

CLOSED

U.S. District Court
EASTERN DISTRICT OF NORTH CAROLINA (Western Division)
CIVIL DOCKET FOR CASE #: 5:06-ct-03018-H

Brown v. Beck et al
Assigned to: Judge Malcolm J. Howard
Cause: 28:1983 Civil Rights

Date Filed: 02/27/2006
Date Terminated: 05/17/2006
Jury Demand: None
Nature of Suit: 535 Death Penalty - Habeas
Corpus
Jurisdiction: Federal Question

Plaintiff

Willie Brown, Jr.

represented by **J. Donald Cowan, Jr.**
Smith Moore
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Raleigh, NC 27601
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

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ATTORNEY TO BE NOTICED

V.

Defendant

Theodis Beck

represented by **James Peeler Smith**
NC Dept. of Justice
P. O. Box 629
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919-716-6833
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Thomas James Pitman

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Defendant

Marvin Polk

represented by **James Peeler Smith**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Thomas James Pitman
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Unknown Executioners

Date Filed	#	Docket Text
02/27/2006	1	COMPLAINT against Theodis Beck, Marvin Polk, Unknown Executioners (Filing fee \$ 250 receipt number 104 21559.), filed by Willie Brown, Jr. (Attachments: # 1 Exhibit A to Complaint# 2 Civil Cover Sheet)(Cowan, J.) (Entered: 02/27/2006)
02/27/2006	6	Summons Issued as to Theodis Beck, Marvin Polk. (Deputy Clerk, GM) (Entered: 03/07/2006)
02/28/2006	2	MOTION for Preliminary Injunction by Willie Brown, Jr. (Cowan, J.) (Entered: 02/28/2006)
02/28/2006	3	Memorandum in Support re 2 MOTION for Preliminary Injunction filed by Willie Brown, Jr. (Attachments: # 1 Exhibit A - Page/Rouse/Perkins Grievance Documents# 2 Exhibit B - State's Emergency Petition, State v. Hunt# 3 Exhibit C - Redacted NC Licensing Documents# 4 Exhibit D - Unpublished Cases# 5 Exhibit E - Excerpts from Depo. of Marvin Polk# 6 Exhibit F - Affidavit of Dr. Mark J. S. Heath# 7 Exhibit G - Affidavit of Philip G. Boysen# 8 Exhibit H - Affidavit of Dr. Kevin Concannon# 9 Exhibit I - Affidavit of Nancy Bruton-Maree# 10 Exhibit J - Affidavit of Cynthia F. Adcock# 11 Exhibit K - Affidavit of Heather Wells# 12 Exhibit L - Affidavit of Kim Stevens)(Cowan, J.) (Entered: 02/28/2006)
02/28/2006	9	SUMMONS Returned Executed Theodis Beck served on 2/27/2006, answer due 3/19/2006; Marvin Polk served on 2/27/2006, answer due 3/19/2006. (Deputy

