

CLOSED

U.S. District Court
Northern District of New York – Main Office (Syracuse) [LIVE – Version 6.1]
(Utica)
CIVIL DOCKET FOR CASE #: 6:92-cv-00579-LEK-GJD

Cunningham, et al v. Coughlin, et al
Assigned to: Senior Judge Lawrence E. Kahn
Referred to: Magistrate Judge Gustave J. DiBianco
Demand: \$0
Cause: 42:1983 Prisoner Civil Rights

Date Filed: 05/05/1992
Date Terminated: 08/09/1999
Jury Demand: None
Nature of Suit: 550 Prisoner: Civil Rights
Jurisdiction: Federal Question

Plaintiff

Oscar Cunningham
*on his own behalf and on behalf of all
other inmates similarly situated*

represented by **James M. Bogin**
Prisoners' Legal Services – Albany Office
41 State Street
M112
Albany, NY 12207
518-438-8046
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Eric Williams
*on his own behalf and on behalf of all
other inmates similarly situated*

represented by **James M. Bogin**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Plaintiff

Greg Henson
*on his own behalf and on behalf of all
other inmates similarly situated*

represented by **James M. Bogin**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant

Thomas A. Coughlin
*individually in his capacity as
Commissioner of the Department of
Corrections*
TERMINATED: 09/26/1995

represented by **Deirdre Rooney**
Office of Attorney General
State of New York
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518-474-8370 (Main)
Fax: 518-473-1572
TERMINATED: 09/26/1995
LEAD ATTORNEY
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Defendant

Robert Greifinger
*individually in his capacity as Assistant
Commissioner for Health Services*
TERMINATED: 09/26/1995

represented by **Deirdre Rooney**
(See above for address)
TERMINATED: 09/26/1995
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

represented by

William McMahon

*individually in his capacity as Chairman
of the New York State Commission of
Corrections
TERMINATED: 09/26/1995*

Deirdre Rooney

(See above for address)
*TERMINATED: 09/26/1995
LEAD ATTORNEY
ATTORNEY TO BE NOTICED*

Defendant**Philip Coombe, Jr.**

*Individually in his capacity as
Commissioner of the Department of
Corrections*

represented by **David B. Roberts**
Office of Attorney General – Albany
State of New York
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Deirdre Rooney

(See above for address)
*TERMINATED: 08/27/1997
LEAD ATTORNEY
ATTORNEY TO BE NOTICED*

Defendant**Terrence Flannery**

*Individually in his capacity as Assistant
Commissioner for Health Services*

represented by **David B. Roberts**
(See above for address)
*LEAD ATTORNEY
ATTORNEY TO BE NOTICED*

Deirdre Rooney

(See above for address)
*TERMINATED: 08/27/1997
LEAD ATTORNEY
ATTORNEY TO BE NOTICED*

Defendant**Edmund B. Wutzer**

*Individually in his capacity as Chairman
of the New York State Commission of
Corrections*

represented by **David B. Roberts**
(See above for address)
*LEAD ATTORNEY
ATTORNEY TO BE NOTICED*

Deirdre Rooney

(See above for address)
*TERMINATED: 08/27/1997
LEAD ATTORNEY
ATTORNEY TO BE NOTICED*

Date Filed	#	Docket Text
05/05/1992	1	COMPLAINT filed; FILING FEE \$ 120.00 RECEIPT # 9890 ; Service deadline 7/6/92 for William W. McMahon, for Robert Greifinger, for Thomas A. Coughlin III (wbl) (Entered: 05/05/1992)
05/05/1992		SUMMONS(ES) issued for Thomas A. Coughlin III, Robert Greifinger, William W. McMahon (wbl) (Entered: 05/05/1992)
05/05/1992		CASE REFERRED to Magistrate Judge Gustave J. DiBianco (wbl) (Entered: 05/05/1992)
05/05/1992	2	REQUEST for Production of Documents by Oscar Cunningham, Eric Williams, Greg Henson (wbl) (Entered: 05/05/1992)

