

10-18-14

~~GOOOOO~~

you wrote a inmate by the name of Marlan A. Penton he can not read or write so I am writing you back for him in your letter you said that you would be happy to also review the paper work that Mr Penton has on the atty gen of mo. The paper work is pleadings of Mr Penton law suit that he lost in May of 09. The main reason for his lost is because one of the state witness committed perjury in a sworn affidavit. This person was also a person who Mr Penton filed suit on, but a united States judge dismissed Mr Kemwa from Mr Penton law suit even though the missouri attorney general's office submitted a affidavit by Mr Kemwa that was a lie. In the summary judgment filed by united States District judge Dean Whipple date April 23, 08 He stated Kemwa was not present at or aware of the cell move. Inside Mr Kemwa affidavit of Mike Kemwa he stated that I have had no written or oral communication with Penton about his September 2002 cell move. In a offender grievance filed for Mr Penton Mr Kemwa issue Mr Penton a response and his signature is on it dated 1-23-03. This prove Mr Kemwa did in fact have written communication with Mr Penton. As to the grievance response, so the "affidavit" was a lie and the "attorney general" office knew of this lie. That's why they terminated Eric K. Bredehoff who submitted the affidavit. Also to prove Mr Kemwa knew about the cell move he approved the recommendation

of the case worker and Mr Kemwa signature is on the paper as if he approve it This proves Mr Kemwa knew of the cell move so its stated in the violation report.) Also Captains Lyndon Francis sent Mr Kemwa a memorandum about what took place. This is more proof Mr Kemwa knew of the matter. The attorney general knew that Mr Kemwa was lying and cover it up. They also knew Mr Penton attorney Mr Phillip R. Gibson would not say anything about Mr Kemwa lying due to he Mr Gibson was getting paid by the court anyway to represent Mr Penton. Every thing that was stated in this letter will be with this letter. Mr Penton would like for this to be expose to the news and newspapers because the attorney general knew Mr Penton was mentally retarded with a I.Q. of 64 so he wouldnt notice. Here is the paper work. Mr Kemwa no longer work for the dept of Corr yet he still collect tax payers money he last work 11-11-11 Mr Penton would like for you

to please send all the paper worker with a email to these people

- Post Dispatch -
- KC Star -
- Dept of Justice in DC -
- KSDK.COM -
- KMOV.COM -
- KTVI.COM =
- 48 hours investigate (CBS) -
- CNN =
- Lot news.com a benney @ A columbian tribune.com -

PS what the A/k/a did in the case of Mr Penton civil ~~case~~ trial was submit a false declaration in order to have Mr Kemwa remove from Mr Penton case and he was the A/k/a witness this is a crime under RSMO 575.01 Please help Mr Penton and 575.060 RSMO

hook on
back

River front times, com

www. stlamerica.com

www. stl today.com

www. Maulchump.com

The reason for all these sites is to get mr penten story out because he needs this expose. And has no out side help.

with this letter will be

- 1 Offender Grievance 1pg
- 1 Affidavit of Mike Kemwa 2pg
- 1 Offender Conduct violation 2pg
- 1 Memorandum to Mike Kemwa from Ept Lyndon Francis 1pg
- 1 Summary judgment 6pgs
- 1 U.S. District Court civil Docket sheet 1pgs

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
ST. JOSEPH DIVISION

MARLAN A. PENTON, SR.,)

Plaintiff,)

vs.)

Case No. 06-6134-CV-SJ-DW-P)

MIKE KEMNA, ET AL.,)

Defendants.)

ORDER RULING ON DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

Plaintiff, who is incarcerated at the Crossroads Correctional Center (CrCC) in Cameron, Missouri, filed pro se this civil rights action under 42 U.S.C. § 1983, seeking relief for claimed violations of his federally protected rights. Currently pending are defendants' motion for summary judgment and plaintiff's response thereto. Doc. Nos. 70 and 84.

STANDARD OF REVIEW

Pursuant to Fed. R. Civ. P. 56(c), a moving party is entitled to summary judgment on a claim only if he has made a showing that "there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." See generally William v. City of St. Louis, 783 F.2d 114, 115 (8th Cir. 1986). In applying this standard, the court must view the evidence in the light most favorable to the non-moving party, giving that party the benefit of all inferences that may be reasonably drawn from the evidence. Matsushita Elec. Indus. Co. v. Zenith Radio Corp., 475 U.S. 574, 587-88 (1986); Adickes v. S.H. Kress & Co., 398 U.S. 144, 157 (1970); Tyler v. Harper, 744 F.2d 653, 655 (8th Cir. 1984), cert. denied, 470 U.S. 1057 (1985). "The inquiry performed is . . . [whether] . . . there are genuine factual

issues that properly can be resolved only by a finder of fact because they may reasonably be resolved in favor of either party.” Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 250 (1986). A party opposing a motion for summary judgment, however, “may not rest upon the mere allegations . . . of [his pleadings], but . . . by affidavits . . . must set forth specific facts showing that there is a genuine issue for trial. If [he] does not so respond, summary judgment, if appropriate, shall be entered against [him].” Fed. R. Civ. P. 56 (e).

SUMMARY OF FACTS

On July 23, 2002, plaintiff was housed in administrative segregation in the Crossroads Correctional Center in Cameron, Missouri. On September 30, 2002, plaintiff was moved into a two-person cell with inmate Lawrence Cushon. Plaintiff verbally informed the correctional officers taking part in the cell move that inmate Cushon was his enemy. Further, inmate Cushon repeatedly told the correctional officers not to place plaintiff in his cell and that the correctional officers would have to “take him right back out” if they did. Defendant’s Exhibit A.

When plaintiff was placed into the cell, both he and inmate Cushon were handcuffed. The correctional officers removed inmate Cushon’s cuffs first. He immediately proceeded to assault plaintiff over the course of the following minute. Defendants, upon witnessing the attack, sprayed pepper spray into the cell in an attempt to control inmate Cushon. The inmates then were separated, and plaintiff was seen by a nurse. Id.

ANALYSIS

“The Eighth Amendment imposes upon prison officials, among other things, the duty

to take reasonable measures to 'protect prisoners from violence at the hands of other prisoners.'" Davis v. Scott, 94 F.3d 444, 446 (8th Cir. 1996) (quoting Farmer v. Brennan, 511 U.S. 825, 833 (1994)) (internal quotation marks and citations omitted).

To prevail on an Eighth Amendment failure-to-protect claim, an inmate must make two showings. First, he must demonstrate "that he is incarcerated under conditions posing a substantial risk of serious harm." Second, the inmate must show that the official "knows of and disregards an excessive risk to inmate health or safety; the official must both be 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." Thus, it is not enough that a reasonable person would have been aware of the risk; the prisoner must demonstrate by facts, and reasonable inferences therefrom, that the particular defendant was aware of the substantial risk at issue.

Id. (internal citations omitted).

Defendants claim that neither showing can be made by plaintiff. Specifically, they allege that because he was only in a cell with the other offender for less than two minutes, he was not subject to a substantial risk of serious harm. ~~This argument ignores both the injuries suffered by plaintiff and the injuries that could have occurred. Plaintiff was subject to a substantial risk of serious harm when he was locked in a cell while handcuffed with an enemy free to do whatever damage he could inflict in the course of a minute and a half.~~

~~In evaluating the seriousness of harm, it is clear that the harm actually caused by inmate Cushon could have been far worse or even resulted in plaintiff's death. The statements made by inmate Cushon arguably demonstrate the substantial nature of the risk. Inmate Cushon clearly indicated to the guards that they would be "taking [plaintiff] right back out" of his cell.~~

Taken in the light most favorable to plaintiff, this statement certainly could demonstrate

Cushon's intent to seriously harm plaintiff. That plaintiff was not injured to the extent which he could have been injured does not defeat his claim.

Defendants' second argument is that they were unaware of the substantial risk. The evidence taken in the light most favorable to plaintiff, however, shows that, not only did he warn defendants of the risk, but Cushon did as well. Defendants justify their failure to heed the warning with assertions that offenders often try to avoid sharing a cell by declaring enemies. Such a justification, however, would render moot any warning of a potential conflict arising out of a cell change. Prison officials always could disregard such warning until actual physical harm took place by asserting that inmates often make such warnings to obtain or prevent cell moves.

Defendants assert that plaintiff in particular had, in the past, declared other inmates as enemies in order to share a cell. In light of plaintiff's statement to the contrary, see, e.g., Doc. No. 84, pp. 36-37; Plaintiff's Affidavit *Exhibit A, p. 2, there remains an issue of fact and witness credibility which properly can be resolved only by the jury. Furthermore, even if plaintiff had unnecessarily declared inmates as enemies in the past, that does not necessarily render defendants' actions reasonable. This is particularly true in light of inmate Cushon's warnings to defendants not to place plaintiff in his cell.

Defendants' position appears to be that an oral declaration can not put them on notice of a substantial risk of harm. It is unclear how a policy of written-only declarations would prevent the problems defendants describe in their motion for summary judgment. What is clear is that whether the defendants' alleged belief was legitimate and reasonable is an issue of fact

that is inappropriate for this Court to resolve. Because there remains a genuine issue of material fact, summary judgment is inappropriate.

