduct by Officer Swanson. Mr. Swanson charged me with Refusing to Obey an Order; Engaging in sexual acts with others; and violating Visiting Room regulations. SEE EXHIBIT I.

Mr. Swansons claims that my child, (7) years of age, was standing on the table bending over and shaking her rear end at me. Swanson claims that this kind of inappropriate behavior happened on 12-29-05; 12-30-05 and twice on 03-12-06, he also claims that I was block carded for this. Yet, I have had NO visit of mine terminated, nor had I been written up or placed in the RHU. My visits with my child take place in the Non-Contact booth, with my wife present. There is a restriction of contact with my child, due to feeling here, NOT due to any actions on my part with my child, and my child was not born at the time of my arrest. The hearing examiner dropped this charge yet stated that he believed the officer. Mr. Reed, the hearing examiner refused to allow my only witness, stating that the witness was not necessary to establish the facts, when the witness was present at the time of this alleged act, Mr. Swanson claimed to have seen on the above stated dates. SEE EXHIBIT II DC-141 Part2A. My wife filed a complaint, stating that our child has never stood or was standing on the table, nor was she bent over shaking her rear end at me. SEE EXHIBIT IV. The hearing examiner dismissed the charge yet stated that he believed the officers statement. Mr. swanson accused not only me, but my child and wife of this and the hearing examiner follows along with this allegation which was not only unfounded but was a complete fabrication by mr. swanson. Exhibit III

Mr. Swanson claims that I refused to obey an order. Yes, Mr. Swanson did tell me to have my child take a seat, and I referred this information to my wife. Remember, this is in the non-contact booth. Swanson insists that my 7 year old child remain seated in that small room for the entire visit, yet at the same time other children run all over the visiting room. Mr. Swanson clearly discriminated against me and my family due to racial make up of my family. On April 8, 2006, mr. swanson was on duty in the visiting room, observed and allowed a white inmate, to have his child about the very same age as my child stand on the table through out his visit. SEE EXHIBIT V. Yet, my child is to remain seated the entire (5) hours for the visit. Racial profiling is what Mr. Swanson practices, with me, and it is clear in his record. On the other hand Mr. Patrick states that due to my childs continued misbehavior I was found guilty because I could not control my visitor. There is no rule or regulation that states that a minor child has to remain seated the entire time here. Review of any video tape will reveal that children move about constantly. My child was not standing on the table, But I am punished for this, while Mr. Swanson allows little white children to stand on tables, so that they can hear their

parent. This is discrimination clearly. Mr. Swanson falsely charged me and my family not only of charges that were unfounded, but of violation of visiting room regulations that do not exist and had me punished because my child is an african american child. This is clear by this officers actions when it comes to white inmates and their visitors. And Mr. patrick states that I could have excercised greater influence over my child. I have not been in the home with my child all of her life. Do you yell at your children??? i am not going to scream and yell at mine. She is a child, whom sings and dances for me on the floor, showing what she would have been doing in the programs she is involved with.

For Mr. Patrick to sustain the misconduct, is to further cover up the fact the his officer blatently lied on official state documentation. Further, some time ago I had to write Mr. Swanson up for his actions agains me. A security officer called to security, and informed me that if I signed off on the grievance he would make sure that Mr. Swanson did not bother me any more. And he did not until now. This is retaliation on the officers part.

I was thrown into the RHU, for a peroid of (23) days, but sentenced to (60) days. Even though the misconduct was reduced, I still was placed into the RHU, Lost my level 2, and lost my job.

I am requesting that I am returned back to Level (2), I recieve my job back, and that I am reimburst the funds that I lost due to this false misconduct, That this misconduct be taken completely out of my record, That Mr. Swanson apologize to my family and that he recieve punishment for fabrication /lying on a state document, and recieve the proper judgement accord ing to the Law concerning Racial discrimination/Racial profiling.

It is my intent in the event that I do not recieve relief, toappeal to the Commonwealth Court in Harrisburg.

DATE: 12 April, 2006

Submitted By:

Mr. Glenn A. Holder Sr.
EA-7173
P.O. Box 1000
Houtzdale, PA 16698-1000

ENCLOSURES:
1 of 3
Appeal & DC 141 Part 2A

2 of 3
DC-141 Part 2C
DC-141 Part 2B
DC-141 Part Part II E
PRC Decision
Statement of Mr. Lauro

3 of 3
Letter to Superintendant
Second Level Appeal
Facility manager Response.

O 4 O K

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
1451 N. MARKET STREET
ELIZABETHTOWN, PA 17022

OFFICE OF THE
CHIEF HEARING EXAMINER

April 21, 2006

Glenn Holder, EA7173
SCI-Houtzdale

Re: DC-ADM 801 - Final Review
Misconduct No. A664500

Dear Mr. Holder:

This is in response to your appeal to final review of the above numbered misconduct.

In accordance with DC-ADM 801, VI, L, 3, I have reviewed the entire record of this misconduct; including the misconduct report, the hearing report and related documents, your appeal to the Program Review Committee and their response, your appeal to the Superintendent and his response. I have also thoroughly reviewed the issues you raise to final review.

The issues you raise to final review have already been addressed by the Program Review Committee and the Superintendent. On review of the record, this office concurs with their responses. I find no persuasive basis from which to conclude that the Examiner erred in conducting the hearing. The Examiner specifically documented findings of fact based on evidence presented at the hearing to support the decision. The procedures followed were in complete accordance with DC-ADM 801, §VI. The sanction imposed is not viewed to be disproportionate to the offense, and therefore will not be amended at this level.

Superintendent Patrick thoroughly and fairly reviewed the facts of this misconduct as well as the mitigating circumstances and reduced the misconduct to Class II and the sanction to time served, this office fully concurs with the Superintendent's position.

For the above-stated reasons, the responses provided by the Program Review Committee and the Superintendent are upheld in full. Your appeal must, therefore, be denied.

Sincerely,

Robert S. Bitner
Chief Hearing Examiner

RSB/jcs
Cc: Superintendent Patrick

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P. O. BOX 598
CAMP HILL, PENNSYLVANIA 17001-0598

OFFICE OF THE
SECRETARY OF CORRECTIONS

May 1, 2006

Glenn Holder, EA-7173
SCI-Houtzdale

Re: DC-ADM 801 - Final Review
Misconduct No. A664500

Dear Mr. Holder:

This is an amended response to your appeal to final review of the above numbered misconduct. As a result of a request from Superintendent Patrick, the Chief Hearing Examiner has reopened your appeal of this misconduct for further review.

In accordance with DC-ADM 801, VI, L, 3, the Chief Hearing Examiner has reviewed the entire record of this misconduct; including the misconduct report, the hearing report and related documents, your appeal to the Program Review Committee and their response, your appeal to the Superintendent and his response. The Chief Hearing Examiner has also reviewed this misconduct with Superintendent Patrick.

Upon completion of his review, it is the recommendation of the Chief Hearing Examiner and Superintendent Patrick that the decision and the charge be vacated at final review, to prohibit recharge and rehearing.

I concur with the recommendation of the Chief Hearing Examiner. Accordingly, this misconduct is hereby dismissed. Superintendent Patrick will be asked to ensure that his staff expunges all record of this misconduct from your institution files.

Sincerely,

Jeffrey A. Beard, Ph.D.
Secretary of Corrections

JAB/jcs

Cc: Superintendent Patrick

NON-CONTACT VISITING RULES AND REGULATIONS

1. NO SMOKING IN THE VISITING AREA OR OUTSIDE COURTYARD.

2. NO ITEMS OR GIFTS WILL BE TAKEN INTO OR OUT OF THE VISITING AREA, EXCEPT FOR THE AUTHORIZED MONEY LIMIT FOR PURCHASING OF VENDING ITEMS.

3. INMATES ARE NOT PERMITTED TO VISIT WITH OTHERS NOT ON THEIR VISIT.

4. PHOTOGRAGHS WILL NOT BE PERMITED.

5. CHILDREN ARE TO BE CONTROLLED BY THE INMATE AND HIS VISITORS AT ALL TIMES. CHILDREN MUST BE ACCOMPNIED BY THE ADULT AT ALL TIMES.

6. ALL TRASH IS TO BE DISPOSED OF IN THE TRASH CONTAINER.

7. LOUD OR BOISTERIOUS BEHAVIOR WILL NOT BE TOLERATED. BE CONSIDERATE OF OTHER INMATES AND THEIR VISITORS.

8. VISITORS OR INMATES ARE NOT PERMITTED TO SIT ON THE TOPS OF TABLES, SHELVES, OR THE BACKS OF CHAIRS.

9. VISITORS AND INMATES ARE TO REMAIN SEATED AT ALL TIMES DURING THEIR VISIT.

FAILURE TO COMPLY WITH THE ABOVE LISTED RULES AND REGULATIONS MAY RESULT IN THE TERMINATION OF THE VISIT.

Major of the Guard

6/13/06
Date

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

GLENN A. HOLDER SR.
Plaintiff

V.

MATTHEW SWANSON, et al.,
Defendants

NO. 06-894-CD

PROOF OF SERVICE

I hereby certify that upon this date I have served upon the individuals listed below the attached Notice and Civil Complaint by placing such in the First-Class mail box provided by S.C.I. Houzdale, in a First-Class- Pre-Paid envelope, which satisfies the Pennsylvania Rules of Civil Procedures.

BY FIRST CLASS-PRE-MAIL.

CLERK OF COURTS
COMMON PLEAS COURT OF CLEARFIELD COUNTY
230 EAST MARKET STREET
CLEARFIELD, PA 16830

ORIG. AND (2) COPIES
(1) COPY FOR TIME DATE
STAMP AND RETURN.

DEBRA SUE RAND ESQ.
OFFICE OF CHIEF COUNSEL
DEPARTMENT OF CORRECTIONS
55 UTLEY DRIVE
CAMP HILL, PA 17011

(1) COPY

DATE: 20 September 2006

submitted by:

Mr. Glenn A. Holder Sr. Pro-se
EA-7173
P.O. Box 1000
Houtzdale, PA 16698-1000

CA

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA CIVIL DIVISION

GLENN A. HOLDER, SR.,	:	
	:	
Plaintiff,	:	No. 06-894-CD
	:	
v.	:	(President Judge Fredric J. Ammerman)
	:	
OFFICER SWANSON, ET AL.	:	
	:	
Defendants,	:	

PROPOSED ORDER

NOW, this 12th day of September 2006, upon consideration of Defendant Swanson's Motion for Extension of Time to File an Answer to the Amended Petition for Review, it is hereby ORDERED that the Motion is **GRANTED**. Defendant Swanson shall file an Answer within sixty (60) days from the date of the entry of this Order.

BY THE COURT:

_____

J.

#14

IN THE COURT OF COMMON PLEAS FOR
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

FILED ICC
m/10:35 Atty
SEP 11 2006
GR
William A. Shaw
Prothonotary/Clerk of Courts

GLENN A. HOLDER, SR.,	:	
	:	
Plaintiff,	:	No. 06-894-CD
	:	
v.	:	(President Judge Fredric J. Ammerman)
	:	
OFFICER SWANSON, ET AL.	:	
	:	
Defendants	:	

REMAINING DEFENDANT SWANSON'S MOTION FOR EXTENSION OF TIME TO FILE AN ANSWER TO THE AMENDED "PETITION FOR REVIEW"

NOW, comes Debra Sue Rand, Assistant Counsel for the Department of Corrections ("Department") and files the following Motion for Extension of Time to File an Answer to the Amended Petition for Review, based upon the following:

1. By order entered August 25, 2006, this Court sustained preliminary objections in this matter and a single defendant now remains.

2. An Answer to the remaining allegations in the Amended Petition for Review is due September 14, 2006 and because of the distance from Counsel's office in Camp Hill, Pennsylvania, Cumberland County, it would need to be mailed several days before that date in order to reach the Clearfield County Court by September 14th.

#14

3. As indicated in the preliminary objections, the Amended Petition for Review violates the single-paragraph pleading rule and, therefore, poses difficulties for purposes of filing an answer.

4. To investigate this matter and prepare an Answer to the Amended Petition for Review, Counsel will need to meet with her client in Clearfield County, necessitating a round trip of approximately 300 miles.

5. Rule 248, Pennsylvania Rules of Civil Procedure, provides that "[t]he time prescribed by any rule of civil procedure for the doing of any act **may be extended** or shortened by written agreement of the parties or by order of court" (emphasis supplied).

6. Further, Rule 1003, Pennsylvania Rules of Civil Procedure, provides: "Rules relating to the manner of commencing an action or the time for serving process or for the filing or serving of pleadings may be waived by agreement of the parties. The court on cause shown may extend or shorten the time within which pleadings shall be filed or process served."

7. Counsel is currently engaged in federal court discovery with a court-imposed deadline of mid-November.

8. Counsel, as an attorney working under the Office of General Counsel ("OGC") to the Governor, is mandated to attend two days of OGC continuing legal education, which is scheduled for September 13-14, 2006.

9. Counsel therefore requests additional time in which to file an Answer to the Amended Petition for Review.

10. This is a first request for an extension of time.

11. This request is not made for purposes of delay.

WHEREFORE, Counsel for Defendant Swanson respectfully requests that the Court grant a sixty (60) day enlargement of time from entry of the Court's Order in which to file an Answer the Amended Petition for Review and the Court is requested to grant such other relief as may be necessary, just, and appropriate under the circumstances.

Respectfully submitted,

Office of General Counsel

By: Debra Sue Rand

Debra Sue Rand
Assistant Counsel
Attorney I.D. No. 41661
Pennsylvania Department of Corrections
Office of Chief Counsel
55 Utley Drive
Camp Hill, PA 17011
(717) 731-0444

Dated: September 7, 2006

CERTIFICATION OF ATTORNEY

I have read the motion and, to the best of my knowledge, information and belief, there are good grounds to support this motion and it is not interposed merely for delay. Because the opposing party, an inmate, is proceeding without counsel, no concurrence of counsel for this motion has been sought.

Debra Sue Rand

Debra Sue Rand

Dated: September 8, 2006

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA CIVIL DIVISION

GLENN A. HOLDER, SR.,	:	
	:	
Plaintiff,	:	No. 06-894-CD
	:	
v.	:	(President Judge Fredric J. Ammerman)
	:	
OFFICER SWANSON, ET AL.	:	
	:	
Defendants,	:	

CERTIFICATE OF SERVICE

I hereby certify that I am depositing in the U.S. mail a true and correct copy of the Defendant Swanson's Motion for Extension of Time to File Answer to the Amended Petition for Review upon the person(s) in the manner indicated below:

Service by first-class mail
addressed as follows:

Glenn A. Holder, Sr., EA-7173
SCI-Houtzdale
P. O. Box 1000
Houtzdale, PA 16698

Kay Flohr
Clerk Typist 2
Pennsylvania Department of Corrections
55 Utley Drive
Camp Hill, PA 17011
(717) 731-0444

Dated: September 7, 2006

UA

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

GLENN A. HOLDER, SR., Plaintiff	*	
vs.	*	NO. 06-894-CD
OFFICER SWANSON, et al, Defendants	*	

ORDER

NOW, this 5th day of September, 2006, the Court being in receipt of the Motion to Strike filed by the Plaintiff, *pro se*; upon review of the same the Court being in agreement with the argument set forth therein that the Plaintiff would have twenty days following his receipt of the Defendants' Preliminary Objections to file an Amended Complaint, it is therefore the ORDER of this Court as follows:

1. This Court's Order of August 23, 2006 granting Preliminary Objections is hereby rescinded;
2. The Plaintiff shall have no more than twenty days from the date of this Order to proceed in conformity with the Rules of Civil Procedure relative the said Defendants' Preliminary Objections.
3. Upon the expiration of the said twenty days, the Court will review the record in the case and issue such order as the Court deems to be appropriate.

BY THE COURT,

FREDRIC J. AMMERMAN
President Judge

FILED
SEP 06 2006
William A. Shaw
Prothonotary/Clerk of Courts

1cc Plff @ 0/3:46 cm EA-7173 SCI Hartzdale PO Box 1000 Hartzdale
1cc Atty Rand

#13

DATE: 9-6-2006

____You are responsible for serving all appropriate parties.

____The Prothonotay's office has provided service to the following parties:

__X__Plaintiff(s) ____Plaintiff(s) Attorney ____Other

____Defendant(s) __X__Defendant(s) Attorney

____Special Instructions:

FILED

SEP 06 2006

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS FOR
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

FILED 1CC PHF
m/9:30 BOY
SEP 05 2006

William A. Shaw
Prothonotary/Clerk of Courts

GLENN A. HOLDER SR.
Plaintiff

V.

OFFICER SWANSON, ei al.
Defendant,

No. 06-894-CD

(President Judge Fredirc Ammerman)

MOTION TO STRIKE

NOW COMES, Glenn A. Holder Sr, pro-se, plaintiff, in the above captioned matter, to this Honorable Court, and submitts the following:

1). Defendants filed their Preliminary Objections on 21 August 2006.

2). Plaintiff did not recieve Preliminary Objections until 24 August 2006, a day after being recieved by the institution. (SEE ATTACHED PHOTO COPY ENVELOPE "A")

3). Two days after the filing of defendants Preliminary Objections, the Court ruled, sustaining defendants preliminary Objections and Dismissed all parties and counts, except for Swanson and monetary damages. Plaintiff recieved this Order on 29 August 2006, a day after being recieved by the institution. (SEE ATTACHED PHOTO COPY OF ENVELOPE AND ORDER "B").

4). Plaintiff was denied the right to answer defendants Preliminary Objections Pursuant to R.C.P. 1017 (b)(2,3,); 1028 (a); and 1026 (a).

5). Pursuant to PA. R.C.P. 1028 (c)(1), a party may file an amended pleading as of course within (20) days after service of a copy og preliminary Objections.

Wherefore, plaintiff respectfully request this Honorable Court to strike its Order of 23 August as "Untimely" and allow plaintiff to answer and amend his pleading, pursuant to Rules of Civil Procedures.

DATE: 30 August 2006

Submitted by:
Mr. Glenn A. Holder Sr. ~~Pro-se~~

#12

IN THE COURT OF COMMON PLEAS FOR
CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

GLENN A. HOLDER SR.
Plaintiff

V.

OFFICER SWANSON, et al.
Defendants.

No. 06-894-CD
(President Judge Fredric Ammerman)

PROOF OF SERVICE

I hereby certify that I have on this date placed the attached in the first-Class mail box provided by this institution, pre-paid and addressed to the individuals listed below, in a manner that satisfies the Pa. Rules of Civil Procedures.

CLERK OF COURTS
CLEARFIELD COUNTY COMMON PLEAS COURT
WILLIAM A. SHAW
P.O. BOX 549
CLEARFIELD, PA 16830

Orig. and (1)

DEBRA SUE RAND
Department of Corrections
Office of Chief Counsel
55 Utley Drive
Camp Hill, PA 17011

(1) Copy

DATE: 30 August 2006

SUBMITTED BY:

Mr. Glenn A. Holder Sr. Pro-se
EA-7173
P.O. Box 1000
Houtzdale, PA 16698-1000



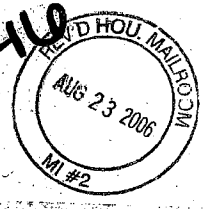
DC-225A

Office of Chief Counsel /Debra Sue Rand
From – COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
OFFICE OF CHIEF COUNSEL
55 UTLEY DRIVE
CAMP HILL, PA 17011

TO:

GLENN A. HOLDER, SR., EA-7173
SCI-HOUTZDALE
P.O. BOX 1000
HOUTZDALE, PA 16698

CA4LO

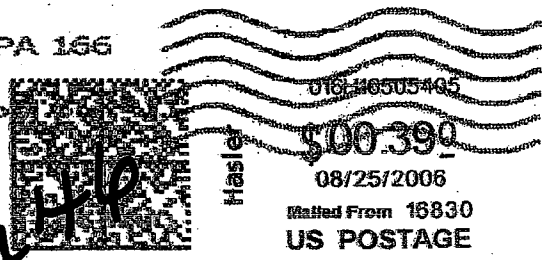


THIS PARCEL MAY BE OPENED FOR POSTAL INSPECTION IF NECESSARY

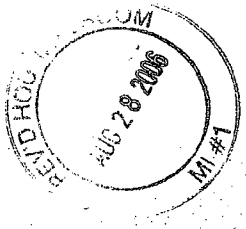
WILLIAM A. SHAW
PROTHONOTARY
and CLERK of COURTS
P.O. BOX 549
CLEARFIELD, PENNSYLVANIA 16830

ALTOONA PA 166

25 AUG 2006 P



CaHP



Glenn A. Holder, Sr.
EA 7173
SCI Houtzdale
PO Box 1000
Houtzdale, PA 16698-1000

16698+1000 B001

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

GLENN A. HOLDER, SR., Plaintiff	*	
vs.	*	NO. 06-894-CD
OFFICER SWANSON, et al., Defendants	*	

ORDER

NOW, this 23rd day of August, 2006, upon consideration of Defendants' Preliminary Objections and the Court believing oral argument is not necessary, it is hereby ORDERED that the Preliminary Objections are SUSTAINED and the Amended Petition for Review is DISMISSED as to all parties except Swanson and as to all counts except for monetary damages.

BY THE COURT,

FREDRIC J. AMMERMAN
President Judge

I hereby certify this to be a true and attested copy of the original statement filed in this case.

AUG 25 2006

Attest. William L. Shaw
Prothonotary/
Clerk of Courts

UP

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

GLENN A. HOLDER, Plaintiff	*	
vs.	*	NO. 06-894-CD
OFFICER SWANSON, et al, Defendants	*	

ORDER

NOW, this 30th day of August, 2006, the Court being in receipt of the Plaintiff's Motion for Extension of Time or Stay of Proceedings to Properly Comply with Pa. R.C.P. 1022; that due to the entry of this Court's Order of August 23, 2006 granting the Defendants' Preliminary Objections the Plaintiff's Motion is moot. Therefore, it is the ORDER of this Court that the Plaintiff's Motion be and is hereby DISMISSED.

BY THE COURT,

FREDRIC J. AMMERMAN
President Judge

FILED
AUG 30 2006
0/3:50/cc
William A. Shaw
Prothonotary/Clerk of Courts

CERT TO PLAINTIFF
&
ATTY RYAN,

#11

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

GLENN A. HOLDER, Plaintiff	*	
vs.	*	NO. 06-894-CD
OFFICER SWANSON, et al, Respondents	*	

ORDER

NOW, this 30th day of August, 2006, the Court being in receipt of the Plaintiff's Motion for Appointment of Counsel in the above-captioned Civil action; there being no right to a court appointed attorney in a civil case notwithstanding whether the Plaintiff is indigent or incarcerated, it is the ORDER of this Court that the said Motion be and is hereby DISMISSED.

BY THE COURT,

FREDRIC J. AMMERMAN
President Judge

FILED
AUG 30 2006
03:50(W)
William A. Shaw
Prothonotary/Clerk of Courts

cert to Plaintiff
Atty Reed
GP

#10

CLERK OF COURTS
CLEARFIELD COUNTY COMMON PLEAS COURT
CLEARFIELD, PA. 16830

RE: GLENN A. HOLDER SR. V. OFFICER SWANSON et al.
NO. 06-894- CD

ATTACHED ARE THE EXHIBITS FOR THE PLAINTIFFS RESPONSE TO THE DEFENDANTS PRELIMINARY OBJECTIONS.

A). REQUEST TO MAJOR KESSLING

B). RULES IN QUESTION POSTED AFTER ACTIONS FILED

C). PRAECIPE FOR ENTRY OF APPEARANCE BY COUNSEL FOR DEFENDANTS.

PLEASE SEE THAT THESE ARE ENTERED AND ATTACHED.

THANK YOU FOR YOUR PATIENCE AND ASSISTANCE.

RESPECTFULLY SUBMITTED:

Mr. Glenn A. Holder Sr. Pro-se
EA-7173
P.O. Box 1000
Houtzdale, PA 16698-1000

DATE: 26 August 2006

cc;file;
MS. Debra Sue Rand; Counsel for defendants.

FILED
AUG 29 2006
m/2:45/w
William A. Shaw
Prothonotary/Clerk of Courts
1 CERT TO PLFF

(#9)

Form DC-135A **INMATE'S REQUEST TO STAFF MEMBER** cc;	Commonwealth of Pennsylvania Department of Corrections INSTRUCTIONS Complete items number 1-8. If you follow instructions in preparing your request, it can be responded to more promptly and intelligently.
1. To: (Name and Title of Officer) MAJOR KESSLING	2. Date: 30 July 2006
3. By: (Print Inmate Name and Number) HOLDER EA-7173 Inmate Signature	4. Counselor's Name Ms. Urbanick 5. Unit Manager's Name Mr. Everhart
6. Work Assignment NITE BAKERY	7. Housing Assignment CA-46

8. Subject: State your request completely but briefly. Give details.

Major Kessling:

I have noticed that you have posted some rules dated effective 6-13-06. To this date there can be found no copy of these rules in the library or Law Library.

I am requesting a copy of these rules.

Thank you for your assistance.

9. Response: (This Section for Staff Response Only)

M. Holder, I have NO clue what RULES you are speaking of, you will have to be more specific

To DC-14 CAR only ☐ | To DC-14 CAR and DC-15 IRS ☐

Staff Member Name Kessling (Print) Kessling (Sign) Date 8/7/06

Revised July 2000

NON-CONTACT VISITING RULES AND REGULATIONS

1. NO SMOKING IN THE VISITING AREA OR OUTSIDE COURTYARD.

2. NO ITEMS OR GIFTS WILL BE TAKEN INTO OR OUT OF THE VISITING AREA, EXCEPT FOR THE AUTHORIZED MONEY LIMIT FOR PURCHASING OF VENDING ITEMS.

3. INMATES ARE NOT PERMITTED TO VISIT WITH OTHERS NOT ON THEIR VISIT.

4. PHOTOGRAGHS WILL NOT BE PERMITED.

5. CHILDREN ARE TO BE CONTROLLED BY THE INMATE AND HIS VISITORS AT ALL TIMES. CHILDREN MUST BE ACCOMPNIED BY THE ADULT AT ALL TIMES.

6. ALL TRASH IS TO BE DISPOSED OF IN THE TRASH CONTAINER.

7. LOUD OR BOISTERIOUS BEHAVIOR WILL NOT BE TOLERATED. BE CONSIDERATE OF OTHER INMATES AND THEIR VISITORS.

8. VISITORS OR INMATES ARE NOT PERMITTED TO SIT ON THE TOPS OF TABLES, SHELVES, OR THE BACKS OF CHAIRS.

9. VISITORS AND INMATES ARE TO REMAIN SEATED AT ALL TIMES DURING THEIR VISIT.

FAILURE TO COMPLY WITH THE ABOVE LISTED RULES AND REGULATIONS MAY RESULT IN THE TERMINATION OF THE VISIT.

Major of the Guard

6/13/06
Date

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA CIVIL DIVISION

GLENN A. HOLDER, SR.,	:	
	:	
Plaintiff,	:	No. 06-894-CD
	:	
v.	:	(President Judge Fredric J. Ammerman)
	:	
OFFICER SWANSON, et al.	:	
	:	
Defendants.	:	

PRAECIPE FOR ENTRY OF APPEARANCE

TO THE PROTHONOTARY:

Please enter my appearance as counsel on behalf of Defendants Matthew A. Swanson, Marshall J. Shirley, Jr., Robert Reed, Randall E. Britton, Kenneth R. Cameron, Frank Hartnett and George Patrick in the above-captioned matter.

Respectfully submitted,

Office of General Counsel

By: Debra Sue Rand

Debra Sue Rand
Assistant Counsel
Attorney I.D. No. 41661
Pennsylvania Department of Corrections
Office of Chief Counsel
55 Utley Drive
Camp Hill, PA 17011
(717) 731-0444

Dated: August 21, 2006

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

GLENN A. HOLDER
Petitioner

V.

OFFICER SWANSON, et al.,
Respondents

NO: 06-894-CD

FILED
AUG 29 2006
m/12:16/cc
William A. Shaw
Prothonotary/Clerk of Courts
1 cert to Pltf

MOTION FOR APPOINTMENT OF COUNSEL

NOW COMES, Glenn A. Holder Sr, petitioner in the above caption to this Honorable Court in this Motion for Appointment of Counsel and avers the following:

1.) The petitioner is currently incarcerated and is the plaintiff in the above civil action.

2.) The petitioner Request to Proceed in Forma Pauperis was Granted by this Honorable Court on July 12, 2006.

3.) The petitioner status has not changed, since the granting of his Forma Pauperis status.

4.) This petitioner is in need of counsel to effectively represent him in this matter.

Wherefore, the above stated reasons, the petitioner respectfully prays this Honorable Court will grant this Motion for Appointment of counsel in this matter.