05/05/1992	3	MOTION on submission before Mag. DiBianco by Oscar Cunningham, Eric Williams, Greg Henson to Certify Class , Hearing set for 9:30 6/5/92 , Response Deadline 5/22/92 , Reply to Response Deadline 5/29/92 (wbl) Modified on 05/18/1992 (Entered: 05/05/1992)
05/05/1992	3	AFFIDAVIT of John Charles by Oscar Cunningham, Eric Williams, Greg Henson Re: [3-1] motion to Certify Class (wbl) (Entered: 05/05/1992)
05/05/1992	4	MEMORANDUM by Oscar Cunningham, Eric Williams, Greg Henson in support of [3-1] motion to Certify Class (wbl) (Entered: 05/05/1992)
05/08/1992	5	SUMMONS Returned Executed as to Thomas A. Coughlin III, Robert Greifinger, William McMahon on 5/5/92 : Answer due on 5/26/92 for William McMahon, for Robert Greifinger, for Thomas A. Coughlin III (cbm) (Entered: 05/12/1992)
06/19/1992	6	Stipulation and ORDER granting [3-1] motion to Certify Class, set Answer deadline to 6/25/92 for William McMahon, for Robert Greifinger, for Thomas A. Coughlin III , set Response to Request for Production of Documents deadline to 6/25/92 (signed by Magistrate Judge Gustave J. DiBianco 6/18/92) [served] (cbm) (Entered: 06/19/1992)
06/23/1992	7	ANSWER to Complaint by Thomas A. Coughlin III, Robert Greifinger, William McMahon (Attorney Deirdre Roney), (cbm) (Entered: 06/24/1992)
12/08/1992	8	Rule 16 Scheduling Order Issued. Discovery Deadline 5/7/93 ; Motion Filing Deadline 6/16/93 (Signed by Magistrate Judge Gustave J. DiBianco) (fce) (Entered: 12/10/1992)
03/25/1993	9	ANSWER to Interrogatories and Request for Production of Documents filed by Thomas A. Coughlin III, Robert Greifinger, William McMahon (fce) (Entered: 03/25/1993)
05/03/1993	11	Minute entry: Telephone conference with Mag. Judge DiBianco. Extensive discussion about issues and background of case. Discovery extended five months; discovery closes 9/30/93 and motions close 11/30/93. Appearances: Steve Latimer, Esq. & Karen Murtagh-Monks, Esq. for Plaintiff; Deidre Roney, AAG for Deft. (kmg) (Entered: 08/27/1993)
05/04/1993	10	Second REQUEST for Production of Documents and Interrogatories by Oscar Cunningham, Eric Williams, Greg Henson (fce) (Entered: 05/04/1993)
10/04/1993	12	REQUEST from Karen L. Mukrtagh-Monks, Esq., counsel for Pltf., dated 9/28/94, reset Discovery deadline to 11/30/94 . SO ORDERED: (signed by Magistrate Judge Gustave J. DiBianco) (fce) Modified on 10/08/1993 (Entered: 10/08/1993)
10/08/1993		Deadline updated; reset Discovery deadline to 11/30/94 (fce) (Entered: 10/08/1993)
05/13/1994	13	Plaintiffs' ANSWER to Defendants' Second set of Interrogatories and request for production of documents. (fce) (Entered: 05/13/1994)
07/22/1994	14	Third REQUEST for Production of Documents and Interrogatories by Oscar Cunningham, Eric Williams, Greg Henson (fce) (Entered: 07/26/1994)
11/15/1994	15	STIPULATION REQUEST and ORDER, reset Discovery deadline to 6/30/95 signed on 11/11/94 by Magistrate Judge Gustave J. DiBianco) (fce) (Entered: 11/15/1994)
11/22/1994	16	MINUTE ENTRY of TELEPHONE CONFERENCE with Magistrate Judge DiBianco - APP: Joanne Macri, Law Graduate on behalf of the Pltf(s). and Deirdre Roney, Esq. on behalf of the Deft(s). RULINGS: (1) "Interview" of DOCS employees re: functioning of ventilation system should NOT be done unless counsel for DOCS is present. (2) Parties to arrange follow-up telephone conference week of 11/28/94 if necessary. (dmf) (Entered: 11/23/1994)
12/09/1994	17	FOURTH REQUEST for Production of Documents by Oscar Cunningham, Eric Williams, Greg Henson (fce) (Entered: 12/09/1994)
12/12/1994	18	Pltfs' 5th REQUEST for Production of Documents (cbm) (Entered: 12/13/1994)
12/21/1994	19	REQUEST for Production of Documents by Oscar Cunningham, Eric Williams, Greg Henson (fce) (Entered: 12/21/1994)