Qualified Immunity

Government officials performing discretionary functions are shielded from liability for civil damages if their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known. Harlow v. Fitzgerald, 457 U.S. 800, 818 (1982). The failure to protect plaintiff from inmate Cushon does violate a clearly established constitutional right of which defendants would have been aware. Although defendants Rawson and Spears were following the orders of defendant Green, they should have known that moving plaintiff into a cell with someone who intended to harm him would result in a deprivation of his constitutional rights. The video clearly demonstrates their knowledge of the substantial risk that plaintiff was being subjected to, in that inmate Cushon and plaintiff both clearly communicated that risk before plaintiff was placed in the cell. Because the right was clearly established, because it was known by the defendants, and because plaintiff has adduced sufficient evidence that there was a violation of the right, defendants are not entitled to qualified immunity.

Defendant Kemna

Defendant Kemna asserts that he is being sued based on supervisory liability. Supervisors cannot be held liable for Section 1983 claims because of their overall responsibility for the operation of a prison (respondeat superior). See generally Pembaur v. City of Cincinnati, 475 U.S. 469 (1986); Martin v. Sargent, 780 F.2d 1334, 1337 (8th Cir. 1985). "The

supervisor must know about the conduct and facilitate it, approve it, condone it, or turn a blind eye.” Boyd v. Knox, 47 F.3d at 968. In Fruit v. Norris, the Eighth Circuit held that supervisors could be liable “when their corrective inaction amounts to ‘deliberate indifference’ to or ‘tacit authorization’ of the violative practices.” 905 F.2d 1147, 1151 (8th Cir. 1990) (citation omitted).

Plaintiff has failed to show that Kemna participated in the harm or was deliberately indifferent as required for recovery under supervisory liability. Boyd, 47 F.3d at 968. In his complaint, plaintiff makes no specific allegations against Kemna. ~~Kemna was not present at or aware of the cell move.~~ Because plaintiff asserts no claim against defendant Kemna, he will be severed and dismissed as a defendant in this case.

Accordingly, it is **ORDERED** that:

- (1) defendant Mike Kemna is severed and dismissed as a defendant in this case; and
- (2) remaining defendants’ motion for summary judgment (Doc. No. 70) is denied.

/s/ Dean Whipple
DEAN WHIPPLE
UNITED STATES DISTRICT JUDGE

Kansas City, Missouri,

Dated: April 23, 2008.

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
ST. JOSEPH DIVISION

MARLON A. PENTON,

Plaintiff,

v.

MIKE KEMNA et al.,

Defendants.

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Case No: 06-6134-CV-SJ-DWP

AFFIDAVIT OF MIKE KEMNA

1. My name is Mike Kemna.
2. I am over 18 years of age and of sound mind.
3. In 2002, I served as the superintendent of the Crossroads Correctional Center.
4. Correctional facilities allow offenders to list individuals who are their enemies on "enemy lists."
5. Offenders will not be celled with any other individual on their enemy list.
6. Penton had an enemy list on which he identified his enemies.
7. In September 2002 Penton did not have inmate Cushon on his enemy list.
8. Offenders frequently assert that other offenders are enemies in an attempt to obtain a single cell.

9. Offenders frequently assert that other offenders are enemies in an attempt to rule out multiple cellmates and be placed in a cell with an individual they wish to attack.

EXHIBIT A

3
10. Officers have great discretion during cell moves and cell assignment.

11. I was not present during the September 2002 cell move involving offenders
Penton and Cushshon.

12. ~~I have had no written or oral communication with Penton about his September
2002 cell move.~~


13. As the superintendent of Crossroad Correctional Facility, I approved facility
protocols and procedures at Crossroad Correctional Center.



MIKE KEMNA

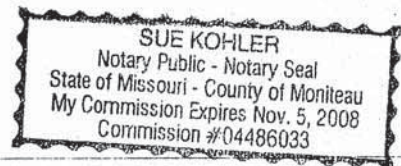
State of Missouri)
) ss
County of Cole)

Subscribed and sworn to before me this 6th day of December, 2006.



Notary

My commission expires: 12-6-07


SUE KOHLER
Notary Public - Notary Seal
State of Missouri - County of Moniteau
My Commission Expires Nov. 5, 2008
Commission #04486033

RECEIVED



STATE OF MISSOURI
DEPARTMENT OF CORRECTIONS
OFFENDER GRIEVANCE

GRIEVANCE NUMBER
CRCC-02-1919
CRCC 02-1919

IRR NUMBER
CRCC-02-1919
CRCC-02-1919

DATE FILED
JAN 02 2003
12-19-02

INSTITUTION USE ONLY EMERGENCY GRIEVANCE NON-GRIEVABLE ISSUE **CRCC**

OFFENDER LAST NAME MARLON <i>Penton, Marlon</i>	FIRST Penton	DOC NUMBER 523331	HOUSING UNIT S-216	UNIT A	INSTITUTION CRCC
--	------------------------	-----------------------------	------------------------------	------------------	----------------------------

OFFENDER GRIEVANCE/REQUEST

I would actions to be taking because my life was in danger. I was left in hand cuffs behind my back and was hauled while the other inmate wasn't cuff. The Sgt knew my life was in danger.

OFFENDER SIGNATURE
Marlon Penton

DATE
12-19-02

SUPERINTENDENT RESPONSE

Your complaint has been received and reviewed.

You were not placed in a cell with a known and documented enemy on 9/30/02. The cell move was made in accordance with policy. You were assaulted by Offender CUSHSHON, Lawrence #1028305 during the cell move. Staff responded in an appropriate manner and disciplinary action was taken. Force (pepper spray) was used to the minimum degree necessary to control the situation in accordance with policy.

OFFENDER COPY

SUPERINTENDENT SECTION HEAD
M. B. **1-23-03**

DATE

You have the right to appeal this decision to a division director. You must file an appeal form with the grievance officer within five (5) days from you receive this decision. Failure to submit an appeal within this time frame constitutes abandonment of the grievance.

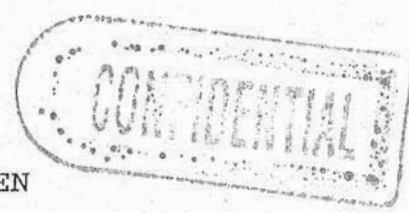
I ACCEPT THIS DECISION I APPEAL THIS DECISION

Exhibit E, 4 of 7

DATE

DOC ID: 01028305 Cycle: 19990819
DC Name: CUSHSHON, LAWRENCE
Name of Institution: CRCC Custody Level: C-5

Housing Unit: Inst Hou Cpx Room Bed P/T
Work Assignment: CRCC 002 02D 00172 00T P
Place: CRCC 002 02D 00171
Violation of Rule: 02 ASSAULT
Violation Time: 06:10 P Day: MON Date: 09/30/2002
Reported By: E0024906 CORR OF II TROY GREEN



Interview Time: 10:15 P Day: MON Date: 09/30/2002
Inter Off: E0045640 CORR OF II AARON KRAUSE

DHO - Time: 04:00 P Day: FRI Date: 10/04/2002
DHO Number: E0045599 CORR CASEWORKER I TYREE BUTLER

Adj - Time: 01:30 P Day: TUE Date: 10/08/2002
Adj Officer: E0038506 FUNC UNIT MGR-CORR CLARENCE DENZER

Sanction	----Sanction----			Susp	Begin Date	End Date
	Day	Hr	Amount	Day		
L REFER TO AD SEG COMMITTEE					10/10/2002	10/10/2002
Q REFERRAL FOR PROSECUTION					10/10/2002	10/10/2002
N REFER COND RELEASE EXTENSION					10/10/2002	10/10/2002
VISITING RESTRICTIONS			090		10/08/2002	01/05/2003
LIMITED CANTEEN SPENDING			090	\$7.50	02/01/2003	04/30/2003
C01 PROPERTY IMPOUND			030		10/08/2002	11/06/2002

DEPARTMENT OFFENDER WITNESS

Doc Id Name
00523331 PENTON, MARLAN

THE FOLLOWING EVENTS OCCURRED:

On the above date and approximate time this reporting officer had placed inmate Penton, Marlan #523331 2D 155 in cell 2D 171. Inmate Cushshon, Lawrence is assigned to cell 2D 171. After bath inmates were secured in the cell I removed inmate Cushshons restraints. He then pinned inmate Penton to the lower bunk while inmate Penton was still restrained. I observed inmate Cushshon striking inmate Penton with his closed fist. I gave inmate Cushshon loud verbal directives to stop. Inmate Cushshon failed to comply.

The above actions places inmate Cushshons, Lawrence #1028305 2D 171 in violation for rule #2, Assault.

Note: The above actions resulted in a Use of Force.

REPORT OF JOINT INTERVIEW BY INTERVIEWING STAFF:

Inmate jointly interviewed by staff.
Inmate statement: "I aint never hit the dude."

be seen by DHO at a later date.

