

**U.S. District Court
EASTERN DISTRICT OF NORTH CAROLINA (Western Division)
CIVIL DOCKET FOR CASE #: 5:10-ct-03123-BO**

Hayden v. Keller et al
Assigned to: District Judge Terrence W. Boyle
Case in other court: 15-07676
17-07582

Cause: 42:1983 Prisoner Civil Rights

Plaintiff

Shaun Antonio Hayden
0174678
Lanesboro Correctional Institution
P.O. Box 280
Polkton, NC 28135

Date Filed: 07/15/2010
Date Terminated: 11/02/2017
Jury Demand: None
Nature of Suit: 550 Prisoner: Civil Rights
Jurisdiction: Federal Question

represented by **Benjamin S. Finholt**
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ATTORNEY TO BE NOTICED

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V.

Intervenor Plaintiff

Eddie Smith
Intervenor Plaintiff
TERMINATED: 07/05/2017

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V.

Defendant

Alvin W. Keller

Defendant

Robert C. Lewis

Defendant**Anthony E. Rand****Defendant****Willis J. Fowler**

represented by **Joseph Finarelli**
 N.C. Dept. of Justice
 P.O. Box 629
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TERMINATED: 07/17/2015

Defendant**Willis J. Fowler****TERMINATED: 01/05/2018**

| Date Filed | # | Docket Text |
|------------|----------|--|
| 07/15/2010 | <u>1</u> | COMPLAINT against Alvin W. Keller, Robert C. Lewis, Anthony E. Rand, filed by Shaun Antonio Hayden. (Attachments: # <u>1</u> Exhibits, # <u>2</u> Envelope) (Indig, A.) (Entered: 07/15/2010) |
| 07/15/2010 | <u>2</u> | MOTION for Leave to Proceed in forma pauperis by Shaun Antonio Hayden. (Indig, A.) (Entered: 07/15/2010) |
| 07/15/2010 | <u>3</u> | ORDER Directing Monthly Payments be made from Prison Account of Shaun Antonio Hayden. Signed by Clerk of Court on 7/15/2010. (Indig, A.) (Entered: 07/15/2010) |
| 11/19/2010 | | Filing fee: \$ 18.00, receipt number RAL016303. (McDowell, G.) (Entered: 11/22/2010) |
| 03/17/2011 | | Filing fee: \$ 5.00, receipt number RAL018240. (Indig, A.) (Entered: 03/17/2011) |
| 04/13/2011 | <u>4</u> | ORDER – the clerk is DIRECTED to provide the 28 U.S.C. § 2241 form along with this order to plaintiff. If plaintiff wishes to convert this action into a habeas action, he must provide the \$5.00 filing fee and return the § 2241 forms within 21 days of the filing of this order. Signed by District Judge Terrence W. Boyle on 4/12/2011. (Indig, A.) (Entered: 04/13/2011) |
| 05/03/2011 | <u>5</u> | RESPONSE to Order re <u>4</u> Order, filed by Shaun Antonio Hayden. (Attachments: # <u>1</u> Documents in Support, # <u>2</u> Documents in Support, # <u>3</u> Envelope) (Taylor, B.) (Entered: 05/05/2011) |
| 05/16/2011 | | Filing fee: \$ 15.00, receipt number RAL019292. (McDowell, G.) (Entered: 05/17/2011) |
| 07/22/2011 | | Filing fee: \$ 5.00, receipt number RAL020384. (Indig, A.) (Entered: 07/22/2011) |
| 07/27/2011 | <u>6</u> | NOTICE of Change of Address by Shaun Antonio Hayden. (Attachment: # <u>1</u> Envelope) (Indig, A.) (Entered: 07/27/2011) |

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| 11/02/2011 | | Filing fee: \$ 5.00, receipt number RAL022206. (McDowell, G.) (Entered: 11/02/2011) |
| 03/12/2012 | <u>7</u> | ORDER – the filing fee order <u>3</u> requiring \$350.00 is VACATED and the monies collected, with the exception of the \$5.00 filing fee for this case, shall be returned to plaintiff. Furthermore, this case is dismissed without prejudice, and in its place the Clerk is DIRECTED to open a case in habeas with a filing date of July 15, 2010. The Clerk is to continue management of the action. Signed by District Judge Terrence W. Boyle on 3/9/2012. Copy sent to plaintiff via US Mail. (Indig, A.) (Entered: 03/12/2012) |
| 03/13/2012 | <u>8</u> | CLERK'S JUDGMENT – that this action is hereby dismissed without prejudice. Signed by Julie A. Richards, Clerk of Court on 3/13/2012. Copy to plaintiff with notice of appellate rights sent via US Mail. (Indig, A.) (Entered: 03/13/2012) |
| 09/11/2013 | <u>9</u> | ORDER – The civil rights action, Hayden v. Keller, No. 5:10-CT-3123-BO, which had been closed, is re-opened, and all future filings, including the notice of summons filed on September 10, 2013, shall be filed in the § 1983 case. Signed by US District Judge Terrence W. Boyle on 9/10/2013. (McDowell, G.) (Entered: 09/11/2013) |
| 09/11/2013 | <u>10</u> | AMENDED COMPLAINT against Paul G. Butler, Jr. filed by Shaun Antonio Hayden. (Attachment: # <u>1</u> Proposed Summons) (McDowell, G.) (Entered: 09/11/2013) |
| 09/11/2013 | <u>11</u> | Summons Issued as to Paul G. Butler, Jr. (McDowell, G.) (Entered: 09/11/2013) |
| 09/16/2013 | <u>12</u> | AFFIDAVIT of Service for Summons & Complaint served on Paul G Butler on 09/12/13, filed by Shaun Antonio Hayden. (Attachments: # <u>1</u> Exhibit A -- Proof of Service) (Simpson, Elizabeth) (Entered: 09/16/2013) |
| 09/16/2013 | <u>13</u> | NOTICE of Appearance by Mary Sheehan Pollard on behalf of All Plaintiffs. (Pollard, Mary) (Entered: 09/16/2013) |
| 10/03/2013 | <u>14</u> | MOTION for Extension of Time to File Answer regarding <u>10</u> Amended Complaint by Paul G. Butler, Jr. (Attachments: # <u>1</u> Text of Proposed Order) (Harrison, Jodi) (Entered: 10/03/2013) |
| 10/09/2013 | <u>15</u> | Proposed Order regarding <u>14</u> MOTION for Extension of Time to File Answer regarding <u>10</u> Amended Complaint filed by Paul G. Butler, Jr. (Harrison, Jodi) (Entered: 10/09/2013) |
| 10/15/2013 | <u>16</u> | ORDER granting <u>14</u> Motion for Extension of Time to Answer regarding <u>10</u> Amended Complaint Paul G. Butler, Jr. answer due 11/2/2013. Signed by Julie A. Richards, Clerk of Court on 10/15/2013. (Blankenship, T.) (Entered: 10/15/2013) |
| 11/04/2013 | <u>17</u> | ANSWER to <u>10</u> Amended Complaint by Paul G. Butler, Jr. (Harrison, Jodi) (Entered: 11/04/2013) |
| 11/21/2013 | <u>18</u> | Rule 26(f) Report (joint) by Shaun Antonio Hayden. (Simpson, Elizabeth) (Entered: 11/21/2013) |
| 04/03/2014 | <u>19</u> | Request for Discovery Stipulation. (McDowell, G.) (Entered: 04/03/2014) |
| 04/09/2014 | <u>20</u> | MOTION to Compel by Shaun Antonio Hayden. (Attachments: # <u>1</u> Text of Proposed Order) (Simpson, Elizabeth) (Entered: 04/09/2014) |
| 04/09/2014 | <u>21</u> | Memorandum in Support regarding <u>20</u> MOTION to Compel filed by Shaun Antonio Hayden. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D, # <u>5</u> Exhibit E, # <u>6</u> Exhibit F, # <u>7</u> Exhibit G, # <u>8</u> Exhibit H, # <u>9</u> Exhibit I) (Simpson, Elizabeth) (Entered: 04/09/2014) |
| 04/09/2014 | | NOTICE OF DEFICIENCY regarding: <u>20</u> Motion to Compel. The incorrect case number is listed on the document. For future filings, please use the correct case number. (McDowell, G.) (Entered: 04/09/2014) |
| 05/07/2014 | | Motion Submitted to District Judge Terrence W. Boyle: <u>20</u> MOTION to Compel Discovery. (Indig, A.) (Entered: 05/07/2014) |
| 05/08/2014 | | MOTION REFERRED to Magistrate Judge Robert B. Jones, Jr. as to: <u>20</u> MOTION to Compel Discovery. (Indig, A.) (Entered: 05/08/2014) |

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| 05/08/2014 | <u>22</u> | NOTICE by Shaun Antonio Hayden regarding <u>20</u> MOTION to Compel , <u>21</u> Memorandum in Support. (Pollard, Mary) (Entered: 05/08/2014) |
| 05/08/2014 | | NOTICE OF DEFICIENCY regarding <u>22</u> Notice-(other). The incorrect event was used. Counsel is directed to refile this pleading under the correct event by using the event entitled Withdrawal of Motion. (Blankenship, T.) (Entered: 05/08/2014) |
| 05/08/2014 | <u>23</u> | WITHDRAWAL of Motion by Shaun Antonio Hayden. regarding <u>20</u> MOTION to Compel filed by Shaun Antonio Hayden . (Pollard, Mary) (Entered: 05/08/2014) |
| 05/08/2014 | <u>24</u> | STIPULATION OF DISCOVERY by Paul G. Butler, Jr. (Harrison, Jodi) (Entered: 05/08/2014) |
| 05/20/2014 | <u>25</u> | SCHEDULING ORDER: Discovery due by 8/21/2014. Motions due by 9/22/2014. Signed by Magistrate Judge Robert B. Jones, Jr. on 5/20/2014. Counsel is reminded to read the entire order for critical dates and deadlines. (Indig, A.) (Entered: 05/20/2014) |
| 07/21/2014 | <u>26</u> | Consent MOTION for Extension of Time to Complete Discovery by Shaun Antonio Hayden. (Attachments: # <u>1</u> Text of Proposed Order proposed order) (Pollard, Mary) (Entered: 07/21/2014) |
| 07/21/2014 | | MOTION REFERRED to Magistrate Judge Robert B. Jones, Jr.: <u>26</u> Consent MOTION for Extension of Time to Complete Discovery. (Indig, A.) (Entered: 07/21/2014) |
| 07/22/2014 | <u>27</u> | ORDER – GRANTING <u>26</u> Motion for Extension of Time to Complete Discovery. The parties shall have up to and including August 21, 2014 to produce expert reports, and that the discovery period is extended through August 31, 2014. Signed by Magistrate Judge Robert B. Jones, Jr. on 7/22/2014. (Indig, A.) (Entered: 07/22/2014) |
| 09/17/2014 | <u>28</u> | Joint MOTION for Extension of Time <i>to File Dispositive Motions</i> by Paul G. Butler, Jr. (Attachments: # <u>1</u> Text of Proposed Order) (Harrison, Jodi) (Entered: 09/17/2014) |
| 09/17/2014 | | Motion referred to US Magistrate Judge Robert B. Jones, Jr. : <u>28</u> Joint MOTION for Extension of Time <i>to File Dispositive Motions</i> . (McDowell, G.) (Entered: 09/17/2014) |
| 09/18/2014 | <u>29</u> | ORDER – granting <u>28</u> Motion for Extension of Time; both parties are given until 11/3/2014 in which to file all motions. Signed by US Magistrate Judge Robert B. Jones, Jr. on 9/18/2014. (McDowell, G.) (Entered: 09/18/2014) |
| 11/03/2014 | <u>30</u> | MOTION for Summary Judgment by Shaun Antonio Hayden. (Simpson, Elizabeth) (Entered: 11/03/2014) |
| 11/03/2014 | <u>31</u> | Memorandum in Support regarding <u>30</u> MOTION for Summary Judgment filed by Shaun Antonio Hayden. (Attachments: # <u>1</u> Exhibit A – Declaration of Shaun A. Hayden, # <u>2</u> Exhibit C – List of NC Parole Commissioners, # <u>3</u> Exhibit F – Expert Report of Gilbert Davis) (Simpson, Elizabeth) Modified on 11/3/2014 to correctly identify exhibits. (Indig, A.) (Entered: 11/03/2014) |
| 11/03/2014 | <u>32</u> | PROPOSED SEALED Exhibit (<i>Selected Participants Only</i>) by Shaun Hayden (available to: Defendant Paul G. Butler, Jr, Plaintiff Shaun Antonio Hayden) regarding <u>31</u> Memorandum in Support, <u>30</u> MOTION for Summary Judgment . (Attachments: # <u>1</u> Exhibit B, # <u>2</u> Exhibit D, # <u>3</u> Exhibit E, # <u>4</u> Exhibit G, # <u>5</u> Exhibit H) (Simpson, Elizabeth) (Entered: 11/03/2014) |
| 11/03/2014 | <u>33</u> | MOTION to Seal <u>32</u> PROPOSED SEALED Exhibit, by Shaun Antonio Hayden. (Attachments: # <u>1</u> Text of Proposed Order) (Simpson, Elizabeth) (Entered: 11/03/2014) |
| 11/03/2014 | | NOTICE TO COUNSEL regarding: <u>31</u> Memorandum in Support. In accordance with the Administrative Policies and Procedures Manual Section L(2)(b) exhibits must be identified with a clear and complete description of the documents (e.g., Exhibit 1 is insufficient. Affidavit of Jane Doe would meet the requirement.) Docket Entry 31 has been corrected by the court. Counsel should correctly refile Docket Entry 32 following the naming convention requirements. (Indig, A.) (Entered: 11/03/2014) |
| 11/03/2014 | <u>34</u> | Second MOTION for Extension of Time <i>to File Dispositive Motion</i> by Paul G. Butler, Jr, Alvin W. Keller, Robert C. Lewis, Anthony E. Rand. (Attachments: # <u>1</u> Text of Proposed Order) (Harrison, Jodi) (Entered: 11/03/2014) |

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| 11/03/2014 | | MOTION REFERRED to Magistrate Judge Robert B. Jones, Jr.: <u>34</u> Second MOTION for Extension of Time to File Dispositive Motion. (Indig, A.) (Entered: 11/03/2014) |
| 11/04/2014 | <u>35</u> | ORDER – GRANTING <u>34</u> Motion for Extension of Time. Defendant is given until November 10,2014, in which to file all motions of any nature, except those relating to the admissibility of evidence at trial. Signed by Magistrate Judge Robert B. Jones, Jr. on 11/4/2014. (Indig, A.) (Entered: 11/04/2014) |
| 11/10/2014 | <u>36</u> | MOTION for Summary Judgment by Paul G. Butler, Jr., Alvin W. Keller, