

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 1:20-cv-03530
(To be supplied by the court)

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

JAN -4 2021

JEFFREY P. COLWELL
CLERK

Harker, Christopher, Plaintiff

v.

W. Neyhart (ACSD)

_____, Defendant(s).

(List each named defendant on a separate line. If you cannot fit the names of all defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Section B. Do not include addresses here.)

PRISONER COMPLAINT (Amended)

NOTICE

Federal Rule of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should not contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include only: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Plaintiff need not send exhibits, affidavits, grievances, witness statements, or any other materials to the Clerk's Office with this complaint.

A. PLAINTIFF INFORMATION

You must notify the court of any changes to your address where case-related papers may be served by filing a notice of change of address. Failure to keep a current address on file with the court may result in dismissal of your case.

Christopher B. Harker # 2020-6492 / P.O. Box # 4918 Centennial, CO
(Name, prisoner identification number, and complete mailing address) 80155-4918

"Chris Harker"
(Other names by which you have been known)

Indicate whether you are a prisoner or other confined person as follows: (check one)

- Pretrial detainee
- Civilly committed detainee
- Immigration detainee
- Convicted and sentenced state prisoner
- Convicted and sentenced federal prisoner
- Other: (Please explain) _____

B. DEFENDANT(S) INFORMATION

Please list the following information for each defendant listed in the caption of the complaint. If more space is needed, use extra paper to provide the information requested. The additional pages regarding defendants should be labeled "B. DEFENDANT(S) INFORMATION."

Defendant 1: W. Neyhart, Arapahoe County Sheriff's Office.
(Name, job title, and complete mailing address)

13101 E. Broncos Parkway, Centennial, CO
80112

At the time the claim(s) in this complaint arose, was this defendant acting under color of state or federal law? Yes No (check one). Briefly explain:

Mr. Neyhart was working as a Deputy for the Arapahoe County Sheriff @ the Jail.

Defendant 1 is being sued in his/her individual and/or official capacity.

Defendant 2: _____
(Name, job title, and complete mailing address)

At the time the claim(s) in this complaint arose, was this defendant acting under color of state or federal law? ___ Yes ___ No (*check one*). Briefly explain:

Defendant 2 is being sued in his/her ___ individual and/or ___ official capacity.

Defendant 3: _____
(Name, job title, and complete mailing address)

At the time the claim(s) in this complaint arose, was this defendant acting under color of state or federal law? ___ Yes ___ No (*check one*). Briefly explain:

Defendant 3 is being sued in his/her ___ individual and/or ___ official capacity.

C. JURISDICTION

Indicate the federal legal basis for your claim(s): (check all that apply)

42 U.S.C. § 1983 (state, county, and municipal defendants)

Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics, 403 U.S. 388 (1971)
(federal defendants)

Other: (*please identify*) _____

D. Statement of Claims

Claim one: Eighth Amendment Violation

On 10/22/2020 My Eighth Amendment was Violated by W. Neyhart, whom was working under the Arapahoe County Sheriff's office as a Deputy at the Arapahoe County Jail in Centennial Colorado. Deputy Neyhart yelled, "I Knew you guys were gay". Very loudly in the Pod directed at my cell, because of the way a song was being sung. Deputy Neyhart put me at Risk For Extortion, Physical, and sexual Assault, and Harassment, by Intentionally Exposing my sexuality to the Pod. I had to move pods because my cellmate began to treat me ~~as~~ differently the next day, intimidating me, Telling me not to move off my bunk. I let classifications know about the situation I via the inmate kiosk "kite" system. Deputy Neyhart Violated my Failure to Protect under the Eighth Amendment by telling Everyone I was Gay. Since

this incident occurred the Arapahoe County Sheriff's Investigated the incident, and on 11-5-2020 they did find Evidence that Deputy Neyhart made the comment, but felt it was a Joking manner. I recently submitted a Grievance on 12-25-2020 for retaliation also. Deputy W. Neyhart refused to give me toilet paper, and I ~~was~~ was forced to wipe my bottom with my underwear. This also has been documented.

I live daily in fear now of this officer. My anxiety is so high around 5pm, because I'm in such fear of him working in my Pod. It's psychological, and emotional warfare.

E. PREVIOUS LAWSUITS

Have you ever filed a lawsuit, other than this lawsuit, in any federal or state court while you were incarcerated? ___ Yes No (check one).

If your answer is "Yes," complete this section of the form. If you have filed more than one previous lawsuit, use additional paper to provide the requested information for each previous lawsuit. Please indicate that additional paper is attached and label the additional pages regarding previous lawsuits as "E. PREVIOUS LAWSUITS."

Name(s) of defendant(s): N/A

Docket number and court: _____

Claims raised: _____

Disposition: (is the case still pending?
has it been dismissed?; was relief granted?) _____

Reasons for dismissal, if dismissed: _____

Result on appeal, if appealed: _____

F. ADMINISTRATIVE REMEDIES

WARNING: Prisoners must exhaust administrative remedies before filing an action in federal court regarding prison conditions. See 42 U.S.C. § 1997e(a). Your case may be dismissed or judgment entered against you if you have not exhausted administrative remedies.

Is there a formal grievance procedure at the institution in which you are confined?

Yes ___ No (check one)

Did you exhaust administrative remedies?

Yes ___ No (check one)

G. REQUEST FOR RELIEF


State the relief you are requesting or what you want the court to do. If additional space is needed to identify the relief you are requesting, use extra paper to request relief. Please indicate that additional paper is attached and label the additional pages regarding relief as "G. REQUEST FOR RELIEF."

I am seeking a sum of \$100,000 for damages in this complaint for the violation of my Eighth Amendment Rights, and Psychological and ~~emotional~~ emotional Distress, as well as Attorney, and Filing fees.

H. PLAINTIFF'S SIGNATURE

I declare under penalty of perjury that I am the plaintiff in this action, that I have read this complaint, and that the information in this complaint is true and correct. See 28 U.S.C. § 1746; 18 U.S.C. § 1621.

Under Federal Rule of Civil Procedure 11, by signing below, I also certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending or modifying existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.



(Plaintiff's signature)

12/29/2020

(Date)

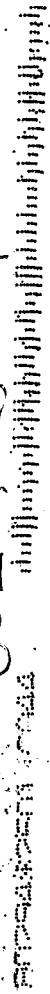
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