DATE: 25, 2006

SUBMITTED BY:

Mr. Glenn A. Holder Sr.
EA-7173
P.O. Box 1000
Houtzdale, PA. 16698-1000

#8

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

GLENN A. HOLDER SR.
plaintiff

V.

OFFICER SWANSON, et al.
Defendants

NO. 06-894-CD

(President Judge Fredic J. Ammerman)

CERTIFICATE OF SERVICE

I hereby certify that I have placed the attached motion in the First-Class Mail box provided by this institution, which is a True and Correct copy, in a manner that satisfies the PA. R.C.P.

BY FIRST CLASS PRE-PAID MAIL

CLERK OF COURT
MR. WILLIAM A. SHAW
CLEARFIELD COUNTY COURTHOUSE
230 EAST MARKET STREET
P.O. BOX 549
CLEARFIELD, PA 16830-0549

Orig. and (1)

DEBRA SUE RAND ESQ.
PA. DEPARTMENT OF CORRECTIONS
OFFICE OF CHIEF COUNSEL
55 UTLEY DRIVE
CAMP HILL, PA 17011

(1) Copy

DATE: 25 August 2006

Submitted By:
Mr. Glenn A. Holder Sr. Pro-se
EA-7173
P.O. Box 1000
Houtzdale, PA 16698-1000

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

FILED
AUG 29 2006
m/12:10/w
William A. Shaw
Prothonotary/Clerk of Courts
1 cert to Plff

GLENN A. HOLDER SR.
Plaintiff

V.

OFFICER SWANSON, et al.
Defendants

NO. 06-894-CD

Judge Fredric J. Ammerman

MOTION FOR EXTENSION OF TIME OR STAY OF PROCEEDINGS TO PROPERLY COMPLY WITH PA R,C.P. 1022.

NOW COMES, Glenn A. Holder Sr. Pro-se, petitioner in the above matter in this Motion and avers the following:

1). Petitioner submitted his petition for Review and it was filed in this Court on July 14, 2006.

2). The submitted petition labeled paragraphs, alphabetically stating more than one material allegation, as pointed out in the Objections filed by counsel for the defendants and pursuant to PA. R.C.P. 1028 (a)(2).

3). In considering Motions to Dismiss, a pro-se complaint should be held to a less strict standard than a motion drafted by a lawyer. CONLEY V. GIBSON 355 U.S. 41, 45-46 S.Ct.

4). Petitioner is requesting the opportunity to properly comply with PA. R.C.P. 1022, in order for the defendants deny or admit the allegations against them, which will allow them to comply with PA. R.C.P. 1029 (a).

5). Plaintiff will not be able to gain access to the institution law library until 30 August 2006. Plaintiff has submitted for access and it takes (3) to (4) working days.

Wherefore the above stated reasons, petitioner prays this Honorable Court will grant his motion allowing time to properly comply with PA. Rules of Civil Procedures 1022.

DATE: 25 August 2006

SUBMITTED BY:

Mr. Glenn A. Holder Sr pro-se
EA-7173
P.O. Box 1000
Houtzdale, PA 16698-1000

#7

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA
CIVIL DIVISION

GLENN A. HOLDER SR.
plaintiff

V.

OFFICER SWANSON, et al.
Defendants

NO. 06-894-CD

(President Judge Fredic J. Ammerman)

CERTIFICATE OF SERVICE

I hereby certify that I have placed the attached motion in the First-Class Mail box provided by this institution, which is a True and Correct copy, in a manner that satisfies the PA. R.C.P.

BY FIRST CLASS PRE-PAID MAIL

CLERK OF COURT
MR. WILLIAM A. SHAW
CLEARFIELD COUNTY COURTHOUSE
230 EAST MARKET STREET
P.O. BOX 549
CLEARFIELD, PA 16830-0549

Orig. and (1)

DEBRA SUE RAND ESQ.
PA. DEPARTMENT OF CORRECTIONS
OFFICE OF CHIEF COUNSEL
55 UTLEY DRIVE
CAMP HILL, PA 17011

(1) Copy

DATE: 25 August 2006

Submitted By:
Mr. Glenn A. Holder Sr. Pro-se
EA-7173
P.O. Box 1000
Houtzdale, PA 16698-1000

UA

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

GLENN A. HOLDER, SR., Plaintiff	*	
vs.	*	NO. 06-894-CD
OFFICER SWANSON, et al., Defendants	*	

ORDER

NOW, this 23rd day of August, 2006, upon consideration of Defendants' Preliminary Objections and the Court believing oral argument is not necessary, it is hereby ORDERED that the Preliminary Objections are SUSTAINED and the Amended Petition for Review is DISMISSED as to all parties except Swanson and as to all counts except for monetary damages.

BY THE COURT,

FREDRIC J. AMMERMAN
President Judge

FILED 2cc Atty Rand
01/10:15/01
AUG 25 2006 1cc Piff-
SCI Houtzdale
William A. Shaw EA 7173
Prothonotary/Clerk of Courts
GK

#14

DATE: 8/25/06

____ You are responsible for serving all appropriate parties.

__X__ The Prothonotary's office has provided service to the following parties:

__X__ Plaintiff(s) ____ Plaintiff(s) Attorney ____ Other

____ Defendant(s) __X__ Defendant(s) Attorney

____ Special Instructions:

FILED

AUG 25 2006

William A. Shaw
Prothonotary/Clerk of Courts

CA

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA CIVIL DIVISION

FILED

AUG 23 2006

M 11:20 /

William A. Shaw
Prothonotary/Clerk of Courts

1 CERT TO ATTY

GLENN A. HOLDER, SR.,	:	
	:	
Plaintiff,	:	No. 06-894-CD
	:	
v.	:	(President Judge Fredric J. Ammerman)
	:	
OFFICER SWANSON, ET AL.	:	
	:	
Defendants,	:	

DEFENDANTS' PRELIMINARY OBJECTIONS

NOW, comes Debra Sue Rand, Assistant Counsel for the Department of Corrections ("Department") and files the following Preliminary Objections to the "Amended Petition for Review" on behalf of all named Defendants:

Background

1. Plaintiff is Glenn A. Holder, Sr., an inmate currently incarcerated at the State Correctional Institution at Houtzdale ("SCI-Houtzdale") under Inmate No. EA-7173.

2. Defendants are officers and employees of the Department.

3. In his "Amended Petition for Review" Plaintiff alleges that Defendant Swanson issued him a misconduct based upon the conduct of his seven year old daughter when she went to visit Plaintiff at SCI-Houtzdale.

#5

4. The misconduct listed as the charges: "refusing to obey an order," "engaging in sexual acts with others" and "violation of visiting room regulations." (Ex. A to Amended Petition for Review).

5. Plaintiff further alleges that Defendant Shirley approved the issuance of the misconduct; that Defendant Reed, as a Hearing Examiner, issued a sanction based upon the behavior alleged in the misconduct; that on appeal Defendant Patrick reduced the misconduct from Class I to Class II and reduced the sanction; that Defendants Britton, Cameron, Hartnett and Patrick, as members of the Program Review Committee, were aware that no rules required a minor child to remain seated during visits with an incarcerated parent; that Defendant Irwin, as the investigating officer, permitted the misconduct to stand; and that, ultimately, Jeffrey A. Beard, Ph.D., Secretary of the Department directed that the misconduct be vacated.

6. Plaintiff further alleges that he is black and his wife is white; that Officer Swanson personally disapproves of inter-racial marriages between African-Americans and Caucasians; and, that this view caused him to discriminate against Plaintiff in issuing the misconduct.

7. As relief, Plaintiff seeks to have the named Defendants enjoined from harassing him, transferring him or retaliating against him; to have Swanson criminally prosecuted for filing false allegations; to be permitted contact, as

opposed to non-contact, visits with his family; and, to have disciplinary action imposed against the named Defendants. He also seeks various forms of money damages.

First Preliminary Objection
Pa.R.Civ.P. 1028(a)(2)
Lack of Conformity to Law or Rule of Court
Single Allegation Per Paragraph Rule

8. Pennsylvania Rule of Civil Procedure 1022 provides that "[e]very pleading shall be divided into paragraphs numbered consecutively. Each paragraph shall contain as far as practicable only one material allegation."

9. The numbering of paragraphs is for the purpose of facilitating an opponent's answer and to enable the adversary to refer to the appropriate averment. Goodrich-Amram 2d § 1022:1 (Amram Commentary) (2001).

10. Generally, the test for compliance with Rule 1022 is the difficulty or impossibility one has in answering the complaint. *General State Authority v. Sutter Corp.*, 356 A.2d 377, 380 (Pa. Cmwlth. 1976).

11. A responding party must admit or deny a plaintiff's factual averments when filing an answer. Pa. R.C.P. 1029(a).

12. Admissions and denials must refer specifically to the paragraph in which the averment admitted or denied is set forth. *Id.*

13. Because each paragraph in the Amended Petition for Review contains numerous factual allegations, Defendants cannot comply with Pa. R.C.P. 1029(a).

WHEREFORE, Defendants respectfully request that the Amended Petition for Review be stricken.

Second Preliminary Objection
Pa.R.Civ.P. No. 1028(a)(4)
Demurrer[1]

(NO ALLEGATIONS OF PERSONAL INVOLVEMENT AS TO DEFENDANTS SHIRLEY, REED, BRITTON CAMERON, HARTNETT, IRWIN AND PATRICK)

14. There are no specific allegations in the Amended Petition for Review of direct involvement by Defendants Shirley, Reed, Britton Cameron, Hartnett, Irwin and Patrick.

15. Liability for civil rights violations must be imposed based upon on personal involvement and may not be imposed on a theory of *respondeat superior*. *Rode v. Dellarciprete*, 845 F.2d 1195 (3d Cir. 1988).

16. Allegations of participation or actual knowledge and acquiescence must be made with appropriate particularity. *Id.* Defendants, who merely uphold the decisions of hearing examiners when there are no procedural errors at the hearing, are not liable to the inmate under Section 1983.

[1] When ruling on preliminary objections, a court considers as true all well-pleaded facts which are material and relevant. A preliminary objection in the nature of a demurrer is deemed to admit all well-pleaded facts and all inferences reasonably deduced therefrom. In determining whether to sustain a demurrer this Court need not accept as true conclusions of law, unwarranted inferences from the facts, argumentative allegations, or expressions of opinion. *Silo v. Ridge*, 728 A.2d 394, 397-398 (Pa. Cmwlth. 1999); *Giffin v. Chronister*, 616 A.2d 1070, 1072 (Pa. Cmwlth. 1992).

Whittington v. Vaughn, 289 F.Supp.2d 621 (E.D. Pa. 2003); *see also Bey v. Pennsylvania Dept. of Corrections*, 98 F.Supp.2d 650, 664 (E.D. Pa. 2000) (official who upheld decisions with respect to misconduct charges against a prisoner was not liable under Section 1983).

17. Accordingly, even if Plaintiff's filing were construed as stating an alleged Constitutional violation, it fails to state a *prima facie* claim against Defendants Shirley, Reed, Britton Cameron, Hartnett, Irwin and Patrick and they should, therefore, be dismissed from this case.

WHEREFORE, the Defendants respectfully request that the Court sustain this preliminary objection and dismiss Defendants Shirley, Reed, Britton, Cameron, Hartnett, Irwin and Patrick from this case.

Third Preliminary Objection
Pa.R.Civ.P. No. 1028(a)(4)
Demurrer

(INJUNCTIVE RELIEF)

18. Plaintiff seeks injunctive relief asking that this Court enjoin any **future** retaliation, harassment or transfer actions.

19. This request is speculative only and not a proper subject for injunctive relief. *International Association of Firefighters v. Lofus*, 471 A.2d 605, 608 (Pa. Cmwlth. 1984).

WHEREFORE, Plaintiff has failed to state a cause of action for such relief.

Fourth Preliminary Objection
Pa.R.Civ.P. No. 1028(a)(4)
Demurrer

(PROSECUTORIAL DISCRETION)

20. Plaintiff seeks an order compelling the Department to prosecute Swanson for filing false statements.

21. Prosecutorial discretion is reposited in the Office of District Attorney, not the Department.

22. Further, the exercise of prosecutorial discretion is not subject to judicial review. *Commonwealth v. Sanico Inc.*, 830 A.2d 621, 629 n. 14 (Pa. Cmwlth. 2003); *Commonwealth v. Malloy*, 450 A.2d 689 (1982).

WHEREFORE, Plaintiff has failed to state a cause of action for such relief.

Fifth Preliminary Objection
Pa.R.Civ.P. No. 1028(a)(4)
Demurrer

(VISITATION POLICIES)

23. Plaintiff seeks to have the Department alter its visitation policies and his request is in no way tied in to his allegation of racial discrimination.

24. An inmate has no right to visitation privileges. *Wei Chem*, 725 A.2d at 229 n.2 (citing *Kentucky Department of Corrections v. Thompson*, 490 U.S. 454 (1989)); *see also Robles v. Department of Corrections*, 718 A.2d 882

(Pa. Cmwlth. 1998). Therefore, he cannot be heard to complain about the visitation privileges he does have.

WHEREFORE, Plaintiff has failed to state a cause of action for such relief.

Sixth Preliminary Objection
Pa.R.Civ.P. No. 1028(a)(4)
Demurrer

LACK OF STANDING (EMPLOYEE DISCIPLINE)

25. Plaintiff seeks to have this Court compel the Department to take disciplinary action against the named Defendants.

26. It is within the discretion of the Department, as an employer, whether or not to implement disciplinary sanctions against its employees; Plaintiff has no standing to sue for such relief.

WHEREFORE, Plaintiff has failed to state a cause of action for such relief.

Respectfully submitted,

Office of General Counsel

By: Debra Sue Rand

Debra Sue Rand
Assistant Counsel
Attorney I.D. No. 41661
Pennsylvania Department of Corrections
Office of Chief Counsel
55 Utley Drive
Camp Hill, PA 17011
(717) 731-0444

Dated: August 21, 2006

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA CIVIL DIVISION

GLENN A. HOLDER, SR.,	:	
	:	
Plaintiff,	:	No. 06-894-CD
	:	
v.	:	(President Judge Fredric J. Ammerman)
	:	
OFFICER SWANSON, ET AL.	:	
	:	
Defendants,	:	

CERTIFICATE OF SERVICE

I hereby certify that I am depositing in the U.S. mail a true and correct copy of the Defendants' Preliminary Objections upon the person(s) in the manner indicated below:

Service by first-class mail
addressed as follows:

Glenn A. Holder, Sr., EA-7173
SCI-Houtzdale
P. O. Box 1000
Houtzdale, PA 16698

Kay Flohr
Clerk Typist 2
Pennsylvania Department of Corrections
55 Utley Drive
Camp Hill, PA 17011
(717) 731-0444

Dated: August 21, 2006

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA CIVIL DIVISION

GLENN A. HOLDER, SR.,	:	
	:	
Plaintiff,	:	No. 06-894-CD
	:	
v.	:	(President Judge Fredric J. Ammerman)
	:	
OFFICER SWANSON, ET AL.	:	
	:	
Defendants,	:	

APPLICATION TO HAVE THE PRELIMINARY OBJECTIONS DECIDED WITHOUT ORAL ARGUMENT

Defendants hereby request that this matter be decided without oral argument because the Plaintiff in this civil matter is an inmate currently incarcerated at the State Correctional Institution at Houtzdale, who is proceeding pro se, and because the law as pertains to the preliminary objections is well settled.

Respectfully submitted,

Office of General Counsel

By: Debra Sue Rand

Debra Sue Rand
Assistant Counsel
Attorney I.D. No. 41661
Pennsylvania Department of Corrections
Office of Chief Counsel
55 Utley Drive
Camp Hill, PA 17011
(717) 731-0444

Dated: August 21, 2006

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA CIVIL DIVISION

GLENN A. HOLDER, SR.,	:	
	:	
Plaintiff,	:	No. 06-894-CD
	:	
v.	:	(President Judge Fredric J. Ammerman)
	:	
OFFICER SWANSON, ET AL.	:	
	:	
Defendants,	:	

CERTIFICATE OF SERVICE

I hereby certify that I am depositing in the U.S. mail a true and correct copy of the Application to have the Preliminary Objections Decided Without Oral Argument upon the person(s) in the manner indicated below:

Service by first-class mail
addressed as follows:

Glenn A. Holder, Sr., EA-7173
SCI-Houtzdale
P. O. Box 1000
Houtzdale, PA 16698

Kay Flohr
Clerk Typist 2
Pennsylvania Department of Corrections
55 Utley Drive
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Dated: August 21, 2006

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA CIVIL DIVISION

GLENN A. HOLDER, SR.,	:	
	:	
Plaintiff,	:	No. 06-894-CD
	:	
v.	:	(President Judge Fredric J. Ammerman)
	:	
OFFICER SWANSON, ET AL.	:	
	:	
Defendants,	:	

PROPOSED ORDER

NOW, this _____ day of August 2006, upon consideration of Defendants' Application to have the Preliminary Objections Decided Without Oral Argument, it is hereby ORDERED that Preliminary Objections in the above-captioned matter shall be decided without oral argument.

In the alternative, Defendants shall submit a Praecipe for Argument and Proposed Scheduling Order in compliance with local rules.

BY THE COURT:

_____

J.

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA CIVIL DIVISION

GLENN A. HOLDER, SR.,	:	
	:	
Plaintiff,	:	No. 06-894-CD
	:	
v.	:	(President Judge Fredric J. Ammerman)
	:	
OFFICER SWANSON, ET AL.	:	
	:	
Defendants,	:	

SCHEDULING ORDER

NOW, this _____ day of August 2006, it is hereby ORDERED that Argument on Defendants' Preliminary Objections in the above-captioned matter is hereby scheduled for _____.

BY THE COURT:

_____

J.

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA CIVIL DIVISION

GLENN A. HOLDER, SR.,	:	
	:	
Plaintiff,	:	No. 06-894-CD
	:	
v.	:	(President Judge Fredric J. Ammerman)
	:	
OFFICER SWANSON, ET AL.	:	
	:	
Defendants,	:	

PRAECIPE FOR ARGUMENT

To the Court Administrator:

Please schedule an argument date for consideration of Defendants' Preliminary Objections in compliance with Local Rule 1028(c).

Respectfully submitted,

Office of General Counsel

By: Debra Sue Rand

Debra Sue Rand
Assistant Counsel
Attorney I.D. No. 41661
Pennsylvania Department of Corrections
Office of Chief Counsel
55 Utley Drive
Camp Hill, PA 17011
(717) 731-0444

Dated: August 21, 2006

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA CIVIL DIVISION

GLENN A. HOLDER, SR.,	:	
Plaintiff,	:	No. 06-894-CD
v.	:	(President Judge Fredric J. Ammerman)
OFFICER SWANSON, ET AL.	:	
Defendants,	:	

CERTIFICATE OF SERVICE

I hereby certify that I am depositing in the U.S. mail a true and correct copy of the Praecipe for Argument upon the person(s) in the manner indicated below:

Service by first-class mail
addressed as follows:

Glenn A. Holder, Sr., EA-7173
SCI-Houtzdale
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(717) 731-0444

Dated: August 21, 2006

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA CIVIL DIVISION

GLENN A. HOLDER, SR.,	:	
	:	
Plaintiff,	:	No. 06-894-CD
	:	
v.	:	(President Judge Fredric J. Ammerman)
	:	
OFFICER SWANSON, et al.	:	
	:	
Defendants.	:	

FILED
AUG 23 2006
William A. Shaw
Prothonotary/Clerk of Courts

PRAECIPE FOR ENTRY OF APPEARANCE

TO THE PROTHONOTARY:

Please enter my appearance as counsel on behalf of Defendants Matthew A. Swanson, Marshall J. Shirley, Jr., Robert Reed, Randall E. Britton, Kenneth R. Cameron, Frank Hartnett and George Patrick in the above-captioned matter.

Respectfully submitted,

Office of General Counsel

By: Debra Sue Rand

Debra Sue Rand
Assistant Counsel
Attorney I.D. No. 41661
Pennsylvania Department of Corrections
Office of Chief Counsel
55 Utley Drive
Camp Hill, PA 17011
(717) 731-0444

Dated: August 21, 2006

#4

IN THE COURT OF COMMON PLEAS FOR CLEARFIELD COUNTY, PENNSYLVANIA CIVIL DIVISION

GLENN A. HOLDER, SR.,	:	
	:	
Plaintiff,	:	No. 06-894-CD
	:	
v.	:	(President Judge Fredric J. Ammerman)
	:	
OFFICER SWANSON, ET AL.	:	
	:	
Defendants,	:	

CERTIFICATE OF SERVICE

I hereby certify that I am depositing in the U.S. mail a true and correct copy of the Praecipe for Entry of Appearance upon the person(s) in the manner indicated below:

Service by first-class mail
addressed as follows:

Glenn A. Holder, Sr., EA-7173
SCI-Houtzdale
P. O. Box 1000
Houtzdale, PA 16698

Kay Flohr
Clerk Typist 2
Pennsylvania Department of Corrections
55 Utley Drive
Camp Hill, PA 17011
(717) 731-0444

Dated: August 21, 2006

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY

GLENN A. HOLDER SR
Petitioner

V.

OFFICER SWANSON,
CO. IV. M. SHIRLEY
ROBERT REED: HEARING EXAMINER,
DEPUTY R. BRITTON,
DEPUTY K. CAMERON & FRANK
HARTNETT: PROGRAM REVIEW
COMMITTEE, CAPTIAN IRWIN:
SECURITY AND GEORGE PATRICK
SUPERINTENDENT.
Respondents

06-894-CD

No. 286 M.D. 2006

FILED 2cc Piff
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JUL 14 2006 GK
William A. Shaw
Prothonotary/Clerk of Courts

AMENDED
PETITION FOR REVIEW

1). This court has jurisdiction over this matter pursuant to Section 736 of the Judicial Code , 42 PA. C.S. §763.

2). Petitioner Glenn A. Holder Sr., is an adult inmate currently incarcerated at State Correctional Institution @ Houtzdale.

3). Respondents are as follows: Officer Swanson; Author of DC-141 Misconduct, Mr. Robert Reed; Hearing Examiner, CO. IV. M. Shirley; authorizing shift supervisor, Frank Hartnett, Deputy R. Britton, Deputy Kenneth Cameron; Program Review Committee an independent administrative agency within S.C.I. Houtzdale, Captian Irwin; Investigating Security Officer, and George Patrick; Superintendent all located at P.O. Box 1000, Houtzdale, Pennsylvania 16698-1000.

4). Respondent Swanson submitted a DC-141 Misconduct on 12 March 2006, alleging that the appellant was engaging in sexual acts with others, Refused and Order and Violated Visiting room Regulations, that the appellant had been block carded for these very same infractions on 12-29-05; 12-30-05 and twice on 12 March 2006. Mr. Swanson alleged and accused the appellant of engaging in sexual acts with his (7) year old daughter in the non-contact booth, (seperated by glass and cinder block) while the appellants wife watched. The

#3

order accused of refusing was to have the appellants (7) year old daughter remain seated, in the chair provided at all times, ie. the entire (5) hour visiting peroid, after riding (3½) hours to the visit. (SEE EXHIBIT A OF ORIGINAL PETITION HERE AFTER DOC. 1).

A). Respondent Shirley with full knowledge of the Policy of this institution as well as the department of corrections as to visiting room rules and regulations as well as Officer Swansons history of discrimination, and that officer swanson had been placed on a misconduct restriction due to writing many fraudulent misconducts, approved the submitted DC-141 based on the words of this same officer, thus condoning every aspect of the misconduct at face value.

B). Respondent Robert Reed, Hearing Examiner, having full knowledge of department of corrections policy, rules and regulations govering the visiting room, as well as the known conduct and history of Swanson, dismissed the charge of engaging in sexual acts, though stated that he believed all of Swansons allegations and charges; then refused to allow the appellants eye witness to the visit to be present at the hearing, stating that the witness was not needed to establish the facts, added that the appellant had been given numerous warnings about his behavior as well as his visitors behavior on visits, which was unfounded and santioned the appellant to (60) days in the restricted housing unit. (SEE EXHIBIT B AND B-1 OF DOC. 1)

5). Petitioner filed his administrative appeal on 14 March 2006, (the same day placed in the R.H.U.) Pursuant to Department of Corrections policy DC-ADM-801, which was sustained in every aspect by the Program Review Committee on 21 March 2006.(SEE EXHIBIT C & C-1 of DOC. 1).

Petitioner then appealed to the facility manager, (superintendent) George Patrick, where the misconduct was reduced from a Class I misconduct to a Class II misconduct, and modified Disciplinary Custody Santion to time served, stating that the appellant was punished due to the misbehavior of the child. Appellant was released from D.C. on 6 April 2006 after (23) days.(SEE EXHIBIT C-2 and C-3, DOC. 1)

Petitioner filed appeal to the Chief Hearing Examiner, 12 April 2006 and recieved a denial of relief on May 1, 2006, dated 21 April 2006 stating, that this office fully concurs with the superintendents position, and that procedures followed were in complete accordance with DC-ADM-801, §VI. The imposed is not viewed to be disporportinate to the offense, and therefore will not be amended at this level. Further that the superintendent throughly and fairly reviewed the facts of the misconduct as well as the mitigating circumstances and reduced the misconduct to Class II. (SEE C-4, DOC. 1).

6). The petitioner should recieve relief in this matter for the following reasons:

A). Mr. Swanson alleged and accused the petitioners child of standing on the table being bent over shaking her rear end at the petitioner, thus chargeing the petitioner with engaging in sexual acts with others, meaning his child, attempting to make the petitioners child a victim, and alleged that the petitioners wife w.!om was present was a willing participant and an unfit mother. This visit took place in a non-contact boothe seperated by glass and cinder block. (SEE EXHIBIT A OF DOC. 1)

1). There is no eveidence of this type of behavior or conduct on video tape. If in fact this inappropriate behavior took place, why did the Offcier allow the petitioners visit to continue? Mr. Swanson did not terminate the visit, though he claims that this very same type of behavior took place on (4) diffrent occassions? Mr. Swanson is one known through out the institution for writing up misconducts on inmates at the very first sign of bad conduct. FACTUALLY MR. SWANSON HAS BEEN ON MISCONDUCT RESTRICTION DUE TO HIS WRITING OF FRAUDLENT MISCONDUCTS. Yet, Mr. Swanson alleges that the aforementioned conduct took place on (4) diffrent occassions and did nothing, but waits until the said 4th time an write a misconduct, still not terminating the petitioners visit.

The actions of Mr. Swanson is due to his personal beliefs and dislikes of individuals of the opposite race whom do not marry persons of their race. Namely African-americans whom are married

to a white woman. This is called racism, and his actions are called racial discrimination.

Offcier Swanson accuses the petitioner of refusing to obey an order.

1). Though Mr. Swanson did say to the petitioner to have his child remain in her seat provided, there are no rules in governing the non-contact booth, that state that a minor child must remain seated in their seat through out the entire visit, or during the visiting peroid. (SEE EXHIBIT A-1 of DOC. 1). The petitioner did inform his wife and child that the officer stated that she must remain in her seat. The petitioner used all of his influences avail able to him, being that he was seperated by glass in the non-contact booth and has not been in the home with the child at any time in her young life. Screaming at the child is not an option. Not only is insisting that the child remain seated during the visiting peroid not a part of hte policy, to the child this would be considered as punishment. The child is (7) years old, The child just rode (3½) hours from York, PA. to Houtzdale, Pa. to visit her daddy, the child consumes candy, soda stc., and if the child remains seated, she would not be able to see her daddy, nor hear him read to her to books she wants him to read to her, which would amount to a mere telephone call. The petitioner passed on the words of the officer, therfore how is it that the petitioner refused to obey anorder? At no time did Officer Swanson say to the petitionet, "I am giving you a Direct Order to have your child remain seated in the seat provided".

If there are no rules or regulations which state that a minor child must remain seated during a visit or govering the non contact booth, then how is it possible for the petitioner, his child and his wife violate visiting room rules or regulations? If the petitioner is seperated by glass and cinder block in a non-contact booth; have not been in the home with the child at any time of her (7) years of life, what real influence does the petitioner have? (the petitioner has been incarcerated (8) years, the child will be (8) in November.)

Mr. Swanson singled out the petitioner whom is African

american and married to a caucasion woman, whom have a child togather, and insisted that the child remain seated for the (5) hour peroid of the visit, Yet at the very same time, Mr. Swanson was allowing other children of causaion inmates to move about the visiting room at times running and playing. Mr. Swanson also allows causaion inmates whom have visits in the non-contact booth, not only to stand them selves, but allow their minor children to stand on the table through out their visit, in order to see and bond with their incarcerated aprent while in the non-contact booth. (SEE EXHIBIT D AND D-1 OF DOC. 1). This is the very thing that Mr. Swanson alleged and gave the petitioner a misconduct for, Yst,Mr. Swanson did not give any of the caucasion inmates a misconduct, nor harass them. The only diffrence between the petitioner and these other inmates are the color of their skin.

