

Darryl Dunsmore
(Name)
1173 Front St
(Address)
San Diego Ca 92101
(City, State, Zip)
19777041
(CDC Inmate No.)

FILED
Jul 23 2020
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY s/ JenniferS DEPUTY

**United States District Court
Southern District of California**

Darryl Dunsmore
(Enter full name of plaintiff in this action.)

Plaintiff,

v.

State of California, Gavin Newsom
San Diego County Prosecutor, Bill Gate
Office of Assigned Counsel Michael
Garcia, Jackie Braden, Craig Jeff
(Enter full name of each defendant in this action.)

Xavier Becerra Defendant(s).
John Doe et al

3-20-CV-00406-AJB-WVG

Case No. _____
(To be supplied by Court Clerk)

FIRST AMENDED
Complaint under the
Civil Rights Act
42 U.S.C. § 1983

URGENT

A. Jurisdiction

Jurisdiction is invoked pursuant to 28 U.S.C. § 1343(a)(3) and 42 U.S.C. § 1983. If you wish to assert jurisdiction under different or additional authority, list them below.

B. Parties

1. Plaintiff: This complaint alleges that the civil rights of Plaintiff,

(print Plaintiff's name) Darryl Dunsmore, who presently resides at

1173 Front St San Diego Ca 92101, (mailing address or place of confinement)
were violated by the actions

of the below named individuals. The actions were directed against Plaintiff at San Diego

County Jail on (dates) 12/16 Thru, and 4/15/20
(institution/place where violation occurred) (Count 1) (Count 2) (Count 3)

2. Defendants: (Attach same information on additional pages if you are naming more than 4 defendants.)

Defendant Gavin Newsom resides in California
(name) (County of residence)
and is employed as a Governor
(defendant's position/title (if any))

his/her ☒ individual ☒ official capacity. (Check one or both.) Explain how this defendant was acting

under color of law: to Govern of The State of California
has enacted or Disregarded The Const or Laws
Causing injury to Plaintiff Supported Harmful Policies.

Defendant Bill Gore resides in San Diego
(name) (County of residence)
and is employed as a Sheriff
(defendant's position/title (if any))

his/her ☒ individual ☒ official capacity. (Check one or both.) Explain how this defendant was acting

under color of law: is Sheriff of San Diego and Supported policies
That are Contrary to Law & Const Failed to train Supervise
Employees Resulting in injury to Plaintiff

Defendant Kevin Faulconer resides in San Diego
(name) (County of residence)
and is employed as a Mayer
(defendant's position/title (if any))

his/her ☒ individual ☒ official capacity. (Check one or both.) Explain how this defendant was acting

under color of law: is Mayer of San Diego has supported policies
That are Contrary to Law & Const Failed to train
Supervise employees causing injury to plaintiff.

Defendant Michael Garcia resides in San Diego
(name) (County of residence)
and is employed as a DIRECTOR OAC
(defendant's position/title (if any))

his/her ☒ individual ☒ official capacity. (Check one or both.) Explain how this defendant was acting

under color of law: Has Directed County Jail employees to
Obstruct Court access in violation of plaintiff
Const Right to Meaningful access To The
Court

2. Defendants: (Attach same information on additional pages if you are naming more than 4 defendants.)

Defendant Xavier Becerra resides in California,
(name) (County of residence)

and is employed as a Attorney General. This defendant is sued in
(defendant's position/title (if any))

his/her ☒ individual ☐ official capacity. (Check one or both.) Explain how this defendant was acting under

color of law: is violating the 1972 Gilmore v Lynch injunction
Through fraud by failing to establish meaningful access
to the Court in county Jail San Diego

Defendant Dakota Brandon resides in San Diego,
(name) (County of residence)

and is employed as a Pro Per Admin. This defendant is sued in
(defendant's position/title (if any))

his/her ☒ individual ☐ official capacity. (Check one or both.) Explain how this defendant was acting under

color of law: Directed Jail employees to deny plaintiff
Pro Per Court Access obstructing meaningful
access to Court in violation of Const

Defendant Craig Left resides in San Diego,
(name) (County of residence)

and is employed as a Public Defender. This defendant is sued in
(defendant's position/title (if any))

his/her ☒ individual ☐ official capacity. (Check one or both.) Explain how this defendant was acting under

color of law: is acting as counsel despite conflict of
interest in order to provide an effective assistance
and deny plaintiff Relief and protect self from liabilities