FINDINGS AND EVIDENCE RELIED ON:

No additional witnesses requested.
Subject signed statement and Waiver of Rights. Witness requested. Statement

Penton use of force -2

taken.

Subject stated: Violations no right. "They put him in my cell. There was no altercation. He was trying to get out of the cell."

Evidence: As per the body of the violation after being secured in his cell and his restraints removed, subject pinned offender Penton, Marlan #523331 to the lower bunk and was striking offender Penton with a closed fist.

Findings: Guilty

Enemy Waiver signed.

Arrival: 07/02/02 CR 08/18/04 12th CDV 6 months.

RECOMMENDATION:

1. 90 days No Contact Visits begin 10/08/02 end 01/05/03.
 2. \$7.50 Limited Canteen Spend for months of Feb. March and April 2003.
 3. 30 days Radio Impoundment begin 10/08/02 end 11/06/02.
 4. Refer to Ad Seg Committee .
 5. Refer to Dekalb County for possible Prosecution.
 6. Refer for CR Extension Hearing.
- Note: 1,2,3 out of sanction range but recommended due to seriousness of CDV.

RECOMMENDED ACTION OF THE ASSOCIATE SUPERINTENDENT/UNIT MANAGER:
Recommended as Submitted.

SIGNATURE

Jean Ann Johnson, A.S.I.M. 33045 10/09/02

ACTION OF SUPERINTENDENT/ASSOCIATE SUPERINTENDENT:
Approved as Submitted.

SIGNATURE:

Mike Kemna, Superintendent 40954 10/10/02

Entered by CO 10/16/02



5
BOB HOLDEN
Governor

GARY B. KEMPKER
Director



Crossroads Correctional Center
1115 East Pence Road
Cameron, Missouri 64429
Telephone: 816-632-2727
Fax: 816-632-2754

State of Missouri
DEPARTMENT OF CORRECTIONS
Ad Exelleum Conamur - "We Strive Towards Excellence"

MEMORANDUM

DATE: OCTOBER 4, 2002

TO: MIKE KEMNA, SUPERINTENDENT
CROSSROADS CORRECTIONAL CENTER

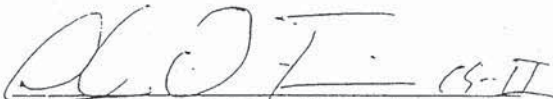
FROM: CAPTAIN LYNDON FRANCIS
ACTING CHIEF OF CUSTODY
CROSSROADS CORRECTIONAL CENTER

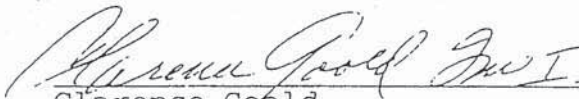
SUBJECT: USE OF FORCE REVIEW
INMATE: CUSHSHON, Lawrence #1028305

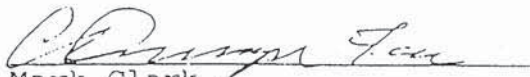


The attached Use of Force was reviewed by the Use of Force Committee. The Committee believes that the force used is justified and no further action is necessary.

After reviewing the Use of Force, the committee believes that only the amount of force necessary was utilized and no further clarification is needed.


Captain Lyndon Francis
Acting Chief of Custody


Clarence Gold
Investigator I


Mark Clark
Designated F.U.M.

LF:pjb

U.S. District Court
Western District of Missouri (St. Joseph)
CIVIL DOCKET FOR CASE #: 5:06-cv-06134-DW

Penton v. Kemna et al
Assigned to: District Judge Dean Whipple
Referred to: Prisoner Pro Se
Cause: 42:1983 Prisoner Civil Rights

Date Filed: 11/24/2006
Jury Demand: Both
Nature of Suit: 555 Habeas Corpus (Prison
Condition)
Jurisdiction: Federal Question

Plaintiff

Marlon A Penton

represented by **Marlon A Penton**
523331
CROSSROADS CORRECTIONAL
CENTER
HU-1-216-Bwing
1115 E. Pence Road
Cameron, MO 64429
PRO SE

Phillip R. Gibson
Thomason & Gibson LLC
2400 S. Lee's Summit Rd.
Ste. 200
Independence, MO 64055
(816) 252-5050
Fax: (816) 252-8080
Email: phil0704@aol.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant

Mike Kemna
TERMINATED: 04/23/2008

represented by **Kathleen Robertson**
Missouri Attorney General's Office
P.O. Box 899
Jefferson City, MO 65102
(573) 751-8782
Fax: (573) 751-9456
Email: kathleen.robertson@ago.mo.gov
LEAD ATTORNEY

Erica K. Bredehoft
Missouri Attorney General's Office-JC
221 West High Street
4th Floor
P. O. Box 899
Jefferson City, MO 65101
(573) 751-3321
Email: erica.bredehoft@courts.mo.gov
TERMINATED: 03/18/2008

Defendant

- Green

represented by **Kathleen Robertson**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Ryan Bertels
Missouri Attorney General
P.O. Box 899
Jefferson City, MO 65102
(573) 751-8774
Fax: (573) 751-9456
Email: ryan.bertels@ago.mo.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Erica K. Bredehoff
(See above for address)
TERMINATED: 03/18/2008

Defendant

Jason Spears

TERMINATED: 06/15/2007

Defendant

Jimmy Rawson

TERMINATED: 06/15/2007

represented by **Kathleen Robertson**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Ryan Bertels
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Jason Spears

represented by **Kathleen Robertson**
(See above for address)
LEAD ATTORNEY

Ryan Bertels
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Erica K. Bredehoff
(See above for address)
TERMINATED: 03/18/2008

Defendant

Jimmy Rawson

represented by **Kathleen Robertson**
(See above for address)
LEAD ATTORNEY

Erica K. Bredehoft

(See above for address)

TERMINATED: 03/18/2008

Date Filed	#	Docket Text
11/24/2006		REFERRED TO PRISONER PRO SE (Travers, Phyllis) (Entered: 11/27/2006)
11/24/2006	<u>1</u>	COMPLAINT against Mike Kemna, - Green, Jason Spears, Jimmy Rawson - Under the Civil Rights Act 42:1983 w/req to proceed ifp (PROV. filed pursuant to Court en banc Order of 10/21/97) REGARDING CONDITIONS OF CONFINEMENT. Ackn to plt; auth & letter to MDC.Marlon A Penton.(Travers, Phyllis) (Entered: 11/28/2006)
11/24/2006	<u>2</u>	AFFIDAVIT in support of request to proceed IFP by Marlon A Penton. (Travers, Phyllis) (Entered: 11/28/2006)
12/13/2006	<u>3</u>	Inmate ACCOUNT STATEMENT. (Weinzerl, Dana) (Entered: 12/13/2006)
12/22/2006	<u>4</u>	ORDER plaintiff is granted provisional leave to proceed in forma pauperis pursuant to 28 U.S.C. ? 1915(a);?(2) plaintiff shall pay to the Clerk of the Court for the Western District of Missouri, Western Division, an initial partial filing fee of \$9.75. If the initial partial filing fee is not received within (30) days from the date of this Order, plaintiff?s case shall be dismissed without prejudice;?(3) the agency having custody of plaintiff shall forward to the clerk of the court monthly payments of 20 percent of the preceding month?s income credited to plaintiff?s account each time the amount exceeds \$10 until the entire \$350.00 filing fee is paid;?(4) the Clerk of the Court is directed to mail plaintiff a copy of the financial account information;?(5) the Attorney General of Missouri is directed to notify the Court, in writing, within thirty (30) days from the date of this Order, for which defendants they will and will not waive service of process;?(6) defendants are directed to answer or otherwise respond, pursuant to Fed. R. Civ. P. 4 and 12, within sixty (60) days from the date of this Order if service of process is waived, or within twenty (20) days after service of process if service of process is not waived. Signed by Judge Dean Whipple on 12/22/06. (Weinzerl, Dana) (Entered: 12/22/2006)
01/17/2007	<u>5</u>	NOTICE of appearance by Erica K. Bredehoft on behalf of Mike Kemna (Bredehoft, Erica) (Entered: 01/17/2007)
01/19/2007		RECEIPT number 247373 in the amount of \$9.75. (Weinzerl, Dana) (Entered: 01/19/2007)
02/20/2007	<u>6</u>	MOTION to dismiss case filed by Erica K. Bredehoft on behalf of Mike Kemna. Suggestions in opposition/response due by 3/8/2007 unless otherwise directed by the court. (Bredehoft, Erica) (Entered: 02/20/2007)
02/23/2007	<u>7</u>	ORDER plaintiff file a response w/in 20 days from the date of this order to defendant Keman's motion to dismiss Signed by Judge Dean Whipple on 2/23/07. (Weinzerl, Dana) (Entered: 02/23/2007)
03/05/2007	<u>8</u>	NOTICE of filing by Mike Kemna (Bredehoft, Erica) (Entered: 03/05/2007)
03/07/2007	<u>9</u>	ORDER the Missouri Attorney General file an in camera response, within 20 days from the date of this Order, informing the Clerk of the Court of the last known addresses of defendants Jason Spears, Jimmy Rawson, and Sgt. Troy Green, for whom the Missouri Attorney General refused to waive service of process in its notice dated March 5. 2007. Signed by Judge Dean Whipple on 3/7/07. (Weinzerl, Dana) (Entered: 03/07/2007)

