

FORM TO BE USED BY A STATE PRISONER IN FILING A COMPLAINT UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. SECTION 1983 OR BY A FEDERAL PRISONER IN FILING A BIVENS CLAIM.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

FILED

JUL 15 2010

NO. 5:10-CT-3123
(leave this space blank)

DENNIS P. IAVARONE, CLERK
US DISTRICT COURT, EDNC
BY _____ DEP CLK

Shaun Antonio Hayden

(enter full names of each plaintiff(s))

Inmate Number #0174678

v.
ALVIN W. KELLER, JR.

ROBERT C. LEWIS

ANTHONY E. RAND

(enter full names of each defendant(s))

I. HAVE YOU BEGUN OTHER LAWSUITS IN FEDERAL COURT DEALING WITH THE SAME FACTS INVOLVED IN THIS ACTION? YES () NO (✓)

If your answer is YES, describe the former lawsuit in the space provided below:

II. DID YOU PRESENT THE FACTS RELATING TO YOUR COMPLAINT TO THE STATE INMATE GRIEVANCE PROCEDURE? YES (✓) NO ()

If your answer is YES: *FILED TWO (2) SEPARATE GRIEVANCES*

1. What steps did you take? GRIEVANCE NO. #1 (W-4680-10-0040) ON 4/11/10
GRIEVANCE NO. #2 (W-4680-10-0046) 4/20/10

2. What was the result? (Attach copies of grievances or other supporting documentation.)
BOTH GRIEVANCES NOS. #1 AND 2 WERE REJECTED BY STEPHEN GRINDSTAFF. IN BOTH CASES MR. GRINDSTAFF ENTERED HIS REASONING FOR REJECTING THESE GRIEVANCES AS: (A) STATE OR FEDERAL COURT DECISION (B) PAROLE BOARD DECISION (C) BEYOND CONTROL OF DEPARTMENT OF CORRECTION.

VERIFIED STATEMENT

I have been advised of the requirements regarding exhaustion of administrative remedies and now submit this verified statement.

(Please choose the box that applies to your action):

 There are no grievance procedures at the correctional facility at which I am being confined.

 This cause of action arose at _____, and I am now being housed at _____. Therefore, I do not believe I have administrative remedies relating to this complaint at this time.

 ✓ I have exhausted my administrative remedies relating to this complaint and have attached copies of grievances demonstrating completions.

III. PARTIES:

In Item "A" below, place your name in the first blank and your present address in the second blank. Do the same for additional plaintiffs, if any. NOTE: ALL PLAINTIFFS LISTED IN THE CAPTION ON THE FIRST PAGE SHOULD BE LISTED IN THIS SECTION.

A. Name of Plaintiff: SHAUN ANTONIO HAYDEN #0174678
Name of Present Confinement AVERY-MITCHELL CORRECTIONAL INST.
Address of Present Confinement 600 AMITY PARK ROAD
SPRUCE PINE, N.C. 28777

In Item "B" below, place the full name of defendant in the first blank, his official position in the second blank, and his place of employment in the third blank. Use Item (C) through (F) for additional defendants. NOTE: ALL DEFENDANTS LISTED IN THE CAPTION ON THE FIRST PAGE SHOULD BE LISTED IN THIS SECTION.

B. Defendant ALVIN W. KELLER, JR.
Position SECRETARY OF CORRECTION
Employed at NORTH CAROLINA DEPT. OF CORRECTION
Address 214 WEST JONES ST., RALEIGH, N.C. 27699-4201
Capacity in which being sued: Individual () Official (✓) Both ()

C. Defendant ROBERT C. LEWIS
Position DIRECTOR OF PRISONS
Employed at N.C. DEPT. OF CORRECTION / DIVISION OF PRISONS
Address 831 WEST MORGAN ST., RALEIGH, N.C. 27699-4260
Capacity in which being sued: Individual () Official (✓) Both ()

D. Defendant ANTHONY E. RAND
 Position CHAIRMAN OF PAROLE BOARD
 Employed at NORTH CAROLINA POST RELEASE SUPERVISION & PAROLE COMM.
 Address 2020 YONKERS RD. RALEIGH, N.C. 27699-4222
 Capacity in which being sued: Individual () Official () Both ()

E. Defendant _____
 Position _____
 Employed at _____
 Address _____
 Capacity in which being sued: Individual () Official () Both ()

F. Defendant _____
 Position _____
 Employed at _____
 Address _____
 Capacity in which being sued: Individual () Official () Both ()

IV. STATEMENT OF CLAIM

State here as briefly as possible the **FACTS** of your case. Describe how **each** defendant is involved. Include also the names of the other persons involved, dates and places. **DO NOT GIVE ANY LEGAL CITATIONS OR ANY LEGAL ARGUMENTS OR CITE ANY STATUTES.** If you wish to allege a number of related claims, number and set forth each claim in a separate paragraph. Use as much space as you need. Attach extra sheets if necessary.