Defendant San Diego resides in San Diego,
(name) (County of residence)

and is employed as a County Municipal. This defendant is sued in
(defendant's position/title (if any))

his/her ☐ individual ☒ official capacity. (Check one or both.) Explain how this defendant was acting under

color of law: Has Allowed elected officials to violate
The Law and Const causing injury to plaintiff

2. Defendants: (Attach same information on additional pages if you are naming more than 4 defendants.)

Defendant California resides in California,
(name) (County of residence)
and is employed as a State. This defendant is sued in
(defendant's position/title (if any))

his/her ☐ individual ☒ official capacity. (Check one or both.) Explain how this defendant was acting under

color of law: Has allowed elected officials to violate
The law and const numerous plaintiff

Defendant John Doe resides in _____,
(name) (County of residence)
and is employed as a _____. This defendant is sued in
(defendant's position/title (if any))

his/her ☒ individual ☒ official capacity. (Check one or both.) Explain how this defendant was acting under
color of law: _____

Defendant _____ resides in _____,
(name) (County of residence)
and is employed as a _____. This defendant is sued in
(defendant's position/title (if any))

his/her ☐ individual ☐ official capacity. (Check one or both.) Explain how this defendant was acting under
color of law: _____

Defendant _____ resides in _____,
(name) (County of residence)
and is employed as a _____. This defendant is sued in
(defendant's position/title (if any))

his/her ☐ individual ☐ official capacity. (Check one or both.) Explain how this defendant was acting under
color of law: _____

4.822

C. Causes of Action (You may attach additional pages alleging other causes of action and the facts supporting them if necessary.)

Count 1: The following civil right has been violated: right To Medical Care
(E.g., right to medical care, access to courts,

due process, free speech, freedom of religion, freedom of association, freedom from cruel and unusual punishment, etc.)

Supporting Facts: [Include all facts you consider important to Count 1. State what happened clearly and in your own words. You need not cite legal authority or argument. Be certain to describe exactly what each defendant, by name, did to violate the right alleged in Count 1.]

The State of California and The County of San Diego have established Policy or law which violates Plaintiff's right To medical Care by establishing best practices policy which Contradicts existing constitutional standards and laws UPON Transfer and Admission To San Diego County Jail My ADA Appliances were confiscated and Many have not been returned or Substituted My Medical Diet Discontinued My Diabetic insulin injections Discontinued My ADA Chronos for assistance ignored My Chrono for Personal Shower ignored Plaintiff was Placed in an Isolation Cell which plaintiff came from at California Health Care Facility Because I am on auto immune suppression Therapy High risk Medical, Totally Disabled Due to Ankylosing spondylitis and Parkinson's. Although There is a shower in The cell Employees under The Supervision of Bill Gore Have Failed or refused To repair or Maintain Said Shower and refuse to do so ever Though Plaintiff came with Medical Directive and Chronos for Said Shower Due To on going

Risks of Skin infections when plaintiff uses Public Restrooms and showers which jeopardize Plaintiff's Auto immune suppression Therapy and can cause The Death of Plaintiff Despite This knowledge by employees under The supervision of Bill Gore have attempted to entice Plaintiff into public showers and have refused To Turn on Personal Shower. for 120 days Plaintiff has been Denied a Shower and appropriate Hygiene Grievances are ignored internal Affairs correspondence ignored

UPON Arrival at San Diego County Jail My ADA Appliances were Confiscated and only My eating spoon was provided I Have Hard appliances because The loss of use of Arms and Hands with out such appliances I need assistance To eat, write, Brush Teeth etc or Cover My Self To eat like an animal

Because My Medical Diet was Discontinued I was forced To use My ADA spoon To prepare Items To safely eat Because I have Dysphagia and I am at risk of Choking on Food

Count 1

I ended up Breaking my spoon and was forced to eat like an animal for atleast 30 days Because staff could not replace my spoon I ended up choking on my food I pushed The emergency Button on The wall and Discovered Said button was nooperable Broken. Staff found Me Choking on The floor Assisted Me up placed Me in my Bed and told me if I did That again They would Put me on suicide watch. I Complained About My spoon broken and other Hand appliances and They finally placed an order for Those Items I ended up repairing My spoon by Breaking my water pitcher Handle using a paperclip, Homemade Tape and Plastic Homemade string so I could Prepare my food to safely eat another 30 days passed and finally The replacement spoon arrived but it was for babies and inadequate for my use because it was too small I am still forced to use My repaired spoon and My Medical Diet Denied