		03/07/2007)
03/12/2007	<u>10</u>	MOTION for leave to file amended complaint filed by Marlon A Penton. (Attachments: # <u>1</u> amended complaint)(Weinzerl, Dana) (Entered: 03/13/2007)
03/13/2007	<u>11</u>	NOTICE (SEALED) by Mike Kemna re <u>9</u> Order, <i>Response to Order (Doc#9)</i> (Bredehoft, Erica) (Entered: 03/13/2007)
03/23/2007	<u>12</u>	ORDER denying <u>6</u> defendant Kemna's motion to dismiss case; granting <u>10</u> motion for leave to file an amended complaint Signed by Judge Dean Whipple on 3/23/07. (Weinzerl, Dana) (Entered: 03/23/2007)
03/23/2007	<u>38</u>	AMENDED COMPLAINT against all defendants filed by Marlon A Penton.Per Order dated March 23, 2007 (Doc. No. 12). (Mayes, Melanie) (Entered: 09/21/2007)
03/29/2007	<u>13</u>	ANSWER to Complaint with Jury Demand " <i>Defendant Kemna's Answer to Plaintiff's Amended Complaint</i> " filed by Erica K. Bredehoft on behalf of Defendant Mike Kemna.(Bredehoft, Erica) (Entered: 03/29/2007)
04/13/2007	<u>14</u>	ORDER the Clerk of the Court issue appropriate summons to defendants Jason Spears, Jimmy Rawson, and Sgt. Troy Green at the addresses provided by the Assistant Missouri Attorney General in her in camera response filed on December 29, 2006, as authorized by Fed. R. Civ. P. 4, and deliver the summons, the complaint, and a copy of this Order to the United States Marshal for personal service of process;(2) the United States Marshal attempt personal service of process of the summons, the complaint, and a copy of this Order upon defendants at the in camera addresses provided;(3) defendants Jason Spears, Jimmy Rawson, and Sgt. Troy Green answer or otherwise respond to plaintiffs complaint within 20 days from the date of service as required by Fed. R. Civ. P. 12; and(4) both the Clerk of the Court and the United States Marshal are directed to maintain as confidential the last known addresses of defendants by redacting each defendants address on any document provided to plaintiff or filed in the public record. Signed by Judge Dean Whipple on 4/13/07. (Weinzerl, Dana) (Entered: 04/13/2007)
04/19/2007		SUMMONS ISSUED as to - Green, Jason Spears, Jimmy Rawson with US Marshall forms, Complaint and Order sent to US Marshall. (Mayes, Melanie) (Entered: 04/19/2007)
05/07/2007	<u>15</u>	RETURN OF SERVICE of complaint executed - Green served on 5/4/2007, answer due 5/24/2007. (Mayes, Melanie) (Entered: 05/08/2007)
05/08/2007	<u>16</u>	Return of Service unexecuted as to Jason Spears. (Mayes, Melanie) (Entered: 05/08/2007)
05/08/2007	<u>17</u>	Return of Service unexecuted as to Jimmy Rawson. (Mayes, Melanie) (Entered: 05/08/2007)
05/16/2007	<u>18</u>	ORDER DIRECTING PLAINTIFF TO RESPOND. It is ORDERED that plaintiff inform the Court, within 20 days from the date of this Order, of the correct addresses of defendants Jason Spears and Jimmy Rawson, or they will be severed and dismissed from this case without further notice. Signed by Judge Dean Whipple on May 16, 2007. (Mayes, Melanie) (Entered: 05/16/2007)
06/08/2007		RECEIPT number 258749 in the amount of \$19.50 issued to Marlan Penton. (Mayes, Melanie) (Entered: 06/12/2007)
06/15/2007	<u>19</u>	ORDER SEVERING AND DISMISSING DEFENDANTS JASON SPEARS AND JIMMY RAWSON. On May 16, 2007, plaintiff was ordered to inform the Court, within 20 days of the correct addresses of defendants Jason Spears and Jimmy

		Rawson or face their dismissal from this case. Because plaintiff has failed to provide the Court with the required addresses, it is ORDERED that Jason Spears and Jimmy Rawson are severed and dismissed as defendants in this case. Signed by Judge Dean Whipple on June 15, 2007. (Mayes, Melanie) (Entered: 06/15/2007)
06/27/2007	<u>20</u>	ORDER DIRECTING DEFENDANT GREEN TO SHOW CAUSE. It is ORDERED that defendant Troy Green is directed to show cause, within 20 days from the date of this Order, why he has not filed his answer or other response to plaintiffs complaint in that he was personally served by the United States Marshals Service on May 4, 2007. Failure to file a timely response may result in the entry of default judgment against defendant. Signed by Judge Dean Whipple on June 27, 2007. Order sent to Green at Cameron Police Dept Cert. Mail # 70022410000158616300. Order sent to Green at Residence (in camera) Cert. Mail # 70022410000158616294.(Mayes, Melanie) (Entered: 06/28/2007)
07/02/2007		GREEN CARD showing return of service. Troy Green served on 6/29/07 at residence. Tena Christmas signed for Cameron Police Dept on 6/29/07. (Related document(s) <u>20</u>) (Mayes, Melanie) (Entered: 07/02/2007)
07/02/2007	<u>21</u>	NOTICE of appearance by Erica K. Bredehoft on behalf of - Green (Bredehoft, Erica) (Entered: 07/02/2007)
07/02/2007	<u>22</u>	MOTION for leave to file <i>An Answer Out of Time</i> filed by Erica K. Bredehoft on behalf of - Green. Suggestions in opposition/response due by 7/19/2007 unless otherwise directed by the court. (Bredehoft, Erica) (Entered: 07/02/2007)
07/02/2007	<u>23</u>	ANSWER to Complaint with Jury Demand filed by Erica K. Bredehoft on behalf of Defendant - Green.(Bredehoft, Erica) (Entered: 07/02/2007)
07/06/2007	<u>24</u>	ORDER granting <u>22</u> motion for leave to file. ORDER GRANTING DEFENDANT GREENS REQUEST TO FILE HIS ANSWER OUT OF TIME AND PRETRIAL SCHEDULING ORDER. It is further ORDERED that each party shall file appropriate dispositive motions and suggestions in support, within 180 days from the date of this Order, unless otherwise ordered by the court. Motions for summary judgment raising the defense of qualified immunity will not be permitted after that time without leave of court. Untimely motions may be stricken.For guidance in discovery procedures, all parties should consult with Local Rule 16 and Fed. R. Civ. P. 26-37. The Clerk of the Court is ORDERED to forward to plaintiff a copy of Local Rule 16.Failure to comply with this order or to participate in good faith in discovery may result in appropriate sanctions, including dismissal of this action. Signed by Judge Dean Whipple on July 6, 2007. (Mayes, Melanie)Local Rule 16 mailed to Plaintiff with Order. (Entered: 07/06/2007)
07/06/2007		RECEIPT number 259187 in the amount of \$21.50 issued to Marlan Penton. (Mayes, Melanie) (Entered: 07/09/2007)
07/10/2007	<u>25</u>	CERTIFICATE OF SERVICE OF INITIAL RULE 26 DISCLOSURES filed by Erica K. Bredehoft on behalf of Defendants Mike Kemna, - Green.(Bredehoft, Erica) (Entered: 07/10/2007)
08/09/2007	<u>26</u>	CERTIFICATE OF SERVICE OF INITIAL RULE 26 DISCLOSURES filed by Erica K. Bredehoft on behalf of Defendants Mike Kemna, - Green.(Bredehoft, Erica) (Entered: 08/09/2007)
08/09/2007	<u>27</u>	MOTION for order filed by Marlon A Penton. (Mayes, Melanie) (Entered: 08/09/2007)
08/09/2007		RECEIPT number 259700 in the amount of \$53.90 issued to Marlan Penton. (Maves,

