

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

JUN 05 2023

JEFFREY P. COLWELL
CLERK

José G. Rocha # 149692

Freemont Correctional Facility

PO Box 999

Canon City, CO 81215

RE) ROCHA v. Executive Director Colorado Department of Corrections
Case NO 23-CV-00756 KLM

Dear Judge,

I am writing to inform the court as to why I am mailing this motion at the deadline. Since the order issued on May 1st 2023, I received the order through legal mail at the Colorado State Penitentiary on May 5th, 2023. I was then transferred to Freemont Correctional Facility on May 11th 2023 and I have not been able to access the law library to do any research or prepare a better and more acceptable claim. I have done the best I can with the resources available to me. I dictated the following account over the phone and had it converted to text and then mailed in. I am invoking the mailbox rule for this filing and ask that this honorable court be lenient and issue a new order if I have not been compliant with the order given on May 1 2023.

Regards

José G. Rocha



May 31, 2023

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 23-CV-00756-KLM
(To be supplied by the court)

JOSE GUADALUPE ROCHA, Plaintiff

v.

EXECUTIVE DIRECTOR (Colorado Dept. of Corrections),

MATT WINDEN (Warden of Centennial Correctional Fac),

STEPHANIE SANDONAL (Warden of C.S.P.)

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.)

Jury Trial requested:
(please check one)
 Yes No

PRISONER COMPLAINT

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.

Jose B. Rocha DOC #149692 PO BOX 999 Canon City, CO 81215
(Name, prisoner identification number, and complete mailing address)

(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: MOSES STANCIL (EXECUTIVE DIRECTOR CDOC)
(Name, job title, and complete mailing address)

1250 Academy Park Loop Colorado Springs, CO 80910

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

Defendant 2: MATT WINDEY (Warden of Centennial Correctional Facility)
(Name, job title, and complete mailing address)

1250 Academy Park Loop Colorado Springs, CO 80910

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:

Agent of the state of Colorado

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

Defendant 3: STEPHANIE SANDOVAL (Warden of Colorado State Penitentiary)
(Name, job title, and complete mailing address)

1250 Academy Park Loop Colorado Springs, CO 80910

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:

Agent of the state of Colorado

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)

State/Local Official (42 U.S.C. § 1983)

Federal Official

As to the federal official, are you seeking:

Money damages pursuant to *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*, 403 U.S. 388 (1971)

Declaratory/Injunctive relief pursuant to 28 U.S.C. § 1331, 28 U.S.C. § 1361, or 28 U.S.C. § 2201

Other: (please identify) _____

D. STATEMENT OF CLAIM(S)

State clearly and concisely every claim that you are asserting in this action. For each claim, specify the right that allegedly has been violated and state all facts that support your claim, including the date(s) on which the incident(s) occurred, the name(s) of the specific person(s) involved in each claim, and the specific facts that show how each person was involved in each claim. You do not need to cite specific legal cases to support your claim(s). If additional space is needed to describe any claim or to assert additional claims, use extra paper to continue that claim or to assert the additional claim(s). Please indicate that additional paper is attached and label the additional pages regarding the statement of claims as "D. STATEMENT OF CLAIMS."

CLAIM ONE: See Attached (4 B)

Claim one is asserted against these Defendant(s):

Supporting facts:

D STATEMENT OF CLAIM(S)

I, Jose Guadalupe Rocha, in the capacity of plaintiff, hereby submit this prisoner complaint against Moses (Andre) Stancil, the Executive Director of the Colorado Department of Correction, and Matthew Winden, Warden of Centennial Correctional Facility, for violations of my rights to due process and equal protection under the law, as well as retaliation against me for engaging in constitutionally protected activities. I kindly request the court's attention to the following facts and sequence of events from my perspective:

Regarding Matthew Winden:

While I was held at the Centennial Correctional Facility under the custody and care of Warden Matthew Winden, an investigation was initiated against me by his authorization. As a consequence, I was placed in segregation on November 4th, 2022. On November 7th, 2022, Winden suspended my privileges and sanctioned me, leading to the suspension of my visiting and phone privileges. While in segregation, I was coerced into attending a meeting where Inspector General agents and Intelligence Lieutenant Dylan Cooper attempted to manipulate and harass me into cooperating with their investigation. Despite their numerous coercive tactics, I maintained my silence. At the conclusion of this encounter, they explicitly informed me that my refusal to cooperate would result in my transfer to the Colorado State Penitentiary. It was only after this meeting that my segregation status changed from "General Investigation Status" to "Pending Special Management." Consequently, on November 18th, 2022, I was transferred to the Colorado State Penitentiary and placed in Special Management. Until that point, I remained unaware of the specific reasons behind these actions until I received my classification report, which revealed that Winden authorized the investigation, sanctions, and placement in Special Management. These actions were all based on an alleged improper and illegal acquisition of contraband intercepted from legal correspondence intended for another inmate. Therefore, I assert that Winden violated my right to due process and equal protection under the law by disregarding proper policy, failing to provide me with a COPD (Charge of Disciplinary Proceedings), and subjecting me to the severe punishment of placement in the modern equivalent of Administrative Segregation. On November 14th, 2022, Matt Winden signed an AR 600-09 recommendation for my placement in Special Management. The violation of my liberty interest includes the forfeiture of personal property worth hundreds of dollars, which I purchased from the commissary. Placement at the Colorado State Penitentiary constitutes an atypical and significant hardship compared to ordinary prison life in the general population. For instance, in special management, we endure 24-hour lockdown in our cells and are allowed out-of-cell time only every 72 hours, subject to policy, staffing, and security concerns. Furthermore, we receive only one hour of recreation per week, again contingent upon staffing and security issues. This starkly contrasts with the ordinary conditions of prison life in the general population.

Regarding Stephanie Sandoval:

Although I initially listed Stephanie Sandoval as a defendant in my original complaint, I now believe she should be listed as party two and considered a participant in the violations. She upheld the unjust sanctions and disregarded repeated attempts by me, the plaintiff, and my attorney's office to bring her attention to these constitutional violations.

Regarding Executive Director Andre Stancil:

All the aforementioned violations occurred under the authority of Executive Director Andre Stancil, with his consent and approval.

I, the plaintiff, originally filed this pro se complaint on March 24th, 2023, in this court. On March 29th, 2023, the Centennial Correctional Facility (Matthew Winden) served me with a notice of COPD charges while the Executive Director simultaneously overturned my classification in Special Management in response to my appeal mentioned in the original complaint. Subsequently, I was found guilty of Class 1 Rule 14 Dealing in dangerous drugs in a hearing held on April 3rd, 2023, despite numerous policy violations. I diligently recorded these violations of policy and constitutional rights during the hearing. The disposition was filed on April 7th, 2023, and I appealed this conviction on April 10th, 2023. On May 26th, 2023, I received notification of the dismissal and expungement of the COPD charges as a result of my appeal. I firmly believe that the recent actions taken by the Defendants are an attempt to conceal the allegations I made in the original claim. However, the punishments and sanctions persist, as my privileges and phone access have not been fully restored, even though I was transferred back to the general population on May 11th, 2023.

In conclusion, Matthew Winden violated my constitutional rights to due process by imposing sanctions and sending me to special management without due process or pressing charges. I respectfully request that the court thoroughly investigate the claims made herein.

The relief I seek includes a declaratory judgment and an injunction to cease the unjust sanctions imposed in violation of my constitutional rights. Additionally, I request the reimbursement of \$402 for my filing fee and any other relief the court deems just and equitable.

Sincerely,

Jose Guadalupe Rocha

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): _____

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

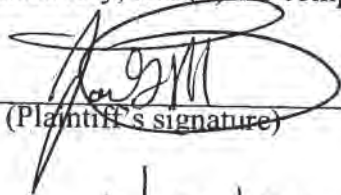
State the relief you are requesting or what you want the court to do. If additional space is needed to identify the relief you are requesting, use extra paper to request relief. Please indicate that additional paper is attached and label the additional pages regarding relief as "G. REQUEST FOR RELIEF."

As relief plaintiff requests a declaration that his constitutional rights were violated and an injunction "to stop the sanctions and punishments that were imposed without Due Process. Plaintiff also seeks to recover filing costs in the amount of \$102.00 U.S. dollars, and whatever else this court deems just and equitable.

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)

5/30/23
(Date)

DENVER CO 802
1 JUN 2023 PM:2 L

Colorado Department Of Corrections

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Register Number 149692
Unit F.C.F.
Box Number 999
City State Zip Canon City, CO 81215

United States District Court
Alfred A. Arroy Courthouse
901-19th St. Room A105
Denver, CO 80294

80294-250151



FF 5/31/03
FACILITY
LABORER
STATE ST NAME
149692
OFFENDER LAST NAME
Rochas
DATE RECD
3532
MT
ML