02/10/1995	20	ORDER, Re: discovery by pltfs' expert, Ward Duel, who will be permitted to conduct tours of selected correctional facilities , defts shall make available an individual who is familiar w/the ventilation system at each tour , and at each facility defts shall make available an individual who is familiar w/that ventilation system for the purpose of being deposed. Inspections and depositions are set for: Mid-Statea Corrctional Facility – 10 a.m. on Wed., 2/22/95; Maracy Correctional Facility – 10:00 a.m. on Fri., 2/24/95; Orleans Correctional Facility – 10:00 a.m. on Wed., 3/1/95; and Albion Correctional Facility – 10:00 a.m. on Fri., 3/3/95. (signed by Magistrate Judge Gustave J. DiBianco) (fce) (Entered: 02/13/1995)
02/10/1995	22	Minute entry: TELEPHONE CONFERENCE WITH MAG. JUDGE DI BIANCO. Various rulings made. Order submitted. Appearances: James M. Bogin, Esq. & Sherry Maxwell, Esq. for Plaintiffs; Deidre Roney, AAG for Defts. (kmg) (Entered: 02/22/1995)
02/17/1995	21	TRANSCRIPT of Examination Before Trail of a N on-Party Witness, Dr. George Diferdinando filed for dates of 10/27/94 (fce) (Entered: 02/17/1995)
03/17/1995	24	Minute entry: TELEPHONE CONFERENCE WITH MAG. JUDGE DI BIANCO. RULINGS: 1. Tour of Collins Correctional Facility to go forward within next three weeks. AAG Roney to have another AAG accompany inspection team. Atty. General's office may videotape the inspection and testing by plaintiff's expert. 2. Parties to attempt agreement on whether Adirondack Correctional Facility needs to be "inspected". APPEARANCES: James Bogin, Esq. & Sherry Maxwell, Esq. for Plaintiffs; Deidre Roney, AAG for Defts. (kmg) (Entered: 03/23/1995)
03/23/1995	23	SEVENTH REQUEST for Production of Documents by Oscar Cunningham, Eric Williams, Greg Henson (fce) (Entered: 03/23/1995)
05/17/1995	25	MOTION by Oscar Cunningham, Eric Williams, Greg Henson to Compel with Affirmation of James M. Bogin in support of motion and miscellaneous papers attached Hearing set for 6/16/95 , Response Deadline 6/2/95 , Reply to Response Deadline 6/9/95 Motion returnable before Judge/Mag. Judge: DiBianco (fce) (Entered: 05/17/1995)
05/17/1995	26	MEMORANDUM of Law by plaintiffs in support of [25-1] motion to Compel with Affirmation of James M. Bogin in support of motion (fce) (Entered: 05/17/1995)
06/05/1995	27	EIGHTH REQUEST for Production of Documents by Oscar Cunningham, Eric Williams, Greg Henson (fce) (Entered: 06/07/1995)
06/05/1995	28	Minute entry: TELEPHONE CONFERENCE WITH MAG. JUDGE DI BIANCO. APPEARANCES: James M. Bogin, Esq. & Cheryl Maxwell, Esq. for Plaintiffs; Deidre Roney, AAG for Defts. RULINGS: 1. AAG Roney to serve answers to discovery requests by 6/16/95. 2. If any problems, e.g. incomplete or missing documents – telephone conference to be scheduled; no motions before telephone conference. (kmg) (Entered: 06/13/1995)
06/16/1995	29	AFFIRMATION of Deirdre Roney by Thomas A. Coughlin III, Robert Greifinger, William McMahon in Opposition to Re: [25-1] motion to Compel with Affirmation of James M. Bogin in support of motion and miscellaneous papers attached (wbl) (Entered: 06/16/1995)
06/16/1995	30	MOTION by AAG, Deirdre Roney for Thomas A. Coughlin III, Robert Greifinger, William McMahon to substitution of certain defendants (before Hon. DiBianco) . Motion returnable before Mag. Judge DiBianco (fce) (Entered: 07/14/1995)
07/13/1995	31	LETTER REQUEST, dated6/29/95, and ORDER, Response to Motion reset to 7/28/95 for [30-1] motion to substitution of certain defendants (before Hon. DiBianco) (signed on 7/13/95 by Magistrate Judge Gustave J. DiBianco) (fce) (Entered: 07/14/1995)
08/07/1995	32	ORDER denied as moot [25-1] motion to Compel, and denied motion for attys' fees. (signed on 8/7/95 by Magistrate Judge Gustave J. DiBianco) (fce) (Entered: 08/08/1995)
09/08/1995	33	MINUTE ENTRY of Telephone Conference with Magistrate Judge DiBianco – APP: Karen L. Murtagh-Monks, Esq. on behalf of the Pltf. and Deirdre Roney, Esq. on