1) IN JUNE 2005, WHILE I WAS HOUSED AT NASH CORRECTIONAL INST. (UNIT ONE) I WAS INTERVIEWED, FOR PROMOTIONAL PURPOSES, BY THE UNIT MANAGER.

2) DURING THIS INTERVIEW, I WAS ASKED, "DO YOU KNOW A CIVILIAN BY THE NAME OF TONY HAYDEN?"

3) I STATED, "YES SIR! HE'S MY COUSIN AND HE'S ABOUT TWO YEARS OLDER THAN ME."

4) HE STATED, "THE MAIN REASON I ASKED YOU ABOUT THIS PARTICULAR PERSON WAS BECAUSE DURING THE LINE-UP, THAT YOU PARTICIPATED, YOU WERE NOT EVEN PICKED OUT, BUT YOUR

COUSIN WAS!"

5.) THE UNIT MANAGER ASKED, "MR. HAYDEN, DO YOU REALLY KNOW AND UNDERSTAND WHAT YOU ARE IMPRISONED FOR? AND DO YOU KNOW AND UNDERSTAND EXACTLY HOW YOU WERE SENTENCED?"

6.) I SAID, "YES SIR, I DO, MUCH MORE NOW THAN I EVER HAVE BEFORE!"

7.) HE ASKED, "COULD YOU PLEASE ELABORATE, ON YOUR RESPONSE, IN MORE DETAIL?"

8.) I STATED: ON MARCH 16, 1983, MY CRIMINAL PROCESS DOCUMENTS WERE READ OPENLY IN IREDELL COUNTY SUPERIOR COURT. THIS READING INCLUDED MY CRS NUMBERS AND THE EXACT REFERENCES TO THESE NUMBERS, IN CODE FORM, LISTED WITHIN THE NORTH CAROLINA GENERAL STATUTES.

9.) AFTER THE SUMMATION OF THE CHARGES WERE READ, MY ATTORNEY'S, COSTI KUTTEH (COURT APPOINTED) AND J.H. BENNICK (FAMILY APPOINTED), ALONG WITH THE DISTRICT ATTORNEY, ASKED PERMISSION TO APPROACH THE BENCH.

10.) SHORTLY THEREAFTER, MY ATTORNEY'S RETURNED AND SPOKE BRIEFLY WITH MY GREAT GRANDPARENTS (LEGAL GUARDIANS), TOMMIE AND MAE TROY HAYDEN, AND MY BIOLOGICAL MOTHER, CAROLYN ELAINE HAYDEN.

(I DID NOT HEAR THE ACTUAL CONVERSATION BETWEEN THESE ATTORNEY'S AND MY PARENTS.)

V. RELIEF SOUGHT BY PRISONER

State briefly exactly what you want the Court to do for you. MAKE NO LEGAL ARGUMENTS. DO NOT CITE CASES OR STATUTES.

RELIEF REQUESTED ON ATTACHED SHEETS ON PAGES 11-14.

Signed this 9 day of JULY, 2010.

Shaun A. Hayden
Signature of Plaintiff

Signature of other Plaintiffs
(if necessary)

I declare under penalty of perjury that the foregoing is true and correct.

7-9-2010
Date

Shaun A. Hayden
Signature of Plaintiff

Signature of other Plaintiffs
(if necessary)

COMPLAIN (42 U.S.C. 1983)

11. IMMEDIATELY FOLLOWING THE CONVERSATION BETWEEN MY PARENTS AND MY LAWYER'S, I WAS ESCORTED, BY THE BAILIFF, INTO A CONFERENCE CHAMBER LOCATED OUTSIDE THE COURTROOM. (ONLY MY GRANDPARENTS AND MOTHER WERE ALLOWED INSIDE THIS ROOM WITH ME AND AFTER THEY'D ENTERED, THE DOOR WAS CLOSED.)