		Melanie) (Entered: 08/10/2007)
08/13/2007	<u>28</u>	SUGGESTIONS in opposition re <u>27</u> MOTION for order filed by Erica K. Bredehoft on behalf of Defendant - Green. Reply suggestions due by 8/30/2007 unless otherwise directed by the court (Related document(s) <u>27</u>) (Bredehoft, Erica) (Entered: 08/13/2007)
08/16/2007	<u>29</u>	ORDER finding as moot <u>27</u> motion. ORDER DENYING PLAINTIFFS MOTION FOR ORDER. Upon consideration of defendants response thereto and because defendants have sent plaintiff a corrected copy of their initial disclosures (Doc. No. 28), it is ORDERED that plaintiffs motion for court order (Doc. No. 27) is denied as moot. Signed by Judge Dean Whipple on August 16, 2007. (Mayes, Melanie) (Entered: 08/16/2007)
08/17/2007	<u>30</u>	CERTIFICATE OF SERVICE OF INITIAL RULE 26 DISCLOSURES on behalf of Plaintiff Marlon A Penton.(Mayes, Melanie) (Entered: 08/20/2007)
08/20/2007	<u>31</u>	MOTION for order for leave to join defendants filed by Marlon A Penton. (Mayes, Melanie) (Entered: 08/20/2007)
08/20/2007	<u>32</u>	MOTION for leave to file amended complaint filed by Marlon A Penton. (Mayes, Melanie) (Entered: 08/20/2007)
08/22/2007	<u>33</u>	SUGGESTIONS in opposition re <u>31</u> MOTION for order <i>Defendant's Opposition to Motion for Leave to Amend Defendants</i> filed by Erica K. Bredehoft on behalf of Defendant Mike Kemna. Reply suggestions due by 9/7/2007 unless otherwise directed by the court (Related document(s) <u>31</u>) (Bredehoft, Erica) (Entered: 08/22/2007)
08/22/2007	<u>34</u>	SUGGESTIONS in opposition re <u>32</u> MOTION to amend/correct <i>Opposition to Amended Complaint</i> filed by Erica K. Bredehoft on behalf of Defendant Mike Kemna. Reply suggestions due by 9/7/2007 unless otherwise directed by the court (Related document(s) <u>32</u>) (Bredehoft, Erica) (Entered: 08/22/2007)
09/11/2007		RECEIPT number 260210 in the amount of \$34.10 issued to Marlan Penton. (Mayes, Melanie) (Entered: 09/14/2007)
09/14/2007	<u>35</u>	Plaintiff's RESPONSE filed by Marlon A Penton.Related document(s) <u>33</u>) (Mayes, Melanie) (Entered: 09/17/2007)
09/14/2007	<u>36</u>	Plaintiff's RESPONSE filed by Marlon A Penton.Related document(s) <u>34</u>) (Mayes, Melanie) (Entered: 09/17/2007)
09/20/2007	<u>37</u>	ORDER granting <u>31</u> motion ; finding as moot <u>32</u> motion to amend/correct. ORDER GRANTING PLAINTIFFS MOTION FOR LEAVE TO JOIN ADDITIONAL DEFENDANTS AND DENYING MOTION TO AMEND COMPLAINT. Accordingly, it is ORDERED that:(1) plaintiffs motion for leave to join defendants (Doc. No. 31) is granted;(2) Jason Spears and Jimmy Rawson be added as defendants to this action;(3) the Clerk of the Court issue appropriate summons to defendants Jason Spears and Jimmy Rawson at the addresses provided by plaintiff in his motion for leave to join defendants (Doc. No. 31) as authorized by Fed. R. Civ. P. 4, and deliver the summons, the amended complaint, and a copy of this Order to the United States Marshal for personal service of process;(4) the United States Marshal attempt personal service of process of the summons, the amended complaint, and a copy of this Order upon defendants at the addresses provided;(5) defendants Jason Spears and Jimmy Rawson answer or otherwise respond to plaintiffs amended complaint within 20 days from the date of service as required by Fed. R. Civ. P. 12; and(6) plaintiffs motion for leave to amend his complaint (Doc. No. 32) is denied as moot. Signed by Judge Dean Whipple on September 20, 2007. (Maves, Melanie) (Entered: 09/20/2007)

09/21/2007		SUMMONS ISSUED as to Jason Spears, Jimmy Rawson. Summons, Amended Complaint (doc. no. 38) and Order (doc. no. 37) sent to US Marshal for personal service of process. (Mayes, Melanie) (Entered: 09/21/2007)
09/24/2007	<u>39</u>	CERTIFICATE OF SERVICE by Mike Kemna, - Green filed by Erica K. Bredehoft on behalf of Defendants Mike Kemna, - Green.(Bredehoft, Erica) (Entered: 09/24/2007)
10/01/2007	<u>40</u>	RETURN OF SERVICE of complaint executed for Jason Spears served on 9/25/2007 on Marilyn Spears, mother of defendant, answer due 10/15/2007. (Mayes, Melanie) (Entered: 10/01/2007)
10/04/2007	<u>41</u>	CERTIFICATE OF SERVICE by Mike Kemna, - Green <i>Def. Kemna's Response to 1st Interrogatories</i> filed by Erica K. Bredehoft on behalf of Defendants Mike Kemna, - Green.(Bredehoft, Erica) (Entered: 10/04/2007)
10/04/2007	<u>42</u>	MOTION for extension of time to complete discovery filed by Erica K. Bredehoft on behalf of Mike Kemna, - Green. Suggestions in opposition/response due by 10/19/2007 unless otherwise directed by the court. (Attachments: # <u>1</u> Exhibit Proposed Order)(Bredehoft, Erica) (Entered: 10/04/2007)
10/09/2007		RECEIPT number 260655 in the amount of \$31.50 issued to Marlan Penton. (Mayes, Melanie) (Entered: 10/10/2007)
10/09/2007	<u>47</u>	ORDER granting <u>42</u> motion for extension of time to complete discovery. Upon motion and for good cause shown (Doc. No. 42), it is ORDERED that defendants are granted an extension of time up to and including October 28, 2007, in which to file responses to plaintiffs First Interrogatories to Defendant Troy Green. Signed by Judge Dean Whipple on October 9, 2007. (Mayes, Melanie) (Entered: 10/10/2007)
10/10/2007	<u>43</u>	NOTICE of appearance by Erica K. Bredehoft on behalf of Jason Spears, Mike Kemna, - Green (Bredehoft, Erica) (Entered: 10/10/2007)
10/10/2007	<u>44</u>	<i>Defendant Spears'</i> ANSWER to Amended Complaint filed by Erica K. Bredehoft on behalf of Defendants Jason Spears, Mike Kemna, - Green.(Bredehoft, Erica) (Entered: 10/10/2007)
10/10/2007	<u>45</u>	Amended CERTIFICATE OF SERVICE OF INITIAL RULE 26 DISCLOSURES filed by Erica K. Bredehoft on behalf of Defendants Jason Spears, Mike Kemna, - Green.(Bredehoft, Erica) (Entered: 10/10/2007)
10/10/2007	<u>46</u>	CERTIFICATE OF SERVICE by Jason Spears, Mike Kemna, - Green <i>Response to Plaintiff's Request for Admissions</i> filed by Erica K. Bredehoft on behalf of Defendants Jason Spears, Mike Kemna, - Green.(Bredehoft, Erica) (Entered: 10/10/2007)
10/19/2007	<u>48</u>	Return of Service unexecuted as to Jimmy Rawson. US Marshal unable to locate individual. (Mayes, Melanie) (Entered: 10/19/2007)
10/19/2007	<u>49</u>	MOTION to appoint counsel filed by Marlon A Penton. (Mayes, Melanie) (Entered: 10/19/2007)
10/19/2007	<u>50</u>	CERTIFICATE OF SERVICE by Mike Kemna, - Green <i>"Defendants Response to Plaintiff's First Set of Interrogatories to Defendant Troy Green and Defendants' Response to Plaintiff's First Request for Admissions for Defendant Troy Green"</i> filed by Erica K. Bredehoft on behalf of Defendants Mike Kemna, - Green.(Bredehoft, Erica) (Entered: 10/19/2007)
10/23/2007	<u>51</u>	CERTIFICATE OF SERVICE by Jason Spears, Mike Kemna, - Green (<i>Defendants' First Request for Production of Documents to Plaintiff and Defendants' First</i>

		<i>Interrogatories to Plaintiff</i>) filed by Erica K. Bredehoft on behalf of Defendants Jason Spears, Mike Kemna, - Green.(Bredehoft, Erica) (Entered: 10/23/2007)
10/23/2007	<u>52</u>	MOTION for order Depose Plaintiff filed by Erica K. Bredehoft on behalf of Jason Spears, Mike Kemna, - Green. Suggestions in opposition/response due by 11/8/2007 unless otherwise directed by the court. (Bredehoft, Erica) (Entered: 10/23/2007)
10/23/2007	<u>53</u>	NOTICE to take deposition of Marlon A Penton filed by Erica K. Bredehoft on behalf of Defendants Jason Spears, Mike Kemna, - Green.(Bredehoft, Erica) (Entered: 10/23/2007)
10/23/2007	<u>54</u>	CERTIFICATE OF SERVICE by Jason Spears, Mike Kemna, - Green <i>Defendants' Supplemental Response to Plaintiff's Motion for Production of Documents</i> filed by Erica K. Bredehoft on behalf of Defendants Jason Spears, Mike Kemna, - Green. (Bredehoft, Erica) (Entered: 10/23/2007)
10/23/2007	<u>55</u>	MOTION to appoint counsel filed by Marlon A Penton. (Mayes, Melanie) (Entered: 10/24/2007)
10/25/2007	<u>56</u>	MOTION for order To Depose <i>Cushshon</i> filed by Erica K. Bredehoft on behalf of Jason Spears, Mike Kemna, - Green. Suggestions in opposition/response due by 11/9/2007 unless otherwise directed by the court. (Bredehoft, Erica) (Entered: 10/25/2007)
10/25/2007	<u>57</u>	NOTICE to take deposition of Lawrence Cushshon filed by Erica K. Bredehoft on behalf of Defendants Jason Spears, Mike Kemna, - Green.(Bredehoft, Erica) (Entered: 10/25/2007)
10/26/2007		SUMMONS REISSUED as to Jimmy Rawson. Summons, Amended Comp. (doc. no. 38) and Order (doc. no. 37) sent to US Marshal for personal service of process. (Mayes, Melanie) (Entered: 10/26/2007)
11/02/2007	<u>58</u>	RETURN OF SERVICE of complaint executed Jimmy Rawson served on 10/31/2007, answer due 11/20/2007. (Mayes, Melanie) (Entered: 11/02/2007)
11/03/2007	<u>59</u>	ORDER DIRECTING DEFENDANTS TO RESPOND. It is ORDERED that defendants file a response to plaintiffs motion for appointment of counsel (Doc. No. 49) within 20 days from the date of this Order in which they specifically address plaintiffs contention that defendants have refused to supply plaintiff with all necessary documentary evidence he has requested in his motion for production of documents. Signed by Judge Dean Whipple on November 3, 2007. (Mayes, Melanie) (Entered: 11/06/2007)
11/03/2007	<u>60</u>	ORDER granting <u>52</u> motion. Upon motion and for good cause shown, it is ORDERED that defendants are granted leave to depose plaintiff, Marlon A. Penton, Reg. No. 523331, pursuant to Fed. R. Civ. P. 30(a), at such date, place, and time as may be permitted by persons in charge of the custody of plaintiff. It is furtherORDERED that said deposition shall be taken before a notary public or some other officer authorized to administer oaths by the laws of the United States or of the State of Missouri, in accordance with the provisions of the Federal Rules of Civil Procedure. Signed by Judge Dean Whipple on November 3, 2007. (Mayes, Melanie) (Entered: 11/06/2007)
11/03/2007	<u>61</u>	ORDER granting <u>56</u> motion. ORDER GRANTING DEFENDANTS LEAVE TO DEPOSE INMATE. Upon motion and for good cause shown, it is ORDERED that defendants are granted leave to depose inmate, Lawrence Cushshon, Reg. No. 1028305, pursuant to Fed. R. Civ. P. 30(a), at such date, place, and time as may be permitted by persons in charge of Cushshons custody. It is furtherORDERED that said deposition shall be taken before a notary public or some other officer authorized to

		administer oaths by the laws of the United States or of the State of Missouri, in accordance with the provisions of the Federal Rules of Civil Procedure. Signed by Judge Dean Whipple on November 3, 2007. (Mayes, Melanie) (Entered: 11/06/2007)
11/07/2007	<u>62</u>	SUGGESTIONS in opposition re <u>49</u> MOTION to appoint counsel filed by Erica K. Bredehoft on behalf of Defendants Jason Spears, Mike Kemna, - Green. Reply suggestions due by 11/23/2007 unless otherwise directed by the court (Related document(s) <u>49</u>) (Bredehoft, Erica) (Entered: 11/07/2007)
11/07/2007		RECEIPT number 261192 in the amount of \$31.50 issued to Marlan Penton. (Mayes, Melanie) (Entered: 11/08/2007)
11/19/2007	<u>63</u>	NOTICE of appearance by Erica K. Bredehoft on behalf of Jason Spears, Jimmy Rawson, Mike Kemna, - Green (Bredehoft, Erica) (Entered: 11/19/2007)
11/19/2007	<u>64</u>	ANSWER to Amended Complaint filed by Erica K. Bredehoft on behalf of Defendants Jason Spears, Jimmy Rawson, Mike Kemna, - Green.(Bredehoft, Erica) (Entered: 11/19/2007)
11/19/2007	<u>65</u>	MOTION for extension of time filed by Marlon A Penton. (Mayes, Melanie) (Entered: 11/19/2007)
11/26/2007	<u>66</u>	CERTIFICATE OF SERVICE by Marlon A Penton for Plaintiff's Answers and Objections to Defendants' First Request for Production of Documents on behalf of Plaintiff Marlon A Penton.(Mayes, Melanie) (Entered: 11/26/2007)
11/26/2007	<u>67</u>	CERTIFICATE OF SERVICE by Marlon A Penton for Plaintiff's Answers and Objections to Defendants' First Set of Interrogatories on behalf of Plaintiff Marlon A Penton.(Mayes, Melanie) (Entered: 11/26/2007)
12/03/2007	<u>68</u>	RESPONSE to Defendants' Motion in Opposition to Plaintiff's Motion for Appointment of Counsel filed by Marlon A Penton.(Mayes, Melanie) (Entered: 12/04/2007)
12/04/2007	<u>69</u>	ORDER denying <u>49</u> motion to appoint counsel ; denying <u>55</u> motion to appoint counsel ; finding as moot <u>65</u> motion for extension of time. ORDER DENYING PLAINTIFFS MOTIONS. For the reasons set forth in defendants response thereto (Doc. No. 62), it is ORDERED that plaintiffs second motion for appointment of counsel (Doc. No. 55) is denied without prejudice.Because plaintiff has filed a response to defendants opposition (Doc. No. 68), it is further ORDERED that plaintiffs motion for an extension of time to do so (Doc. No. 65) is denied as moot. Signed by Judge Dean Whipple on December 4, 2007. (Mayes, Melanie) (Entered: 12/06/2007)
12/10/2007		RECEIPT number 261749 in the amount of \$11.50 issued to Marlan Penton. (Mayes, Melanie) (Entered: 12/12/2007)
01/02/2008	<u>70</u>	MOTION for summary judgment filed by Erica K. Bredehoft on behalf of Jason Spears, Jimmy Rawson, Mike Kemna, - Green. Suggestions in opposition/response due by 2/4/2008 unless otherwise directed by the court (Attachments: # <u>1</u> Exhibit A# <u>2</u> Exhibit B# <u>3</u> Exhibit C# <u>4</u> Exhibit D)(Bredehoft, Erica) (Entered: 01/02/2008)
01/07/2008	<u>71</u>	ORDER DIRECTING PLAINTIFF TO RESPOND. Accordingly, it is ORDERED that plaintiff respond to defendants motion for summary judgment within 20 days from the date of this Order or face dismissal of this case without further notice. Signed by Judge Dean Whipple on January 7, 2008. (Mayes, Melanie) (Entered: 01/07/2008)
01/08/2008		RECEIPT number 262236 in the amount of \$13.50 issued to Penton. (Mayes, Melanie) (Entered: 01/11/2008)

01/11/2008	<u>72</u>	MOTION for extension of time filed by Marlon A Penton. (Mayes, Melanie) (Entered: 01/14/2008)
01/22/2008	<u>73</u>	ORDER granting <u>72</u> motion for extension of time. ORDER GRANTING PLAINTIFF AN EXTENSION OF TIME TO RESPOND. Upon motion and for good cause shown (Doc. No. 72), it is ORDERED that plaintiff is granted an extension of time up to and including February 19, 2008, in which to file his response to defendants motion for summary judgment or face dismissal of this case without further notice. No further extensions of time will be granted absent a demonstration of extraordinary circumstances. Signed by District Judge Dean Whipple on January 22, 2008. (Mayes, Melanie) (Entered: 01/22/2008)
01/24/2008	<u>74</u>	SECOND MOTION for extension of time filed by Marlon A Penton. (Mayes, Melanie) (Entered: 01/25/2008)
01/30/2008	<u>75</u>	ORDER DIRECTING DEFENDANTS TO RESPOND. It is ORDERED that defendants file a response, on or before February 22, 2008, to plaintiffs motion for an extension of time, in which plaintiff contends, among other things, that defendants confiscated all of plaintiffs legal possessions needed to respond to defendants motion for summary judgment on January 14, 2008, and have refused to return them, severely prejudicing plaintiff in this case (Doc. No. 74). Signed by District Judge Dean Whipple on January 30, 2008. (Mayes, Melanie) (Entered: 01/30/2008)
02/04/2008	<u>76</u>	MOTION to compel discovery filed by Marlon A Penton. (Mayes, Melanie) (Entered: 02/04/2008)
02/07/2008	<u>77</u>	SUGGESTIONS in opposition re <u>76</u> MOTION to compel filed by Erica K. Bredehoft on behalf of Defendants Jason Spears, Jimmy Rawson, Mike Kemna, - Green. Reply suggestions due by 2/22/2008 unless otherwise directed by the court (Related document(s) <u>76</u>) (Bredehoft, Erica) (Entered: 02/07/2008)
02/08/2008	<u>78</u>	ORDER DIRECTING DEFENDANTS TO RESPOND. It is ORDERED that defendants file a response, within 20 days from the date of this Order, to plaintiffs motion to compel discovery (Doc. No. 76). Signed by District Judge Dean Whipple on February 8, 2008. (Mayes, Melanie) (Entered: 02/08/2008)
02/11/2008	<u>79</u>	Plaintiff's Third MOTION for extension of time to file response to defendants' Motion for Summary Judgment filed by Marlon A Penton. (Mayes, Melanie) (Entered: 02/11/2008)
02/13/2008		RECEIPT number 262861 in the amount of \$11.50 issued to Marlan Penton. (Mayes, Melanie) (Entered: 02/14/2008)
02/19/2008	<u>80</u>	SUGGESTIONS in opposition re <u>74</u> MOTION for extension of time filed by Erica K. Bredehoft on behalf of Defendants Jason Spears, Jimmy Rawson, Mike Kemna, - Green. Reply suggestions due by 3/5/2008 unless otherwise directed by the court (Attachments: # <u>1</u> Exhibit A Payne Affidavit)(Related document(s) <u>74</u>) (Bredehoft, Erica) (Entered: 02/19/2008)
02/19/2008	<u>81</u>	Plaintiff's REPLY to Defendants' response to Motion to Compel filed by Marlon A Penton.(Mayes, Melanie) (Entered: 02/19/2008)
02/21/2008	<u>82</u>	NOTICE of address correction by Marlon A Penton. Address incorrectly listed by Court as 2727 Highway 27. Correct address is 2727 Highway K. (Mayes, Melanie) (Entered: 02/21/2008)
02/21/2008		***Remark - Plaintiff address corrected. (Mayes, Melanie) (Entered: 02/21/2008)