		Clerk, GM) (Entered: 03/08/2006)
03/01/2006	4	NOTICE of Appearance by Laura Murray Loyek on behalf of Willie Brown, Jr (Loyek, Laura) (Entered: 03/01/2006)
03/03/2006	5	Order to Particularize Complaint to submit information to the court to show whether or not plaintiff had exhausted available administrative remedies at the time he filed the complaint and Response due by 3/13/2006.. Signed by Judge Malcolm J. Howard on 3/3/2006. (Deputy Clerk, GM) (Entered: 03/03/2006)
03/07/2006	10	MOTION to Dismiss by Theodis Beck, Marvin Polk. (Deputy Clerk, GM) (Entered: 03/09/2006)
03/07/2006	11	Memorandum in Support re 10 MOTION to Dismiss by Theodis Beck, Marvin Polk. (Attachments: # 1 Exhibit)(Deputy Clerk, GM) (Entered: 03/09/2006)
03/08/2006	7	MOTION for Leave to File <i>Amended Complaint</i> by Willie Brown, Jr. (Attachments: # 1 Exhibit A - Amended Complaint with exhibits)(Loyek, Laura) (Entered: 03/08/2006)
03/08/2006	8	RESPONSE to Order re 5 Order to Particularize Complaint, filed by Willie Brown, Jr. (Attachments: # 1 Exhibit A - Emergency Grievance# 2 Exhibit B - Grievance Response (Step 1 and Step 2)# 3 Exhibit C - Page, Rouse & Perkins Grievance Responses# 4 Exhibit D - Grievance Examiner's Final Decision)(Loyek, Laura) (Entered: 03/08/2006)
03/09/2006	12	ORDER directing any responses re 7 MOTION for Leave to File <i>Amended Complaint</i> filed by Willie Brown, Jr. to be filed on or before 3/14/2006. Signed by Judge Malcolm J. Howard on 3/9/2006. (Deputy Clerk, GM) (Entered: 03/09/2006)
03/10/2006	13	RESPONSE in Opposition re 7 MOTION for Leave to File <i>Amended Complaint</i> filed by Theodis Beck, Marvin Polk. (Attachments: # 1 Exhibit Hargett Order)(Pitman, Thomas) (Entered: 03/10/2006)
03/13/2006	14	RESPONSE in Opposition re 10 MOTION to Dismiss filed by Willie Brown, Jr. (Attachments: # 1 Exhibit A - Page v. Beck Order Nov. 30, 2004# 2 Exhibit B - Rowsey v. Beck Order Jan. 20, 2004)(Loyek, Laura) (Entered: 03/13/2006)
03/13/2006	15	REPLY to Response to Motion re 7 MOTION for Leave to File <i>Amended Complaint</i> filed by Willie Brown, Jr. (Loyek, Laura) (Entered: 03/13/2006)
03/15/2006	16	ORDER dismissing as moot 7 Motion for Leave to amend, amended complaint is deemed filed as of the date of the filing of plaintiff's motion and denying 10 Motion to Dismiss . Signed by Judge Malcolm J. Howard on 3/15/2006. (Deputy Clerk, GM) (Entered: 03/15/2006)
03/15/2006	17	ORDER Scheduling Conference set for 3/27/2006 01:00 PM before Judge Malcolm J. Howard in Greenville. Signed by Judge Malcolm J. Howard on 3/15/2006. (Deputy Clerk, GM) (Entered: 03/15/2006)
03/20/2006	18	First MOTION for Leave to File Excess Pages <i>Memo Opposing Preliminary Injunction</i> by Theodis Beck, Marvin Polk. (Attachments: # 1 Text of Proposed Order Exceed Page Limit)(Pitman, Thomas) (Entered: 03/20/2006)

03/20/2006	19	Second MOTION to Dismiss <i>Amended Complaint</i> by Theodis Beck, Marvin Polk. Responses due by 3/20/2006 (Pitman, Thomas) (Entered: 03/20/2006)
03/20/2006	20	Memorandum in Opposition <i>Motion for Preliminary Injunction</i> filed by Theodis Beck, Marvin Polk. (Attachments: # 1 Exhibit Exhibit List# 2 Affidavit Polk Affidavit# 3 Affidavit Beck Affidavit# 4 Exhibit Baze Case Report)(Pitman, Thomas) (Entered: 03/20/2006)
03/21/2006	21	AFFIDAVIT re 20 Memorandum in Opposition <i>Ex 3 (Dershwitz Aff) -Transmission Failure With Initial Filing</i> by Theodis Beck, Marvin Polk, Theodis Beck, Marvin Polk filed by Theodis Beck, Marvin Polk, Theodis Beck, Marvin Polk. (Pitman, Thomas) (Entered: 03/21/2006)
03/22/2006	22	NOTICE by Willie Brown, Jr of <i>Filing</i> (Attachments: # 1 Order Setting Date of Execution)(Loyek, Laura) (Entered: 03/22/2006)
03/22/2006	24	ORDER granting 18 Motion for Leave to File Excess Pages . Signed by Judge Malcolm J. Howard on 3/22/2006. (Deputy Clerk, GM) (Entered: 03/23/2006)
03/23/2006	23	MOTION for Leave to File Excess Pages by Willie Brown, Jr. (Attachments: # 1 Text of Proposed Order Granting Motion to Exceed Page Limit)(Loyek, Laura) (Entered: 03/23/2006)
03/23/2006	25	ORDER granting 23 Motion for Leave to File Excess Pages . Signed by Judge Malcolm J. Howard on 3/23/2006. (Deputy Clerk, GM) (Entered: 03/23/2006)
03/27/2006	26	ORDER hearing on motion for injunctive relief set for 4/6/2006 09:00 AM in Greenville before Judge Malcolm J. Howard.. Signed by Judge Malcolm J. Howard on 3/27/2006. (Deputy Clerk, GM) (Entered: 03/28/2006)
03/27/2006	27	ORDER denying 19 Motion to Dismiss and motion for reconsideration . Signed by Judge Malcolm J. Howard on 3/27/2006. (Deputy Clerk, GM) (Entered: 03/28/2006)
04/03/2006	28	REPLY to Response to Motion re 2 MOTION for Preliminary Injunction filed by Willie Brown, Jr. (Attachments: # 1 Exhibit A - Diagram of Execution Area# 2 Exhibit B - McHone Toxicology Report# 3 Exhibit C - Syriani Toxicology Report# 4 Exhibit D - Boyd Toxicology Report# 5 Exhibit E - Simpson Toxicology Report# 6 Exhibit F - Excerpts from Deposition of Marvin Polk# 7 Exhibit G - Excerpts from Deposition of Theodis Beck# 8 Exhibit H - Second Affidavit of Dr. Mark J. S. Heath# 9 Exhibit I - Second Affidavit of Nancy Bruton-Maree, CRNA# 10 Exhibit J - Second Affidavit of Dr. Kevin Concannon)(Loyek, Laura) (Entered: 04/03/2006)
04/05/2006	29	AFFIDAVIT in Opposition re 18 First MOTION for Leave to File Excess Pages <i>Memo Opposing Preliminary Injunction</i> filed by Theodis Beck, Marvin Polk. (Attachments: # 1 Notice of Filing (Dershwitz Second Affidavit)# 2)(Pitman, Thomas) (Entered: 04/05/2006)
04/06/2006	30	Minute Entry for proceedings held before Judge Malcolm J. Howard: Motion Hearing held on 4/6/2006 re 2 MOTION for Preliminary Injunction filed by Willie Brown, Jr. Present for pla-Donald Cowan, Laura Loyek, deft-Thomas Pittman, James Smith. Court hears arguments from counsel. Defts offer exhibit 1. Court takes matter under advisement-written order to follow. Total hrg time: 3 hrs. (S.