12. MY GRANDFATHER, TOMMIE HAYDEN, SPOKE FOR THE FAMILY, HE SAID, "SON, AFTER WEEKS AND WEEKS OF DIALOGUE BETWEEN YOUR ATTORNEY'S AND YOUR FAMILY, WE HAVE COME TO A CONCLUSIVE AGREEMENT THAT IT IS IN OUR BEST INTEREST TO EXCEPT A PLEA BARGAIN THAT WILL GIVE YOU ANOTHER CHANCE AT LIFE, AFTER YOU HAVE SERVED 90 YEARS. (FOLLOWING A PLEA OF GUILTY OR NOLU CONTENDERE, TO THE CHARGE OF FIRST DEGREE SEXUAL OFFENSE (82CR010385), ALL OTHER CHARGES AGAINST YOU SHALL BE CONSOLIDATED INTO THIS SINGLE CHARGE FOR JUDGEMENT.")

13. ON MARCH 16, 1983, I EXCEPTED THE TERMS OF THE PLEA ARRAIGNMENT, AS I PLED NOLU CONTENDERE TO (82CR010385) FIRST DEGREE SEXUAL OFFENSE, AND AFTER BEING ASKED A NUMBER OF QUESTIONS, BY THE HONORABLE JAMES C. DAVIS, PERTAINING TO MY UNDERSTANDING OF THE PLEA, I WAS EVENTUALLY ALLOWED TO SIGN-OFF ON THIS PLEA BARGAIN.

14. THE UNIT MANAGER, WHOM SHALL BE REFERRED TO AS JOHN DOE, SPUN HIS COMPUTER SCREEN AROUND, SO THAT I COULD VIEW IT, AND HE POINTED OUT, "ALTHOUGH YOUR CRIME REPORT SHOWS A CONSOLIDATION OF ALL

COMPLAINT (42 U.S.C. 1983)

CHARGES FOR JUDGEMENT, THE NORTH CAROLINA DEPT. OF CORRECTION'S OFFENDER POPULATION UNIFIED SYSTEM SHOWS A SEPARATE REVIEW OF THE CRIME/VICTIMS REPORT FOR EACH INDICTMENT THAT HAS BEEN CONSOLIDATED INTO THE PRINCIPLE CONVICTION, SO THAT EVERY TIME YOU ARE REVIEWED, FOR CONSIDERATION OF A CUSTODY CHANGE OR AN ANNUAL YEARLY PAROLE REVIEW, YOU ARE ADJUDGED ON ALL EIGHT (8) FELONIES, WHEN THE FACT REMAINS THAT THE ONLY FELONY YOU SHOULD BE FACING OR CARRYING BEFORE US IS THE PRINCIPLE CONVICTION THAT YOU RECEIVED A MANDATORY LIFE SENTENCE FOR, ALTHOUGH YOU ARE A FIRST TIME OFFENDER, WITH NO PRIORS, BECAUSE THE IMPLEMENTATION OF THIS SENTENCE WAS MANDATORY UNDER THE GUIDELINES OF THE FAIR SENTENCING ACT OF 1981."

15. JOHN DOE STATED, "MR. HAYDEN, THE PRIMARY REASON THE PRINCIPLE CONVICTION - FIRST DEGREE SEXUAL OFFENSE - WAS CHOSEN WAS BECAUSE THERE NEVER WAS ANY PHYSICAL INTERCOURSE, LISTED AS CONTRIBUTING FACTORS, IN ANY OF THESE INDICTMENTS, BUT THERE WAS AN OBJECT, A FLASHLIGHT TO BE SPECIFIC, THAT WAS PLACED INSIDE THE VAGINAL ORIFICE, WHICH JUSTIFIES FIRST DEGREE SEXUAL OFFENSE AS THE PRINCIPLE CONVICTION."

16. JOHN DOE STATED, "PRIOR TO MY COMING TO WORK FOR THE N.C. DEPT. OF CORRECTION, I WORKED FOR THE SHERIFF'S DEPARTMENT. I HAVE TWENTY-FIVE (25) YEARS EXPERIENCE WORKING WITHIN A CRIMINAL JUSTICE FIELD, WHICH I RELIED ON, IN YOUR CASE, THAT LED ME

COMPLAINT (42 U.S.C. 1983)

TO BELIEVE THAT SOME THINGS WERE WRONG IN YOUR CASE."

17. JOHN DOE STATED, "YOU HAVE A SET OF CONVICTION POINTS THAT ~~BEEN~~ ^{HAVE} ~~BEEN~~ GIVEN TO YOU BY CERTAIN OFFICIALS, EMPLOYED WITHIN THE DIVISION OF PRISONS, UNDER THE AUTHORITY AND THE DIRECTIVE OF THE NORTH CAROLINA DEPT. OF CORRECTION, WHEN YOU SHOULD HAVE CONVICTION POINTS FOR THE ONLY CHARGE YOU WERE TRIED AND CONVICTED OF ON 03-16-83."

18. JOHN DOE STATED, "THIS IS WHAT'S HURTING YOU, BECAUSE YOU HAVE BEEN AND STILL ARE ADJUDGED, TIME AND TIME AGAIN, FOR EACH CHARGE SEPARATELY, WHEN THESE INDICTMENTS WERE ALL MERGED INTO THE FIRST DEGREE SEXUAL OFFENSE AND CANNOT BE SEPARATED."

19. JOHN DOE STATED, "MR. HAYDEN, I PROMISE YOU THAT I WILL PERSONALLY INVESTIGATE YOUR CASE AND SEE, WHETHER OR NOT, I CAN BEGIN THE PROCESS THAT'LL CORRECT THIS PROBLEM. I SHOULD HEAR BACK FROM RALEIGH AND HAVE THE INFORMATION, I AM SEEKING, SOMETIME NEXT WEEK, THROUGH E-MAIL, AND AFTERWARDS I'LL CALL YOU TO MY OFFICE."

20. APPROXIMATELY ONE (1) MONTH LATER, AFTER NOT HEARING A WORD FROM JOHN DOE, I BECAME CONCERNED ABOUT MY SITUATION, SO I WENT TO HIS OFFICE TO INQUIRE INTO MY SITUATION AND THIS IS WHAT HE STATED TO ME:

COMPLAINT (42 U.S.C. 1983)

"MR. HAYDEN, I AM A MAN OF INTEGRITY, SO I WILL NOT LIE TO YOU, BECAUSE I REALLY BELIEVE THAT YOU DESERVE TO KNOW THE TRUTH. I NOTIFIED RALEIGH, ABOUT YOUR SITUATION, AND THEIR RESPONSE, THROUGH OUR CHAIN OF COMMAND, WAS FOR ME TO LEAVE IT ALONE. MR. HAYDEN, I DID ALL I COULD FOR YOU, BUT NOW MY HANDS ARE TIED. I HOPE YOU'LL UNDERSTAND MY PREDICAMENT."

01. I THANKED JOHN DOE FOR ALL HE HAD DONE.

22. FROM AUGUST 2005 UNTIL NOW, I MADE INQUIRIES INTO HOW THE NORTH CAROLINA DEPT. OF CORRECTION CARRIED OUT THE DIRECTIVE, PERTAINING TO MY PLEA ARRANGEMENT, AT EACH OF THE FOLLOWING FACILITIES:

- A) NASH CORRECTIONAL INST. - NASHVILLE, N.C.
- B) HYDE CORRECTIONAL INST. - SWAN QUARTER, N.C.
- C) AVERY/MITCHELL CORRECTIONAL INST. - SPRUCE PINE, N.C.
- D) COLUMBUS CORRECTIONAL INST. - BRUNSWICK, N.C.

23. MOST OF THE OFFICIALS, EMPLOYED AT THE FACILITIES LISTED ABOVE, GAVE ME THE RUN AROUND, WHENEVER I SOUGHT TO ACQUIRE INFORMATION ABOUT MY CASE, UNTIL MR. W. JACKSON - IN RESPONSE FROM CASE MANAGER DATED 11/30/09 - STATED: "YOU WILL NEED TO WRITE COMBINED RECORDS IN RALEIGH, THEY CAN GIVE YOU PRINT OUTS OF EVERYTHING YOU ARE REQUESTING. I CAN'T PRINT ANYTHING FROM THE COMPUTER AND SEND IT TO YOU. SORRY."

COMPLAINT (42 U.S.C. 1983)

COMBINED RECORDS, DEPT. OF CORRECTIONS

MDC 4206

RALEIGH, N.C. 27699-4206

24. I MAILED LETTER NUMBER ONE, DATED 11/16/09, TO THE OFFICE OF COMBINED RECORDS, REQUESTING THE CRS-0000 FOR THE FOLLOWING CASES, SO THAT I COULD ORDER MY TRANSCRIPT FROM THE COUNTY COURT. I REQUESTED CRS-0000 FOR THE FOLLOWING CASES:

3/16/83

- A) FIRST DEGREE RAPE
- B) FIRST DEGREE SEXUAL OFFENSE
- C) SECOND DEGREE RAPE
- D) SECOND DEGREE SEXUAL OFFENSE
- E) ATTEMPTED RAPE
- F) 1ST DEGREE BURGLARY
- G) BREAKING/ENTERING/LARCENY
- H) ASSAULT WITH INTENT TO KILL