		A Penton.(Mayes, Melanie) (Entered: 02/26/2008)
02/26/2008	<u>84</u>	Plaintiff's MEMORANDUM of Law in support of Response (doc. no. 83) filed by Marlon A Penton. (Attachments: # <u>1</u> Affidavit, # <u>2</u> Exhibit B-I, # <u>3</u> Exhibit J, # <u>4</u> Exhibit K, # <u>5</u> Exhibit L)(Mayes, Melanie) (Entered: 02/26/2008)
02/27/2008	<u>85</u>	ORDER denying <u>74</u> motion for extension of time; denying <u>76</u> motion to compel; denying <u>79</u> motion for extension of time. ORDER DENYING PLAINTIFFS MOTION TO COMPEL AND MOTIONS FOR EXTENSIONS OF TIME AND DIRECTING PLAINTIFF TO RESPOND TO DEFENDANTS MOTION FOR SUMMARY JUDGMENT. For the reasons set forth in defendants response thereto (Doc. No. 77), it is ORDERED that plaintiffs motion to compel (Doc. No. 76) is denied. It is further ORDERED that plaintiffs motions for further extensions of time (Doc. Nos. 74 and 79) are denied, see Doc. No. 80, and plaintiff is directed to file his response to defendants motion for summary judgment on or before March 17, 2008. No further extensions of time will be granted, and plaintiffs failure to comply may result in dismissal of this case without further notice. Signed by District Judge Dean Whipple on February 27, 2008. (Mayes, Melanie) (Entered: 02/27/2008)
02/28/2008	<u>86</u>	Plaintiff's REPLY to Defendants' Opposition to Plaintiff's Second motion for extension of time filed by Marlon A Penton.Related document(s) <u>80</u>) (Mayes, Melanie) (Entered: 03/03/2008)
03/04/2008	<u>87</u>	MOTION for extension of time filed by Erica K. Bredehoft on behalf of Mike Kemna. Suggestions in opposition/response due by 3/19/2008 unless otherwise directed by the court. (Bredehoft, Erica) (Entered: 03/04/2008)
03/07/2008		***Remark - Docket Sheet mailed to plaintiff as requested. (Mayes, Melanie) (Entered: 03/07/2008)
03/10/2008		RECEIPT number 263290 in the amount of \$33.91 issued to Marlan Penton. (Mayes, Melanie) (Entered: 03/12/2008)
03/12/2008	<u>88</u>	MOTION for leave to file supplement filed by Marlon A Penton. (Attachments: # <u>1</u> Supplement MOL)(Mayes, Melanie) (Entered: 03/12/2008)
03/12/2008	<u>89</u>	ORDER granting <u>87</u> motion for extension of time. ORDER GRANTING DEFENDANTS AN EXTENSION OF TIME TO FILE REPLY SUGGESTIONS. Upon motion and for good cause shown (Doc. No. 87), it is ORDERED that defendants are granted an extension of time up to and including March 28, 2008, in which to file their reply suggestions to defendants motion for summary judgment. Signed by District Judge Dean Whipple on March 12, 2008. (Mayes, Melanie) (Entered: 03/13/2008)
03/14/2008	<u>90</u>	Plaintiff's RESPONSE in objection to Defendants' Motion for extension of time to file summary judgment reply suggestions filed by Marlon A Penton.(Mayes, Melanie) (Entered: 03/17/2008)
03/18/2008	<u>91</u>	NOTICE of appearance by Kathleen Robertson on behalf of Jason Spears, Jimmy Rawson, Mike Kemna, - Green (Robertson, Kathleen) (Entered: 03/18/2008)
03/26/2008	<u>92</u>	MOTION for leave to file excess pages filed by Kathleen Robertson on behalf of Jason Spears, Jimmy Rawson, Mike Kemna, - Green. Suggestions in opposition/response due by 4/10/2008 unless otherwise directed by the court. (Robertson, Kathleen) (Entered: 03/26/2008)
03/28/2008	<u>93</u>	REPLY SUGGESTIONS to motion re <u>70</u> MOTION for summary judgment filed by Kathleen Robertson on behalf of Defendants Jason Spears, Jimmy Rawson, Mike

		Kemna, - Green. (Related document(s) <u>70</u>) (Robertson, Kathleen) (Entered: 03/28/2008)
03/28/2008	<u>94</u>	NOTICE of filing by Jason Spears, Jimmy Rawson, Mike Kemna, - Green <i>Notice of Exhibit Attachement</i> (Robertson, Kathleen) (Entered: 03/28/2008)
03/31/2008	<u>95</u>	ORDER granting <u>92</u> motion for leave to file excess pages. ORDER GRANTING DEFENDANTS MOTION TO FILE EXTENDED REPLY SUGGESTIONS IN SUPPORT OF SUMMARY JUDGMENT. Upon motion and for good cause shown (Doc. No. 92), it is ORDERED that defendants are granted leave to file reply suggestions in support of their motion for summary judgment in excess of 10 pages. Signed by District Judge Dean Whipple on March 31, 2008. (Mayes, Melanie) (Entered: 03/31/2008)
04/04/2008		RECEIPT number 263763 in the amount of \$17.50 issued to Marlan Penton. (Mayes, Melanie) (Entered: 04/09/2008)
04/23/2008	<u>96</u>	ORDER granting in part and denying in part <u>70</u> motion for summary judgment. Accordingly, it is ORDERED that:(1) defendant Mike Kemna is severed and dismissed as a defendant in this case; and(2) remaining defendants motion for summary judgment (Doc. No. 70) is denied. Signed by District Judge Dean Whipple on April 23, 2008. (Mayes, Melanie) (Entered: 04/23/2008)
05/01/2008	<u>97</u>	ORDER DIRECTING THE PARTIES TO RESPOND. On April 23, 2008, Mike Kemna was severed and dismissed as a defendant in this case, and remaining defendants motion for summary judgment was denied. It is ORDERED that plaintiff and remaining defendants show cause, within 20 days from the date of this Order, why this case should not be set for trial. Signed by District Judge Dean Whipple on May 1, 2008. (Mayes, Melanie) (Entered: 05/01/2008)
05/02/2008	<u>98</u>	MOTION to appoint counsel filed by Marlon A Penton. (Mayes, Melanie) (Entered: 05/05/2008)
05/07/2008		RECEIPT number 264279 in the amount of \$6.50 issued to Marlan Penton. (Mayes, Melanie) (Entered: 05/08/2008)
05/19/2008	<u>99</u>	Second MOTION to appoint counsel filed by Marlon A Penton. (Mayes, Melanie) (Entered: 05/19/2008)
05/19/2008	<u>100</u>	Plaintiff's RESPONSE filed by Marlon A Penton.Related document(s) <u>97</u>) (Mayes, Melanie) (Entered: 05/19/2008)
05/21/2008	<u>101</u>	RESPONSE to order re <u>97</u> Order, filed by Kathleen Robertson on behalf of Defendants Jason Spears, Jimmy Rawson, - Green. (Related document(s) <u>97</u>) (Robertson, Kathleen) (Entered: 05/21/2008)
06/17/2008		***Remark - Docket Sheet and payment history for filing fee mailed to plaintiff per letter received 6/16/2008. (Mayes, Melanie) (Entered: 06/17/2008)
06/19/2008		RECEIPT number 269466 in the amount of \$11.50 issued to Marlan Penton. (Mayes, Melanie) (Entered: 06/20/2008)
07/09/2008		RECEIPT number 269772 in the amount of \$42.34 issued to Marlan Penton. (Mayes, Melanie) (Entered: 07/10/2008)
08/27/2008	<u>102</u>	ORDER granting Plaintiffs Motion To Appoint Counsel (Doc. 98). Philip R. Gibson is hereby APPOINTED as counsel for Plaintiff Marlon A. Penton, Sr. Signed by District Judge Dean Whipple on 08/27/08. (Willis, Kathy) Copy mailed to Marlon A Penton, 523331. ERDCC. 2727 Highway K. Bonne Terre. MO 63628 on 8/28/2008

		(McDowell, Shelly). (Entered: 08/27/2008)
08/28/2008		***Remark - Attorney Philip R. Gibson has been added as attorney of record per Order <u>102</u> appointing CJA Counsel. (McDowell, Shelly) (Entered: 08/28/2008)
09/17/2008	<u>103</u>	Joint MOTION for protective order filed by Kathleen Robertson on behalf of Jason Spears, Jimmy Rawson, - Green. Suggestions in opposition/response due by 10/2/2008 unless otherwise directed by the court. (Robertson, Kathleen) (Entered: 09/17/2008)
09/19/2008	<u>104</u>	RESPONSE to order re <u>102</u> Order on Motion to Appoint Counsel,,, filed by Kathleen Robertson on behalf of Defendants Jason Spears, Jimmy Rawson, - Green. (Related document(s) <u>102</u>) (Robertson, Kathleen) (Entered: 09/19/2008)
10/01/2008	<u>105</u>	ORDER granting the parties Joint Motion for a Protective Order (Doc. 103). Signed by District Judge Dean Whipple on 10/01/08. (Willis, Kathy) (Entered: 10/01/2008)
10/06/2008	<u>107</u>	LETTER from Michael Stockdale requesting copy of docket sheet. (Baldwin, Joella) (Entered: 10/07/2008)
10/07/2008	<u>106</u>	TRIAL ORDER: Jury Trial set for 5/11/2009 at 9:00 AM in Courtroom 8B, Kansas City, before Judge Dean Whipple. Signed by District Judge Dean Whipple on 10/07/08. (Attachments: # <u>1</u> Pretrial Memo Form) (Willis, Kathy) Modified on 10/7/2008 (Willis, Kathy). (Entered: 10/07/2008)
11/03/2008	<u>108</u>	NOTICE to take deposition of Marlon Penton filed by Kathleen Robertson on behalf of Defendants Jason Spears, Jimmy Rawson, - Green.(Robertson, Kathleen) (Entered: 11/03/2008)
11/24/2008	<u>109</u>	MOTION to continue <i>Trial Date</i> filed by Kathleen Robertson on behalf of Jason Spears, Jimmy Rawson, - Green. Suggestions in opposition/response due by 12/9/2008 unless otherwise directed by the court. (Attachments: # <u>1</u> Exhibit Letter from Sgt. Gray)(Robertson, Kathleen) (Entered: 11/24/2008)
11/25/2008	<u>110</u>	ORDER granting <u>109</u> motion to continue. Three-day jury trial rescheduled for May 18, 2009. All other pretrial deadlines set forth in the Trial Order remain unchanged. Signed by District Judge Dean Whipple on 11/25/08. (Willis, Kathy) (Entered: 11/25/2008)
12/01/2008	<u>111</u>	NOTICE to take deposition of Jimmy Rawson filed by Phillip R. Gibson on behalf of Plaintiff Marlon A Penton.(Gibson, Phillip) (Entered: 12/01/2008)
01/08/2009	<u>112</u>	MOTION for disbursement of funds <i>from the Court's Bar Fund for payment of deposition expenses</i> filed by Phillip R. Gibson on behalf of Marlon A Penton. Suggestions in opposition/response due by 1/23/2009 unless otherwise directed by the court. (Gibson, Phillip) (Entered: 01/08/2009)
01/08/2009	<u>113</u>	Amended MOTION for disbursement of funds <i>for payment of deposition expenses</i> filed by Phillip R. Gibson on behalf of Marlon A Penton. Suggestions in opposition/response due by 1/23/2009 unless otherwise directed by the court. (Gibson, Phillip) (Entered: 01/08/2009)
02/26/2009	<u>114</u>	LETTER from Marlon Penton requesting copy of docket sheet. Docket sheet mailed to Mr. Penton. (McDowell, Shelly) (Entered: 02/26/2009)
03/10/2009	<u>115</u>	NOTICE of change of address by Marlon A Penton to Crossroads Correctional Center (Travers, Phyllis) (Entered: 03/11/2009)
03/12/2009	<u>116</u>	ORDER denying Plaintiff's Motion and Amended Motion to Approve and Pay Litigation Expenses (Docs. 112 and 113). Signed by District Judge Dean Whipple on

		03/12/09. (Willis, Kathy) (Entered: 03/12/2009)
03/12/2009	<u>117</u>	Supplemental CERTIFICATE OF SERVICE OF INITIAL RULE 26 DISCLOSURES filed by Kathleen Robertson on behalf of Defendants - Green, Jimmy Rawson, Jason Spears.(Robertson, Kathleen) (Entered: 03/12/2009)
03/13/2009	<u>118</u>	CERTIFICATE OF SERVICE by - Green, Jimmy Rawson, Jason Spears " <i>Certificate of Service of Defendants' Second Supplemental Rule 26 Disclosures</i> " filed by Kathleen Robertson on behalf of Defendants - Green, Jimmy Rawson, Jason Spears.(Robertson, Kathleen) (Entered: 03/13/2009)
03/13/2009	<u>119</u>	NOTICE of change of address by Marlon A Penton (McDowell, Shelly) (Entered: 03/13/2009)
03/27/2009	<u>120</u>	DESIGNATION of <i>DEPOSITIONS</i> by - Green, Jason Spears. (Robertson, Kathleen) (Entered: 03/27/2009)
03/27/2009	<u>121</u>	PRETRIAL MEMORANDUM by - Green, Jason Spears. (Robertson, Kathleen) (Entered: 03/27/2009)
03/30/2009	<u>122</u>	NOTICE of appearance by Ryan Bertels on behalf of - Green, Jimmy Rawson, Jason Spears (Bertels, Ryan) (Entered: 03/30/2009)
03/30/2009	<u>123</u>	OBJECTIONS (non motions) re <u>120</u> DESIGNATION of <i>deposition testimony</i> . Related document: <u>120</u> DESIGNATION filed by - Green, Jason Spears.(Gibson, Phillip) (Entered: 03/30/2009)
04/09/2009	<u>124</u>	MOTION in limine filed by Kathleen Robertson on behalf of - Green, Jason Spears. Suggestions in opposition/response due by 4/24/2009 unless otherwise directed by the court. (Robertson, Kathleen) (Entered: 04/09/2009)
04/10/2009	<u>125</u>	PROPOSED VOIR DIRE by - Green, Jimmy Rawson, Jason Spears. (Bertels, Ryan) (Entered: 04/10/2009)
04/10/2009	<u>126</u>	PROPOSED JURY INSTRUCTIONS by - Green, Jason Spears. (Bertels, Ryan) (Entered: 04/10/2009)
04/14/2009	<u>127</u>	MOTION for Writ of Habeas Corpus ad testificandum <i>for Marlan Penton, Sr.</i> filed by Phillip R. Gibson on behalf of Marlon A Penton. Suggestions in opposition/response due by 4/29/2009 unless otherwise directed by the court. (Gibson, Phillip) (Entered: 04/14/2009)
04/14/2009	<u>128</u>	MOTION for Writ of Habeas Corpus ad testificandum <i>for Lawrence Cushshon</i> filed by Phillip R. Gibson on behalf of Marlon A Penton. Suggestions in opposition/response due by 4/29/2009 unless otherwise directed by the court. (Gibson, Phillip) (Entered: 04/14/2009)
04/20/2009	<u>129</u>	ORDER GRANTING Motion for Writ of Habeas Corpus Ad Testificandum (Doc. 127) as to MARLAN A. PENTON, SR. Signed by District Judge Dean Whipple on 04/20/09. (Willis, Kathy) (Main Document 129 replaced on 4/20/2009) (Willis, Kathy). (Main Document 129 replaced on 4/20/2009) (Willis, Kathy). (Entered: 04/20/2009)
04/20/2009	<u>130</u>	ORDER FOR WRIT OF HABEAS CORPUS AD TESTIFICANDUM (Doc. 128) as to Lawrence Cushshon. Signed by District Judge Dean Whipple on 04/20/09. (Willis, Kathy) (Entered: 04/20/2009)
04/21/2009	<u>131</u>	RULES OF TRIAL. Signed by District Judge Dean Whipple on 04/21/09. (Willis, Kathy) Copy mailed to Marlon A Penton, 523331, CROSSROADS

		CORRECTIONAL CENTER, HU-1-216-Bwing, 1115 E. Pence Road, Cameron, MO 64429 on 4/22/2009 (McDowell, Shelly). (Entered: 04/21/2009)
04/24/2009	<u>132</u>	TRIAL BRIEF by - Green, Jason Spears. (Robertson, Kathleen) (Entered: 04/24/2009)
05/17/2009	<u>133</u>	PROPOSED JURY INSTRUCTIONS by Marlon A Penton. (Gibson, Phillip) (Entered: 05/17/2009)

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