		Foell, clk) (Court Reporter Harry Hagopian) (Deputy Clerk, SDF) (Entered: 04/06/2006)
04/06/2006		NOTICE OF DEFICIENCY re: 29 Affidavit in Opposition to Motion Document filed as an affidavit. If filing as a Notice of Filing, the Notice of Filing selection should be used. Affidavit was not signed or notarized. (Deputy Clerk, GM) (Entered: 04/06/2006)
04/07/2006	31	AFFIDAVIT in Opposition re 2 MOTION for Preliminary Injunction <i>Substitute Dershwitz Second Affidavit</i> filed by Theodis Beck, Marvin Polk. (Pitman, Thomas) (Entered: 04/07/2006)
04/07/2006	32	ORDER denying 2 Motion for Preliminary Injunction. Accordingly, the Court hereby conditionally DENIES plaintiff's motion for preliminary injunction and plaintiff's execution may proceed as scheduled on April 21, 2006 on the condition that there are present and accessible to plaintiff throughout the execution personnel with sufficient medical training to ensure the plaintiff is in all respects unconscious prior to and at the time of the administration of any pancuronium bromide or potassium chloride. ccys served by fax and by mail 4/7/2006. Signed by Judge Malcolm J. Howard on 4/7/2006. (Deputy Clerk, DH) (Entered: 04/07/2006)
04/11/2006		TRANSCRIPT of Proceedings held on April 6, 2006 before Judge Malcolm J. Howard. Court Reporter: Harold M. Hagopian. (Deputy Clerk, GM) (Entered: 04/17/2006)
04/12/2006	33	RESPONSE to Order re 32 Order on Motion for Preliminary Injunction,, filed by Theodis Beck, Marvin Polk. (Attachments: # 1 Affidavit Dershwitz Third Affidavit# 2 Affidavit Polk Second Affidavit)(Pitman, Thomas) (Entered: 04/12/2006)
04/14/2006	34	RESPONSE re 33 Response filed by Willie Brown, Jr. (Attachments: # 1 Exhibit Kentucky Transcript# 2 Exhibit Rebuttal of Dershwitz# 3 Errata Heath Third Affidavit# 4 Exhibit Heath Third Affidavit, part 2# 5 Exhibit Heath Third Affidavit, part 3# 6 Exhibit Heath Third Affidavit part 4# 7 Exhibit Heath Third Affidavit part 5# 8 Exhibit Heath Third Affidavit part 6# 9 Exhibit Heath Third Affidavit, part 7# 10 Exhibit Heath Third Affidavit part 8# 11 Exhibit Heath Third Affidavit part 9# 12 Errata Heath Third Affidavit part 10# 13 Exhibit Heath Third Affidavit part 11# 14 Exhibit Heath Third Affidavit part 12# 15 Exhibit Heath Third Affidavit part 13# 16 Exhibit Heath Third Affidavit part 14# 17 Exhibit Heath Third Affidavit part 15# 18 Exhibit Heath Third Affidavit part 16# 19 Exhibit Heath Third Affidavit part 17# 20 Exhibit Heath Third Affidavit part 18# 21 Exhibit Heath Third Affidavit part 19# 22 Exhibit Heath Third Affidavit part 20# 23 Exhibit Heath Third Affidavit part 21# 24 Exhibit Heath Third Affidavit part 22# 25 Exhibit Heath Third Affidavit part 23# 26 Exhibit Heath Third Affidavit part 24# 27 Errata Heath Third Affidavit part 25# 28 Exhibit Heath Third Affidavit part 26# 29 Exhibit Heath Third Affidavit part 27# 30 Exhibit Heath Third Affidavit part 28# 31 Exhibit Heath Third Affidavit part 29# 32 Exhibit Heath Third Affidavit part 30# 33 Exhibit Heath Third Affidavit part 31# 34 Errata Heath Third Affidavit part 32# 35 Exhibit Heath Third Affidavit part 33# 36 Exhibit Boysen Second Affidavit# 37 Exhibit Maree Third Affidavit# 38 Exhibit Kelley Affidavit)(Loyek, Laura) (Entered: 04/14/2006)