Mr. Swanson has a history of Racial Discriminatory behavior and has further continued his practices by racially profiling and Racially discriminating against the petitioner, the petitioners child and his wife, by making false allegations against the family, fabricating a misconduct against the petitioner, having the petitioner placed into the Restricted Housing unit and depriving the petitioner and African american inmate the same liberties, he freely allows white inmates. The only thing diffrent is that Mr. Swanson did not hang up a Jim Crow sign. Which is harsh but the reality Mr. Swanson strives for.

This too can be considered as retaliation. Approx, the first part of 2000, the petitioner had a simular problem with Mr. Swanson. The petitioner submitted a grievance, then a few days later, the petitioner was called to security , and was told by a white shirt that if he signed off on the grievance he would insure that Mr. Swanson would not bother the petitioner again. mr. Swanson has not until this current matter.

Mr. Swanson would never allowed an inmate to refuse an order given by him, yet claims that the petitioner refused his order (4) times; claims the petitioner engaged in sexual acts with his daughter (4) times during his visits, Yet Mr. Swanson did not submit a write

up until after the fourth time, then still, did not terminate the petitioners visit, and did not place the petitioner in the Restricted housing unit.

With Mr. Swanson history of Racial Discriminatory actions against inmates of color and being placed on Misconduct restriction for submitting fraudlent misconducts, Mr. Swanson still submitted a misconduct, alledging false claims against the petitioners and his entire family, alleging serious claims against the child and petitioner and his wife, Racially profiling them, which led to the petitioner being placed into the Retricted Housing Unit under false allegations, Cause undue and irreversable damage to the petitioners wife and child, Thus Violating their Civil Rights and Constitutional Rights Guaranteed them by the Commonwealth of Pennsylvania and the United States of America.

B). Respondent Lt. Shirley, with adequate knowledge of Mr. Swanson, being employed at S.C. I. Houtzdale with Mr. Swanson more than (3) years, reviewed the report written by Mr. Swanson with out considering the facts that Mr. Swanson has been placed on a misconduct restriction for writing fraudlent misconducts, Mr. Swansons known Racial discriminatory actions, the policy nor the facts surrounding the misconduct, authorized the misconduct. The authorization of this fabrication on Official State Documnets, condones the actions of Mr. Swanson, and assisted Mr. Swanson in his continued discriminatory actions against the petitioners family and should be held accountable for his actions in concert with Mr. Swanson.

C). Mr. Robert Reed; Hearing Examiner, errored in stating his belief in Mr. Swansons fabricated report, though having knowledge of Mr. Swansons beliefs and behavior of racial discrimination, chose to assist Mr. Swanson in refusing to allow the petitioner the right to see the video tape, refusing to acknowledge the weight of eveidence the petitioners witness would have, during the hearing and refused request to see the video tape by the petitioners wife. (SEE EXHIBIT B OF DOC. 1). Mr. reed checks not guilty, in the verdict box, then states unfounded allegations and santioned the petitioner to (60) days in disciplinary custody, effective on 14 March, 2006, finding guilt on refusing to obey orders and violating visiting room rules and regulations.(SEE EXHIBIT B-1) Mr. Reed condoned the

the actions of Mr. Swanson, by further refusing to acknowledge the the fact that there was no such rules or policy that states that a minor child must remain seated during their visit, choosing him self not to acknowledge person knowledge of policy information, rather just believe officer Swanson, with his known Racial beliefs, thus, being in concert with officer Swanson.

Refusing to obey orders and violating visiting room rules are charges that are eligible for informal resolution, which does not include being placed into the Restricted Housing Unit. The petitioner had not had a misconduct, nor a bad report from his work or housing unit, or anything of this nature since 23 Dec. 1999. Yet Mr. Reed assisted Mr. Swanson in his discriminatory actions and practices by not considering the true facts, policy, location of said incident, injected his own personal feelings, abused his descretion and placed the petitioner into the restricted Housing unit assisting Mr. Swanson in his discriminatory acts in harming the petitioner and his family.(SEE EXHIBIT F AND F-1 of Doc. 1).

D). The Program Review Committee consisting of Deputy Britton, Deputy Cameron, Frank Hartnett and George Patrick, errored in that these upper ranked staff members have through knowledge of Department of Corrections policy as well as their own supplemented version of department of corrections policy, being aware that no such rules existed that stated that a minor child must remain seated throughout the visiting peroid, in this institution or in the non-contact booth. These same individuals in their positions were also aware of Mr. Swansons racial discriminatory actions as well as knowledge that Mr. Swanson has been placed on a misconduct restriction, due to his writing many fraudulent reports, all of these individuals made it their choice and willingly condoned and assisted Mr. Swanson in his discriminatory acts, to discriminate and inflict injury to the petitioner and his family with the submittance of false claims and charges, violating their Civil Rights, as well as Rights Under the Constitution of the UNited States of America.

E). Captian Irwin; Security Investigating Officer assisted Mr. Swanson in his Racial discriminatory actions, by allowing the misconduct in question to go through, being in his position, Capt.

Irwin was aware of the misconduct restriction Mr. Swanson was given as well as the history of Mr. Swansons racial discriminatory actions, against African american inmates.

During an investigation interview, the petitioner was informed by Captian Irwin that, when he first seen the write up, he laughed because it was impossible for the petitioner to engage in sexual acts with others in the non-contact booth, Yet, captian Irwin continued by saying that the charges will stand and remain in the petitioners record. At this point, Capt. Irwin could have expunged the writ up, but, chose to allow it to stand, thereby assisting Mr. Swanson in his false claims, allegations and charges, causing harm to the petitioner, his wife and his child.

The petitioner was allowed to call his wife, where there after the conversation, to add insult to injury, Captian continually question the petitioner about comming to work for him. Becomming a snitch, or confidential informant for him, with a nick name like dancing bear. This in its self was an attempt by the captian to place the petitioner in harms way, for being a snitch in prison can result in your death, something the captian is aware of.Petitioners answer was "NO".

Captian Irwin assisted Mr, Swanson in his discriminatory actions thereby being in concert with Mr. Swanson in causing injury to the petitioner and his family, then attempt to lure the petitioner into harms way, by offering Ice Cream tickets, free cable, soups and other commissary items, to include free phone calls. Thus being in concert with Mr. Swanson, Captian Irwin assistedMr. Swanson in violating the petitioner, as well as his families Civil Rights, discriminating against them racially to cause injury, upon his own free will.

F). Mr. George Patrick; Superintendent, though reduced the Class I misconduct to a Class II misconduct, releasing the petitioner from the Restricted Housing Unit (23) days into the santioned (60) day santione, modifying the santion to time served errored in his attempt to make light of the misconduct, and false allegations made by Mr. swanson against the petitioner, and his family, the racial profiling and discriminatory acts thereof, by claiming that the petitioner was found guilty due to the misbehavior of the child despite orders issued to the appellant to control his visitor, attempting to make it sound as if the child was being disruptive, which is far from the truth. Because the child was not in her seat does not mean that the child is

out of control. She is a (7) year old child ,not a solider, nor an inmate. (SEE EXHIBIT G OF DOC. 1).

Mr. Patrick in his position as Superintendent is aware that there is no such rules that state that a minor child must remain seated during the visitation peroid, Mr. Patrick is aware of the history of Mr. Swansons derogatory and racial Discriminatory behavior, as well as the misconduct restrictions that Mr. Swanson was placed on for submitting fraudlent reports, yet he chooses, willingly to allow Mr. Swanson misconduct report to go through. With this knowledge Mr. Patrick attempted to amke light of the fraudlent misconduct by Mr. swanson, as well as the false allegations against the petitioners family and blantent racial discrimination by swanson, is to condone the actions of the officer.

The petitioner is on a non-contact status that became effective in July 2000 due to the actions of Mr. Simms, an inmate in another institution. Mr. Patrick uses his own personal feelings to refuse the petitioner a contact visit or contact visitation with his child, whom is not an alleged victim in his case, even though the petitioners mother, mother in law, father in law, wife and daughter GOD mother request contact visitation with the child for the petitioner. Request are constantly refused.

Therefore the superintendent is willingly allowing his officer (Mr. Swanson) to willfully profile and racially discriminate against the petitioner, his wife and his child, as well as discriminating him self against the petitioner and his family, denying contact visitation, yet allowing other inmates simular situated this liberty. Mr. Patrick stood by his officer, and his officers discriminatory actions until approx.April 21, 2006, upon his reciept of a complaint intent advisory from the petitioners family, advising intent to file Civil Actions against Mr. Swanson and those involved. At that time and only at that time did Mr. Patrick contact the Secretary of Corrections, Mr. Jeffery A. Beard requesting the Chief Examiner to reopen this petitioners appeal. This time, due to the letter from the family citing the same DC-ADM-801, VI, L, 3, the Chief Examiner and Superintendent Patrick decided that the charge be vacated at the final review to prohibit recharge and rehearing, and the Secretary

of Corrections concurred with the recommendation, dismissing the misconduct and asking the superintendent to ensure that his staff members expunge all records of the misconduct from the petitioners nstitutional files. (SEE ATTACHED TO THIS DOCUMENT, A, B, C.) Prior to this, chief hearing examiner Robert S. Bitner, just plainly rubber stamped the appeal, failing to throughly examin all of the information he claimed to review, thus aiding Mr. Swanson as well as the named respondents in injury to the petitioner , his wife and his child. (SEE EXHIBIT C-4 OF DOC. 1).

It is clear that the petitioner is very cautious of any type of contact that would get him into any type of trouble; that according to major Kessling, (Major of the Guard) there are cameras in the visiting room and if the incident took place it would be on camera. (SEE EXHIBIT H OF DOC. 1).

7). As a result of Mr. swansons actions, the petitioner was placed in the R.H.U. for (60) days serving (23), lost his job for (32) days, has suffered ridicule from inamtes as well as officers, due to his false allegations. Due to the continued denial of relief and the condoning of the actions by Officer Swanson, the wife of the petitioner has suffered sever depression, her reputation has been damaged and she is in grave fear of returning to the institution or any other institution due to the false allegations of Officer Swanson or the staff members there of. These allegations and actions have emotionally damaged the petitioners family as well as the petitioner even moreso inflicting punishment upon them on top of the punishment given already by the courts.. The respondents have taken it upon them selves to add punishment. The petitioner is incarcerated as punishment not for further punishment by this institution or the department of correction due to racial bias, discriminatory practices and personal feelings by these staff members. Mr. Swanson has made the petitioners child a victim and has brought trauma upon the child, and the child feeels responsible.

Mr. Swanson has racially profiled, Racially discriminated, and filed false allegations and charges against the family to including harassing the family including the petitioner, Violationg their Civil Rights as well as Violated Rights guarantees by the Constitution of the Commonwealth of Pennsylvania, and of the United States, and the

above named respondents each have assisted Mr. Swanson and condones his actions, acting in concert with him, by turning a blind eye and deaf ear to the facts, with out acknowledgement of Mr. Swansons history of racial discrimination and of writing fraudelent misconduct reports thus assisting Officer Swanson in bringing harm to the petitioner, the petitioners wife and the petitioners child.

Superintendent Patrick acknowledges tha fact that the petitioner as well as his wife and their child were racially discriminated against and has false claims as wellas charges alleged against them by Officer Swanson, by his contacting the Secretary of Corrections Jeffery A. Beard, in a request to reopen the matter and having the misconduct Vacated, Dismissed and Expunged from the petitioners record. However, the damages have already been done to the petitioner and his wife and his child, and this petitioner is seeking damages for this wrong done to him and his wife and their child, by Officer Swanson, inconcert with the respondents named, in which Superintendent Patrick is aware of. Had the petitioners family, (wife) upon his insistance not forwarded the letter of intent/Complaint to Mr. Patrick, this matter would have been swept aside and the racial discrimination would continue, blatantly by Officer Swanson.

The petitioner is not one who just wants to continue a matter for the sake of continuance, but one who had not only been wronged but has had his family and child discriminated against, Racially by Officer Swanson and condoned by the named respondent, which all have violated their Civil Rights, by means of Racial Discrimination.

RELIEF REQUESTED.

A). Injuntive relief to be free from retaliation, harassment or transfer from houtzdale, by any staff member of the Department of Corrections, nor individuals working for security, due to this action.

B). Mr. Swanson is prosecuted for filing false allegations/Claims on Official State Documents and racial Profiling w/Discrimination against the petitioner, his wife and their child. And the family is awarded damages suggested in the amount of $1.500,000.00.

C). Correction of the policy that forces non-contact visits

on inmates whom have not presented themselves as a security risk and non-contact from thie visitors whom are not a victim in their case, that have support of the family for the contact visitation, and Grant the petitioner contact visitation with his child, whom is not an alleged victim in his case which is still in litigation. And add a policy thet prosecutes any employee or individual who discriminates in any manner against any ondividual.

D). To protect my rights in Civil Relief, Tort or otherwise; This matter has caused Emotional and Psychological injury/damage to my daughter who is (7) years old and my wife and where such actions may be proven Violation of State and Federal Constitution and to be Racially Motivated.

E). Disciplinary and Punitive actions against each of the following respondents, Patrick, Hartnett, Britton, Cameron, Reed Shirley , Irwin and Swanson for actions under the color of State Law participating in racial discrimination and harassment, in concert with each other, purjury and Violation of State Law.

F). Under State Law and Color of State Law, in individual capasity (sic) and in professional, Civil Amount Suggested for each respondent $300,000.00.

G). Money lost due to forced termination of visit by wife and daughter $75.00.

H). Recompensation for cost of this present legal action and appeal in the amount of $2500.00 as estimated by attorney average rate.

I). Re imburstment of pay lost due to lost of days of work due to this matter $77.28, (.42¢ an hr. for 23 days lost of work.

J). Compensation for being falsly placed in the Restircted Housing Unit, due to theknown fraudlent misconduct written by Officer Swanson, suggested amount $1875.00 ($75.00 a day @ 23 days).

J). Petitioner Respectfully demands a trial to further establish the facts, and request appointment of counsel to assist in this matter. and Discovery.

wherefore this petitioner prays this Honorable Court will GRANT ALL of the said relief in this petition and all other such relief this Honorable Court may deem appropriate under the circumstances.

Date; 24 May 2006.

Respectfully,

Glenn A. Holder Sr.
EA-7173
P.O. Box 1000
Houzdale, PA 16698-1000

PROOF OF SERVICE

I hereby certify that on this date, I have served upon the individuals listed below a True and Correct copy of the attached petition in a manner which satisfies R.A.P. 121.

BY FIRST CLASS PRE-PAID MAIL.

COMMON PLEAS COURT OF CLEARFIELD COUNTY — ORIG AND 2
230 East Market Street.
Clearfield, PA 16830
Clerk William A. Shaw Sr.

Thomas W. Colbirt Jr. — 1 Copy
Attorney General
Commonwealth of PA
16th Floor; Strawberry Square
Harrisburg, PA 17120

Office of Chief General Counsel — 1 Copy
Department fo Correction
55 Utley Drive
Camphill, PA 17011

George Patrick — 1 Copy
Superintendent
S.C.I. Houtzdale
P.O. Box 1000
Houtzdale, PA. 16698-1000

DAte: 24 May, 2006

SUBMITTED BY:
Glenn A. Holder Pro-se
BA-7173
P.O.Box 1000
Houtzdale, PA 16698-1000

A

TO: Mr. Jeffery Beard
Department of Corrections
P.O. Box 598
Camp Hill, Pennsylvania 17001-598

Mr. George N. Patrick; Superintendant
State Correctional Institution @ Houtzdale
P.O. Box 1000
Houtzdale, Pennsylvania 16698-1000

FROM: Mrs. Dawn E. Holder
1247 West Market Street
York, Pennsylvania 17404

DATE: April 21, 2006

RE: COMPLAINT/INTENT.

Dear Madam/Sirs:

This is an advisory of my intent.

On March 14, 2006, Inmate, EA-7173; Glenn A. Holder Sr. My Husband was charged and placed into the Restricted Housing Unit. Found guilty of allegations made by Officer Swanson, that my husband engaged in sexual acts with others; this others being our child, during our visits, which take place in the non-contact booth in your facility. This lie also accuses me, because I was present at every visit with our child. This lie was/is documented by Officer Swanson and S.C.I Houtzdale, not only against my husband, but me as well as our child. Yet, the Hearing Examiner, Mr. Reed, states that he believes Officer Swanson, even though, Mr. Swanson claimed these said acts took place over a peroid of (4) four days, he personally observed this, rather these acts each time, but chose not to terminate our visit, call authorities or take the appropriate actions. Over (50) human beings in the visiting room, but, Mr. Swanson was the only person who observed this. Though this was said to be dismissed, the damage has been done and it remains in my husbands file.

My husband has a non-contact status, due to another inmates actions in another facility. Our child was not born, when he was arrested, and his case is still in litigation.

Our family was also charged with violating visiting room rules and regulations; Mr. Swanson alleged that our child was standing on the table bent over shaking her rear end at her daddy. Which is a lie, Then Mr, Swanson charges us with refusing to obey an order. First of all, as i stated, our child was never standing on the table. Mr. Swanson insisted that our (7) year old child remain seated the entire visit of (5) hours, in that little booth after riding (3½) hours for the visit. I have reviewed the Visiting Rules (DC-ADM-812) and there is no such rule or regulation that states that a minor child must remain seated during the visit, nor can it be found in the most recent houtzdale supplement. I have personally observed

O. O B

children running all over the visiting room, on Dec. 29; Dec. 30, 2005 and on March 12, 2006, While Mr. Swanson was on duty, and Mr. Swanson said nothing to any of them, instead, Mr. Swanson chose to personally harass my family. It has been brought to my attention that Mr. Swanson allows white inmates to not only stand, but allow their minor children to stand on the table during their non-contact visit, during their visit. SEE ATTACHED STATEMENTS. This is the very thing that Mr. Swanson gave my husband a misconduct for, and charged my family with. Discrimination, Racial discrimination of any type is against the Laws governed by the United States, which includes central Pennsylvania and Houtzdale.

The response from the Superintendant stated that, "Due to the continued misbehavior of the child despite orders issued to the appellant to control his visitor," My husband was found guilty. Our child has never misbehaved during any of **our** visits, as you claim. We have not allowed this, nor have we ever condoned bad conduct by our child, for we are aware that the facility will use anything to further burden our family , to discontinue our visitation with Glenn. It is clear to me that your statement is made to cover up the wrong of Mr. Swanson, and I understand that you have to stand up for your officers, so that they will feel safe and that they have support. However, when you are wrong, you are wrong. and there is no justification for Mr. Swansons bad conduct.

It is very clear that Mr. Swanson has and is racially profiling my family and has been for some time, due to the diffrence in the make up of my family. I am white and my husband is African-american. It has also come to my attention that Mr. Swanson has a history of racial discrimination, as well as use of the "N" word.

This is a Civil Rights claim, ripe for Civil Action. Just because my husband is there in your facility, does not give you the right, or any one else the right to make false allegations against him, and for Mr. Swanson to allege that I allowed such actions, took part of such action or even condone such action was wrong.

I forgive Mr. Swanson and those involved for their actions against our family, However there are Laws against what has been done, and what is being done to my husband. These actions have cause great harm to my entire family.

I have been **informed** by counsel to take this matter into the court.

Yours' Truly

Mrs. Dawn E. Holder

Dawn Holder

ATTACHMENTS:

NOTE: FROM JULY 2000 THROUGH MARCH 2006, THERE HAS BEEN NOT TYPE OF RULES OR INSTRUCTIONS AFFIXED TO THE TABLE IN THE NON-CONTACT BOOTH.

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P. O. BOX 598
CAMP HILL, PENNSYLVANIA 17001-0598

OFFICE OF THE
SECRETARY OF CORRECTIONS

May 1, 2006

Glenn Holder, EA-7173
SCI-Houtzdale

Re: DC-ADM 801 - Final Review
Misconduct No. A664500

Dear Mr. Holder:

This is an amended response to your appeal to final review of the above numbered misconduct. As a result of a request from Superintendent Patrick, the Chief Hearing Examiner has reopened your appeal of this misconduct for further review.

In accordance with DC-ADM 801, VI, L, 3, the Chief Hearing Examiner has reviewed the entire record of this misconduct; including the misconduct report, the hearing report and related documents, your appeal to the Program Review Committee and their response, your appeal to the Superintendent and his response. The Chief Hearing Examiner has also reviewed this misconduct with Superintendent Patrick.

Upon completion of his review, it is the recommendation of the Chief Hearing Examiner and Superintendent Patrick that the decision and the charge be vacated at final review, to prohibit recharge and rehearing.

I concur with the recommendation of the Chief Hearing Examiner. Accordingly, this misconduct is hereby dismissed. Superintendent Patrick will be asked to ensure that his staff expunges all record of this misconduct from your institution files.

Sincerely,

Jeffrey A. Beard, Ph.D.
Secretary of Corrections

JAB/jcs

Cc: Superintendent Patrick

LA

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

GLENN A HOLDER, SR., Petitioner,	:	No. 06-894-CD
v.	:	
OFFICER SWANSON, et al., Respondents.	:	

ORDER

NOW, this 12th day of July 2006, in consideration of Petitioner's Pro Se Complaint transferred from the Pennsylvania Commonwealth Court, it is the ORDER of this Court as follows:

1. Petitioner's Request to Proceed In Forma Pauperis is hereby GRANTED.
2. The Prothonotary of Clearfield County shall accept and file Petitioner's Amended Petition for Review.
3. The Petitioner shall be solely responsible for service of process upon all parties in conformity with the Pennsylvania Rules of Civil Procedure.
4. Respondents shall have no more than 45 days from the date of this Order to file a responsive pleading or other appropriate legal document.

BY THE COURT,

FREDRIC J. AMMERMAN
President Judge

FILED 5CC
0/9:38/61
JUL 14 2006

William A. Shaw
Prothonotary/Clerk of Courts

#2

Miscellaneous Docket Sheet

Commonwealth Court of Pennsylvania

Docket Number: 286 MD 2006

May 25, 2006

DOCKET ENTRIES

Filed Date	Docket Entry/Document Name	Party Type	Filed By
May 8, 2006	Petition for Review Filed	Petitioner	Holder Sr., Glenn A.
May 9, 2006	Application to Proceed In Forma Pauperis	Petitioner	Holder Sr., Glenn A.
May 10, 2006	Transfer	Per Curiam	

This matter is transferred to the Ct. of Common Pleas of Clearfield Co. as this court lacks jurisdiction over tort actions for money damages.

717-255-1606
CALLED BEING MAILED 5-31-06

DISPOSITION INFORMATION

Related Journal Number:
Judgment Date: 5/10/2006
Disposition Category: Disposed Before Decision
Disposition Author: Per Curiam
Disposition: Transfer
Disposition Date: 5/10/2006
Dispositional Comments: This matter is transferred to the Ct. of Common Pleas of Clearfield Co. as this court lacks jurisdiction over tort actions for money damages.
Dispositional Filing:
Filed Date:
Author:

REARGUMENT/RECONSIDERATION/REMITTAL

Reargument/Reconsideration Filed Date:
Reargument Disposition:
Date:
Record Remitted:

PACMS Web Docket Sheet
Recent entries made in the appellate court filing offices may not be immediately reflected on web generated docket sheets.
Neither the Appellate Courts nor the Administrative Office of Pennsylvania Courts assumes any liability for inaccurate or delayed data, errors or omissions on these web docket sheets.

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

GLENN A. HOLDER SR.
Petitioner

VS.

OFFICER SWANSON,
GEORGE PATRICK ET. AL.
Respondents

2006-894-CD

DOCKET # 286 MD 2006

RECEIVED & FILED
COMMONWEALTH COURT
OF PENNSYLVANIA
2006 MAY -9 A 8:35

APPLICATION FOR LEAVE TO PROCEED IN FORMA PAUPERIS.

AND NOW, This 8th day of May, 2006, I Glenn A. Holder Sr., Petitions this Honorable Court for a Review of the matter of Misconduct #A664500, and Request that I be permitted to Proceed IN Forma Pauperis, based on facts submitted in my verified statement attached.

I will suffer grave injustice if not permitted to proceed with this appeal, In Forma Pauperis, in that I have a valid basis for appeal, But would not be able to proceed with out assistance.

WHEREFORE, This petitioner request that this Honorable Court GRANT permission to proceed without payment of fees and cost there of, and any and all other cost necessary to proceed with this appeal.

DATE: 8 May, 2006

Submitted by;

Glenn A. Holder Sr.
DOC # EA-7173

FILED

JUN 02 2006
m/ 2:00/ nocc
William A. Shaw
Prothonotary/Clerk of Courts
no cc

#1

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

GLENN A. HOLDER SR.
Petitioner

VS.

OFFICER SWANSON,
GEORGE PATRICK ET. AL.
Respondents

2006-894-CD

DOCKET # 286 MD 2006

RECEIVED & FILED
COMMONWEALTH COURT
OF PENNSYLVANIA
2006 MAY -9 A 8:35

APPLICATION FOR LEAVE TO PROCEED IN FORMA PAUPERIS.

AND NOW, This 8th day of May, 2006, I Glenn A. Holder Sr., Petitions this Honorable Court for a Review of the matter of Misconduct #A664500, and Request that I be permitted to Proceed IN Forma Pauperis, based on facts submitted in my verified statement attached.

I will suffer grave injustice if not permitted to proceed with this appeal, In Forma Pauperis, in that I have a valid basis for appeal, But would not be able to proceed with out assistance.

WHEREFORE, This petitioner request that this Honorable Court GRANT permission to proceed without payment of fees and cost there of, and any and all other cost necessary to proceed with this appeal.

DATE: 8 May, 2006

Submitted by;
Glenn A. Holder Sr.
DOC.# EA-7173

FILED
JUN 02 2006
m/ 2:00/ cc
William A. Shaw
Prothonotary/Clerk of Courts
no c/c

#1

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

GLENN A. HOLDER SR.
Petitioner

VS.

OFFICER SWANSON,
GEORGE PATRICK, ET.AL

DOCKET NO._____

I. F. P. VERIFIED STATEMENT

I Glenn A. Holder Sr. State under the Penalty provided by **18 PA. C.S. §4904** UNSWORN FALSIFICATION to Authorities that:

1). I am the petitioner in the above action and because of my fincial condition am unable to pay the following fees and cost;

(A) Filing Fees
(B) Any and All cost of reproducing the record.
(C) Any and All cost of proceedings with this appeal [or such Relief Requested].

2). My responses to the questions below relating to my ability to pay the fees and cost of prosecuting an appeal are True and Correct.

(A) Are you presently employed, (if yes, state name and address of employer and salary amount and wages per month.)

Petitioner is presently incarcerated, has been incarcerated approx. (8) years. Petitioner recieved menial jail house pay. (.42¢ an hr.)

(B) Have you recieved within the last twelve months any income from a business, Profession, Self-Employment of any kind, Rent Payments, Interest, Dividends, Pensions, Annuities, Social Security Benefits, Support payments or other source within the past twelve monts ?

(NO) Petitioner recieves an occasional gift from wife and family when ever they have it.

(C) Do you own any cash, Checkings or Savings account?

I have a savings trust account for my daughter which my name is on.

(D) Do you own any Real Estate, Stocks, Bonds, Notes Automobiles or other valuable property, (excluding ordinary household furnishings and clothes.)

(NO)

(E) List the persons if any who are dependant upon you for support and state relationship.

I have a wife and a daughter, whom I am unable to support.

(F) List all your debts and obligations.

Prison medical co-pays $4.00 - $8.00
Legal copies, Supplied, Postage, etc.

I UNDERSTAND THAT A FALSE STATEMENT OR ANSWER TO ANY QUESTIONS IN THIS VERIFIED STATEMENT WILL RESULT AND SUBJECT ME TO THE PENALTIES PROVIDED BY LAW [MISDEMEANOR OF THE SECOND DEGREE].

DATE: 8 May, 2006

cc;file;

Respectfully,

Mr. Glenn A. Holder Sr.
DOC. #EA-7173
P.O. Box 1000
Houtzdale, PA 16698-1000

CERTIFICATE OF SERVICE

I hereby certify that upon this date I have/am serving a True and Correct Copy of the attached Application for Leave to Proceed IN FORMA PAUPERIS and VERIFIED STATEMENT, to the individuals listed below which satisfies R.A.P. 121.

CERTIFIED MAIL; POSTAGE PRE-PAID
RETURN RECIEPT REQUESTED,
ADDRESSED AS FOLLOWS:

PROTHONOTARY OF
COMMONWEALTH COURT OF **PA.**
626 IRVIS OFFICE BUILDING
HARRISBURG, PENNSYLVANIA 17120
— Orig, and 2 Copies.

THOMAS W. COEBIT JR.
ATTORNEY GENERAL
COMMONWEALTH OF PENNSYLVANIA
16th FLOOR: STRAWBERRY SQUARE
HARRISBURG, PENNSYLVANIA 17120
— (1) Copy

OFFICE OF CHIEF GENERAL COUNSEL
DEPARTMENT OF CORRECTIONS
55 UTLEY DRIVE
CAMP HILL, PENNSYLVANIA 17011
— (1) Copy

GEORGE PATRICK: SUPERINTENDANT
S.C.I. HOUTZDALE
P.O. BOX 1000
HOUTZDALE, PENNSYLVANIA 16698-1000
— (1) Copy

Date: 8 May, 2006

SUBMITTED BY:
Mr. Glenn A. Holder SR
DOC. #EA-7173
P.O. Box 1000
Houtzdale, PA 16698-1000

File Copy

Commonwealth Court of Pennsylvania

Charles R. Hostutler
Deputy Prothonotary/ Chief Clerk

Irvis Office Building, Room 624
Harrisburg, PA 17120
717-255-1650

May 31, 2006

2006-894-CD

TO:

RE: Holder Jr. v. Swanson et al
No.286 MD 2006
Trial Court/Agency Dkt. Number:
Trial Court/Agency Name:

Annexed hereto pursuant to Pennsylvania Rules of Appellate Procedure 2571 and 2572 is the entire record for the above matter.

Contents of Original Record:

Original Record Item	Filed Date	Description

Date of Remand of Record:

Enclosed is an additional copy of the certificate. Please acknowledge receipt by signing, dating, and returning the enclosed copy to the Prothonotary Office or the Chief Clerk's office.

Commonwealth Court Filing Office

Signature

June 2, 2006
Date

William A. Shaw
Printed Name

FILED
JUN 02 2006
William A. Shaw
Prothonotary/Clerk of Courts

copy to Comm Court

#1

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Glenn A. Holder Sr., Petitioner	:	2006-894-CD
v.	:	
Officer Swanson, COIV M. Shirley; Robert Reed; Deputy R. Britton; Deputy K. Cameron; Frank Hartnett and Superintendent George Patrick, Respondents	:	No. 286 M.D. 2006

PER CURIAM

O R D E R

NOW, May 10, 2006, upon consideration of petitioner's pro se complaint, in which petitioner seeks money damages from respondents for an alleged violation of petitioner's constitutional rights, and this court lacking jurisdiction over tort actions for money damages whether based on common law trespass or 42 U.S.C. §1983 because such actions are in the nature of trespass in that they seek money damages as redress for an unlawful injury and are properly commenced in the court of common pleas, see Fawber v. Cohen, 516 Pa. 353, 532 A.2d 429 (1987); Balshy v. Rank, 507 Pa. 384, 490 A.2d 415 (1985), this matter is transferred to the Court of Common Pleas of Clearfield County.

The Chief Clerk shall certify a photocopy of the docket entries of the above matter and the record to the prothonotary of the Court of Common Pleas of Clearfield County.

FILED

JUN 02 2006

William A. Shaw
Prothonotary/Clerk of Courts

Certified from the Record

MAY 11 2006

and Order Exit

(#1)

Glenn A. Holder, Sr.,
Petitioner
v.
Officer Swanson, COIV M. Shirley;
Robert Reed; Deputy R. Britton;
Deputy K. Cameron; Frank Hartnett
and Superintendent George Patrick,
Respondents

Initiating Document: Petition for Review

Case Status: Closed May 10, 2006 Completed

Case Processing Status:

Journal Number:

Case Category: Miscellaneous CaseType: Inmate Petition for Review

Consolidated Docket Nos.: **Related Docket Nos.:**

COUNSEL INFORMATION

Petitioner Holder Sr., Glenn A.
Pro Se: ProSe
IFP Status: Pending
Attorney: Holder Sr., Glenn A.
Bar No.:
Address: EA-7173, SCI-Houtzdale
P.O. Box 1000
Houtzdale, PA 16698-1000
Phone No.:
Receive Mail: Yes

Appoint Counsel Status:
Law Firm:
Fax No.:

Certified from the Record
MAY 31 2006
and Order Exit

Respondent Swanson, Officer
Pro Se:
IFP Status:
Attorney: Farnan, Michael A.
Bar No.: 69158
Address: Pennsylvania Dept. of Corrections
P.O. Box 598
Camp Hill, PA 17001
Phone No.: (717)975-4864
Receive Mail: Yes

Appoint Counsel Status:
Law Firm:
Fax No.: (717)703-3622

FILED
JUN 02 2006
m 12:00/w
William A. Shaw
Prothonotary/Clerk of Courts

Miscellaneous Docket Sheet

Commonwealth Court of Pennsylvania

Docket Number: 286 MD 2006

May 31, 2006

TRIAL COURT/AGENCY INFORMATION

Court Below:
County:
Date of Order Appealed From:
Date Documents Received: May 9, 2006
Order Type:
Judge:

Division:
Judicial District:
Date Notice of Appeal Filed:
Lower Court Docket No.:

ORIGINAL RECORD CONTENTS

Original Record Item	Filed Date	Content/Description

Date of Remand of Record:

BRIEFING SCHEDULE

DOCKET ENTRIES

Filed Date	Docket Entry/Document Name	Exit Date	Party Type	Filed By
May 8, 2006	Petition for Review Filed		Petitioner	Holder Sr., Glenn A.
May 9, 2006	Application to Proceed In Forma Pauperis		Petitioner	Holder Sr., Glenn A.
May 10, 2006	Transfer	5/11/2006		Per Curiam

This matter is transferred to the Ct. of Common Pleas of Clearfield Co. as this court lacks jurisdiction over tort actions for money damages.

May 31, 2006	Transfer to Court of Common Pleas Clearfield County.			Commonwealth Court Filing Office

Docket Number: 286 MD 2006

May 31, 2006

SESSION INFORMATION

Journal Number:
Consideration Type:
Date Listed/Submitted:

DISPOSITION INFORMATION

Related Journal Number:		Judgment Date:	5/10/2006
Disposition Category:	Disposed Before Decision	Disposition Author:	Per Curiam
Disposition:	Transfer	Disposition Date:	5/10/2006

Dispositional Comments: This matter is transferred to the Ct. of Common Pleas of Clearfield Co. as this court lacks jurisdiction over tort actions for money damages.

Dispositional Filing: Author:
Filed Date:

REARGUMENT/RECONSIDERATION/REMITTAL

Reargument/Reconsideration Filed Date:
Reargument Disposition: Date:
Record Remitted:

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

GLENN A. HOLDER SR.
Petitioner

VS.

NO. 286 MD 2006

OFFICER SWANSON,
COIV M. SHIRLEY;ROBERT REED
DEPUTY R. BRITTON; DEPUTY K.
CAMERON; FRANK HARTNETT AND
SUPERINTENDENT GEORGE PATRICK.
Respondents

RECEIVED & FILED
COMMONWEALTH COURT
OF PENNSYLVANIA
2006 MAY -9 A 8:35

PETITION FOR REVIEW

1). This Court has jurisdiction over this matter pursuant to Section 736 of the Judicial Code, 42 PA. C.S. §763.

2). Petitioner Glenn A. Holder Sr., is an adult inmate currently incarcerated at State Correctional Institution @ Houtzdale.

3). Respondents are; Officer Swanson, author of DC 141 Misconduct; Robert Reed, Hearing Examiner; CO. IV Shirley, authorizing shift supervisor; Program Review Committe, Frank Hartnett, Deputy Britton, Kenneth Cameron, an independant administrative agency within S.C.I. Houtzdale; and Superintendent George Patrick Located at P.O. Box 1000, Houtzdale, PA 16698-1000.

4). Respondent Swanson submitted a DC-141, Misconduct on 12 March 2006, alleging that the appellant was engaging in a sexual act with others; Refused an Order and Violation of Visiting room Regulations; that the appellant had been block carded for the very same infractions on 12-29-05; 12-30-05 and twice on March 12, 2006. Mr. Swanson alleged and accused the appellant of engaging in sexual acts with his (7) year old daughter in the non-contact booth, (being seperated by glass) while the appellants wife was

present; Order accused of refusing was to have the appellants (7 year old) daughter remain seated in the chair provided at all times. (5 hour visiting peroid). (SEE EXHIBIT A ATTACHED).

A). Respondent Shirley with full knowledge of policy and visiting room rules, as well as Officer Swansons conduct reviewed and approved the submitted DC-141 misconduct based on the words of Officer Swanson.

B). Respondent Robert Reed, Hearing Examiner, having knowledge of Department of Corrections policy, Rules and Regulations govering the visiting room, as well as conduct of Officer Swanson, dismissed the charge of sexual acts, though stated that he believed all of Officer Swansons allegations/charges; Refused the appellants eyewitness whom was present at the visit, stating that the witness was not needed to establish the facts, added that the appellant had been given warnings several times about his behavior as well as the behavior of his visitors while on a visit, then sanctioned tha appellant to (60) days in the Restricted Housing Unit. (SEE EXHIBIT B AND B-1).

5). Petitioner filed his admistrative appeal on 14 March 2006, (the same day placed in the Restricted Housing Unit) Pursuant to department of Corrections Policy DC-801, which was sustained by the Program Review Committee, sustaining all aspects of the misconduct on 21 March 2006. (SEE XHIBITS c and C-1).

Petitioner then appealed to the facility manager, George Patrick, where the misconduct was reduced from a Class I misconduct to a Class II misconduct and modified Disciplinary Custody Sanction to time served, stating that the appellant was punished due to the misbehavior of the child. Appellant was released from DC on 6 April 2006 after a peroid of (23) days. (SEE EXHIBIT C-3).

Petitioner filed appeal to Cheif Hearing Examiner 12 April 2006 and recieved denial dated April 21, 2006, om May 1, 2006 stating that this office fully concurs with the superintendents position and that procedures followed were in complete accordance with DC-ADM

801, VI. The sanction imposed is not viewed to be disportionate to the offense, and therefore will not be amended at this level. Further that the superintendent throughly and fairly reviewed the facts of the misconduct as well as the mitigating circumstances. and reduced the misconduct to Class II. (SEE EXHIBIT C-4).

6). The petitioner should be exhornorated completely of this misconduct and Relief Granted for the following reasons:

A). Mr. Swanson alleged and accused the petitioners minor child of standing on the table, being bent over shaking her rear end at the petitioner, thus charging the petitioner with engaging in sexual acts with his child, which also alleges that the petitioners wife, (whom was present) is an unfit mother, being that she was present. The visiting took place in the non-contact booth seperated by glass. (SEE EXHIBIT A).

1). There is no evidence of this type of conduct on vvideo tape. If infact this inappropriate behavior took place, Why did the petitioners visit continue ? Mr. Swanson did not terminate the visit, though he claims that this very same type of behavior took place on (4) diffent occassions ? Mr. Swanson is known through out the institution as an officer whom will submit a misconduct and or terminate a visit on the very first sign of inappropriateness, Yet, allegations of this seriousness, he allowed to continue on (4) diffent visit ??. The petitioner has not had a visit terminated since his arrival here dec. 1999. The actions of Mr. Swanson is due to his personal beliefs and dislike of individuals of the opposite race and individuals whom are married to another person other than their own race. Namely African-americans, and African-americans whom are married to white women.

Officer Swanson accused the petitioner of refusing to obey an order.

1). Though Mr. Swanson did tell the petitioner to have his child remain in the seat provided, ther are no rules govering the non-contact booth, that state that a minor child must remain in their seat throughout the entire visit, or during the visit peroid. (SEE EXHIBIT A-1).

The petitioner did inform his child and his wife that the officer stated that she must remain seated. The petitioner used all his influences available to him, being that he is seperated by glass from the child and that he has not been in the home with the child at any time during her young life. Screaming at the child is not an option. Not only is this not a part of policy or visiting room rules, to the child this would be considered punishment. Time out punishement. The child is (7) years old; The child just rode 3½ hours from York, PA to Houtzdale, PA, to visit her daddy; The child consumes candy, soda, etc, and if the child remains seated she would not be able to see her daddy, nor her her daddy read the books she wanted him to read to her. Which would amount to a mere telephone call. The petitioner past on the words of officer Swanson therefore how is it that the petitioner refused to obey an order? At no time did Mr. Swanson state, " I am giving you a direct order to have your child remain seated".

The petitioner requested to see a white shirt, and Lt. Gill came forward. After explaining the situation to him, Lt. Gills only reply was fo r the petitioner to stretch his neck, if he wanted to see his child. if there are no rules or regulations which state that a minor child must remain seated during a visit or governing the non-contact booth, then how isit possible for the petitioner, his child and his wife violated visiting room rules and regulations ? If the petitioner is seperated by glass in a non-contact booth; have not been in the home with the child at any time in her (7) years of life, what real influences does the petitioner have ? (The petitioner has been incarcerated (8) years, the child will be (8) years old this November 24.)

Mr. Swanson singled out the petitioner whom is African american and married to a caucasion woman, who have a child to-gather, and insisted that the child remain seated for the (5) hour peroid, of the visit, Yet at the very same time, Mr. Swanson allows other children to move about the visiting room, at times running. Mr. Swanson also allows white inmates, whom have visits in the non-

contact booth, not only to stand themselves, but allows their minor children to not only stand themselves but to stand on the table throughout their visit, in order to see and bond with their parent while in the non-contact booth. (SEE EXHIBITS D AND D-1). THIS IS THE SAME THING THAT MR. SWANSON ALLEGES THE PETITIONER DID, (have his child standing on the desk) ,Yet these inmates were not written up. The only diffrence between these inmates and the petitioner is color of skin.

Mr. Swanson has a history of racial discrimination behavior and has further continued his practices by racially discriminating against the petitioner, the petitioners child and his wife, by making false allegations against the family, fabricating a misconduct against the petitioner and allowing inmates, white inmates liberties, while denying the petitioner and his family.

This too can be considered as retaliation. Approx. the first part of 2000, the petitioner had a problem with mr. Swanson simular to the current matter. The petitioner submitted a grievance. A few days later the petitioner was called to security, and was told that if he signed off on the grievance, the white shirt would make sure that Officer Swanson did not bother the petitioner anain, until now.

Mr. Swanson never would have allowed an inmate to refuse an order of his, Yet he claims that the petitioner refused his orders (4) times; Claims petitioner engaged in sexual acts (4) times during his visits, Yet Mr. Swanson waited until the 4th time to write the petitioner up. Still the petitioner was not taken to the Restricted Housing Unit as procedure dictates, if infact these acts happened, instead the petitioner was allowed to continue his visit, after which he returned to his housing unit. The actions of Mr. Swanson has caused undue and irrepubale harm to the petitioner, to the petitioners wife and to their child, Thus violating their Civil Rights and Constitutional Rights guaranteed by the Commonwealth of Pennsylvania and the United States of America.

B). Respondent Lt. Shirley, with adequate knowledge of Mr. Swanson, being employed at S.C.I. Houtzdale with Mr. Swanson more than (3) years, reviewed the report written by Mr. Swanson with out considering th facts, as well as Mr. Swansons history of racial discrimination, as well as character, Policy nor the place the acts occured according to Mr. Swanson. The authorization of this fabrication on official state document, condones the actions of Mr. Swanson by Lt. Shirley, assisting in the discriminatory actions against the petitioner and his family.

C). Mr. Robert Reed, Hearing Examiner, errored in stating his belief in Mr. Swansons fabricated report, though having knowledge of Mr. Swansons belief and behavior of racial discrimination, refused to review protions of the video tape, as requested by the petitioners wife, which shows the visitors side of the non-contact booth; refused to allow witness whom was present during the visits, (SEE EXHIBIT B-1). Mr. Reed checks NOT GUILTY, in the verdict box, then states that the petitioner has been given numerous warnings about the behavior of his visitors while on visits, which is unfounded, and sentenced the petitioner to (60) days in disciplinary custody effective on 14 March 2006, finding guilt of refusing to obey orders and violating visiting room rules and regulations. (SEE EXHIBIT B). Mr. Reed condoned Mr. Swansons actions, by further refusing to acknowledge the fact that there was no such rules or policy that stated that a minor child must remain seated during their visit, and that the visit took place in the non-contact booth, Yet chose as well as stating that he believed the officers report.

Refusing to obey orders and violating visiting room rules, were eligible for informal resolution, which did not include being placed in the Restricted Housing Unit. The petitioner had not had a bad report of any nature since 23 Dec. 1999, which includes work, housing and misconduct. Yet, Mr. Reed further condoned Mr. Swansons behavior of racial discriminatory practices by not considering the true facts, Policy, location of said incident, abused his descretion and injected his own personal feelings, thus assisting Mr. Swanson in his discriminatory acts in harming the petitioner and his family

D). The Program Review Committee consisting of Deputy Britton; Deputy Cameron; Frank Hartnett and George Patrick errored in that these upper ranked staff members have through knowledge of department of Corrections policy as well as their own supplemented versions of the departement of Corrections policy, and were aware that there was no such rules for visitation in the visiting room or the non-contact booth that stated that a minor child must remain seated throughout their visit here at this institution. These individuals are fully aware of Mr. Swanson and his discriminatory acts of Racial discrimination, as well as Mr. Swansons history of these very same documented acts. Yet, they all collectively chose to sustain the report in all aspects. (SEE EXHIBIT C, AND EXHIBIT F-1 DEPARTMENT OF CORRECTIONS VISITING POLICY CONCERNING THE VISITING ROOM/WITH HOUTZDALES VISITING ROOM RULES SUPPLEMENT RULES). Thus these respondents willingly condoned the actions of Mr. Swanson, having knowledge of Mr. Swansons derogatory reacial discriminatory acts, which Mr. Swanson has chose to inflict upon this petitioners entire family.

E). Mr. George Patrick: Superintendent, though reduced the Class I Misconduct to a Class II Misconduct, releasing the petitioner after (23) days, modifying the sanction to time served errored in his attempt to make light of the misconduct, and the false allegations made by Mr. Swanson against the petitioners family the racial profiling and discriminatory acts thereof, by claiming that the petitioner was found guilty due to the misbehavior of the child despite orders issued to the appellant to control his visitor, attempting to make it sound like the petitioners child was disruptive which is far from the truth, Becuse the child was out of her seat does not mean she was out of control. She is a (7) year old child not a soilder, nor an inmate. (SEE EXHIBIT C-3).

Mr. Patrick in his position as superintendent is well aware that there is no such rules or regulation that state that a minor child must remain seated during the visit. It is no diffrent from the actions of Mr. Swanson insisting that my child remain seated, while white inmate children are not. Mr. Patrick is aware of Mr. Swansons derogatory and discrimination tactics, as well as

Mr. Swansons history of this same type of behavior. For Mr. Patrick with knowledge of Mr. Swansons history of discrimination, and to make light of this fraudlent misconduct, as wellas false allegations against the petitioner, the petitioners wife and child, made by Mr. Swanson, is to condone the actions of the officer and his attempt to place blame upon the petitioners child is an attempt to sweep the actions away from his officer. Therefore the superintendent is willingly allowing his officer, (Mr. Swanson) to willfully profile and racially discriminate against the petitioner, his wife and his child.

NOTE: THE PETITIONER HAS NON-CONTACT STATUS FROM MINORS DUE TO HIS CONVICTION, NOT ORDERED BY THE COURT, BUT DUE TO THE BEHAVIOR OF ANOTHER INMATE IN ANOTHER INSTITUTION. THE PETITIONERS CHILD WAS NOT BORN AT THE TIME OF HIS ARREST, AND THE PETITIONERS CASE IS STILL IN LITIGATION. THIS IS YET ANOTHER WAY THAT, MR. PATRICK ALLOWS DISCRIMINATION AT THIS INSTITUTION, INJECTING PERSONAL FEELINGS. PETITIONERS WIFE, MOTHER IN LAW, FATHER IN LAW , MOTHER AND GOD MOTHER OF THE CHILD REQUEST CONTACT VISITATION, BUT IS REFUSED BY MR. PATRICK..

Upon review of EXHIBIT E, it is clear that the petitioner is very cautious of any type of contact that would get him into any type of trouble; that according to Major Kessling, (Major of the Guard) there are cameras in the visiting room and if the incident took place it would be on camera. (there was no such incident recorded on tape).

F). Chief Hearing Examiner, Robert S. Bitner errored, in that being an employee of the department of corrections, in his position and having department of corrections policy available to him, failed to acknowledge the fact that no such policy exisited stating that a minor visitor must remain seated. Mr. Bitner failed to acknowledge the fact that officer Swanson has a history of discrimination, being in his position with information available to him; Mr. Bitner turned a blind eye and deaf ear to the statements written by inmates present in the visiting room who observed actions by officer Swanson and his failure to completely and throughly review information, document

as well as policy has merely rubber stamped the denial of this petitioners relief, thus aiding in the actions of the previously listed respondents as well as Mr. Swanson, in the racial profiling, Racial discrimination and harassment of the petitioner, the petitioners wife and his child, and agrees with the prior that it is just fine for Mr. Swanson to act as he does, and it is fine for Mr. Swanson to make false accusations against the petitioner, his wife and his child, and that there is nothing wrong with this officer submitting false report on Official State Documents. (SEE EXHIBIT C-4 and C-4 APPEAL TO CHIEF HEARING EXAMINER AND HIS RESPONSE.)

7). As a result of Mr. Swansons actions, the petitioner was placed in the Restricted Housing Unit for (60) days, serving (23), lost his job for (32) days, has suffered ridicule from inmates as well as staff, due to his false allegations. Due to the continued denial of relief and condoning of the actions by Officer Swanson, the petitioners wifes reputation has been damaged, she has suffered sever depression and is in grave fear of returning to this or any other institution due to the allowance of such actions by Mr. Swanson and the staff there of. These actions have emotionally damaged the petitioners family even more so inflicting more punishment to the family as well as the petitioner. The petitioner is incarcerated as punishment, not for further punishment to be inflicted upon him and his family by the institution or the department of correction due to racial bias, discriminatory practices and personal feelings by staff members. Mr. Swanson has made the petitioners child a victim and has brought trauma upon the child as the child feels responsible for the officer filing the false accusations.

Mr. Swanson has racially profiled, racially discriminated and harassed the petitioner and his wife as well as his child, violating their Civil Rights as well as Violated rights of the Constitution of the Commonwealth of Pennsylvania, and the United States, and the above named respondents have condoned Mr. Swansons actions by turning a blind eye and deaf ear to the facts, without acknowledgement, this assisting Mr. Swanson.

RELIEF REQUESTED.

A). Injuntive Relief to be free from retaliation, further Harassment of any type or transfer, from Houtzdale, or by any Staff member of the department of Correction due to this action, nor any individuals working for security, (snitches or C.I.).

B). Mr. Swanson is prosecuted for the false allegations written up on Official State Documents against the petitioner, the petitioners wife and the petitioners child.

C). Correct the policy that currently forces non-contact visits on inmates whom have not presented themselves as a security risk and non-contact from visitors whom are not a victim in their case, that have the support of the family for contact visitation.

D). To protect my rights in Civil Relief, Tort or otherwise; This matter has caused Emotional and Psychological injury/damage to my daughter who is (7) years old and my wife, and where such actions may be proven Violation of State and Federal Constitution and to be Racially motivated.

E). Disciplinary and Punitive actions against respondents, Patrick, Hartnett, Britton, Cameron, Reed, Shirley, Bitner and Officer Swanson, for actions under the Color of State Law participating in racial discrimination and harassment, in concert with a known officer with a history of such and perjury and violations of State Law.

F). Under State Law and Color of State Law and in individual capasity, as well as professional, Civil amount suggested $300,000.00.

G). Money lost due to forced termination of visit by wife and daughter $75.00.

H). Recompensation for cost of this present legal action and appeal in the amount of $1500.00 as estimated by attorney average rate.

I). The Misconduct in question be completely expunged and the petitioner reimburst $77.28, the amount of money due him as a result of days lost of prison pay, (.42¢ Hr. for 23 days lost of work) and said misconduct be removed completely from petitioners file.

J). Compensation for false confinement in the Restricted Housing Unit and Violation of Due Process as a result of Mr. Swansons manufactored write up as well as false allegations.

K). Appointment of Counsel to assist in this matter.

L). Discovery and Evidentary Hearing to establish the facts as stated, followed by a hearing to resolve this matter. (TRIAL)

Wherefore, Petitioner prays that this Honorable Court will Grant ALL of the said relief requested in this Petition for Review and all other such Relief this Honorable Court may deem appropriate under the circumstances.

Respectfully;

Mr. Glenn A. Holder Sr.
EA-7173
P.O. Box 1000
Houtzdale, PA 16698-1000

DATE: 8 May, 2006

cc;file;

PROOF OF SERVICE

I hereby certify that on this date I have served a true and correct copy of the attached Petition for Review, to the individuals listed below which satisfies R.A.P. 121.

CERTIFIED MAIL: POSTAGE PRE-PAID RETURN RECIEPT REQUESTED:
ADDRESSED AS FOLLOWS:

PROTHONOTARY OF
COMMONWEALTH COURT OF PA
626 IRVIS OFFICE BUILDING
HARRISBURG, PA 17120

ORIG. AND 2 Copies

THOMAS W. COLBERT JR.
ATTORNEY GENERAL
COMMONWEALTH OF PENNSYLVANIA
16th FLOOR: STRAWBERRY SQUARE
HARRISBURG, PENNSYLVANIA 17120

(1) Copy

OFFICE OF CHIEF GENERAL COUNSEL
DEPARTMENT OF CORRECTION
55 UTLEY DRIVE
CAMP HILL, PENNSYLVANIA 17011

(1) Copy

GEORGE PATRICK; SUPERINTENDENT
S.C.I. HOUTZDALE
P.O. Box 1000
HOUTZDALE, PA 16698-1000

(1) Copy

DATE: 8 May 2006

SUBMITTED BY:
Mr. Glenn A. Holder Sr
EA-7173
P.O. Box 1000
Houtzdale, PA 16698-1000

CL-2

A

FORM DC-141 PART 1
Rev 3/00

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS

A 664500

☒ MISCONDUCT REPORT ☐ OTHER ☐ DC-ADM 801 INFORMAL RESOLUTION

DC Number	Name	Facility	Incident Time 24 Hr. Base	Incident Date	Date of Report
EA-7173	Holder, Glenn	SCI-HOU	1420	3-10-06	3-10-06
Quarters	Place of Incident				
CA44	Non-Contact Visit booth				

OTHER INMATES OR STAFF INVOLVED OR WITNESSES (CHECK I OR W)

DC Number	Name	I	W	DC Number	Name	I	W

MISCONDUCT CHARGE OR OTHER ACTION CLASS I #25 Refusing to obey an Order
CLASS I #19 Engaging in Sexual Acts with others; CLASS I #37 Violation of Visiting Room Regulations

STAFF MEMBER'S VERSION On the above date and time I observed inmate Holder's (EA-7173) minor female visitor standing on the desk in the Non-Contact Visit Area. I also observed this minor female bent over sharing her rear end at inmate Holder. Inmate Holder has a Non-Contact with Minors Restriction. Inmate Holder was black'd out on 12-29-05, 12-30-05 and twice today for the same type of infractions. On 12-29-05 inmate Holder was counseled by Lt. Gill and was ordered to have this visitor seated in the chair provided at all times.

IMMEDIATE ACTION TAKEN AND REASON Reviewed & Warranted. Inappropriate for an informal resolution due to the serious nature of the misconduct. Inmate is to remain in his present status pending review of this report by the Hearing Examiner.

PRE-HEARING CONFINEMENT	IF YES	
	TIME	DATE
☐ YES		
☒ NO		

FORMS GIVEN TO INMATE
☒ REQUEST FOR WITNESSES AND REPRESENTATION ☒ INMATE'S VERSION

REPORTING STAFF MEMBER SIGNATURE AND TITLE	ACTION REVIEWED AND APPROVED BY RANKING C.O. ON DUTY SIGNATURE AND TITLE	DATE AND TIME INMATE GIVEN COPY	
		DATE	TIME 24 HOUR BASE
Lt. Lisa Swanson	Capt. Shirley	3/12/06	1753

YOUR HEARING MAY BE SCHEDULED ANY TIME AFTER		MISCONDUCT CATEGORY		Signature of Person Serving Notice
DATE	TIME	☒ CLASS 1	☐ CLASS 2	
3-14-06	0800			

NOTICE TO INMATE

You are scheduled for a hearing on the allegation on the date and time indicated or as soon thereafter as possible. You may remain silent if you wish. Anything you say will be used against you both at the misconduct hearing and in a court of law, if this matter is referred for criminal prosecution. If you choose to remain silent, the hearing committee/examiner may use your silence as evidence against you. If you indicate that you wish to remain silent, you will be asked no further questions. If you are found guilty of a Class 1 misconduct, any pre-release status you have will be removed.