On Several occasions I requested Assistance
Because I have Said Choro For Daily assistance
again I was Threatened To be placed on
Suicide watch which prompted me to fix
My spoon Somehow

under The welfare and institutions code I
am a Developmentally Disabled adult and
Have Difficulty communicating and staff
under The supervision of Bill gone take
advantage of plaintiff and offer abuse
him because of plaintiffs inability to
articulate his concerns for relief

Threatening me with psychotropic meds
or The rubber room because plaintiff
offer has what they wish to open tantrums
Because plaintiff is forced to act out
after suffering abuse in order to call
The Attention of a Supervisor in order to
end abuse by staff Because grievances
are ignored or Disgarded

plaintiff came with a 3 tier locker
shelf Choro and a grabber and a
Choro Concerning restricted lifting

Count 1

Both Items have been Denied and plaintiff
Has been force to have all his Personal Items
on The floor said activities cause a
Tear in plaintiff Stomach of which The
Doctor stated was a lateral Hernia Reasonable
Medical Care for a lateral Hernia is prompt
surgical intervention when plaintiff Complained
He was again threatened with Rubber room
Then another Dr gave Different opinion and
Gave me Belt To hold Stomach in Because
it Bulging out Belly Button Causing
intenal pain in groin

Said Best Practices Supported by B.H
Coore are unconstitutional and Deprive
Plarntiff of reasonable Medical Care, Deny
accountability have and are injuring plaintiff
both physically and Mentally are a Violation
of P.C. 2651, 2652, 2653, 147, 2650, 673
368, 2656 Plaintiff has made abuse Allegation
to Dr and Dr has failed To follow
Procedure under PC 11160 and file report
Dr has failed to follow procedure in
P.C. 2656 and return ADA Appliances or
Provide Document for Petition to Court
for return of ADA Appliances

Count 2: The following civil right has been violated: Meaningful access to Court
(E.g., right to medical care, access to courts, due process, free speech, freedom of religion, freedom of association, freedom from cruel and unusual punishment, etc.)

Supporting Facts: [Include all facts you consider important to Count 2. State what happened clearly and in your own words. You need not cite legal authority or argument. Be certain to describe exactly what each defendant, by name, did to violate the right alleged in Count 2.]

Plaintiff is a state prisoner and has been engaged in collateral litigation concerning his sentence and entitled to meaningful access to the court. Plaintiff was transferred to San Diego County Jail with 17 boxes of litigation upon arrival. SD Supp. Confiscated all my legal material. My ADA writing utensils and withheld them from me for 90 days effectively destroying my collateral attack litigation. Plaintiff has complained of obstruction of the court for 10 years at least by both county and state in violation of previous injunction order Gilmore v Lynch (NO Oct 16 1972) in that order Defendants agreed to the injunction order concerning meaningful access but by fraud have failed to perform those duties and in fact indulged in complete denial of plaintiff's court right to meaningful access while in county custody. To copying services, mail services, legal research services, complaint forms, Habeas unless you are deemed pro per only on your criminal case and only if the court approves. Denial of Trust statements in order to obtain pro per status by the court. Then Denial of Pro Per status anyways. Plaintiff was finally.

Count 3: The following civil right has been violated: ADA DISCRIMINATION

Granted relief in Appeal D074656 on Reversal of Case 215653 acknowledging Plaintiff has been suffering an illegal sentence which resulted in plaintiff suffering a longer sentence than authorized

Plaintiff was Denied Truly Due process on Remand in case D07645 for 7 years and for 8 years Plaintiff has raised The obstruction of Court access in case 215653 HSC 11201 as well as The illegal sentence and further raised it in actions to The Dist Court. Said obstruction has injured Case 215653 D074656 Denying plaintiff of Due process rights he was otherwise entitled too Motion for New trial Motion to vacate, Motion for exculpatory Discovery, objections etc of which no Counsel wishes to address after 13 years Nor The Court leaving Plaintiff to litigate for himself on collateral attack

elective official Bill Gore, Gavin Newson Xavier Becerra, Kevin Faulconer are all aware of Plaintiff's Court right to meaningful access and have failed or refused to Supervise