		behalf of the Deft. – RULINGS: Discovery conference held. (dmf) (Entered: 09/15/1995)
09/26/1995	34	ORDER granting [30–1] motion for substitution of certain defendants.) (signed on 9/25/95 by Magistrate Judge Gustave J. DiBianco) (fce) (Entered: 09/27/1995)
05/03/1996	35	Minute entry: TELEPHONE CONFERENCE WITH MAG. JUDGE DI BIANCO. RULINGS: Discovery conference held; order to be submitted. APPEARANCES: James Bogin, Esq. for Plaintiff; Deidre Roney, AAG for Deft. (kmg) (Entered: 05/16/1996)
05/14/1996	36	ORDER, That defts shall provide to pltfs' counsel medical records for the following inmates: Jose Arroyo, 91–R–7445; Norman Butts, 92–B–2778; H. Colbert, 91–R–0504; and George Rivera, 90–T–0233. Ward Duel shall prepare a Report based on his inspections of certain NYS correctional facilities, and a copy shall be provided to defense counsel. The deadline for completing discovery shall be EXTENDED, and all discovery requiring the expenditure of money shall be stayed pending resolution of Prisoners' Legal Services' current budget crisis. and terminated deadlines (signed on 5/14/96 by Magistrate Judge Gustave J. DiBianco) (fce) (Entered: 05/21/1996)
08/05/1996		CASE reassigned to Judge Lawrence E. Kahn (fce) (Entered: 08/06/1996)
08/05/1996	37	ORDER, transferring case from J. Cholakis to J. Kahn (signed by Chief Judge Thomas J. McAvoy) (fce) (Entered: 08/06/1996)
08/27/1997	38	ORDER, that both parties shall submit to the court a WRITTEN status report – set Status Report deadline to 9/15/97 (signed by Magistrate Judge Gustave J. DiBianco, on 8/27/97) (fce) (Entered: 08/29/1997)
09/15/1997	39	Letter to court from pltfs' attorney Bogin, dd 9/12/97, noting that defts Coughlin, Greifinger and McMahon (named in 8/27/97 order) have been replaced as defts by Philip Coombe, Terrence Flannery and Edmund Wutzer. (cbm) (Entered: 09/16/1997)
09/15/1997	40	Pltfs' STATUS REPORT, submitted in compliance with Judge DiBianco's 8/27/97 order. (cbm) (Entered: 09/16/1997)
10/14/1998	41	Scheduling Notice:, set Jury Trial for 9:30 on 3/22/99 in Albany, NY before USDJ Kahn.(signed by Scott Snyder on 10/14/98) (fce) (Entered: 10/19/1998)
12/07/1998	42	Scheduling Notice:, reset Jury Trial for 9:30 on 3/22/99 in Auburn, NY. (signed by Scott Snyder on 12/7/98) (fce) (Entered: 12/07/1998)
01/26/1999	43	ORDER ON CONSENT pursuant to rule 23(e), notice to the class of proposed discontinuance. (signed by Judge Lawrence E. Kahn on 1/25/99) (fce) (Entered: 01/28/1999)
02/10/1999	45	LETTER to USDJ Kahn from Lynn Sullivan dd 2/8/99 re: objects to the proposed Stip/Order discontinuing action. (fce) (Entered: 02/16/1999)
02/11/1999	44	LETTER to USDJ Kahn from Angel Cuadrado dd 2/7/99 re: that Mr. Cuadrado objects to the proposed Stip/Order. (fce) (Entered: 02/16/1999)
02/11/1999	46	LETTER to USDJ Kahn from Ebrima Kassama dd 2/5/99 re: objects to the proposed Stip/Order. (fce) (Entered: 02/16/1999)
02/16/1999	47	LETTER to USDJ Kahn from Patrick Jennings dd 2/16/99 re: the double–bunking issue. (fce) (Entered: 02/18/1999)
02/17/1999	48	LETTER to USDJ Kahn from Samuel Jackson dd 2/10/99 re: in opposition to the proposed Stip/Order dismissing this case. (fce) (Entered: 02/18/1999)
02/19/1999	50	NOTICE by William Thomas objects to the Stip/Order discon. action. (fce) Modified on 02/25/1999 (Entered: 02/23/1999)
02/22/1999	49	NOTICE by Charles Davis objects to the Stip/Order discon. action. (fce) Modified on 02/25/1999 (Entered: 02/23/1999)
02/22/1999	49	NOTICE by Carmelo Difede objects to the Stip/Order discon. action. (fce) Modified on 02/25/1999 (Entered: 02/23/1999)