25. AN ANSWER TO LETTER NUMBER ONE, DATE 11/17/09, WAS RECEIVED BY ME ONE (1) WEEK LATER. THIS LETTER FROM MS. JOUY SILLS, MANAGER OF COMBINED RECORDS STATED: "YOUR RECENT CORRESPONDENCE ADDRESSED TO THE INDIVIDUAL ABOVE HAS BEEN FORWARDED TO THIS OFFICE FOR REVIEW. AFTER REVIEWING YOUR CORRESPONDENCE IT HAS BEEN DETERMINED THAT YOUR CONCERNS CAN BE ADDRESSED BY STATE AT YOUR FACILITY THAT IS MORE

COMPLAINT (42 U.S.C. 1983)

FAMILIAR WITH THIS MATTER. YOUR CORRESPONDENCE IS BEING RETURNED TO YOU AND YOUR CONCERNS SHOULD BE REVIEWED WITH YOUR CASE MANAGER OR OTHER MANAGERS/STAFF ASSIGNED TO YOUR FACILITY."

ADDITIONAL COMMENTS: "THIS INFORMATION IS AVAILABLE AT THE UNIT LEVEL THROUGH YOUR CASE MANAGER."

26. I TOOK MY LETTER TO COMBINED RECORDS AND THEIR RESPONSE TO MR. W. JACKSON, CASE MANAGER, AND THIS IS WHAT HE STATED: "I DON'T UNDERSTAND WHY COMBINED RECORDS DIDN'T JUST SEND YOU A PRINTOUT CONTAINING THIS INFORMATION, BECAUSE THEY'RE AUTHORIZED TO PRINTOUT THESE THINGS, BUT I CAN'T. ALL I CAN DO IS WRITE DOWN THIS INFORMATION ON A PIECE OF PAPER."

27. MR. W. JACKSON, CASE MANAGER, WROTE DOWN THE FOLLOWING INFORMATION:

- | | |
|------------------------------------|------------------------|
| A) FIRST DEGREE RAPE | 82CR007098 |
| B) FIRST DEGREE SEXUAL OFFENSE | 82CR010385 (PRINCIPAL) |
| C) SECOND DEGREE RAPE | 82CR009359 |
| D) SECOND DEGREE SEXUAL OFFENSE | 82CR009358 |
| E) ATTEMPTED RAPE | 82CR010387 |
| F) 1 ST DEGREE BURGLARY | 82CR010386 |
| G) BREAKING/ENTERING/LARCENY | 82CR010386 |
| H) ASSAULT WITH INTENT TO KILL | 82CR010384 |

COMPLAINT (42 U.S.C. 1983)

28. ON 11/30/09, I SENT A MOTION TO THE CLERK OF COURT / IREDELL CO. RESPECTFULLY REQUESTING THAT I BE PROVIDED WITH ALL CRIMINAL PROCESS DOCUMENTS TO THE ABOVE REFERENCED CASES:

- A) INDICTMENT(S) / AOC-CR-122
- B) PLEA CHARGE SHEET / AOC-CR-800
- C) AGGRAVATING / MITIGATING FACTOR SHEET / AOC-CR-605
- D) JUDGEMENT(S) AND COMMITMENT(S) / AOC-CR-601
- E) APPEALATE ENTRY DOCUMENT(S) / AOC-CR-350
- F) ALSO THE NAME / ADDRESS OF THE COURT REPORTER FOR ANY ARRAIGNMENT'S / PLEA CONFERENCES / HEARINGS / EVALUATIONS AND SENTENCING IN THIS MATTER.

29. ON 1/16/10, I WROTE ANOTHER MOTION TO THE CLERK OF COURT / IREDELL CO. IN REFERENCE TO OBTAINING ALL CRIMINAL PROCESS DOCUMENTS LISTED IN THE MOTION FILED ON 11/30/09, BUT I HELD OFF SENDING THIS MOTION IN UNTIL 3/31/10.

30. ON 3/31/10, I SENT IN THE MOTION TO THE CLERK OF COURT / IREDELL CO. THIS MOTION STATED:

"AS OF THIS DATE, I HAVEN'T RECEIVED ANY CORRESPONDENCE FROM YOUR OFFICE. IS THERE ANYTHING THAT I CAN DO TO HELP EXPEDITE THIS MATTER?"

31. AS OF THIS DATE, 5/20/10, I HAVEN'T RECEIVED A RESPONSE, FROM THE CLERK OF COURT, REGARDING TO MY MOTIONS.

COMPLAINT (42 U.S.C. 1983)

32. ON 4/21/10, I WROTE AND SENT LETTER NUMBER TWO(2), TO THE OFFICE OF COMBINED RECORDS, REQUESTING THAT THEY REVIEW MY PLEA BARGAIN TO HAVE ALL CHARGES CONSOLIDATED INTO 88CR010385 (FIRST DEGREE SEXUAL OFFENSE), FOR JUDGEMENT, WITH A SINGLE SENTENCE TO BE IMPOSED, AS SPECIFIED IN COURT, AND ALSO REQUESTING THAT NORTH CAROLINA DEPT. OF CORRECTION CEASE FROM DISSECTING/DIVIDING THE CONSOLIDATION OF THESE CHARGES, AS STATED BY THE COURT ON 3/16/83.

33. THE RESPONSE I RECEIVED FROM MS. JUDY SILLS/MANAGER - COMBINED RECORDS-RALEIGH, N.C. - DATED 4/23/10 STATED:

★ "YOUR 'SENTENCE(S)' ARE CONSOLIDATED. POINTS AND CUSTODY LEVELS ARE THE AUTHORITY OF THE DIVISION OF PRISONS, NOT COMBINED RECORDS."

34. ON INFORMATION AND BELIEF THAT WHENEVER A PRISONER FILES A LEGITIMATE COMPLAINT, UNDER THE GRIEVANCE RESOLUTION SYSTEM, THE GRIEVANCE EXAMINER CALLS THE MATTER TO THE ATTENTION OF THOSE INDIVIDUALS WHOSE RESPONSIBILITY IT IS TO ADDRESS THE COMPLAINT.... I FILED TWO(2) GRIEVANCES THAT EXPLAINED MY COMPLAINT IN GREAT DETAIL.

GRIEVANCE NO. # W-4680-10-0040 DATED: 4/11/10

GRIEVANCE NO. # W-4680-10-0046 DATED: 4/20/10

35. EACH GRIEVANCE COMPLAINT WAS DENIED, WITHOUT QUESTION, BASED ON THE FOLLOWING REASONS:

COMPLAINT (42 U.S.C. 1983)

- A) STATE OR FEDERAL COURT DECISION
- B) PAROLE BOARD DECISION
- D) BEYOND CONTROL OF D.O.C.

36. DEFENDANT ALVIN W. KELLER, JR. IS RESPONSIBLE FOR THE GOVERNING OF THE NORTH CAROLINA DEPT. OF CORRECTION. SPECIFICALLY, IN MY CASE, THE GOVERNING AUTHORITY OF THE SECRETARY OF CORRECTION INCLUDES:

- * A) THE ESTABLISHING OF RULES AND REGULATIONS;
- * B) THE CONTROL OF CLASSIFICATION AND OPERATION OF PRISON FACILITIES;
- * C) THE ESTABLISHING OF TREATMENT PROGRAMS FOR YOUTHFUL OFFENDERS;
- * D) THE ESTABLISHING OF AN INDIVIDUALIZED SYSTEM OF DISCIPLINE, CARE, AND CORRECTIONAL TREATMENT OF PERSONS COMMITTED TO THE DEPARTMENT;
- * E) THE PAROLE OF COMMITTED YOUTHFUL OFFENDERS AND REGULAR YOUTHFUL OFFENDERS SERVING INDETERMINATE SENTENCES;
- * F) THE AUTHORITY TO CONTRACT WITH ANY PUBLIC OR PRIVATE AGENCY NOT UNDER HIS CONTROL FOR TREATMENT AND TRAINING SERVICES TO YOUTHFUL OFFENDERS WHEN THIS IS THE MOST ECONOMICAL OR EFFECTIVE WAY TO PROVIDE NEEDED SERVICES.

37. DEFENDANT ROBERT C. LEWIS IS RESPONSIBLE FOR THE GOVERNING OF THE NORTH CAROLINA DIVISION OF PRISONS. AS THE DIRECTOR OF PRISONS, HE:

- A) GOVERNS THE DAY TO DAY ACTIVITIES OF THE DIVISION OF PRISONS, INCLUDING

COMPLAINT (42 U.S.C. 1983)

THE ESTABLISHING OF CONVICTION POINTS IN THE CASES OF EACH PERSON ASSIGNED WITHIN THE DIVISION OF PRISONS;

B) MAKING AND UPDATING ALL POLICY AND PROCEDURE THAT GOVERNS THE DIVISION OF PRISONS, INCLUDING THE MAKING AND UPDATING OF THE POLICY GOVERNING THE PERIODIC REVIEW AND CONDITIONAL RELEASE OF YOUTHFUL OFFENDERS SENTENCED UNDER STATUTES THAT HAVE BEEN REPEALED, HOWEVER, WHOSE PROVISIONS SHALL APPLY TO THOSE OFFENDERS WHO WERE SENTENCED WHEN THE LAWS WERE IN EFFECT.