Count 2

Train, Develop policies for County facilities
According to The 1972 injunction order The
Cal Const and The United States Const have
fraudulently misled The Courts concerning
their adherence to The 1972 injunction order
wacted policies to undermine Const Due
Process rights and meaningful access to The
Courts and plaintiffs Const Habeas rights
further injuring each and every collateral attack
by causing The wrongful dismissal of each
action that argue The meritious claim now
reconised in case 0074656

Every Habeas filed under 11201 or 215653
or other Designated Number totaling atleast
22 State Habeas But Not unit too

Every Civil action 37-2018 00037606
CU-PN-CTL Not Unit to This case The
Defendants in Case 37-2018-00037606-CU-PN-
CTL Office of Assigned Counsel Michael
Garcia, Craig Left, Jackie Brader are
under The supervision of The elected officials
above who over see The Pro Per Services
for The Court Directed employees of
The San Diego County Sheriffs Dept to

Deny Plaintiff all legal access by order of
Defendant Michael Garcia Dir of OAC
Through and by Jackie Bricker of OAC
The Defendants also named in This Complaint
Then re assigned Counsel Craig left to
my re sentence case who clearly has
a Conflict of interest and was clearly
ineffective in previous sentencing which
resulted in The reversal case D074656

The Defendants Continue to obstruct My
Court access even Though This case is now
deemed pro per and This court has notified
The watch commander of Such Denying
Plaintiff The ability to Articulate This
claim and most likely resulting in another
Dismissal The Defendants further Denied
Plaintiff his ADA Percol or other means
To correspond with The Courts Only Because
Plaintiff was able to finally adapt and
Construct one is plaintiff Now able to
write to The Courts

due process, free speech, freedom of religion, freedom of association, freedom from cruel and unusual punishment, etc.)

Supporting Facts: [Include all facts you consider important to Count 3. State what happened clearly and in your own words. You need not cite legal authority or argument. Be certain to describe exactly what each defendant, by name, did to violate the right alleged in Count 3.]

On Arrival To The San Diego County Jail all my ADA Appliances were taken many have not been returned or replaced Plaintiff is being kept in basically administrative Segregation on The Basis of his Disabilities 24 hr 7 days a week denied all programming work opportunity, education, yard maybe once a month, Shower Hygiene Because he has Disabilities That require him to be housed in Medical room and Assistance needs Dressing etc and That he is High Risk On April 3 2020 Defendant Bill Gore Admitted in a union Tribune Article and was notified by Contractual agencies That Best practices are harming high risk medical patients and That such activities for High risk Patients are Discriminating and yet has failed or refused to direct order train Develop programming That does not Discriminate against High risk patient such as plaintiff Plaintiff complains he should be afforded The Same programming regardless of Housing Furthermore The Violation by employees who took plaintiff ADA Devices contrary to Penal Code 2656 Have caused injury

D. Previous Lawsuits and Administrative Relief

To The plaintiff by way of a Hernia or other injury causing plaintiff to suffer undue physical pain Mental Health Trauma in Violation of P.C. 368, 2652, 2653

Bill Gore Has failed or refused to Train supervise The Maintenance of of The San Diego County Jail emergency Bottom in Cell 20 3rd floor causing plaintiff to be Denied Prompt Medical Attention from Choking which resulted from The inability refusal or Derelict of employees under his care to replace AOA Spoon which still has not been replaced

Employees have failed or refused to return or replace AOA writing instrument resulting in dismissal of Collateral attack Cases Habeas petition, civil litigation

Employees under Bill Gore have failed or refused to provide AOA Toothbrush denying Plaintiff Dental Hygiene

Employees under Bill Gore have failed or refused to provide AOA Shower causing Plaintiff to be Denied physical Hygiene

for 120 days and Have attempted to
despachize his Auto immune suppression Therapy
with use of public Showers contrary to
Medical Documentation

Employees under Bill Gore have refused
or failed to provide ADA shelving and
his grabber resulting in a tear in my
stomach, Hemoa or other injury and
refuse appropriate Medical attention for
injury

Employees refuse to provide ADA assistance
and have Threaten plaintiff with The
rubber room or Suicide watch for
requesting