02/22/1999	49	NOTICE by R.D. Moore objects to the Stip/Order discon. action. (fce) Modified on 02/25/1999 (Entered: 02/23/1999)
02/22/1999	49	NOTICE by George Carmoega objects to the Stip/Order discon. action. (fce) Modified on 02/25/1999 (Entered: 02/23/1999)
02/22/1999	49	NOTICE by Valentin Warren objects to the Stip/Order discon. action. (fce) Modified on 02/25/1999 (Entered: 02/23/1999)
02/22/1999	49	NOTICE by General Shaw objects to the Stip/Order discon. action. (fce) Modified on 02/25/1999 (Entered: 02/23/1999)
02/22/1999	49	NOTICE by Henry Hough objects to the Stip/Order discon. action. (fce) Modified on 02/25/1999 (Entered: 02/23/1999)
02/22/1999	49	NOTICE from Darren Brown objects to Stip/Order discon. action. (fce) Modified on 02/25/1999 (Entered: 02/23/1999)
02/22/1999	49	NOTICE by Kenneth Crippen objects to the Stip/Order discon. action. (fce) Modified on 02/25/1999 (Entered: 02/23/1999)
02/22/1999	49	NOTICE by Frank Love objects to the Stip/Order discon. action. (fce) Modified on 02/25/1999 (Entered: 02/23/1999)
02/22/1999	49	NOTICE by Kirk McIntosh objects to the Stip/Order discon. action. (fce) Modified on 02/25/1999 (Entered: 02/23/1999)
02/22/1999	49	NOTICE by Michael Simon objects to the Stip/Order discon. action re: double-bunking. (fce) Modified on 02/25/1999 (Entered: 02/23/1999)
02/22/1999	49	NOTICE by James Duffy objects to the Stip/Order discon. action. (fce) Modified on 02/25/1999 (Entered: 02/23/1999)
02/22/1999	49	NOTICE by James Johnson objects to the Stip/Order discon. action. (fce) Modified on 02/25/1999 (Entered: 02/23/1999)
02/22/1999	49	NOTICE by James Harris objects to the Stip/Order discon. action. (fce) Modified on 02/25/1999 (Entered: 02/23/1999)
02/22/1999	49	NOTICE by Louis Martina objects to the Stip/Order discon. action. (fce) Modified on 02/25/1999 (Entered: 02/23/1999)
02/23/1999	51	NOTICE by Angel Tores objects to the Stip/Order discon. action re: double-bunking. (fce) (Entered: 02/23/1999)
02/25/1999	52	NOTICE by Willie Tom objects to the proposed Stip/Order discon. this action. (fce) Modified on 02/25/1999 (Entered: 02/25/1999)
03/01/1999	53	NOTICE from Vincent Smith to the court dd 2/22/99 re: in opposition to double bunking. (fce) (Entered: 03/01/1999)
03/01/1999	54	NOTICE from R. Miller to the court re: in support of the proposed Stip/Order discon. action. (fce) (Entered: 03/01/1999)
03/01/1999	55	NOTICE from Michael Minton to the court re: that a judgment be entered. (fce) (Entered: 03/01/1999)
03/01/1999	56	NOTICE in opposition to proposed Stip/Order by the following inmates: Gonzalez, Sturiale, Carter, Cabrera,Bowen,Lugo,Gordon,Smith, Bruce,Ramirez,Reeves,Smalls, Penny, Henry,Bates,Smith, Arrington, Jackson, Gonzalez,Miller, John,Nieves, Hamlett and Mislá. (fce) (Entered: 03/02/1999)
03/01/1999	57	NOTICE in support of Stip/Order discontinuing action by the following inmates: Kraker,James,McCary,Crowder,Simmons,White,McEleen, Jones, Atkins, Harkless, and Richards. (fce) (Entered: 03/02/1999)
03/04/1999	58	NOTICE from Jalone Davis and Eddie Thomas dd 2/24/99 objects to the proposed Stip/Order discontinuing action. (fce) Modified on 03/04/1999 (Entered: 03/04/1999)
03/04/1999	60	NOTICE from Brian Johnston and Jamel Dennis in support of the proposed Stip/Order discontinuing action. (fce) (Entered: 03/05/1999)