WHITE — DC-15 YELLOW — Inmate PINK — Reporting Staff Member GOLDENROD — Deputy Superintendent Facility Management

B-F

DC-141 Rev. 6-84 **Part 2B**

COMMONWEALTH OF PENNSYLVANIA

DEPARTMENT OF CORRECTIONS

DISCIPLINARY HEARING REPORT

DC Number	Name	Facility	Hearing Date	Hearing Time	No. from Part 1
EA-7173	HOLDER, Glynn	SCI-HOU	3-14-06	1001	A664500

INMATE PLEA: ☐ Guilty ☐ No Plea ☑ Not Guilty ☐ Other

Verdict: ☐ Guilty ☑ Not Guilty

HEARING ACTION

CHARGES

19 = Engaging in sexual acts with others or sodomy
35 = Refusing to obey an order
37 = Violation of visiting regulations

FINDINGS OF FACT, VERDICT AND SANCTIONS IMPOSED

INMATE HOLDER PLEADS NOT GUILTY. PROVIDES A WRITTEN STATEMENT.

CO I SWANSON PRESENT TO EXPLAIN THE REASONS WHY HE WROTE THE MISCONDUCT. CO I SWANSON STATED THE MINOR CHILD WAS SENT OVER SHOWING THE INMATE HER BUTTOCKS. CO I SWANSON STATES THAT THE MINORS CLOTHING REMAINED IN-TACT AT ALL TIMES. CO I SWANSON EXPLAINED UNDER OATH HOW THE MINOR GIRL BEHAVED. CO I SWANSON CLAIMS THAT THE BEHAVIOR WAS NOTHING HE HAD EVER SEEN IN AN ENTIRE PROGRAM. HE HAS BEEN EXCITED TO SEE HIS FATHER, BUT NEVER SHOWED HIM HIS REWARD. THIS ENTIRE INCIDENT TOOK PLACE WHILE THE INMATE WAS SEPARATED FROM HIS VISITORS BY A GLASS PARTITION.

HE BELIEVES THE COI'S WRITTEN REPORT OVER THE DENIAL OF INMATE HOLDER, THAT INMATE HOLDER DID REFUSE TO OBEY AN ORDER TO KEEP HIS CHILD OFF THE TABLE IN THE VISITING ROOM NON-CONTACT BOOTH. INMATE HOLDER'S MINOR VISITOR VIOLATED VISITING ROOM RULES. IT IS THE RESPONSIBILITY OF THE INMATE AND ADULT VISITOR TO MAINTAIN CONTROL OF THE MINOR VISITOR. INMATE HOLDER HAS BEEN GIVEN NUMEROUS WARNINGS ABOUT HIS BEHAVIOR AS WELL AS HIS VISITORS BEHAVIOR WHILE ON A VISIT.

DISMISS: #19, GUILTY: #35 & #37 - 60 days DC EFFECTIVE 3-14-06

☑ YES	☐ NO	The inmate has heard the decision and has been told the reason for it and what will happen.
☑ YES	☐ NO	The circumstances of the charge have been read and fully explained to the inmate.
☑ YES	☐ NO	The opportunity to have the inmate's version reported as part of the record was given.
☑ YES	☐ NO	The inmate has been advised that within 15 days a request for a formal review may be submitted and that this request must contain specific reasons for the review.

WRITTEN VERSION WITNESS REQUEST

SEE APPENDICES ☑

NAME(S) OF HEARING EXAMINER/COMMITTEE (TYPED OR PRINTED)

R. Reed, Hearing Examiner

Hearing Report and all appended information must be signed. Signature indicates finished report with appendices.

Robt Reed

SIGNATURE OF HEARING EXAMINER/COORDINATOR

WHITE - DC-15 YELLOW - Client PINK - Staff Member Requiring Misconduct GOLDENROD - Deputy Superintendent

Misconduct Charges

A. Class I Charges (Formal Resolution Only)

1. Assault
2. Murder
3. Rape
4. Arson
5. Riot
6. Escape
7. Robbery
8. Burglary
9. Kidnapping
10. Unlawful restraint
11. Aggravated assault
12. Voluntary manslaughter
13. Extortion by threat of violence
14. Involuntary deviate sexual intercourse
15. Threatening an employee or his/her family with bodily harm
16. Fighting
17. Threatening another person
18. Threatening, harassing, or interfering with a Department K-9 or mounted patrol horse
19. Engaging in sexual acts with others or sodomy
20. Wearing a disguise or mask
21. Failure to report an arrest for any violation of the Pennsylvania Crimes Code (Community Corrections Centers only)
22. Possession or use of a dangerous or controlled substance
23. Possession or use of intoxicating beverages
24. Extortion or blackmail
25. Sexual Harassment
26. Any criminal violation of the Pennsylvania Crimes Code not set forth above (must be specified)
27. Tattooing, or other forms of self-mutilation
28. Indecent exposure
29. Engaging in, or encouraging unauthorized group activity
30. Breaking restriction, quarantine or informal resolution sanction
31. Gambling or conducting a gambling operation or possession of gambling paraphernalia
32. Possession or circulation of a petition, which is a document signed by two or more persons requesting or demanding that something happen or not happen, without the authorization of the Facility Manager
33. Using abusive, obscene, or inappropriate language to an employee
34. Violating a condition of a pre-release program

B. Class I Charges (Eligible for Informal Resolution)

35. Refusing to obey an order
36. Possession of contraband including money, implements of escape, non-prescribed drugs (or drugs which are prescribed, but which the inmate is not authorized to possess), drug paraphernalia, poisons, intoxicants, materials used for fermentation, property of another, weapons or other items which in the hands of an inmate present a threat to the inmate, others or to the security of the facility.
37. Violation of visiting regulations
38. Destroying, altering, tampering with, or damaging property.
39. Refusing to work, attend school or attend mandatory programs or encouraging others to do the same
40. Unauthorized use of the mail or telephone
41. Failure to stand count or interference with count
42. Lying to an employee
43. Presence in an unauthorized area
44. Loaning or borrowing property
45. Failure to report the presence of contraband
46. Theft of services (i.e. cable TV or other facility services).

If you are charged under section B with possession of an item of contraband which is a weapon or an item which in your hands presents a threat to others or to the security of the facility, and the item also has a legitimate use in the area discovered, credible evidence that the item has been used only for the legitimate purpose may reduce the rule violation to a Class II. Possession of drugs (as determined by laboratory analysis), alcohol, poisons, and/or weapons are not eligible for informal resolution.

C. Class II Charges (Eligible for Informal Resolution)

47. Body punching, or horseplay
48. Taking unauthorized food from the dining room or kitchen
49. Failure to report or unexcused absence from work, school, or mandatory programs
50. Smoking where prohibited
51. Possession of any items not authorized for retention or receipt by the inmate not specifically enumerated as **Class I** contraband
52. Any violation of a rule or regulation in the Inmate Handbook not specified as a **Class I** misconduct charge

Any attempt to commit any of the above listed charges is a misconduct of the same classification as the completed act.

B-1

DC-141 **PART 2A** **COMMONWEALTH OF PENNSYLVANIA**
Rev. 6-84
INMATE REQUEST FOR REPRESENTATION AND WITNESSES **DEPARTMENT OF CORRECTIONS**

DC Number	Name	Facility	Date	Number as on **Part I**
EA 7173	Holder, G	S.C.I Mout	12 Mar '06	

You have been charged with a misconduct. You may request assistance and/or witnesses to appear at your hearing by completing the section(s) below.

In order to have assistance or witnesses at your hearing, you must complete this form and present all copies to one of your housing officers no later than 9:00 a.m. the first working day after you receive notice of the misconduct.

Assistance: ☑ I do not request assistance
☐ I request assistance by _____
(The person requested must be willing to assist you)

Witnesses: You may request witnesses in accord with DC-ADM 801. State the relevance and importance of the testimony the witness will give

If Inmate	DO NOT WRITE IN THIS SECTION For Use by Hearing Examiner
1. Name of Witness: Dawn Holder No. AF-815-0577 Quarters F-1	Witness permitted? If not, why not?
Why is this person's testimony relevant and important? Relevant because she was present at the arrest of my child and would never allow or participate in such an alleged claim.	No - Not relevant to assault
2. Name of Witness: No. AL4500 Quarters	Witness permitted? If not, why not?
Why is this person's testimony relevant and important?	X
3. Name of Witness: No. Quarters	Witness permitted? If not, why not?
Why is this person's testimony relevant and important?	

G L Holder SR EA-7173
Inmate's Signature

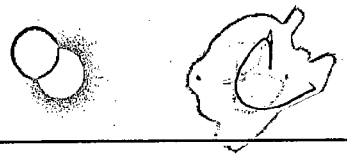
This section to be completed by Housing Officer only

Received completed form _____ hours _____
Time Date

_____
Housing Officer's Signature

_____
Hearing Examiner's Signature

WHITE – DC-15 YELLOW – Inmate's Copy To Be Given After Action By Hearing Examiner PINK – Staff Member Reporting Misconduct



picked up 15 MAR '01

DC-141 PART II E **COMMONWEALTH OF PENNSYLVANIA**
MISCONDUCT HEARING APPEAL **DEPARTMENT OF CORRECTIONS**

DC Number	Name	Institution	No. from PART I
EA-7173	HOLDER C.	Hntz.	

I was found guilty of misconduct # A664500 on 14 MAR. '06 (date) by the Hearing Committee/Examiner, and I wish to appeal that decision on the following grounds:

Check Area(s) Involved

a. The procedures employed were contrary to law, Administrative Directive 801, or to the ICU Consent Decree; ☐

b. The punishment is disproportionate to the offense; ☒

c. The evidence was insufficient to support the decision. ☐

Below is a brief statement of the facts relevant to my claim(s). It includes the identity of all persons who may have information which may be helpful in resolving this matter.

I HAVE BEEN IN THIS INSTITUTION SINCE 24 NOV 1999 - HAVE NOT BEEN IN TROUBLE - HAVE RECIEVED GOOD REPORTS FROM HOUSING AND WORK - AND I HAVE NOT BEEN A PROBLEM TO STAFF - NOR AM I A TROUBLE MAKER.

BEING PLACED IN DISCIPLINARY CUSTODY FOR 60 DAYS WAS LOOSING ALL OF MY PRIVILEGES I HAVE WORK HARD FOR DUE TO SWANSONS CLAIMS OF VIOLATING VISITING ROOM REGULATIONS AND REFUSING TO OBEY AN ORDER IS EXCESSIVE. IN (7) YEARS OF VISITS SWANSON IS THE ONLY PERSON WHOM CLAIMS MY BEHAVIOR AND WILL AS MY FAMILY'S BEHAVIOR WARRANTS DISCIPLINARY ACTIONS. ALTHOUGH I PERSONALLY HAVE NOT REFUSED TO OBEY ORDERS OR BROKEN ANY RULES, I AM PUNISHED BECAUSE MY CHILD DID NOT CONSISTANTLY REMAIN SEATED OVER A PERIOD IN EXCESS OF (4) HOURS. WHAT CHILD WILL DO THIS?? IF SWANSON FEELS, IF STAFF FEELS THERE WAS AND IS A PROBLEM WITH EACH OF MY VISITS, THEN THE VISITS SHOULD HAVE BEEN SUSPENDED FOR A PERIOD OF TIME.

THE FACT THAT MY WIFE IS OF AFRICAN-AMERICAN RACE IS NOT, AND SHOULD NOT BE A PROBLEM. SWANSON ALONE TAKES IT TO, AND I AM STATING THESE ACTIONS ARE EXCESSIVE DUE TO PERSONAL FEELINGS.

60 DAYS IN THE HOLE BECAUSE MY CHILD DID NOT LISTEN AND REMAIN IN HER SEAT THROUGHOUT THE VISIT. AGAIN WHAT (7) YEAR OLD CHILD WOULD DO THIS??

ALL THIS BASED ON THE WORD OF AN OFFICER WHICH HAS KNOWN RACIAL DISCRIMINATORY PRACTICES DOCUMENTED.

I WILL BELIEVE MY WIFE WAS TO BRING MY CHILD UP UNTIL SHE'S BIRTHDAY 24 NOV OF 2006.

C. Holder

C 1 0

RHU

SCIH-141 III
[X] MISCONDUCT APPEAL [ ] PERIODIC REVIEW [ ] OTHER

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS

DC NUMBER	NAME	INSTITUTION	DATE OF REVIEW	NO. FROM PART 1
EA7173	Holder, Glynn	SCI-HOU	March 21, 2006	A664500

PROGRAM REVIEW COMMITTEE'S DECISION AND ITS RATIONALE

Mr. Holder appeals Misconduct Number A664500 on the grounds that [ ] The procedures employed were contrary to law or Administrative Directive 801; [X] The punishment is disproportionate to the offense; [ ] The Evidence was insufficient to support the decision.

The PRC reviews Inmate Holder's misconduct appeal on the grounds noted.

The sanction imposed by the hearing examiner is within DOC guidelines and sustained.

The PRC sustains all aspects of this misconduct.

Sustain

DECISION RELATIVE TO HEARING COMMITTEE'S VERDICT

[ ] NOT APPLICABLE [X] SUSTAIN [ ] SUSTAIN-AMEND [ ] REFER BACK FOR FURTHER STUDY [ ] EXONERATE INMATE

NAMES OF PROGRAM REVIEW COMMITTEE MEMBERS	SIGNATURES	DATE
F. Hartnett, C.C.P.M.		03/21/06
R. E. Britton, Deputy Superintendent for Facilities Management		03/21/06
K. Cameron, Deputy Superintendent for Centralized Services	CC	03/21/06

ORIGINAL - DC-15 COPY 2 - Inmate Cited COPY 3 - Staff Member Reporting Misconduct COPY 4 - Deputy Superintendent

C-2

Form DC-135A **INMATE'S REQUEST TO STAFF MEMBER** SECOND LEVEL APPEAL #1044500 TO: FACILITY MANAGER	Commonwealth of Pennsylvania Department of Corrections INSTRUCTIONS Complete items number 1-8. If you follow instructions in preparing your request, it can be responded to more promptly and intelligently.
1. To: (Name and Title of Officer) MR. GEORGE PATRICK / FACILITY MANAGER	2. Date: 27 MARCH 2006
3. By: (Print Inmate Name and Number) HOLDER - EA-7173 John A. Holder Inmate Signature	4. Counselor's Name MR. R. ZITTERBART 5. Unit Manager's Name MR. EVERHART
6. Work Assignment	7. Housing Assignment (R.H.U) HA-05

RECEIVED
SUPERINTENDENT OFF.
MAR 28 2006
SCI - HOUTZDALE
PO BOX 1000 HOUTZDALE PA

8. Subject: State your ~~request~~ Appeal completely but briefly. Give details. ON 27 MARCH 06 I RECIEVED DENIAL of My Appeal to P.R.C. SUSTAINING ALL ASPECTS of THE MISCONDUCT HEARING EXAMINER ON DC-141 PART 2B IN VERDICT SECTION MARKED "Not Guilty" AND dISMISSED CHARGE #19, THEN STATES HE BELIEVES MR. SWANSON AND FINDS ME GUILTY OF #35 & #37. My WITNESS WAS DENIED, STATING "WITNESS WAS NOT NEEDED TO ESTABLISH FACTS, WHEN IN FACT THIS WITNESS (MRS. HOLDER) WAS PRESENT DURING THE ALLEGED INCIDENTS. THESE INCIDENTS WERE BELIEVED, YET NOT SUPPORTED BY VISITING RM. VIDEO TAPE. HEARING EXAMINERS BELIEF of ALLEGATIONS, NOT SUPPORTED BY VIDEO, SHOWS HIS BIAS TO INMATE DUE TO CONVICTION WHICH INCALCERATES INMATE. WHICH IS ON APPEAL MR. SWANSON STATES MY CHILD WAS STANDING ON THE TABLE, CAN WE SEE THIS ON THE VIDEO? IS IT NOT STANDARD OPERATING PROCEDURE TO GIVE AN INMATE A MISCONDUCT WHEN HE REFUSES TO OBEY AN ORDER? IF SO, THEN WHY DID MR. SWANSON JUST LET THESE ALLEGED REFUSALS JUST GO ON AND ON FOR OVER A PERIOD OF (4) DAYS AS WELL AS THE ALLEGED INCIDENTS WITH OUT TERMINATING THE VISIT AND GIVING A MISCONDUCT?? NOT ONLY HAS MR. SWANSON SET ALLEGATIONS AGAINST ME, BUT MY WIFE AND CHILD. I HAVE BEEN MISCONDUCT FREE FOR (7) YEARS W/ GOOD HOUSING & WORK REPORTS → OVER

9. Response: (This Section for Staff Response Only)

To DC-14 CAR only ☐ | To DC-14 CAR and DC-15 IRS ☐

Staff Member Name _____ / _____ Date _____
Print Sign

Revised July 2000

E-3

COMMONWEALTH OF PENNSYLVANIA
Department of Corrections
State Correctional Institution at Houtzdale
Office of the Superintendent
April 6, 2006

SUBJECT: Appeal of Misconduct #A664500

CA46

TO: Glynn Holder, EA7173
HA-05

FROM: George N. Patrick
Superintendent

I have reviewed this appeal, the first-level appeal to the PRC and their response, misconduct #A664500, and all supporting documentation.

The appellant was charged with #19 (Engaging in sexual acts with others), #35 (Refusing to obey an order), and #37 (Violation of visiting regulations) relative to the behavior of his minor daughter during the course of a visit. The visit took place in the non-contact visit booth in the main visiting room. Although charge #19 was dismissed by the hearing examiner, the appellant was found guilty of #35 and #37 due to the continued misbehavior of the child despite orders issued to the appellant to control his visitor. I recognize that the appellant had limited control in this respect as he was restricted to his side of the non-contact window. However, I believe he could have exercised greater influence over his visitor's actions than he chose to. Therefore, I will sustain the finding of guilt in this case.

In light of the appellant's good behavior record, which reflects an absence of misconducts since 1999, I am inclined to extend leniency. Effective immediately, the level of this misconduct is reduced from a Class I to a Class II and the sanction is modified to DC time already served.

Reduce from Class I to Class II and modify DC sanction to time served.

GNP:mlb

c: Deputy Britton
Deputy Cameron
Mr. Hartnett
PRC
COI Swanson
Mr. Everhart
Mr. Reed
Case Record
file

C-4

TO: CHIEF HEARING EXAMINER
1451 N. Market Street
Elizabethtown, PA 17022

FROM: Mr. Glenn A. Holder Sr.
DOC. INST.#EA-7173
P.O. Box 1000
Houtzdale, PA 16698-1000

DATE: 12 April 2006

RE: APPEAL MISCONDUCT #A664500

On March 12, 2006, I was given a misconduct by Officer Swanson. Mr. Swanson charged me with Refusing to Obey an Order; Engaging in sexual acts with others; and violating Visiting Room regulations. SEE EXHIBIT I.

Mr. Swansons claims that my child, (7) years of age, was standing on the table bending over and shaking her rear end at me. Swanson claims that this kind of inappropriate behavior happened on 12-29-05; 12-30-05 and twice on 03-12-06, he also claims that I was block carded for this. Yet, I have had NO visit of mine terminated, nor had I been written up or placed in the RHU. My visits with my child take place in the Non-Contact booth, with my wife present. There is a restriction of contact with my child, due to feeling here, NOT due to any actions on my part with my child, and my child was not born at the time of my arrest. The hearing examiner dropped this charge yet stated that he believed the officer. Mr. Reed, the hearing examiner refused to allow my only witness, stating that the witness was not necessary to establish the facts, when the witness was present at the time of this alleged act, Mr. Swanson claimed to have seen on the above stated dates. SEE EXHIBIT II DC-141 Part2A. My wife filed a complaint, stating that our child has never stood or was standing on the table, nor was she bent over shaking her rear end at me. SEE EXHIBIT IV. The hearing examiner dismissed the charge yet stated that he believed the officers statement. Mr. swanson accused not only me, but my child and wife of this and the hearing examiner follows along with this allegation which was not only unfounded but was a complete fabrication by mr. swanson. Exhibit III

Mr. Swanson claims that I refused to obey an order. Yes, Mr. Swanson did tell me to have my child take a seat, and I referred this information to my wife. Remember, this is in the non-contact booth. Swanson insists that my 7 year old child remain seated in that small room for the entire visit, yet at the same time other children run all over the visiting room. Mr. Swanson clearly discriminated against me and my family due to racial make up of my family. On April 8, 2006, mr. swanson was on duty in the visiting room, observed and allowed a white inmate, to have his child about the very same age as my child stand on the table through out his visit. SEE EXHIBIT IV. Yet, my child is to remain seated the entire (5) hours for the visit. Racial profiling is what Mr. Swanson practices, with me, and it is clear in his record. On the other hand Mr. Patrick states that due to my childs continued misbehavior I was found guilty because I could not control my visitor. There is no rule or regulation that states that a minor child has to remain seated the entire time here. Review of any videc tape will reveal that children move about constantly. My child was not standing on the table, But I am punished for this, while Mr. Swanson allows little white children to stand on tables, so that they can hear their

C-4

parent. This is discrimination clearly. Mr. Swanson falsely charged me and my family not only of charges that were unfounded, but of violation of visiting room regulations that do not exist and had me punished because my child is an african american child. This is clear by this officers actions when it comes to white inmates and their visitors. And Mr. patrick states that I could have excercised greater influence over my child. I have not been in the home with my child all of her life. Do you yell at your children??? i am not going to scream and yell at mine. She is a child, whom sings and dances for me on the floor, showing what she would have been doing in the programs she is involved with.

For Mr. Patrick to sustain the misconduct, is to further cover up the fact the his officer blatently lied on official state documentation. Further, some time ago I had to write Mr. Swanson up for his actions agains me. A security officer called to security, and informed me that if I signed off on the grievance he would make sure that Mr. Swanson did not bother me any more. And he did not until now. This is retaliation on the officers part.

I was thrown into the RHU, for a peroid of (23) days, but sentenced to (60) days. Even though the misconduct was reduced, I still was placed into the RHU, Lost my level 2, and lost my job.

I am requesting that I am returned back to Level (2), I recieve my job back, and that I am reimburst the funds that I lost due to this false misconduct, That this misconduct be taken completely out of my record, That Mr. Swanson apologize to my family and that he recieve punishment for fabrication /lying on a state document, and recieve the proper judgement accord ing to the Law concerning Racial discrimination/Racial profiling.

It is my intent in the event that I do not recieve relief, toappeal to the Commonwealth Court in Harrisburg.

DATE: 12 April, 2006

Submitted By:

Mr. Glenn A. Holder Sr.
EA-7173
P.O. Box 1000
Houtzdale, PA 16698-1000

ENCLOSURES:
1 of 3
Appeal & DC 141 Part 2A

2 of 3
DC-141 Part 2C
DC-141 Part 2B
DC-141 Part Part II E
PRC Decision
Statement of Mr. Lauro

3 of 3
Letter to Superintendant
Second Level Appeal
Facility manager Response.

C-4

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
1451 N. MARKET STREET
ELIZABETHTOWN, PA 17022

OFFICE OF THE
CHIEF HEARING EXAMINER

April 21, 2006

Glenn Holder, EA7173
SCI-Houtzdale

Re: DC-ADM 801 - Final Review
Misconduct No. A664500

Dear Mr. Holder:

This is in response to your appeal to final review of the above numbered misconduct.

In accordance with DC-ADM 801, VI, L, 3, I have reviewed the entire record of this misconduct; including the misconduct report, the hearing report and related documents, your appeal to the Program Review Committee and their response, your appeal to the Superintendent and his response. I have also thoroughly reviewed the issues you raise to final review.

The issues you raise to final review have already been addressed by the Program Review Committee and the Superintendent. On review of the record, this office concurs with their responses. I find no persuasive basis from which to conclude that the Examiner erred in conducting the hearing. The Examiner specifically documented findings of fact based on evidence presented at the hearing to support the decision. The procedures followed were in complete accordance with DC-ADM 801, §VI. The sanction imposed is not viewed to be disproportionate to the offense, and therefore will not be amended at this level.

Superintendent Patrick thoroughly and fairly reviewed the facts of this misconduct as well as the mitigating circumstances and reduced the misconduct to Class II and the sanction to time served; this office fully concurs with the Superintendent's position.

For the above-stated reasons, the responses provided by the Program Review Committee and the Superintendent are upheld in full. Your appeal must, therefore, be denied.

Sincerely,

Robert S. Bitner
Chief Hearing Examiner

RSB/jcs
Cc: Superintendent Patrick

"Our mission is to protect the public by confining persons committed to our custody in safe, secure facilities, and to provide opportunities for inmates to acquire the skills and values necessary to become productive law-abiding citizens; while respecting the rights of crime victims."



I, CARMINE LAURO, DOC# DU-1558, HEREBY SWEAR AND ATTEST THAT THE FOLLOWING IS TRUE AND CORRECT AS WITNESSED BY ME, THIS DAY, APRIL 8, 2006, TO THE BEST OF MY RECOLLECTION:

WHILE VISITING WITH MY GIRLFRIEND MS. DENISE BOSLAND, OF MARLTON, N.J. AT THE VISITING ROOM IN SCI-HOUTZDALE STATE PRISON, I WITNESSED THE FOLLOWING, IN THE NON-CONTACT VISIT ROOM NEAREST TO THE INMATE ENTRY/EXIT, BETWEEN 13:00 HOURS AND 14:50 HOURS INTERMITTENTLY:

TWO SMALL GIRLS, AGES APPROXIMATELY 4-7 YRS., DANCING ON THE TABLE, SOMETIMES FACING THE INMATE, AND OTHER TIMES FACING AWAY, WITH THEIR BACKS TO HIM. JUMPING, SITTING, AND STANDING ON THE TABLE.

SOME OF THE TIME THE YOUNGER GIRL WAS ON THE TABLE, OTHER TIMES BOTH WERE. ONLY ONCE DID I SEE A LIEUTENANT TAP ON THE INMATES DOOR, HOWEVER, THE GIRLS REMAINED ON THE TABLE.

THIS WAS HARD NOT TO NOTICE, AS IT WAS IN OUR DIRECT LINE OF SIGHT AND THE JUMPING WAS A DISTRACTION TO THE OTHERWISE DOCILE SURROUNDINGS.

AT NO TIME DID I NOTICE THE C.O. ON DUTY IN THE VISITING ROOM ATTEMPT TO HAVE THE GIRLS REMAIN SEATED, OR ISSUE ANY TYPE OF WARNING, THOUGH HE DID DO SEVERAL ROUNDS OF RANDOMLY WALKING AROUND THE VISITING AREA, AS IS USUAL.

I STATE THE ABOVE UNDER THE PENALTY OF LAW, 18 PA. C.S. 4904.

P. L. 4-8-06

07100100

D-17

ON SAT 04/08/06 I HAD A VISIT FROM MY WIFE + GRAND DAUGHTER Jessie FRITZ + JEANNINE MARTIN. AT ONE POINT IN TIME I TOOK NOTICE THAT A LITTLE GIRL WAS STANDING ON A TABLE OR DESK TALKING TO SOME ONE IN THE NOW CONTACT VISITING ROOM

THIS I BELIEVE WAS PROBLY BETWEEN 1300 HRS AND 1400 HRS.

THIS IS MY NAME

FRITZ WILSON FY5228
BLOCK CA CELL 18

Wilson Fritz

E

George Patrick

Superintendent
SCI-Houtsdale State Prison
Po Box 1000
Houtsdale Pa 16698-1000

Dear George Patrick,

My name is Mrs. Dawn Holder, I am writing you to file a formal complaint against Officer Swanson for lying against my family.

On March 12, 2006 my daughter and I came up to see my husband Glenn Holder. After visiting with him about 2 ½ hours Glenn was called out of the non contact room by Lt. Gill. After returning back, Glenn told us that he wanted us to leave.

I was informed later that Glenn was written up by Officer Swanson for an incident he said that occurred during our visit. Officer Swanson said that our daughter was standing on the table with her back turned toward Glenn dancing and shaking her rear inappropriately. Glenn or I would never allow our daughter to behave in that manner. Even when I come up by myself Glenn is very cautious of him or I touching each other in a manner that could get him in trouble.

Our daughter during any of our visits with Glenn never once stood on the table. She was dancing but on the floor

O E O

showing her daddy her tap dancing and a dance that she is learning for the Easter Program she is in at our church.

I do admit though that I have allowed Monique to sit on the table so that she can hear her dad and so that her dad can hear her. I apologize for allowing her to continue to sit on the table after being told by Glenn that she wasn't allowed to.

Office Swanson also accused our daughter of the same accusations on 12-29-05 and 12-30-05. He also claimed that Glenn was written up for it but there is no evidence of the write up. Office Swanson also said that the March incident was his fifth write up for the same thing. The only write up on Glenn's record was in 1999 and now this one.

I spoke with Major Kessling on the phone March 13, 2006 about this incident and he told me he was going to look into it and call me by the end of the week. He informed me that there are cameras in the visiting room and that they should have it on tape. Now I would like to know why the tape was not viewed at the hearing my husband had on March 14, 2006. I would like to view the tape recording on March 12, 2006 when me and my daughter were up visiting my husband.

I'm asking for you to take the time and investigate this situation carefully and fairly so Glenn's innocence's can be proven. Thank you for your time and consideration on this matter.

Sincerely,

Dawn Holder

ɔuld talk to your counselor

tions Officer overtime are
ɜ family, and must be paid

esentative in person, you
ɔn your approved visiting
ADM 812.

ɜntative on the telephone,
ɐ added to your approved
policy **DC-ADM 818.**

n a media-related visit or

ɗ the same visiting and
ɔ. Therefore, no special
ɜdia. All communications
ɔonducted in accordance
ɔ-ADM 818.**

elephone call, you must
ıy statements you make
Form should be sent to

itors during your initial
ist may contain up to 40
made using a **DC-312A,**
ll visitors on your list are
rmation asked for on the
12A forms for a visitor to
ɜ, address, date of birth,
n is not given, the visitor

will not be approved. The Facility Manager may remove the name of any visitor from your list.

2. Visiting Rules

a. While you are in general population, you are permitted to have visits in the general population visiting room during the approved visiting hours.
b. Only attorneys and religious advisors on your approved visiting list can visit you during the first 10 days following commitment to the Diagnostic Classification Center.
c. Visits will be no less than one hour in duration and shall occur during regularly scheduled visiting hours. Longer periods may be allowed depending upon your custody level and available space.
d. The number of visitors you may have at any one time may be limited based upon available space. If the visiting area gets full, and more visits are to be conducted, visits will be ended on a "first in/first out" basis, if the visit has been at least one hour.
e. If a minor child comes to visit you, a parent/legal guardian, County children/youth services agency staff, or an adult approved by the parent/legal guardian must be with the child.
f. Unless the Facility Manager/designee grants special permission, no person may be on more than one inmate's visiting list at any one facility except in cases where the person is part of the immediate family of more than one inmate. A visitor may be granted visiting privileges at more than one facility.
g. Your visitor's privileges may be limited, suspended, or restricted (such as non-contact visits only or a restriction on visiting at more than one facility) if information becomes available suggesting that allowing the individual to visit poses a threat to the safety and security of any Department facility.
h. When you have a visit, you must wear underwear and a Department supplied attire and shoes. If you report to the visiting changing area and you are not wearing underwear, (under shorts for males, under shorts and bra for females), you will be denied the visit. If you damage any of the visiting room clothing, you may be issued a misconduct and be made to pay to have the item repaired or replaced.
i. All tobacco products are prohibited in visiting areas.

3. Visitor Identification and Registration

Your visitors must have proper identification when they come to visit you. If one of your visitors cannot produce proper identification he/she

F-10

H. Fire and Safety Rules

1. Fire drills are conducted on a regular basis in all buildings located at SCI-Houtzdale. Participation is required by all. Follow the instructions given by staff members. Failure to comply with this regulation will result in a misconduct being issued.
2. Fire extinguishers and other related safety equipment is located throughout the facility. Tampering with this equipment is prohibited and misconducts will be issued to violators.
3. Smoking materials will be disposed of in approved noncombustible receptacles only.
4. All fires will be investigated to determine cause. Arson is a serious offense and violators will be prosecuted.

X. Visiting Privileges

A. Facility Information

- Address: SCI-Houtzdale, P.O. Box 1000, Houtzdale, PA 16698-1000
- Phone Number: 814-378-1000
- Directions:
  - From the East or West on I-80 take the Kylertown Exit to 53 South to Houtzdale. In Houtzdale take 153 South approximately ½ mile, institution on right.
  - From Altoona take I-99 North to Route 453 in Tyrone. Follow 453 to Viola and take Route 153 North. Institution is on the left approximately 5 miles.
  - From Pittsburgh take 22 East to 53 North outside Ebensburg (Cresson exit) to Van Ormer. At Van Ormer take 253 North to Viola; then Route 153 North. Institution is on the left approximately 5 miles.
  - From Philadelphia take PA Turnpike to Harrisburg East Exit. Follow 322 West in Harrisburg to Philipsburg. Take Route 53 South to Houtzdale to 153 South. Institution is approximately ¼ mile on the right.

B. Days and Hours of Operation

1. The visiting room is open Monday, Tuesday, Thursday, Friday, Saturday and Sunday from 9:00 a.m. until 4:00 p.m., including holidays. The Visiting Room is closed Wednesdays. No visitors will be processed in after 3:00 p.m.

2. The visiting room capacity has been established at 150 visitors and inmates; even when the courtyard is open for outside visits, the number shall remain 150. When the capacity is reached, visits will be terminated on a first in, first out basis.

C. Authorized Items for Inmates

The only items permitted into the visiting room by an inmate while on a general population visit shall be the following: kuffee or yarmulke or headband, state shoes or sneakers with a medical pass only, medical alert bracelet, wedding band, one small black pocket comb, one handkerchief, dentures, prosthesis, one pair of socks, one pair of prescription eyeglasses, one white t-shirt, one pair of underwear.

D. Authorized Items Visitors May Bring to Give Inmates

The exchange of any item (including legal materials) during a visit is strictly prohibited unless specific permission is received in advance from the Superintendent/Designee.

E. Miscellaneous

1. An interview may be held with a prospective employer concerning your parole plan, but prior notification should be made with the visiting room by your counselor or a member of the parole services staff.

2. A visitor may purchase refreshments from the vending machines in the visiting room for you; however, all food and drinks are to be consumed in the visiting room.

3. Changes such as additions or deletions to an inmate's visiting list are permitted. You shall forward all change requests through your counselor.

XI. Work Assignments

A. Work Assignments at SCI-Houtzdale:

Maintenance Crews
Outside Work Details (Warehouse, Auto Shop, Powerhouse, etc.)
Culinary Department
Medical Department (janitorial)
Laundry Department
Commissary Department
Blockworkers
Activities Department
Library Clerks
Education Tutors
Program Services Building (janitorial)

B. Applying for a Work Assignment

Upon reception into the institution, inmates will be assigned to the first available job. After 90 days in their initial work assignment, inmates may request a job change through their unit management team.

COMMON PLEAS COURT OF CLEARFIELD COUNTY
230 EAST MARKET STREET
CLEARFIELD, PA 16830

ATTN: CLERK OF COURT

RE: AMENDMENT OF PETITION. **286 M.D. 2006**

Dear Madam/Sirs:

Enclosed is a copy of the previously filed petition, which the Commonwealth Court forward to you for docketing.

Please advise upon docketing this matter, and I thank you for your assistance.

Respectfully;

Mr. Glenn A. Holder Sr.
EA-7173
P.O. Box 1000
Houtzdale, PA 16698-1000

Date: 24 May 2006

WAITING FOR TRANSFER FROM Comm Court

MAILED 5-31-06

REF. K. GARLAND 2006-332-CD

Miscellaneous Docket Sheet

Commonwealth Court of Pennsylvania

Docket Number: 286 MD 2006

May 25, 2006

Glenn A. Holder, Sr.,
Petitioner
v.
Officer Swanson, COIV M. Shirley;
Robert Reed; Deputy R. Britton;
Deputy K. Cameron; Frank Hartnett
and Superintendent George Patrick,
Respondents

Initiating Document: Petition for Review
Case Status: Closed
Case Processing Status: May 10, 2006 Completed
Journal Number:
Case Category: Miscellaneous CaseType: Inmate Petition for Review

Consolidated Docket Nos.:

Related Docket Nos.:

COUNSEL INFORMATION

Petitioner Holder Sr., Glenn A.
Pro Se: ProSe
IFP Status: Pending
Attorney: Holder Sr., Glenn A.
Law Firm:
Address: EA-7173, SCI-Houtzdale
P.O. Box 1000
Houtzdale, PA 16698-1000
Phone No.:

Appoint Counsel Status:

Respondent Swanson, Officer
Pro Se:
IFP Status:
Attorney: Farnan, Michael A.
Law Firm:
Address: Pennsylvania Dept. of Corrections
P.O. Box 598

Appoint Counsel Status:

PACMS Web Docket Sheet
Recent entries made in the appellate court filing offices may not be immediately reflected on web generated docket sheets.
Neither the Appellate Courts nor the Administrative Office of Pennsylvania Courts assumes any liability for inaccurate or delayed data, errors or omissions on these web docket sheets.

Miscellaneous Docket Sheet

Commonwealth Court of Pennsylvania

Docket Number: 286 MD 2006

May 25, 2006

Camp Hill, PA 17001
Phone No.: (717)975-4864

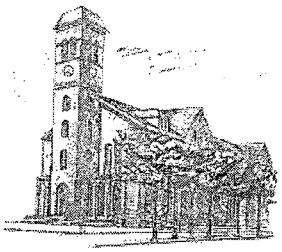
TRIAL COURT/AGENCY INFORMATION

Court Below:
County:
Date of Order Appealed From:
Date Documents Received: May 9, 2006
Order Type:
Division:
Judicial District:
Date Notice of Appeal Filed:

ORIGINAL RECORD CONTENTS

BRIEFING SCHEDULE

PACMS Web Docket Sheet
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Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw Prothonotary/Clerk of Courts | **Jacki Kendrick** Deputy Prothonotary/Clerk of Courts | **Bonnie Hudson** Administrative Assistant | **David S. Ammerman** Solicitor

PO Box 549, Clearfield, PA 16830 ▪ Phone: (814) 765-2641 Ext. 1330 ▪ Fax: (814) 765-7659 ▪ www.clearfieldco.org

COPY

May 24, 2007

Superior Court of Pennsylvania
Office of the Prothonotary
600 Grant Building
Pittsburgh, PA 15219

Re: Glenn A. Holder, Sr.
Vs.
Matthew Swanson
No. 06-894-CD
Superior Court No. 701 WDA 2007

Dear Prothonotary:

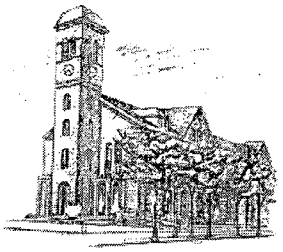
Enclosed you will find the above referenced complete record appealed to your office. One document is included under separate cover.

Sincerely,

William A. Shaw
Prothonotary/Clerk of Courts

FILED
09:05:61
MAY 24 2007

William A. Shaw
Prothonotary/Clerk of Courts



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw Prothonotary/Clerk of Courts | **Jacki Kendrick** Deputy Prothonotary/Clerk of Courts | **Bonnie Hudson** Administrative Assistant | **David S. Ammerman** Solicitor

PO Box 549, Clearfield, PA 16830 ▪ Phone: (814) 765-2641 Ext. 1330 ▪ Fax: (814) 765-7659 ▪ www.clearfieldco.org

Superior Court of Pennsylvania
Office of the Prothonotary
600 Grant Building
Pittsburgh, PA 15219

Re: Glenn A. Holder, Sr.
Vs.
Matthew Swanson
No. 06-894-CD
Superior Court No. 701 WDA 2007

Dear Prothonotary:

Enclosed you will find the above referenced complete record appealed to your office. One document is included under separate cover.

Sincerely,

COPY

William A. Shaw
Prothonotary/Clerk of Courts

Please sign below and return in the enclosed self-addressed stamped envelope:

I received the above-reference case on _____

FILED
MAY 29 2007
William A. Shaw
Prothonotary/Clerk of Courts

RECORD
MAY 25 2007
PITTSBURGH OFFICE OF
SUPERIOR COURT

06-894-CD

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Glenn A. Holder, Sr., Appellant	:	
v.	:	No. 1135 C.D. 2007
	:	Submitted: September 14, 2007
Matthew Swanson	:	

BEFORE: HONORABLE BERNARD L. McGINLEY, Judge
HONORABLE DAN PELLEGRINI, Judge
HONORABLE MARY HANNAH LEAVITT, Judge

FILED
NOV 07 2007
William A. Shaw
Prothonotary/Clerk of Courts

OPINION NOT REPORTED

MEMORANDUM OPINION
BY JUDGE LEAVITT

FILED: November 5, 2007

Glenn A. Holder, Sr. (Holder) appeals, *pro se*, the order of the Court of Common Pleas of Clearfield County (trial court) granting summary judgment to Matthew Swanson (Swanson), a correctional officer at the State Correctional Institution at Houtzdale (SCI-Houtzdale), named as defendant in Holder's civil rights action. Finding no error in the trial court's decision that Holder's evidence did not establish a *prima facie* case of racial discrimination, we affirm.

Holder, who was convicted of rape, indecent assault, endangering the welfare of children, and corruption of minors, is an inmate at SCI-Houtzdale. Because of the nature of his conviction, Holder is permitted only "non-contact visitation" with minors. This means that Holder is physically separated by a partition, such as a glass barrier, from minor visitors. On March 12, 2006, Swanson wrote out a misconduct charge against Holder, alleging that Holder violated the non-contact visitation regulations during a visit with Holder's wife and

seven-year-old daughter. Swanson alleged that Holder had previously been ordered by other correctional officers to keep his daughter seated in the "non-contact" visitation room at all times.[1] However, during the visit in question Holder's daughter stood on the table and danced in a provocative manner. As a result of this misconduct charge, Holder was placed in the restricted housing unit for sixty days.

Using the Department of Correction's internal grievance process, Holder challenged the misconduct charges and his discipline. On May 1, 2006, the Secretary of Corrections ordered that the misconduct charges be vacated and expunged from Holder's institutional record. This relieved him of serving all sixty days in the restricted housing unit.

On May 8, 2006, Holder initiated a civil rights action against Swanson in this Court. Holder alleged that Swanson's actions had been motivated by his personal animus against inter-racial marriages. Holder is African-American, and his wife is Caucasian. This Court transferred the case to the trial court.

On September 21, 2006, Holder filed an amended complaint naming additional defendants as well as Swanson. The trial court dismissed the claims against the new defendants, leaving only the claims against Swanson. Holder's complaint sought the following relief: money damages, punitive damages, emotional and psychological damages, injunctive relief, changes to the prison's visitation policies, and that Holder be permitted "contact visits" with his daughter.

Holder served Swanson with a request for production of documents, to which Swanson responded by producing some documents and objecting to

[1] It is not clear how Holder, separated from his child by a glass barrier, would be able to direct his child's conduct. However, this question is not before the Court.

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Holder then filed a motion for summary judgment. In support, he offered inmate affidavits that Holder construed as supporting a finding that Swanson was more likely to file misconduct charges against African-American inmates than against Caucasian inmates. Holder also provided Swanson's answer to an interrogatory that, by Holder's construction, constituted an admission by Swanson that the misconduct charges Swanson filed against Holder were false.[2]

On February 21, 2007, Swanson supplemented his earlier document response with a copy of an investigation report prepared by Captain Irwin, dated June 23, 2006. The report stated that a review of Swanson's employment history led Irwin to conclude that Swanson's charges of inmate misconduct were not tainted by racial profiling or discrimination. Thereupon, on February 28, 2007,

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Swanson filed a cross-motion for summary judgment. Swanson asserted that Holder's evidence, which was vague, did not make out a *prima facie* case of discrimination or a denial of equal protection.[3] Further, Swanson argued that the vacation of Holder's misconduct charges, without more, did not establish discrimination or a denial of equal protection.

Holder replied to Swanson's cross-motion for summary judgment with new affidavits, both from himself and from three other inmates. Affiant Wilson, expanding on his first affidavit, stated that he saw a minor, Caucasian child standing on a table on a day that Swanson was on duty in the visitor room. Affiant Lauro's amended affidavit stated that the minor visitor he saw standing on the table was Caucasian; that Swanson was the officer on duty in the visitor room that day; and that the inmate being visited was Caucasian. Finally, Holder submitted the affidavit of inmate Dedmon who stated that he too had been charged by other correctional officers for violating visitation rules.

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[3] Swanson argued that Holder's affidavits did not establish discrimination for the following reasons: (1) they failed to provide the name or race of the inmates or visitors referenced; (2) they failed to state the crimes for which the referenced unnamed inmates were convicted; (3) they failed to state whether the referenced unnamed inmates had received prior warnings concerning the conduct of their visitors; (4) it was unclear whether the correctional officer referenced by the affiants was Swanson; and (5) they failed to state that Swanson saw the referenced minor visitors standing or sitting on the desk.

other inmates. Therefore, they did not show, as was believed by Holder, that Caucasian inmates were not disciplined for the conduct that led to Holder's discipline. The trial court found that Dedmon's affidavit was completely irrelevant; it merely illustrated that when inmates violate rules during visitation they are appropriately punished. If anything, Dedmon's affidavit supported Swanson. Finally, the trial court rejected Holder's argument that Swanson's answer to Holder's confusing interrogatory was an admission that Swanson's charges against Holder had been false. The trial court found Holder's reading of Swanson's interrogatory response unsupportable.

The trial court concluded that Holder failed to meet his burden to make out a *prima facie* case of discrimination. The trial court also concluded that because Holder did not have a constitutional right to contact visitation with his minor child, he was not entitled to injunctive relief under 42 U.S.C. §1983. The trial court granted Swanson's cross-motion for summary judgment.

On appeal to this Court, Holder asserts that the trial court erred in granting Swanson's cross-motion for summary judgment.[4] First, Holder contends that Swanson failed to comply with the discovery rules set forth in the Pennsylvania Rules of Civil Procedure, and this violation should have been sanctioned by the trial court. Second, Holder argues the evidence of record established a *prima facie* case of discrimination, in violation of Holder's civil rights.

[4] Holder appealed to the Pennsylvania Superior Court, but the appeal was transferred to this Court.

Summary judgment[5] is warranted "whenever there is no genuine issue of any material fact as to a necessary element of the cause of action or defense which could be established by additional discovery or expert report." Pa. R.C.P. No. 1035.2(1). Summary judgment may also be granted where

> after the completion of discovery relevant to the motion, ... an adverse party who will bear the burden of proof at trial has failed to produce evidence of facts essential to the cause of action or defense.

Pa. R.C.P. 1035.2(2). The non-moving party may not rest on the averments of its pleadings and instead must demonstrate that there is a genuine issue for trial. *Rapagnani v. Judas Co.*, 736 A.2d 666, 668-669 (Pa. Super. 1999).

Holder first contends that the trial court erred because Swanson failed to produce the documents Holder requested in violation of the Pennsylvania Rules of Civil Procedure. Holder argues that this violation should be sanctioned by depriving Swanson of the opportunity to seek summary judgment. For the reasons that follow, we conclude that Holder failed to preserve this issue for appeal.

Under the Pennsylvania Rules of Civil Procedure, a party may request another party to produce documents that are relevant to the action and are not privileged, provided that the requested documents will reasonably lead to the discovery of admissible evidence. Pa. R.C.P. No. 4009.1.[6] The party upon whom

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[5] This Court's scope of review from the granting of a motion for summary judgment is plenary. *City of Philadelphia v. Carpino*, 915 A.2d 169, 171 n.1 (Pa. Cmwlth. 2006) (citation omitted). The standard of review is whether the trial court committed an error of law or abused its discretion. *Id.*

[6] Rule 4009.1 defines the scope of discovery with respect to the production of documents as follows:

> Any party may serve a request upon a party . . . to produce and permit the requesting party, or someone acting on the party's behalf, to inspect and copy any

(Footnote continued on the next page . . .)

the request was served must produce those documents to which there is no objection and identify objections, where appropriate. Pa. R.C.P. No. 4009.12(a).[7] If a party fails to produce the requested documents, a motion to compel may be

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(continued . . .)

> designated documents . . . which constitute or contain matters within the scope of Rules 4003.1 through 4003.6 inclusive and which are in the possession, custody or control of the party or person upon whom the request or subpoena is served; and may do so one or more times.

Pa. R.C.P. No. 4009.1.

[7] Rule 4009.12 states:

> (a) The party upon whom the request is served shall within thirty days after the service of the request
>
> (1) serve an answer including objections to each numbered paragraph in the request, and
>
> (2) produce or make available to the party submitting the request those documents and things described in the request to which there is no objection.
>
> . . .
>
> (b) The answer shall be in the form of a paragraph-by-paragraph response which shall
>
> (1) identify all documents or things produced or made available;
>
> (2) identify all documents or things not produced or made available because of the objection that they are not within the scope of permissible discovery under Rule 4003.2 through Rule 4003.6 inclusive and Rule 4011(c). Documents or things not produced shall be identified with reasonable particularity together with the basis for non-production;
>
> . . .
>
> (4) object to the request on the grounds set forth in Rule 4011(a), (b), and (e) or on the ground that the request does not meet the requirements of Rule 4009.11;
>
> (5) state that after reasonable investigation, it has been determined that there are no documents responsive to the request.

Pa. R.C.P. No. 4009.12.

filed under Pa. R.C.P. No. 4019(a)(1)(vii).[8] A party may not defend against a motion to compel unless the objection was raised prior to the motion to compel.[9] If the court grants a motion to compel and the court's order is not obeyed, the requesting party may then file a motion for sanctions against the non-complying party.[10]

When he was not satisfied with Swanson's responses to his first document request, Holder filed a motion to compel. The court did not expressly grant or deny this motion. Instead, the court's order dismissed Holder's request for production of documents with respect to all previously removed defendants, for the simple reason that non-parties cannot be required to produce documents. Holder then served Swanson with an *amended* request for production of documents, the effect of which was to moot Holder's original request for documents. Although dissatisfied with Swanson's second response, Holder did not file a motion to compel. Instead, Holder sent a response titled "Response to Remaining Defendant Swanson's Answer to Plaintiff's Amended Request for Production of Documents."

Having reviewed Swanson's responses to Holder's amended request for production of documents, we do not perceive a violation of the discovery rules.

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[8] Rule 4019(a)(1)(vii) provides in pertinent part that "[t]he court may, on motion, make an appropriate order if . . . a party, in response to a request for production or inspection made under Rule 4009, fails to respond that inspection will be permitted as requested or fails to permit inspection as requested." Pa. R.C.P. No. 4019(a)(1)(vii).

[9] Pa. R.C.P. No. 4019(a)(2) holds that a "failure to act described in subdivision (a)(1) may not be excused on the ground that the discovery sought is objectionable unless the party failing to act has filed an appropriate objection or has applied for a protective order."

[10] Pa. R.C.P. No. 4019(g)(1) holds that "if following the refusal, . . . the court . . . enters an order compelling compliance and the order is not obeyed, the court on a subsequent motion for sanctions may . . . require the party or deponent whose conduct necessitated the motions or the party or attorney advising such conduct or both of them to pay to the moving party the reasonable expenses, including attorney's fees. . . ."

Swanson appropriately responded to Holder's amended request.[11] Swanson produced some of the requested documents, and his objections, *i.e.*, that the requests were overly broad, not likely to lead to the discovery of admissible evidence, or that the document had previously been produced are recognized objections. If Holder believed the objections were improperly invoked, it was Holder's responsibility to file a motion to compel. However, in the absence of a motion to compel, Holder has waived his claim that Swanson failed to comply with the discovery rules and should be sanctioned. Pa. R.A.P. 302(a) holds that "issues not raised in the lower court are waived and cannot be raised for the first time on appeal." Accordingly, we cannot consider Holder's claim that Swanson violated Pennsylvania's discovery rules.

Holder next argues that the trial court erred by granting Swanson's cross-motion for summary judgment because the material facts not in dispute established a *prima facie* case of discrimination. Swanson responds that Holder's evidence was so vague as to be meaningless.

The elements of a claim under 42 U.S.C. §1983[12] are well established. The plaintiff must show a "deprivation" of a constitutional or statutory right by a

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[11] Indeed, pursuant to the obligation to supplement discovery responses under Pa. R.C.P. No. 4007.4, Swanson sent Holder a copy of an investigation report of Swanson's practices with respect to misconduct charges. Swanson did not initially produce this requested investigation report because of confusion about what Holder was requesting.

[12] It states:

> Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress . . . .

42 U.S.C. §1983.

person "acting under color of state law."[13] *Gonzaga University v. Doe*, 536 U.S. 273, 284-85 (2002). Although Holder's complaint does not identify the Fourteenth Amendment of the United States Constitution, it is presumed to be the basis for his claim inasmuch as he asserts racial discrimination.[14]

To state a viable claim for an equal protection violation in this context, a plaintiff must demonstrate that the official's actions (1) had a discriminatory effect, and (2) were motivated by a discriminatory purpose. *Village of Arlington Heights v. Metropolitan Housing Development. Corp.*, 429 U.S. 252, 264-66 (1977). In order to prove discriminatory effect, a plaintiff must show that he or she is a member of a protected class and that he or she was treated differently from similarly situated individuals in an unprotected class. *Bradley v. United States,* 299 F.3d 197, 206 (3d Cir. 2002). To prove that the actions were motivated by a discriminatory purpose, a plaintiff has to show that the discrimination was intentional or purposeful. *Snowden v. Hughes*, 321 U.S. 1, 8 (1944); *accord Wilson v. Schillinger*, 761 F.2d 921, 929 (3d Cir.1985), *cert. denied*, 475 U.S. 1096 (1986).

To defeat Swanson's motion for summary judgment, Holder had to submit evidence that Swanson treated Holder differently than similarly situated members of an unprotected class. *See Rapagnani,* 736 A.2d 666, 668-669 (Pa. Super. 1999) (the non-moving party must identify evidence of record establishing

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[13] The parties do not dispute whether Swanson was acting under color of state law when he issued the misconduct in question as part of his duties as a correctional officer for a state correctional institution.

[14] *See Bradley v. Pittsburgh Board of Education.*, 913 F.2d 1064, 1079 (3d Cir. 1990) (noting that although the plaintiff "does not explicitly identify in the complaint or briefs the substantive basis for his race discrimination claim under section 1983, that claim must be grounded on the equal protection clause of the Fourteenth Amendment.").

the facts essential to the cause of action that refutes the motion). The trial court found that Holder failed to produce evidence of disparate treatment, and Holder contends that the trial court erred in this finding by not giving appropriate consideration to Holder's evidence. Specifically, Holder argues that his evidence showed Swanson's charges were false; his affidavits showed disparate treatment; and the Irwin report showed that Swanson's actions were motivated by racism. We consider each of these categories of evidence *seriatim*.

In support of his claim that Swanson filed false charges, Holder first directs us to Swanson's response to an interrogatory. Interrogatory Number 13, and Swanson's response, are as follows:

> 13) Was the misconduct written in your hand, charging the Plaintiff, his wife and their child of Engaging in Sexual Acts with others, Refusing to obey Orders and Violating Visiting Room Rules and Regulations a true and Factual misconduct?
>
> RESPONSE: No. I can not write misconduct on a civilian, only on an inmate. Your wife and child were not charged with anything.

Certified Record Item No. 42, Exhibit C (C.R. _____). Holder interprets the response to mean that Swanson admits the misconduct was not true and factual. However, Holder's Interrogatory Number 13 is a compound and confusing question. Swanson answered the interrogatory in the negative and then explained his response. The trial court found Holder's characterization of Swanson's response as an admission to be unfounded, and we agree.

Holder next argues that Swanson's charge of "violating an order" was false because Swanson had not previously given such an order to Holder. However, Holder was cited for violating a previous order, not necessarily the order

of Swanson. Indeed, as Holder himself points out in his brief, the misconduct charge specifically referred to the order given to Holder by Lieutenant Gill on December 29, 2005, to have his visitor remain seated. Holder's argument that the "violating an order" charge was false lacks merit.

Finally, Holder argues that because the charges of misconduct were vacated by the Secretary of Corrections, Swanson's charges must have been false. However, a review of Holder's appeal shows that the charges were vacated because it was found that the misconduct did not warrant the sanction imposed, not that they were untrue.

In sum, the evidence does not support a finding that Swanson filed false misconduct charges against Holder, let alone to effect racial discrimination.

Next, Holder contends that the trial court erred because the affidavits Holder submitted made out a *prima facie* case of discrimination. Holder argues that the affidavits show that Swanson did not file charges against white inmates whose visitors failed to remain seated. It was not until after Swanson filed his cross-motion for summary judgment that Holder submitted amended affidavits that even identified Swanson as the correctional officer on duty or the race of the persons referenced by the affiants. However, we agree with the trial court that the amended affidavits did not cure the inadequacies of the original affidavits.

Inmate Wilson stated that during his time in the non-contact room on April 8, 2006, he observed a Caucasian girl standing on the table when Swanson was on duty. Similarly, the original, amended, and supplemental affidavit of inmate Lauro stated that during one visitation in the non-contact room, he observed two Caucasian girls dancing on a table in front of a Caucasian inmate while Swanson was on duty. Lauro further stated that he saw an unnamed guard tap on

the inmate's non-contact visiting room door; however, he did not observe Swanson issue a warning or attempt to have the girls remain seated.

The problem with these affidavits is that they do not identify the types of convictions of the Caucasian inmates; whether Swanson was aware of the children's actions; or whether any of the white inmates had ever received previous warnings or orders about the visitation rules. The trial court explained as follows:

> Both witnesses admit that they were in a different area participating in visits with their own family, therefore their ability to know fully what was transpiring was limited to what they may have overheard while primarily focused on their families. [Holder] himself indicates that it is hard to hear visitors in the non-contact visitation room especially if they are not in a direct line of sight. Further, his pleadings indicate that it can be difficult to see small children in the visitation area because of desks and other obstacles.

Trial Court Opinion, dated March 27, 2007, at p. 3. In short, the affidavits did not establish facts to show disparate treatment of inmates by Swanson.

Finally, Holder points to the investigation report from Captain Irwin, asserting that it shows that Swanson acted in a racially discriminatory fashion. The report stated that Swanson filed slightly more misconduct charges than other officers, but it went on to state that after comparison of Swanson's written misconducts with "the total misconducts written in April and May 2006 by all staff members, the percentages of misconducts issued do not indicate any racial profiling or discrimination" by Swanson. C.R. 44. The report also stated that there

were no other complaints filed against Swanson.[15] Holder's argument about the significance of the report lacks merit.

We conclude, based on a thorough review of the evidence presented by Holder in support of his discrimination claim against Swanson, that Holder did not make a *prima facie* case of discrimination. Accordingly, we affirm the trial court's grant of summary judgment to Swanson.[16]

MARY HANNAH LEAVITT, Judge

[15] The report further acknowledged its limited value stating "[w]ithout an extensive review of all misconducts written exclusively in the visiting room by all other staff members we are unable to compare the percentages of misconducts issued in the visiting room." C.R. 44.

[16] The trial court concluded that there was insufficient evidence to support discrimination and equal protection claims. The trial court also held that Holder failed to establish a claim under Section 1983 because he did not have a constitutional right to visitation with a minor. *See* Trial Court Opinion, dated March 27, 2007, at 4-5. Holder's claim that he had a right to contact visitation with his minor child was asserted against a party that was previously dismissed from the case. It is irrelevant to Holder's claim against Swanson. The basis for Holder's Section 1983 claim against Swanson is the alleged discrimination in violation of the Equal Protection Clause under the Fourteenth Amendment of the United States Constitution. We affirm the trial court on other grounds, concluding that Holder did not make out a *prima facie* case for racial discrimination.

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Glenn A. Holder, Sr., Appellant	:	
v.	:	No. 1135 C.D. 2007
Matthew Swanson	:	

ORDER

AND NOW, this 5th day of November, 2007, the order of the Court of Common Pleas of Clearfield County dated March 27, 2007, in the above captioned matter is hereby AFFIRMED.

MARY HANNAH LEAVITT, Judge

Certified from the Record
NOV 5 2007
and Order Exit

FILED
NOV 07 2007
William A. Shaw
Prothonotary/Clerk of Courts

In the Superior Court of Pennsylvania

FILED
JUN 21 2007
m/ 3:30
William A. Shaw
Prothonotary/Clerk of Courts

No. 701 **WESTERN DOCKET APPEAL 2007**

GLENN A. HOLDER, SR., Appellant

-v-

MATTHEW SWANSON

: Appeal from the **Order on 3-27-2007, In the Court of Common Pleas, by the Honorable Fredric J. Ammerman, Civil Division,**

: Of the County of **Clearfield**

: **06-894-CD**

Certified from the Record

"ORDER

Upon consideration of appellee Swanson's April 25, 2007 "motion to transfer", and upon consideration of appellant Holder's April 30, 2007 "petition in opposition of appellee's motion to transfer", the motion is **GRANTED** such that the instant appeal is **TRANSFERRED** to the Commonwealth Court for that court's consideration. See 42 Pa. C.S. § 762.

May 9, 2007 **PER CURIAM"**

In Testimony Whereof, I have hereunto set my hand and the seal of said Court at Pittsburgh,

Pa. this 18th Day of June **2007**

Eleanor R. Valecko
Deputy Prothonotary

SUPERIOR COURT OF PENNSYLVANIA
CIVIL RECIEPT

RECEIVED FROM THE SUPERIOR COURT OF PENNSYLVANIA,

THE CASE OF:
GLENN HOLDER SR. V. MATTHEW SWANSON
701 WDA 2007

DOCKET NUMBER: NO. 06-894-CD

Filed: **CERTIFIED ORDER OF COURT DATED JUNE 18, 2007.**

RECEIPT ACKNOWLEDGED: _____ DATE: 6-21-07

File Copy

Commonwealth Court of Pennsylvania

Kristen W. Brown
Prothonotary
Michael Krimmel, Esq.
Chief Clerk of Commonwealth Court

Irvis Office Building, Room 624
Harrisburg, PA 17120
717-255-1650

January 4, 2008

Certificate of Remittal/Remand of Record

FILED
JAN 11 2008
01:00 (CW) (GK)
William A. Shaw
Prothonotary/Clerk of Courts
COPY TO Comm Court

TO:

RE: Holder, G. v. Swanson, M.
No.1135 CD 2007
Trial Court/Agency Dkt. Number: 06-894-CD
Trial Court/Agency Name: Clearfield County Court of Common Pleas
Intermediate Appellate Court Number:

Annexed hereto pursuant to Pennsylvania Rules of Appellate Procedure 2571 and 2572 is the entire record for the above matter.

Contents of Original Record:

Original Record Item	Filed Date	Description
trial court record	June 21, 2007	1 stack

Date of Remand of Record: 1/4/2008

ORIGINAL RECIPIENT ONLY - Please acknowledge receipt by signing, dating, and returning the enclosed copy of this certificate to our office. Copy recipients (noted below) need not acknowledge receipt.

Signature

Date

WILLIAM A. SHAW
Prothonotary
My Commission Expires
1st Monday in Jan. 2010
Clearfield Co., Clearfield, PA

06-894-CD

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Glenn A. Holder, Sr., Appellant	:	
v.	:	No. 1135 C.D. 2007
	:	Submitted: September 14, 2007
Matthew Swanson	:	

BEFORE: HONORABLE BERNARD L. McGINLEY, Judge
HONORABLE DAN PELLEGRINI, Judge
HONORABLE MARY HANNAH LEAVITT, Judge

FILED
JAN 11 2008
William A. Shaw
Prothonotary/Clerk of Courts

OPINION NOT REPORTED

MEMORANDUM OPINION
BY JUDGE LEAVITT

FILED: November 5, 2007

Glenn A. Holder, Sr. (Holder) appeals, *pro se*, the order of the Court of Common Pleas of Clearfield County (trial court) granting summary judgment to Matthew Swanson (Swanson), a correctional officer at the State Correctional Institution at Houtzdale (SCI-Houtzdale), named as defendant in Holder's civil rights action. Finding no error in the trial court's decision that Holder's evidence did not establish a *prima facie* case of racial discrimination, we affirm.

Holder, who was convicted of rape, indecent assault, endangering the welfare of children, and corruption of minors, is an inmate at SCI-Houtzdale. Because of the nature of his conviction, Holder is permitted only "non-contact visitation" with minors. This means that Holder is physically separated by a partition, such as a glass barrier, from minor visitors. On March 12, 2006, Swanson wrote out a misconduct charge against Holder, alleging that Holder violated the non-contact visitation regulations during a visit with Holder's wife and

seven-year-old daughter. Swanson alleged that Holder had previously been ordered by other correctional officers to keep his daughter seated in the "non-contact" visitation room at all times.[1] However, during the visit in question Holder's daughter stood on the table and danced in a provocative manner. As a result of this misconduct charge, Holder was placed in the restricted housing unit for sixty days.

Using the Department of Correction's internal grievance process, Holder challenged the misconduct charges and his discipline. On May 1, 2006, the Secretary of Corrections ordered that the misconduct charges be vacated and expunged from Holder's institutional record. This relieved him of serving all sixty days in the restricted housing unit.

On May 8, 2006, Holder initiated a civil rights action against Swanson in this Court. Holder alleged that Swanson's actions had been motivated by his personal animus against inter-racial marriages. Holder is African-American, and his wife is Caucasian. This Court transferred the case to the trial court.

On September 21, 2006, Holder filed an amended complaint naming additional defendants as well as Swanson. The trial court dismissed the claims against the new defendants, leaving only the claims against Swanson. Holder's complaint sought the following relief: money damages, punitive damages, emotional and psychological damages, injunctive relief, changes to the prison's visitation policies, and that Holder be permitted "contact visits" with his daughter.

Holder served Swanson with a request for production of documents, to which Swanson responded by producing some documents and objecting to

[1] It is not clear how Holder, separated from his child by a glass barrier, would be able to direct his child's conduct. However, this question is not before the Court.

others. Unsatisfied, Holder filed a motion to compel the production of all the requested documents. The trial court neither granted nor denied Holder's motion; it did, however, quash all of Holder's document requests that pertained to non-parties. Holder then served Swanson with an *amended* request for production of documents, requesting the same documents sought in his first request as well as other documents not previously requested. Swanson timely responded and again objected to some of the requests. This time, Holder did not file a motion to compel.

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On February 21, 2007, Swanson supplemented his earlier document response with a copy of an investigation report prepared by Captain Irwin, dated June 23, 2006. The report stated that a review of Swanson's employment history led Irwin to conclude that Swanson's charges of inmate misconduct were not tainted by racial profiling or discrimination. Thereupon, on February 28, 2007,

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Swanson filed a cross-motion for summary judgment. Swanson asserted that Holder's evidence, which was vague, did not make out a *prima facie* case of discrimination or a denial of equal protection.[3] Further, Swanson argued that the vacation of Holder's misconduct charges, without more, did not establish discrimination or a denial of equal protection.

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On appeal to this Court, Holder asserts that the trial court erred in granting Swanson's cross-motion for summary judgment.[4] First, Holder contends that Swanson failed to comply with the discovery rules set forth in the Pennsylvania Rules of Civil Procedure, and this violation should have been sanctioned by the trial court. Second, Holder argues the evidence of record established a *prima facie* case of discrimination, in violation of Holder's civil rights.

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> after the completion of discovery relevant to the motion, ... an adverse party who will bear the burden of proof at trial has failed to produce evidence of facts essential to the cause of action or defense.

Pa. R.C.P. 1035.2(2). The non-moving party may not rest on the averments of its pleadings and instead must demonstrate that there is a genuine issue for trial. *Rapagnani v. Judas Co.*, 736 A.2d 666, 668-669 (Pa. Super. 1999).

Holder first contends that the trial court erred because Swanson failed to produce the documents Holder requested in violation of the Pennsylvania Rules of Civil Procedure. Holder argues that this violation should be sanctioned by depriving Swanson of the opportunity to seek summary judgment. For the reasons that follow, we conclude that Holder failed to preserve this issue for appeal.

Under the Pennsylvania Rules of Civil Procedure, a party may request another party to produce documents that are relevant to the action and are not privileged, provided that the requested documents will reasonably lead to the discovery of admissible evidence. Pa. R.C.P. No. 4009.1.[6] The party upon whom

---

[5] This Court's scope of review from the granting of a motion for summary judgment is plenary. *City of Philadelphia v. Carpino*, 915 A.2d 169, 171 n.1 (Pa. Cmwlth. 2006) (citation omitted). The standard of review is whether the trial court committed an error of law or abused its discretion. *Id.*

[6] Rule 4009.1 defines the scope of discovery with respect to the production of documents as follows:

> Any party may serve a request upon a party . . . to produce and permit the requesting party, or someone acting on the party's behalf, to inspect and copy any

(Footnote continued on the next page . . .)

the request was served must produce those documents to which there is no objection and identify objections, where appropriate. Pa. R.C.P. No. 4009.12(a).[7] If a party fails to produce the requested documents, a motion to compel may be

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(continued . . .)

> designated documents . . . which constitute or contain matters within the scope of Rules 4003.1 through 4003.6 inclusive and which are in the possession, custody or control of the party or person upon whom the request or subpoena is served; and may do so one or more times.

Pa. R.C.P. No. 4009.1.

[7] Rule 4009.12 states:

> (a) The party upon whom the request is served shall within thirty days after the service of the request
>
> (1) serve an answer including objections to each numbered paragraph in the request, and
>
> (2) produce or make available to the party submitting the request those documents and things described in the request to which there is no objection.
>
> . . .
>
> (b) The answer shall be in the form of a paragraph-by-paragraph response which shall
>
> (1) identify all documents or things produced or made available;
>
> (2) identify all documents or things not produced or made available because of the objection that they are not within the scope of permissible discovery under Rule 4003.2 through Rule 4003.6 inclusive and Rule 4011(c). Documents or things not produced shall be identified with reasonable particularity together with the basis for non-production;
>
> . . .
>
> (4) object to the request on the grounds set forth in Rule 4011(a), (b), and (e) or on the ground that the request does not meet the requirements of Rule 4009.11;
>
> (5) state that after reasonable investigation, it has been determined that there are no documents responsive to the request.

Pa. R.C.P. No. 4009.12.

filed under Pa. R.C.P. No. 4019(a)(1)(vii).[8] A party may not defend against a motion to compel unless the objection was raised prior to the motion to compel.[9] If the court grants a motion to compel and the court's order is not obeyed, the requesting party may then file a motion for sanctions against the non-complying party.[10]

When he was not satisfied with Swanson's responses to his first document request, Holder filed a motion to compel. The court did not expressly grant or deny this motion. Instead, the court's order dismissed Holder's request for production of documents with respect to all previously removed defendants, for the simple reason that non-parties cannot be required to produce documents. Holder then served Swanson with an *amended* request for production of documents, the effect of which was to moot Holder's original request for documents. Although dissatisfied with Swanson's second response, Holder did not file a motion to compel. Instead, Holder sent a response titled "Response to Remaining Defendant Swanson's Answer to Plaintiff's Amended Request for Production of Documents."

Having reviewed Swanson's responses to Holder's amended request for production of documents, we do not perceive a violation of the discovery rules.

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[8] Rule 4019(a)(1)(vii) provides in pertinent part that "[t]he court may, on motion, make an appropriate order if . . . a party, in response to a request for production or inspection made under Rule 4009, fails to respond that inspection will be permitted as requested or fails to permit inspection as requested." Pa. R.C.P. No. 4019(a)(1)(vii).

[9] Pa. R.C.P. No. 4019(a)(2) holds that a "failure to act described in subdivision (a)(1) may not be excused on the ground that the discovery sought is objectionable unless the party failing to act has filed an appropriate objection or has applied for a protective order."

[10] Pa. R.C.P. No. 4019(g)(1) holds that "if following the refusal, . . . the court . . . enters an order compelling compliance and the order is not obeyed, the court on a subsequent motion for sanctions may . . . require the party or deponent whose conduct necessitated the motions or the party or attorney advising such conduct or both of them to pay to the moving party the reasonable expenses, including attorney's fees. . . ."

Swanson appropriately responded to Holder's amended request.[11] Swanson produced some of the requested documents, and his objections, *i.e.*, that the requests were overly broad, not likely to lead to the discovery of admissible evidence, or that the document had previously been produced are recognized objections. If Holder believed the objections were improperly invoked, it was Holder's responsibility to file a motion to compel. However, in the absence of a motion to compel, Holder has waived his claim that Swanson failed to comply with the discovery rules and should be sanctioned. Pa. R.A.P. 302(a) holds that "issues not raised in the lower court are waived and cannot be raised for the first time on appeal." Accordingly, we cannot consider Holder's claim that Swanson violated Pennsylvania's discovery rules.

Holder next argues that the trial court erred by granting Swanson's cross-motion for summary judgment because the material facts not in dispute established a *prima facie* case of discrimination. Swanson responds that Holder's evidence was so vague as to be meaningless.

The elements of a claim under 42 U.S.C. §1983[12] are well established. The plaintiff must show a "deprivation" of a constitutional or statutory right by a

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[11] Indeed, pursuant to the obligation to supplement discovery responses under Pa. R.C.P. No. 4007.4, Swanson sent Holder a copy of an investigation report of Swanson's practices with respect to misconduct charges. Swanson did not initially produce this requested investigation report because of confusion about what Holder was requesting.

[12] It states:

> Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress . . . .

42 U.S.C. §1983.

person "acting under color of state law."[13] *Gonzaga University v. Doe*, 536 U.S. 273, 284-85 (2002). Although Holder's complaint does not identify the Fourteenth Amendment of the United States Constitution, it is presumed to be the basis for his claim inasmuch as he asserts racial discrimination.[14]

To state a viable claim for an equal protection violation in this context, a plaintiff must demonstrate that the official's actions (1) had a discriminatory effect, and (2) were motivated by a discriminatory purpose. *Village of Arlington Heights v. Metropolitan Housing Development. Corp.*, 429 U.S. 252, 264-66 (1977). In order to prove discriminatory effect, a plaintiff must show that he or she is a member of a protected class and that he or she was treated differently from similarly situated individuals in an unprotected class. *Bradley v. United States,* 299 F.3d 197, 206 (3d Cir. 2002). To prove that the actions were motivated by a discriminatory purpose, a plaintiff has to show that the discrimination was intentional or purposeful. *Snowden v. Hughes*, 321 U.S. 1, 8 (1944); *accord Wilson v. Schillinger*, 761 F.2d 921, 929 (3d Cir.1985), *cert. denied*, 475 U.S. 1096 (1986).

To defeat Swanson's motion for summary judgment, Holder had to submit evidence that Swanson treated Holder differently than similarly situated members of an unprotected class. *See Rapagnani,* 736 A.2d 666, 668-669 (Pa. Super. 1999) (the non-moving party must identify evidence of record establishing

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[13] The parties do not dispute whether Swanson was acting under color of state law when he issued the misconduct in question as part of his duties as a correctional officer for a state correctional institution.

[14] *See Bradley v. Pittsburgh Board of Education.*, 913 F.2d 1064, 1079 (3d Cir. 1990) (noting that although the plaintiff "does not explicitly identify in the complaint or briefs the substantive basis for his race discrimination claim under section 1983, that claim must be grounded on the equal protection clause of the Fourteenth Amendment.").

the facts essential to the cause of action that refutes the motion). The trial court found that Holder failed to produce evidence of disparate treatment, and Holder contends that the trial court erred in this finding by not giving appropriate consideration to Holder's evidence. Specifically, Holder argues that his evidence showed Swanson's charges were false; his affidavits showed disparate treatment; and the Irwin report showed that Swanson's actions were motivated by racism. We consider each of these categories of evidence *seriatim.*

In support of his claim that Swanson filed false charges, Holder first directs us to Swanson's response to an interrogatory. Interrogatory Number 13, and Swanson's response, are as follows:

> 13) Was the misconduct written in your hand, charging the Plaintiff, his wife and their child of Engaging in Sexual Acts with others, Refusing to obey Orders and Violating Visiting Room Rules and Regulations a true and Factual misconduct?
>
> RESPONSE: No. I can not write misconduct on a civilian, only on an inmate. Your wife and child were not charged with anything.

Certified Record Item No. 42, Exhibit C (C.R. _____). Holder interprets the response to mean that Swanson admits the misconduct was not true and factual. However, Holder's Interrogatory Number 13 is a compound and confusing question. Swanson answered the interrogatory in the negative and then explained his response. The trial court found Holder's characterization of Swanson's response as an admission to be unfounded, and we agree.

Holder next argues that Swanson's charge of "violating an order" was false because Swanson had not previously given such an order to Holder. However, Holder was cited for violating a previous order, not necessarily the order

of Swanson. Indeed, as Holder himself points out in his brief, the misconduct charge specifically referred to the order given to Holder by Lieutenant Gill on December 29, 2005, to have his visitor remain seated. Holder's argument that the "violating an order" charge was false lacks merit.

Finally, Holder argues that because the charges of misconduct were vacated by the Secretary of Corrections, Swanson's charges must have been false. However, a review of Holder's appeal shows that the charges were vacated because it was found that the misconduct did not warrant the sanction imposed, not that they were untrue.

In sum, the evidence does not support a finding that Swanson filed false misconduct charges against Holder, let alone to effect racial discrimination.

Next, Holder contends that the trial court erred because the affidavits Holder submitted made out a *prima facie* case of discrimination. Holder argues that the affidavits show that Swanson did not file charges against white inmates whose visitors failed to remain seated. It was not until after Swanson filed his cross-motion for summary judgment that Holder submitted amended affidavits that even identified Swanson as the correctional officer on duty or the race of the persons referenced by the affiants. However, we agree with the trial court that the amended affidavits did not cure the inadequacies of the original affidavits.

Inmate Wilson stated that during his time in the non-contact room on April 8, 2006, he observed a Caucasian girl standing on the table when Swanson was on duty. Similarly, the original, amended, and supplemental affidavit of inmate Lauro stated that during one visitation in the non-contact room, he observed two Caucasian girls dancing on a table in front of a Caucasian inmate while Swanson was on duty. Lauro further stated that he saw an unnamed guard tap on

the inmate's non-contact visiting room door; however, he did not observe Swanson issue a warning or attempt to have the girls remain seated.

The problem with these affidavits is that they do not identify the types of convictions of the Caucasian inmates; whether Swanson was aware of the children's actions; or whether any of the white inmates had ever received previous warnings or orders about the visitation rules. The trial court explained as follows:

> Both witnesses admit that they were in a different area participating in visits with their own family, therefore their ability to know fully what was transpiring was limited to what they may have overheard while primarily focused on their families. [Holder] himself indicates that it is hard to hear visitors in the non-contact visitation room especially if they are not in a direct line of sight. Further, his pleadings indicate that it can be difficult to see small children in the visitation area because of desks and other obstacles.

Trial Court Opinion, dated March 27, 2007, at p. 3. In short, the affidavits did not establish facts to show disparate treatment of inmates by Swanson.

Finally, Holder points to the investigation report from Captain Irwin, asserting that it shows that Swanson acted in a racially discriminatory fashion. The report stated that Swanson filed slightly more misconduct charges than other officers, but it went on to state that after comparison of Swanson's written misconducts with "the total misconducts written in April and May 2006 by all staff members, the percentages of misconducts issued do not indicate any racial profiling or discrimination" by Swanson. C.R. 44. The report also stated that there

were no other complaints filed against Swanson.[15] Holder's argument about the significance of the report lacks merit.

We conclude, based on a thorough review of the evidence presented by Holder in support of his discrimination claim against Swanson, that Holder did not make a *prima facie* case of discrimination. Accordingly, we affirm the trial court's grant of summary judgment to Swanson.[16]

MARY HANNAH LEAVITT, Judge

[15] The report further acknowledged its limited value stating "[w]ithout an extensive review of all misconducts written exclusively in the visiting room by all other staff members we are unable to compare the percentages of misconducts issued in the visiting room." C.R. 44.

[16] The trial court concluded that there was insufficient evidence to support discrimination and equal protection claims. The trial court also held that Holder failed to establish a claim under Section 1983 because he did not have a constitutional right to visitation with a minor. *See* Trial Court Opinion, dated March 27, 2007, at 4-5. Holder's claim that he had a right to contact visitation with his minor child was asserted against a party that was previously dismissed from the case. It is irrelevant to Holder's claim against Swanson. The basis for Holder's Section 1983 claim against Swanson is the alleged discrimination in violation of the Equal Protection Clause under the Fourteenth Amendment of the United States Constitution. We affirm the trial court on other grounds, concluding that Holder did not make out a *prima facie* case for racial discrimination.

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Glenn A. Holder, Sr., Appellant	:	
v.	:	No. 1135 C.D. 2007
Matthew Swanson	:	

ORDER

AND NOW, this 5th day of November, 2007, the order of the Court of Common Pleas of Clearfield County dated March 27, 2007, in the above captioned matter is hereby AFFIRMED.

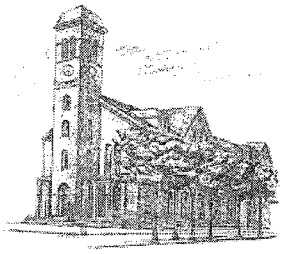
MARY HANNAH LEAVITT, Judge

FILED

JAN 11 2008

William A. Shaw
Prothonotary/Clerk of Courts

FILED
JAN 11 2008
William A. Shaw
Prothonotary/Clerk of Courts



Clearfield County Office of the Prothonotary and Clerk of Courts

William A. Shaw Prothonotary/Clerk of Courts | **Jacki Kendrick** Deputy Prothonotary/Clerk of Courts | **Bonnie Hudson** Administrative Assistant | **David S. Ammerman** Solicitor

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COPY

Fredric J. Ammerman, P.J.
Court of Common Pleas
230 E. Market Street
Clearfield, PA 16830

Glenn A. Holder, Sr.
EA 7173
SCI Houtzdale, PO Box 1000
Houtzdale, PA 16698-1000

Debra Sue Rand
PA Department of Corrections
55 Utley Drive
Camp Hill, PA 17011

Glenn A. Holder, Sr.
Vs.
Matthew Swanson

Court No. 06-894-CD; Superior Court No. 701 WDA 2007

Dear Counsel:

Please be advised that the above referenced record was forwarded to the Superior Court of Pennsylvania on May 24, 2007.