04/17/2006	35	FINAL ORDER denying re 2 MOTION for Preliminary Injunction filed by Willie Brown, Jr. Signed by Judge Malcolm J. Howard on 4/17/2006. (Deputy Clerk, AI) (Entered: 04/17/2006)
04/17/2006	36	NOTICE OF APPEAL by Willie Brown, Jr. Filing fee \$ 455. (Loyek, Laura) (Entered: 04/17/2006)
04/18/2006	37	NOTICE of filing on 4/19/06 of motion and application to intervene by James Chapman French (Deputy Clerk, AI) (Entered: 04/18/2006)
04/19/2006	38	NOTICE of future filings to take place on 4/20/06 by James Chapman French. (Deputy Clerk, AI) (Entered: 04/20/2006)
04/19/2006		USCA Appeal Fees received \$ 455 receipt number 105 25757 re 36 Notice of Appeal filed by Willie Brown, Jr. (Deputy Clerk, GM) (Entered: 04/20/2006)
04/20/2006	39	MOTION to Intervene by James Chapman French. (no signature) (Attachments: # 1 Unsigned Memo in Support# 2 Verified Complaint)(Deputy Clerk, GM) (Entered: 04/21/2006)
04/20/2006		USCA Case Number 06-9 B. Walton for 36 Notice of Appeal filed by Willie Brown, Jr.. (Deputy Clerk, GM) (Entered: 04/21/2006)
04/21/2006	40	ORDER denying 39 Motion to Intervene . Signed by Judge Malcolm J. Howard on 4/21/2006. (Deputy Clerk, GM) (Entered: 04/21/2006)
04/25/2006	41	PUBLISHED ORDER of USCA as to 36 Notice of Appeal filed by Willie Brown, Jr.denying motion for preliminary injunction (Deputy Clerk, GM) (Entered: 04/26/2006)
04/25/2006	42	USCA JUDGMENT as to 36 Notice of Appeal filed by Willie Brown, Jr. (Deputy Clerk, GM) (Entered: 04/26/2006)
04/25/2006	43	MANDATE of USCA as to 36 Notice of Appeal filed by Willie Brown, Jr. (Deputy Clerk, GM) (Entered: 04/26/2006)
04/27/2006	44	ORDER of USCA as to 36 Notice of Appeal filed by Willie Brown, Jr. - denying motion to recall mandate, motion for stay of execution and dismissing petition for rehearing en banc (Deputy Clerk, GM) (Entered: 04/28/2006)
05/16/2006	45	ORDER DISMISSING this action. Signed by Judge Malcolm J. Howard on 5/15/2006. (Deputy Clerk, GM) (Entered: 05/17/2006)
05/17/2006	46	CLERK'S JUDGMENT - that this action is hereby dismissed. Signed by Brooks, Acting Clerk on 5/17/2006. (Deputy Clerk, GM) (Entered: 05/17/2006)

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