03/04/1999	61	NOTICE from Carlton Francis in objection to the proposed Stip/Order discontinuing action. (fce) (Entered: 03/05/1999)
03/05/1999	59	NOTICE from John Freeman to the court re: overcrowded jail cells. (fce) (Entered: 03/05/1999)
03/05/1999	62	NOTICE from Anthony Tyler in support of the proposed Stip/Order discontinuing action. (fce) (Entered: 03/08/1999)
03/08/1999	63	NOTICE from Brooks,Perry,Shanahan,Holmes,Jackson,Green,Fagan, Delgado, Williams,Montgomery,Black,Alicia and Davis in support of the proposed Stip/Order discontinuing action. (fce) (Entered: 03/08/1999)
03/08/1999	64	NOTICE from Andre Oreckinto objects to the proposed Stip/Order discontinuing action. (fce) (Entered: 03/08/1999)
03/15/1999	65	NOTICE from Raymond Jones to the court re: in support of the proposed Stip/Order discontinuing action. (fce) (Entered: 03/16/1999)
03/15/1999	66	REPORT of pltfs' counsel regarding comments from the pltf class on the proposed Stip/Order discontinuing action. (fce) (Entered: 03/16/1999)
05/13/1999	67	NOTICE from R. Bate in opposition to double-bunking. (fce) (Entered: 05/13/1999)
08/09/1999	68	STIPULATION & ORDER Dismissing action pursuant to Rule 23(e) . (signed by Judge Lawrence E. Kahn on 8/9/99) Date Entered: 8/9/99 (fce) (Entered: 08/09/1999)
08/09/1999		Case closed (fce) (Entered: 08/09/1999)