Sincerely,

William A. Shaw
Prothonotary/Clerk of Courts

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

No. 06-894-CD
Glenn A. Holder, Sr.
VS.
Matthew Swanson

ITEM NO.	*DATE OF FILING*	*NAME OF DOCUMENT*	*NO. OF PAGES*
01	06/02/06	Contents of Original Record, Order from Commonwealth Court, Miscellaneous Docket Sheet #286 MD 2006, Application for Leave to Proceed In Forma Pauperis, Petition for Review	43
02	07/14/06	Order, Re: Petitioner's Request to Proceed In Forma Pauperis Granted; Prothonotary of Clearfield County shall accept and file Petitioner's Amended Petition for Review; Petitioner shall be solely responsible for service of process upon all parties; Respondents shall have no more than 45 days from the date of this Order to file a responsive pleading or other appropriate legal document	01
03	07/14/06	Amended Petition for Review	17
04	08/23/06	Praecipe for Entry of Appearance	02
05	08/23/06	Defendants' Preliminary Objections	15
06	08/25/06	Order, Re: Defendants' Preliminary Objections are sustained; Amended Petition for Review is Dismissed as to all parties except Swanson and as to all counts except for monetary damages	01
07	08/29/06	Motion for Extension of Time or Stay of Proceedings to Properly Comply with Pa.R.C.P. 1022	02
08	08/29/06	Motion for Appointment of Counsel	02
09	08/29/06	Exhibits for Plaintiff's Response to the Defendants' Preliminary Objections	04
10	08/30/06	Order, Re: Motion for Appointment of Counsel is Dismissed	01
11	08/30/06	Order, Re: Plaintiff's Motion for Extension of Time or Stay of Proceedings is Dismissed	01
12	09/05/06	Motion to Strike	05
13	09/06/06	Order, Re: Order of August 23, 2006, granting Preliminary Objections is rescinded	01
14	09/11/06	Remaining Defendant Swanson's Motion for Extension of Time to File an Answer to the Amended "Petition for Review"	06
15	09/21/06	Amended Complaint Pursuant to Rule of Civil Procedure 1028	34
16	09/29/06	Request for Production of Documents	03
17	10/02/06	Defendants' Preliminary Objections and Notice to Plead	08
18	10/02/06	Praecipe for Argument	03
19	10/02/06	Application to Have the Preliminary Objections Decided without Oral Argument with Order filed October 3, 2006—Preliminary Objections shall be decided without oral argument	03
20	10/09/06	Plaintiff's Response to Defendants' Preliminary Objections	08
21	10/23/06	Praecipe for Entry of Appearance	02
22	10/31/06	Order, Re: Preliminary Objections are Sustained and the Second Amended Petition for Review is Dismissed as to all parties except Swanson and as to all counts except for monetary damages	01
23	11/01/06	Plaintiff's First Set of Interrogatories to Defendants	04
24	11/03/06	Response Motion for Order to Compel Discovery	08
25	11/06/06	Plaintiff's First Set of Interrogatories to Defendants	05
26	11/08/06	Order, Re: Request for Production of Documents and Response Motion for Order to Compel Discovery are Dismissed as to all previously removed Defendants	01
27	11/15/06	Reconsideration of Motion for Order to Compel Discovery	04
28	11/20/06	Answer to Plaintiff's Second Amended Petition for Review	106
29	11/29/06	Response to New Matter Submitted by Defendant	07
30	12/04/06	Remaining Defendant Swanson's Answer to Plaintiff's "Reconsideration of Motion for Order to Compel Discovery	08
31	12/11/06	Amended Request for Production of Documents	02
32	12/11/06	Response to Defendant's Answers to Plaintiff's Second Amended Petition for Review	06

IN THE COURT OF COMMON PLEAS OF CLEARFIELD COUNTY, PENNSYLVANIA

No. 06-894-CD
Glenn A. Holder, Sr.
VS.
Matthew Swanson

ITEM NO.	*DATE OF FILING*	*NAME OF DOCUMENT*	*NO. OF PAGES*
33	12/11/06	Response to Defendant's Answers to Plaintiff's "Reconsideration of Motion for Order to Compel Discovery"	04
34	12/13/06	Response to Defendant's Answers to Plaintiff's Reconsideration of Motion for Order to Compel Discovery	04
35	12/18/06	Motion to Deem Remaining Defendant's New Matter Admitted	04
36	12/19/06	Order, Re: Defendant's Motion to Deem Remaining Defendant's New Matter Admitted	01
37	12/26/06	Motion to Strike Plaintiff's "Response to Defendant's Answers to Second Amended Petition for Review"	04
38	01/03/07	Order, Re: Defendant Swanson's Motion to Strike Plaintiff's "Response to Defendant's Answers to Second Amended Petition for Review" Granted	01
39	01/04/07	Response to Motion to Strike Plaintiff's Response to Defendant's Answers to Second Amended Petition for Review	04
40	01/04/07	Response to Remaining Defendant Swanson's Answers to Plaintiff's Amended Request for Production of Documents	11
41	01/09/07	Second Set of Interrogatories for Remaining Defendant Swanson	03
42	02/08/07	Motion for Summary Judgment	97
43	02/12/07	Order, Re: Defendant is directed to file an Answer to the Motion for Summary Judgment; submission of letter briefs	01
44	02/21/07	Receipt of Investigation Report	11
45	02/28/07	Defendant Swanson's Cross Motion for Summary Judgment	Separate Cover
46	02/28/07	Defendant Swanson's Answer to Plaintiff's Motion for Summary Judgment	09
47	03/12/07	Plaintiff's Response to Defendant's Cross Motion for Summary Judgment	10
48	03/12/07	Affidavit of Plaintiff	03
49	03/27/07	Opinion and Order	06
50	03/29/07	Order, Re: Plaintiff's Motion for Summary Judgment Denied	01
51	04/13/07	Continuation of In Forma Pauperis Status Pursuant to R.A.P. 551	02
52	04/13/07	Notice of Appeal	06
53	04/19/07	Appeal Docket Sheet, Superior Court Number 701 WDA 2007	03
54	04/20/07	Order, Re: concise statement to be filed	01
55	04/30/07	Statement of Matters Complained of on Appeal Pursuant to R.A.P. 1925(b)	02

Clearfield County Court of Common Pleas
ROA Report
Case: 2006-00894-CD
Current Judge: Fredric Joseph Ammerman

Civil Other

Date		Judge
06/02/2006	New Case Filed.	No Judge
	Contents of Original Record, Order from Commonwealth Court, Miscellaneous Docket Sheet # 286 MD 2006, Application for Leave to Proceed In Forma Pauperis, Petition for Review, filed. no cert. copies.	No Judge
07/14/2006	Order, NOW, this 12th day of July, 2006, in consideration of Petitioner's Pro Se Complaint transferred from the Pa Commonwealth Court, Ordered: 1. Petitioner's Request to Proceed In Forma Pauperis is Granted. 2. The Prothonotary of Clfd. Co. shall accept and file Petitioner's Amended Petition for Review. 3. The Petitioner shall be solely responsible for service of process upon all parties in conformity with the PA. Rule of Civil Procedure. 4. Respondents shall have no more than 45 days from the date of this Order to file a responsive pleading or other appropriate legal document. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 5CC Plff.	Fredric Joseph Ammerman
	Amended Petition For Review, filed by s/Glenn A. Holder, Sr. 2CC Plff	No Judge
08/23/2006	Praecipe For Entry of Appearance, filed by Atty. Rand, 1 Cert. to Atty. Enter appearance of Debra Sue Rand on behalf of Defendants Matthew a. Swanson, Marshall J. Shirley, Jr., Robert Reed, Randall E. Britton, Kenneth R. Cameron, Frank Hartnett and George Patrick.	No Judge
	Defendants' Preliminary Objections, filed by Atty. Rand 1 Cert. to Atty.	No Judge
08/25/2006	Order, NOW, this 23rd day of August, 2006, upon consideration of Defendants' Preliminary Objections, ordered that the Preliminary objections are Sustained and the Amended Petition for Review is Dismissed as to all parties except Swanson and as to all counts except for monetary damages. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC Atty. Rand, 1CC Plff-SCI Houtzdale, EA 7173	Fredric Joseph Ammerman
08/29/2006	Motion for Extension of Time or Stay of Proceedings to Properly Comply with PA R.C.P. 1022, filed by Plaintiff 1 Cert. to Plaintiff.	Fredric Joseph Ammerman
	Motion for Appointment of Counsel, filed by Plaintiff. 1 Cert. to Plaintiff.	Fredric Joseph Ammerman
	Exhibits for the Plaintiffs Response to the Defendants Preliminary Objections, filed by Plaintiff. 1 Cert. to Plaintiff.	Fredric Joseph Ammerman
08/30/2006	Order, this 30th day of August, 2006, Motion for Appointment of Counsel is Dismissed. By The Court, /s/ Fredric J. ammerman, Pres. Judge. CC to Plaintiff & Atty. Rand	Fredric Joseph Ammerman
	Order, this 30th day of August, 2006, Plaintiff's Motion for Extension of Time or Stay of Proceedings is Dismissed. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. CC to Plaintiff & Atty. Rand	Fredric Joseph Ammerman
09/05/2006	Motion To Strike, filed by s/ Glenn A Holder, Sr. Pro-Se. 1CC Plff	Fredric Joseph Ammerman
09/06/2006	Order, NOW, this 5th day of Sept., 2006, ordered: This Court's Order of August 23, 2006, granting Preliminary Objections is rescinded (see original). By The Court, /s/Fredric J. Ammerman, President Judge. 1CC Plff-SCI Houtzdale, 1CC Atty. Rand	Fredric Joseph Ammerman
09/11/2006	Remaining Defendant Swanson's Motion For Extension of Time to File an Answer to The Amended "Petition For Review", filed by s/ Debra Sue Rand, Esquire. 1CC Atty.	Fredric Joseph Ammerman
09/21/2006	Amended Complaint Pursuant to Rule of Civil Procedure 1028, filed by s/ Glenn A. Holder Sr. Pro-Se. 3CC Plff	Fredric Joseph Ammerman

Clearfield County Court of Common Pleas
ROA Report
Case: 2006-00894-CD
Current Judge: Fredric Joseph Ammerman

Civil Other

Date		Judge
09/29/2006	Request for Production of Documents, filed by s/ Glenn A. Holder Sr., Plff. 1CC plff.	Fredric Joseph Ammerman
10/02/2006	Defendants' Preliminary Objections and Notice to Plead, filed by s/ Debra Sue Rand, Esquire. 1CC Atty.	Fredric Joseph Ammerman
	Praecipe for Argument filed. By s/Debra Sue Rand, Esquire. 1CC Atty.	Fredric Joseph Ammerman
	Application to Have the Preliminary Objections Decided without Oral Argument, filed by s/Debra Sue Rand One CC Attorney	Fredric Joseph Ammerman
10/03/2006	Order, this 2nd day of Oct., 2006, Ordered that Preliminary Objections shall be decided without oral argument. by the Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Atty. Rand	Fredric Joseph Ammerman
10/09/2006	Plaintiff's Response to Defendants Preliminary Objections, filed by Plaintiff. 1 Cert. to Plaintiff.	Fredric Joseph Ammerman
10/23/2006	Praecipe For Entry of Appearance, filed. Please enter my appearance as counsel on behalf of Defendant, Glenn E. Irwin in the above-captioned matter, filed by s/ Debra Sue Rand Esq. No CC., and Copy to C/A.	Fredric Joseph Ammerman
10/31/2006	Order, NOW, this 30th day of Oct., 2006, Preliminary Objections are Sustained and the Second Amended Petition for Review is Dismissed as to all parties except Swanson and as to all counts except for monetary damages. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Plff.- EA 7173, SCI Houtzdale, 1CC Atty. Rand	Fredric Joseph Ammerman
11/01/2006	Plaintiff First Set of Interrogatories to Defendants, filed by s/ Glenn A. Holder Sr., Pro Se. 1CC Plff	Fredric Joseph Ammerman
11/03/2006	Response Motion for Order to Compel Discovery, filed by Plaintiff. 1 Cert. to Plaintiff.	Fredric Joseph Ammerman
11/06/2006	Plaintiffs First Set of Interrogatories to Defendants, filed by s/ Glenn A. Holder Sr.-pllf. 1CC plff.	Fredric Joseph Ammerman
11/08/2006	Order, NOW, this 7th day of Nov., 2006, Ordered that the Request for Production of Documents and Response Motion for Order to Compel Discovery are Dismissed as to all previously removed Defendants. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Plff: EA 7173, SCI Houtzdale; 1CC Atty. Rand	Fredric Joseph Ammerman
11/15/2006	Reconsideration of Motion for Order to Compel Discovery, filed by Plaintiff 2 Cert. to Plaintiff.	Fredric Joseph Ammerman
11/20/2006	Answer to Plaintiff's Second Amended Petition for Review, filed by s/ Debra Sue Rand Esq. 1CC to Atty.	Fredric Joseph Ammerman
11/29/2006	Response to New Matter Submitted by Defendant, filed by Plaintiff 1 Cert. to Plaintiff.	Fredric Joseph Ammerman
12/04/2006	Remaining Defendant Swanson's Answer to Plaintiff's "Reconsideration of Motion For Order to Compel Discovery", filed by s/ Debra Sue Rand, Esquire. 1CC Atty. rand	Fredric Joseph Ammerman
12/11/2006	Amended Request for Production of Documents, filed by Plaintiff 1 cert. to Plaintiff	Fredric Joseph Ammerman
	Response to Defendants Answers to Plaintiff's Second Amended Petition for Review, filed by Plaintiff. 1 Cert. to Plaintiff.	Fredric Joseph Ammerman
	Response to Defendants Answers to Plaintiffs "Reconsideration of Motion for Order to Compel Discovery", filed by Plaintiff no cert. copies.	Fredric Joseph Ammerman

Clearfield County Court of Common Pleas
ROA Report
Case: 2006-00894-CD
Current Judge: Fredric Joseph Ammerman

Civil Other

Date		Judge
12/13/2006	Response to Defendants Answers to Plaintiffs Reconsideration of Motion for Order to Compel Discovery, filed by s/Glenn A. Holder, Sr. No CC	Fredric Joseph Ammerman
12/18/2006	Motion to Deem Remaining Defendant's New Matter Admitted, filed by Atty. Rand 1 Cert. to Atty.	Fredric Joseph Ammerman
12/19/2006	Order, NOW, this 19th day of Dec., 2006, in consideration of the Defendant's Motion to Deem Remaining Defendant's New Matter Admitted, it is the Order of this Court that the Plaintiff serve a copy of his Reply filed on or about Nov. 29, 2006 on Defendant's Counsel, withing no more than 10 days from this date. Plaintiff is directed to strictly comply with the provisions of Rule of Civil Procedure 440 relative all future filings. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC Atty. Rand, 1CC Plff- EA 7173, SCI Houtzdale	Fredric Joseph Ammerman
12/26/2006	Motion to Strike Plaintiff's "Response to Defendants Answers to Second Amended Petition for Review," filed by s/Debra Sue Rand One CC Attorney Rand	Fredric Joseph Ammerman
01/03/2007	Order, NOW, this 28th day of December 2006, upon consideration of remaining Defendant Swanson's Motion to Strike Plaintiff's "Response to Defendants Answers to Second Amended Petition for Review," it is hereby ORDERED that the Motion is GRANTED and the Response is STRICKEN. BY THE COURT: /s/ Fredric J. Ammerman, P. Judge. 1CC Atty Rand.	Fredric Joseph Ammerman
01/04/2007	Response to Motion to Strike Plaintiff's Response to Defendants Answers to Second Amended Petition for Review, filed by s/ Mr. Glenn A. Holder Sr.-plff. 1cc plff.	Fredric Joseph Ammerman
	Response to Remaining Defendant Swansons Answers to Plaintiff's Amended Request for Production of Documents, filed by s/ Mr. Glenn A. Holder Sr.-plff. 1CC plff.	Fredric Joseph Ammerman
01/09/2007	Second Set of Interrogatories for Remaining Defendant Swanson. filed by G. Holder 1 Cert. to Holder.	Fredric Joseph Ammerman
02/08/2007	Motion For Summary Judgment, filed by s/Glenn A. Holder Sr., Pro-Se. 1CC Plff	Fredric Joseph Ammerman
02/12/2007	Order, NOW, this 12th day of Feb., 2007, the Defendant is directed to file an Answer to the Motion for Summary Judgment. Plaintiff and Defendant Ordered to provide a letter brief to the Court within no more than 30 days from this date. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. CC to Holder & Debra Sue Rand, Esquire.	Fredric Joseph Ammerman
02/21/2007	Reciept of Investigation Report, filed by Plaintiff 1 cert. to Plaintiff.	Fredric Joseph Ammerman
02/28/2007	Defendant Swanson's Cross Motion For Summary Judgment, filed by s/ Debra Sue Rand, Esquire. No CC	Fredric Joseph Ammerman
	Defendant Swanson's Answer to Plaintiff's Motion For Summary Judgment, filed by s/ Debra Sue Rand, Esquire. No CC	Fredric Joseph Ammerman
03/12/2007	Plaintiffs Response to Defendants Cross Motion for Summary Judgment, filed 1 Cert. to Plff.	Fredric Joseph Ammerman
	Affidavit of Plaintiff Glenn A. Holder, Sr., Filed 1 Cert. to Plaintiff.	Fredric Joseph Ammerman

Clearfield County Court of Common Pleas
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Current Judge: Fredric Joseph Ammerman

Civil Other

Date		Judge
03/27/2007	Opinion And Order. Opionion: NOW, this 27th day of March, 2007, after review of Defendant's Cross Motion for Summary Judgment, said Motion will be granted by This Court. (see original) Order: NOW, this 27th day of March, 2007, Ordered that Defendant's Cross Motion for Summary Judgment is Granted. The Plaintiff's Amended Complaint is Dismissed, With Prejudice. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC Plaintiff w/memo - EA 7173 SCI Houtzdale; 2CC Atty. Rand w/memo; 1CC Law Library (without memo); 1CC D. Mikesell (without memo)	Fredric Joseph Ammerman
03/29/2007	Order, NOW, this 27th day of March, 2007, after review of Plaintiff's Motion for Summary Judgment, said Motion is Denied. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Atty. Rand; 1CC Holder, EA 7173, SCI Houtzdale	Fredric Joseph Ammerman
04/13/2007	Continuation of In Forma Pauperis Status Pursuant to R.A.P. 551, filed by Plaintiff. 1 Cert. to Superior Court and 1 Cert. to Plaintiff	Fredric Joseph Ammerman
	Notice of Appeal, filed by Plaintiff Notice of Appeal to Superior Court. 1 Cert. to Superior Court and 1 Cert. to Plaintiff.	Fredric Joseph Ammerman
04/19/2007	Appeal Docket Sheet, 701 WDA 2007, filed. No CC	Fredric Joseph Ammerman
04/20/2007	Order, NOW, this 19th day of april, 2007, Ordered that Glen A. Holder, Sr., Appellant, file a concise statement of the matters complained of on Appeal no later than 14 days herefrom. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Plff - EA 7173, SCI houtzdale; 2CC Atty. Rand	Fredric Joseph Ammerman
04/30/2007	Statement of Matters Complained of on Appeal Pursuant to R.A.P. 1925 (b). Filed by s/ Glenn A. Holder Sr., Pro-Se. 1CC Plff	Fredric Joseph Ammerman

I hereby certify this to be a true and attested copy of the original statement filed in this case.

MAY 23 2007

Attest, Prothonotary/ Clerk of Courts

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Civil Other

Date		Judge
06/02/2006	New Case Filed.	No Judge
	(1) Contents of Original Record, Order from Commonwealth Court, Miscellaneous Docket Sheet # 286 MD 2006, Application for Leave to Proceed Informa Pauperis, Petition for Review, filed. no cert. copies. 43	No Judge
07/14/2006	(2) Order, NOW, this 12th day of July, 2006, in consideration of Petitioner's Pro Se Complaint transferred from the Pa Commonwealth Court, Ordered: 1. Petitioner's Request to Proceed In Forma Pauperis is Granted. 2. The Prothonotary of Clfd. Co. shall accept and file Petitioner's Amended Petition for Review. 3C. The Petitioner shall be solely responsible for service of process upon all parties in conformity with the PA. Rule of Civil Procedure. 4. Respondents shall have no more than 45 days from the date of this Order to file a responsive pleading or other appropriate legal document. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 5CC Plff.	Fredric Joseph Ammerman
	(3) Amended Petition For Review, filed by s/Glenn A. Holder, Sr. 2CC Plff 17	No Judge
08/23/2006	(4) Praecipe For Entry of Appearance, filed by Atty. Rand, 1 Cert. to Atty. Enter appearance of Debra Sue Rand on behalf of Defendants Matthew a. Swanson, Marshall J. Shirley, Jr., Robert Reed, Randall E. Britton, Kenneth R. Cameron, Frank Hartnett and George Patrick. 2	No Judge
	(5) Defendants' Preliminary Objections, filed by Atty. Rand 1 Cert. to Atty. 15	No Judge
08/25/2006	(6) Order, NOW, this 23rd day of August, 2006, upon consideration of Defendants' Preliminary Objections, ordered that the Preliminary Objections are Sustained and the Amended Petition for Review is Dismissed as to all parties except Swanson and as to all counts except for monetary damages. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC Atty. Rand, 1CC Plff-SCI Houtzdale, EA 7173 1	Fredric Joseph Ammerman
08/29/2006	(7) Motion for Extension of Time or Stay of Proceedings to Properly Comply with PA R.C.P. 1022, filed by Plaintiff 1 Cert. to Plaintiff. 2	Fredric Joseph Ammerman
	(8) Motion for Appointment of Counsel, filed by Plaintiff. 1 Cert. to Plaintiff. 2	Fredric Joseph Ammerman
	(9) Exhibits for the Plaintiffs Response to the Defendants Preliminary Objections, filed by Plaintiff. 1 Cert. to Plaintiff. 4	Fredric Joseph Ammerman
08/30/2006	(10) Order, this 30th day of August, 2006, Motion for Appointment of Counsel is Dismissed. By The Court, /s/ Fredric J. ammerman, Pres. Judge. CC to Plaintiff & Atty. Rand 1	Fredric Joseph Ammerman
	(11) Order, this 30th day of August, 2006, Plaintiff's Motion for Extension of Time or Stay of Proceedings is Dismissed. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. CC to Plaintiff & Atty. Rand 1	Fredric Joseph Ammerman
09/05/2006	(12) Motion To Strike, filed by s/ Glenn A Holder, Sr. Pro-Se. 1CC Plff 5	Fredric Joseph Ammerman
09/06/2006	(13) Order, NOW, this 5th day of Sept., 2006, ordered: This Court's Order of August 23, 2006 granting Preliminary Objections is rescinded (see original). By The Court, /s/ Fredric J. Ammerman, President Judge. 1CC Plff @ SCI Houtzdale, 1CC Atty. Rand 1	Fredric Joseph Ammerman
09/11/2006	(14) Remaining Defendant Swanson's Motion For Extension of Time to File an Answer to The Amended "Petition For Review", filed by s/ Debra Sue Rand, Esquire. 1CC Atty. 10	Fredric Joseph Ammerman
09/21/2006	(15) Amended Complaint Pursuant to Rule of Civil Procedure 1028, filed by s/ Glenn A. Holder Sr. Pro-Se. 3CC Plff 34	Fredric Joseph Ammerman

(19) 10/2/06 Application to have the P.Os Decided without Oral Arg. 3
filed by s/ Debra Sue Rand
1 CC Atty

Civil Other

Date		Judge
09/29/2006	(16) Request for Production of Documents, filed by s/ Glenn A. Holder Sr., Plff 1CC plff. 3	Fredric Joseph Ammerman
10/02/2006	(17) Defendants' Preliminary Objections and Notice to Plead, filed by s/ Debra Sue Rand, Esquire. 1CC Atty. 8	Fredric Joseph Ammerman
	(18) Praecipe for Argument filed. By s/Debra Sue Rand, Esquire. 1CC Atty. 3	Fredric Joseph Ammerman
10/03/2006	(19) Order, this 2nd day of Oct., 2006, Ordered that Preliminary Objections shall be decided without oral argument. by the Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Atty. Rand	Fredric Joseph Ammerman
10/09/2006	(20) Plaintiff's Response to Defendants Preliminary Objections, filed by Plaintiff. 1 Cert. to Plaintiff. 8	Fredric Joseph Ammerman
10/23/2006	(21) Praecipe For Entry of Appearance, filed. Please enter my appearance as counsel on behalf of Defendant, Glenn E. Irwin in the above-captioned matter, filed by s/ Debra Sue Rand Esq. No CC., and Copy to C/A. 2	Fredric Joseph Ammerman
10/31/2006	(22) Order, NOW, this 30th day of Oct., 2006, Preliminary Objections are Sustained and the Second Amended Petition for Review is Dismissed as to all parties except Swanson and as to all counts except for monetary damages. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Plff.- EA 7173, SCI Houtzdale, 1CC Atty. Rand 1	Fredric Joseph Ammerman
11/01/2006	(23) Plaintiff First Set of Interrogatories to Defendants, filed by s/ Glenn A. Holder Sr., Pro Se. 1CC Plff 4	Fredric Joseph Ammerman
11/03/2006	(24) Response Motion for Order to Compel Discovery, filed by Plaintiff. 1 Cert. to Plaintiff. 8	Fredric Joseph Ammerman
11/06/2006	(25) Plaintiffs First Set of Interrogatories to Defendants, filed by s/ Glenn A. Holder Sr.-pllf. 1CC plff. 5	Fredric Joseph Ammerman
11/08/2006	(26) Order, NOW, this 7th day of Nov., 2006, Ordered that the Request for Production of Documents and Response Motion for Order to Compel Discovery are Dismissed as to all previously removed Defendants. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Plff: EA 7173, SCI Houtzdale; 1CC Atty. Rand 1	Fredric Joseph Ammerman
11/15/2006	(27) Reconsideration of Motion for Order to Compel Discovery, filed by Plaintiff. 2 Cert. to Plaintiff. 4	Fredric Joseph Ammerman
11/20/2006	(28) Answer to Plaintiff's Second Amended Petition for Review, filed by s/ Debra Sue Rand Esq. 1CC to Atty. 10cc	Fredric Joseph Ammerman
11/29/2006	(29) Response to New Matter Submitted by Defendant, filed by Plaintiff 1 Cert. to Plaintiff. 7	Fredric Joseph Ammerman
12/04/2006	(30) Remaining Defendant Swanson's Answer to Plaintiff's "Reconsideration of Motion For Order to Compel Discovery", filed by s/ Debra Sue Rand, Esquire. 1CC Atty. rand 8	Fredric Joseph Ammerman
12/11/2006	(31) Amended Request for Production of Documents, filed by Plaintiff 1 cert. to plaintiff 2	Fredric Joseph Ammerman
	(32) Response to Defendants Answers to Plaintiff's Second Amended Petition for Review, filed by Plaintiff. 1 Cert. to Plaintiff. 10	Fredric Joseph Ammerman
	(33) Response to Defendants Answers to Plaintiffs "Reconsideration of Motion for Order to Compel Discovery, filed by Plaintiff no cert. copies. 4	Fredric Joseph Ammerman
12/13/2006	(34) Response to Defendants Answers to Plaintiffs Reconsideration of Motion for Order to Compel Discovery, filed by s/Glenn A. Holder, Sr. No CC 4	Fredric Joseph Ammerman

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Date		Judge
12/18/2006	(35) Motion to Deem Remaining Defendant's New Matter Admitted, filed by Atty. Rand 1 Cert. to Atty. 4	Fredric Joseph Ammerman
12/19/2006	(36) Order, NOW, this 19th day of Dec., 2006, in consideration of the Defendant's Motion to Deem Remaining Defendant's New Matter Admitted, it is the Order of this Court that the Plaintiff serve a copy of his Reply filed on or about Nov. 29, 2006 on Defendant's Counsel, withing no more than 10 days from this date. Plaintiff is directed to strictly comply with the provisions of Rule of Civil Procedure 440 relative all future filings. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC Atty. Rand, 1CC Plff- EA 7173, SCI Houtzdale 1	Fredric Joseph Ammerman
12/26/2006	(37) Motion to Strike Plaintiff's "Response to Defendants Answers to Second Amended Petition for Review," filed by s/Debra Sue Rand One CC Attorney Rand 4	Fredric Joseph Ammerman
01/03/2007	(38) Order NOW, this 28th day of December 2006, upon consideration of remaining Defendant Swanson's Motion to Strike Plaintiff's "Response to Defendants Answers to Second Amended Petition for Review," it is hereby ORDERED that the Motion is GRANTED and the Response is STRICKEN. BY THE COURT: /s/ Fredric J. Ammerman, P. Judge. 1CC Atty Rand. 1	Fredric Joseph Ammerman
01/04/2007	(39) Response to Motion to Strike Plaintiff's Response to Defendants Answers to Second Amended Petition for Review, filed by s/ Mr. Glenn A. Holder Sr.-plff. 1cc plff. 4	Fredric Joseph Ammerman
	(40) Response to Remaining Defendant Swansons Answers to Plaintiff's Amended Request for Production of Documents, filed by s/ Mr. Glenn A. Holder Sr.-plff. 1CC plff. 11	Fredric Joseph Ammerman
01/09/2007	(41) Second Set of Interrogatories for Remaining Defendant Swanson. filed by G. Holder 1 Cert. to Holder. 3	Fredric Joseph Ammerman
02/08/2007	(42) Motion For Summary Judgment, filed by s/Glenn A. Holder Sr., Pro-Se. 1CC Plff 97	Fredric Joseph Ammerman
02/12/2007	(43) Order, NOW, this 12th day of Feb., 2007, the Defendant is directed to file an Answer to the Motion for Summary Judgment. Plaintiff and Defendant Ordered to provide a letter brief to the Court within no more than 30 days from this date. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. CC to Holder & Debra Sue Rand, Esquire. 1	Fredric Joseph Ammerman
02/21/2007	(44) Reciept of Investigation Report, filed by Plaintiff 1 cert. to Plaintiff. 11	Fredric Joseph Ammerman
02/28/2007	(45) Defendant Swanson's Cross Motion For Summary Judgment, filed by s/ Debra Sue Rand, Esquire. No CC slc	Fredric Joseph Ammerman
	(46) Defendant Swanson's Answer to Plaintiff's Motion For Summary Judgment, filed by s/ Debra Sue Rand, Esquire. No CC 9	Fredric Joseph Ammerman
03/12/2007	(47) Plaintiffs Response to Defendants Cross Motion for Summary Judgment, filed 1 Cert. to Plff. 10	Fredric Joseph Ammerman
	(48) Affidavit of Plaintiff Glenn A. Holder, Sr., Filed 1 Cert. to Plaintiff. 3	Fredric Joseph Ammerman
03/27/2007	(49) Opinion And Order. Opionion: NOW, this 27th day of March, 2007, after review of Defendant's Cross Motion for Summary Judgment, said Motion will be granted by This Court. (see original) Order: NOW, this 27th day of March, 2007, Ordered that Defendant's Cross Motion for Summary Judgment is Granted. The Plaintiff's Amended Complaint is Dismissed, With Prejudice. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 2CC Plaintiff w/memo - EA 7173 SCI Houtzdale; 2CC Atty. Rand w/memo; 1CC Law Library (without memo); 1CC D. Mikesell (without memo) 10	Fredric Joseph Ammerman

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Date		Judge
03/29/2007	(50) Order, NOW, this 27th day of March, 2007, after review of Plaintiff's Motion for Summary Judgment, said Motion is Denied. By The Court, /s/ Fredric J. Ammerman, Pres. Judge. 1CC Atty. Rand; 1CC Holder, EA 7173, SCI Houtzdale	Fredric Joseph Ammerman
04/13/2007	(51) Continuation of Informa Pauperis Status Pursuant to R.A.P. 551, filed by Plaintiff. 1 Cert. to Superior Court and 1 Cert. to Plaintiff	Fredric Joseph Ammerman
	Notice of Appeal, filed by Plaintiff	Fredric Joseph Ammerman
	(52) Notice of Appeal to Superior Court. 1 Cert. to Superior Court and 1 Cert. to Plaintiff.	