Plaintiff is Denied sheets for his bed
The Vinyl on The Bed is deteriorated
soiled and is unable to be Disinfected
Plaintiff at no time has presented Himself
to be a Danger to himself or other or
used any device to justify The taking
of sheets or any ADA Device or acted
in a rude Manner to Staff To Deny him
Assistance Services

Doctors under The policy of Best practices supported by Bill Gore are in violation of The law and Govt failing to provide form according to PC 2656 To Address The Govt for return of Appliances refuse to file Dependant adult abuse reports concerning allegations by plaintiff per PC 11160

(d) **GROUND FOUR:**

cruel & unusual punishment
Deliberate indifference

Supporting FACTS:

The Supporting facts are outlined in Counts 1-3 Through Best practices Bill Gore has allowed and is allowing The cruel & unusual punishment of plaintiff already resulting in injury, pain suffering Premature Progression of pre existing conditions Mental Anguish Despite acknowledging publicly that such practices have been and are causing premature Death and injury to high risk patients such as Plaintiff and has failed to take emergency actions indifferent to The Possible Death or further injury to Plaintiff

Did you raise GROUND FOUR in the California Supreme Court?

☒ Yes ☐ No.

If yes, answer the following:

- (1) Nature of proceeding (i.e., petition for review, habeas petition):
- (2) Case number or citation:
- (3) Result (attach a copy of the court's opinion or order if available):

ALL

UNAVAILABLE

Obstruction

1. Have you filed other lawsuits in state or federal courts dealing with the same or similar facts involved in this case? ☒ Yes ☐ No.

If your answer is "Yes", describe each suit in the space below. [If more than one, attach additional pages providing the same information as below.]

(a) Parties to the previous lawsuit:

Plaintiffs: Darryl Dismore

Defendants: ATC Michael Garcia Graig left John Dole

(b) Name of the court and docket number: Superior court

(c) Disposition: [For example, was the case dismissed, appealed, or still pending?] _____

Pending Amendment

(d) Issues raised: Misrepresentation fraud in effective

Assistance

(e) Approximate date case was filed: 2018

(f) Approximate date of disposition: Pending Amendment

2. Have you previously sought and exhausted all forms of informal or formal relief from the proper administrative officials regarding the acts alleged in Part C above? [E.g., CDC Inmate/Parolee Appeal Form 602, etc.] ? ☒ Yes ☐ No.

If your answer is "Yes", briefly describe how relief was sought and the results. If your answer is "No", briefly explain why administrative relief was not sought.

Graveyard to
all levels including state claim and
internal affairs

E. Request for Relief

Plaintiff requests that this Court grant the following relief: Denying Pro Per library access

1. An injunction preventing defendant(s): obstructing meaningful access Denial of ADA Appliances Denial of reasonable Medical including prompt surgical intervention for injury to Stomach Not Repair room Shower
2. Damages in the sum of \$ 60,000,000.00
3. Punitive damages in the sum of \$ 60,000,000.00
4. Other: Trouble damages Defendants know Plaintiff to be a Defendant adult

F. Demand for Jury Trial

Plaintiff demands a trial by ☒ Jury ☐ Court. (Choose one.)

G. Consent to Magistrate Judge Jurisdiction

In order to insure the just, speedy and inexpensive determination of Section 1983 Prisoner cases filed in this district, the Court has adopted a case assignment involving direct assignment of these cases to magistrate judges to conduct all proceedings including jury or bench trial and the entry of final judgment on consent of all the parties under 28 U.S.C. § 636(c), thus waiving the right to proceed before a district judge. The parties are free to withhold consent without adverse substantive consequences.

The Court encourages parties to utilize this efficient and expeditious program for case resolution due to the trial judge quality of the magistrate judges and to maximize access to the court system in a district where the criminal case loads severely limits the availability of the district judges for trial of civil cases. Consent to a magistrate judge will likely result in an earlier trial date. If you request that a district judge be designated to decide dispositive motions and try your case, a magistrate judge will nevertheless hear and decide all non-dispositive motions and will hear and issue a recommendation to the district judge as to all dispositive motions.

You may consent to have a magistrate judge conduct any and all further proceedings in this case, including trial, and the entry of final judgment by indicating your consent below.

Choose only one of the following:

☐ Plaintiff consents to magistrate judge jurisdiction as set forth above.

OR

☒ Plaintiff requests that a district judge be designated to decide dispositive matters and trial in this case.

Date


Signature of Plaintiff