

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

**FILED**  
UNITED STATES DISTRICT COURT  
DENVER, COLORADO

JUN 05 2023

JEFFREY P. COLWELL  
CLERK

Civil Action No.

23-CV-01210-KLM

(To be supplied by the court)

David Antonio Ruffin, Plaintiff

v.

**Jury Trial requested:**

(please check one)

☒ Yes ☐ No

Tony G. Spurlock

Keith Penny Lt

Mailroom Lt

Jenny McMillan Sgt, 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**

**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.

David Ruffin 190540 CSP  
(Name, prisoner identification number, and complete mailing address)

Mr. Ruffin, Dr. Pumper, Non-stop, Mr. Nigger Dick  
(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: Tom G. Spurlock, Warden, Douglas  
(Name, job title, and complete mailing address)

County Jail

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:

Allowed his employees to violate my 1st and 4th Amendment rights

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

Defendant 2:

Keth Penny Lt Douglas County Jail  
(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:

Violated my 1<sup>st</sup> and 4<sup>th</sup> Amendment rights

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

Defendant 3:

Senny McMillan Sergeant, Douglas County Jail  
(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:

Violated my 1<sup>st</sup> and 4<sup>th</sup> Amendment rights

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) \_\_\_\_\_

Date: April 19, 2023.

**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: Violation of 1<sup>st</sup> and 14<sup>th</sup> Amendment rights

Claim one is asserted against these Defendant(s):

Tony G. Spurlock, Keith Penny, Jenny McMillan  
Mallroom Lt

Supporting facts:

Keith Penny is the mallroom Lt. in charge of forwarding incoming government mail, including the government issued EXP checks. Records from the IRS clearly show that my EXP check was mailed back to the IRS (the IRS sent me notice August of 2022). Defendant McMillan informed me, while I was still a prisoner at Douglas County, that Douglas was obligated to forward my EXP check to me at DOC facility, as records will clearly demonstrate. As this Court must be aware of, the IRS sent out 3 EXP checks in amounts of 1,200, 600 and 1,400. I did receive the first two checks.

Additional Pages used

## D. Statement of Claims

I am now ~~Retaining~~ ~~is~~ ~~filing~~ ~~a~~ ~~lawsuit~~ because I believe Lt. Perry and Douglas County Staff Violated my 1st and 14th Amendment rights, the Due Process Clause. Addressing the First Amendment Claim First.

How the Defendants Violated my First Amendment right and why it is a violation of the First Amendment. In order for the court to

understand why the defendants failure to forward my EXP check is a first Amendment violation, the court needs to be informed, firstly that while a prisoner at Douglas County, I was forced to experience countless (more or less) examples of retaliation from Lt. Perry (defendant), as grievances filed by me will demonstrate.

The reason why this is relevant to my First Amendment claim, is because Lt. Perry



## D. Statement of Claims

Same Cell for over 19 months straight despite positive behavior and at times being the only prisoner on the unit, to keep me from watching television. This only must raise question and ultimately the answer/conclusion that the mishandling of my C&P check was purposeful. And

4. that the mishandling was not reasonably related to a legitimate penological interest because Douglas County was suppose to forward my check.

## No State Court Relief available

I am unable to seek state court relief because as an indigent prisoner I am unable to pay for the forms necessary to sue in state court (see recently filed 1983)

## Municipal Liability

As for municipal liability, the custom that exists is well settled policy that county

### 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):

Dan C. Spivey

Docket number and court:

\_\_\_\_\_

Claims raised:

Tapwater

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

dismissed

Reasons for dismissal, if dismissed:

I forgot

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**

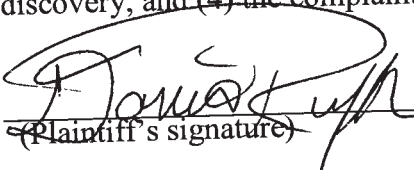
State the relief you are requesting or what you want the court to do. If additional space is needed, to identify the relief you are requesting, use extra paper to request relief. Please indicate that additional paper is attached and label the additional pages regarding relief as "G. REQUEST FOR RELIEF."

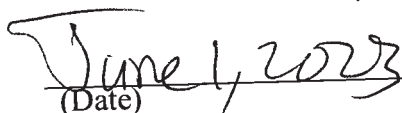
1. The cost of this lawsuit paid for
2. That Douglas County issue me a check for \$1,400
3. That Douglas County forwards all government mail to prisoners transferred to DOC

**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)

  
(Date)



Colorado Department Of Corrections

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06/02/2023  
US POSTAGE

\$04.85



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Denver, CO 80202

CSP  
FACILITY 6-1-23  
DATE RECD 6-8-23  
STAFF LAST NAME US 887 INT 201  
DOC# 190510 OFFENDER LAST NAME