38. DEFENDANT ANTHONY E. RAND, AS CHAIRMAN OF THE N.C. POST RELEASE SUPERVISION AND PAROLE COMMISSION, IS RESPONSIBLE FOR THE FOLLOWING:

A) INSURING THAT I BE REVIEWED, FOR PAROLE PURPOSES, UNDER THE GUIDELINES AND AUTHORITY OF THE LAW I WAS SENTENCED UNDER;

B) INSURING THAT ALL PAROLE REVIEWS BE GOVERNED BY THE ESTABLISHED REGULATIONS OF THE PLEA BARGAIN AND THE ORDER OF JUDGEMENT(S) AND COMMITMENT(S).

'CLAIMS FOR RELIEF'

39. THE ACTIONS OF DEFENDANT(S) ALVIN W. KELLER, JR., ROBERT C. LEWIS, ANTHONY E. RAND AND/OR THEIR DESIGNEE(S) IN:

A) THEIR BLATANT REFUSAL TO ADHERE TO THE CONDITIONS OF THE PLEA ARRAIGNMENT, AFTER I NOTIFIED THEM OF THE DISCREPANCIES OF THEIR VERSION OF THE PLEA BARGAIN, WHAT ACTUALLY TOOK PLACE ON 3/16/83;

COMPLAINT (42 U.S.C. 1983)

- B) THEIR BLATANT REFUSAL TO CEASE DISSECTING THE CONSOLIDATION OF ALL CHARGES FOR JUDGEMENT;
- C) THEIR BLATANT REFUSAL TO ACKNOWLEDGE THAT THE PLAINTIFF IS SERVING A SINGLE SENTENCE OF LIFE IMPRISONMENT AND NOT THE MULTIPLE SENTENCES, THEY SAY, HAVE BEEN CONSOLIDATED INTO A SINGLE SENTENCE ;
- D) THEIR BLATANT REFUSAL TO ACKNOWLEDGE THE PLAINTIFF, FOR ALL PURPOSES, AS A REGULAR YOUTHFUL OFFENDER, ALTHOUGH THE LETTERS ARE STAMPED, IN BOLD PRINT, ON ALL HIS OLD RECORDS; AND
- * E) THEIR BLATANT REFUSAL TO ACKNOWLEDGE THE DEPTH AND BREADTH OF THE YOUTHFUL OFFENDER LAWS, ISSUED UNDER THE FAIR SENTENCING ACT, AND APPLYING TO THOSE OFFENDERS SENTENCED THEREBY.

'RELIEF REQUESTED'

WHEREFORE, PLAINTIFF REQUESTS THAT THE COURT GRANT THE FOLLOWING RELIEF:

A) ISSUE A DECLARATORY JUDGEMENT STATING THAT:

1. THE ABUSE SUFFERED BY THE PLAINTIFF, WHILE THE DEFENDANT(S) CONTINUED TO DISREGARD THE CONDITIONS OF HIS PLEA BARGAIN AND THE ACKNOWLEDGEMENT OF THE PLAINTIFF AS A REGULAR YOUTHFUL OFFENDER, SENTENCED UNDER A SPECIAL CONDITION OF STATE LAW, VIOLATED THE PLAINTIFF'S RIGHTS UNDER THE EIGHTH AMENDMENT TO THE UNITED STATES CONSTITUTION, BY CREATING A SITUATION THAT MADE THE PLAINTIFF'S SENTENCE

COMPLAINT (42 U.S.C. 1983)

THE DEFENDANT(S) ADHERED TO THE PLEA ARRAIGNMENT AND THE STATE LAW THE PLAINTIFF WAS SENTENCED UNDER.

2. DEFENDANT KELLER'S FAILURE TO TAKE ACTION TO CURB OR CORRECT THE VIOLATION OF THE PLAINTIFF'S PLEA ARRAIGNMENT, AFTER BEING NOTIFIED BY THE PLAINTIFF, VIOLATED THE PLAINTIFF'S RIGHTS UNDER THE EIGHTH AMENDMENT TO THE UNITED STATES CONSTITUTION AND WHICH CONSTITUTED AN ILLEGAL ENHANCEMENT OF HIS SENTENCE ISSUED UNDER STATE LAW.

3. DEFENDANT LEWIS' ACTIONS IN FAILING TO ISSUE THE CORRECT METHOD THAT STAFF MEMBERS OF THE N.C. DIVISION OF PRISONS SHOULD FOLLOW WHENEVER THEY'RE DEALING WITH A YOUTHFUL OFFENDER OF A LAW THAT'S BEEN REPEALED, AS WELL AS HIS FAILURE TO INSURE THAT THE POLICY AND PROCEDURE ISSUED BY THE OFFICE OF THE DIRECTOR OF PRISONS, IN 1984, AS A GUIDE FOR THE PAROLE OF THE YOUTHFUL OFFENDER, AFTER CERTAIN PROCEDURES ARE FOLLOWED, SHOULD BE ~~BE~~ APPLIED TO ALL THOSE OFFENDERS SENTENCED UNDER YOUTHFUL OFFENDER LAWS. ALSO, DEFENDANT LEWIS' DEPARTMENT IS RESPONSIBLE FOR THE DISSECTING OF MY CONSOLIDATED JUDGEMENT, WHICH VIOLATES THE PLAINTIFF'S RIGHTS UNDER THE DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION.

4. DEFENDANT RAND'S ACTIONS IN FAILING TO PROVIDE AN ADEQUATE SYSTEM OF PAROLE REVIEWS GOVERNING THE YOUTHFUL OFFENDER BY INSURING THAT THE CONDITIONS OF HIS PLEA ARE ADHERED TO AND

COMPLAINT (42 U.S.C. 1983)

THAT THE POLICIES, THAT ARE ALREADY ESTABLISHED, GOVERNING THE PAROLE OF THE YOUTHFUL OFFENDER, BE ADHERED TO, BUT BECAUSE THE OFFICE OF THE N.C. POST RELEASE SUPERVISION AND PAROLE COMMISSION HAS CONTINUED TO ENCOURAGE THE BLATANT DISREGARD OF THE PLEA ARRAIGNMENT, AS WELL AS THE POLICY AND PROCEDURE THAT GOVERNS THEIR ACTIONS, THIS ACTION VIOLATES THE PLAINTIFF'S RIGHTS UNDER THE EIGHTH AMENDMENT AND THE FOURTEENTH AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES.

B. ISSUE AN INJUNCTION ORDERING DEFENDANT(S) KELLER, LEWIS, AND RAND AND/OR THEIR DESIGNEE'S TO:

1. ACKNOWLEDGE THE CONDITIONS OF THE PLEA BARGAIN AND THE ORDER OF JUDGEMENT(S) AND COMMITMENT(S);
2. IMMEDIATELY ARRANGE FOR THE PLAINTIFF TO BE REVIEWED, FOR ALL PURPOSES OF CLASSIFICATION AND PAROLE, AS A REGULAR YOUTHFUL OFFENDER;
3. CARRY OUT, WITHOUT DELAY, THE RECALCULATION OF THE ~~THE~~ PLAINTIFF'S PLEA BARGAIN, AFTER IT'S PROVEN THAT THE PLAINTIFF IS SERVING ONE (1) LIFE SENTENCE, FOR ALL CHARGES CONSOLIDATED FOR JUDGEMENT, AND NOT MULTIPLE SENTENCE(S) OF CONSOLIDATION THAT WOULD ADD UP TO A SENTENCE OF (2) TWO LIFE TERMS PLUS APPROXIMATELY (160) YEARS, WHICH DEFINITELY IS NOT THE SENTENCE THAT THE PLAINTIFF RECEIVED.

COMPLAINT (42 U.S.C. 1983)

C. GRANT SUCH OTHER RELIEF AS IT MAY APPEAR THAT PLAINTIFF IS ENTITLED.

DATE: MAY 26, 2010.

RESPECTFULLY SUBMITTED,

SHAUN A. HAYDEN # 0174678
AVERY/MITCHELL CORRECTIONAL INST.
600 AMITY PARK RD.
SPRUCE PINE, N.C. 28777

SIGNED THIS 9 DAY OF JULY, 2010.

Shaun A. Hayden
SIGNATURE OF PLAINTIFF

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

7-9-2010
DATE

Shaun A. Hayden
SIGNATURE OF PLAINTIFF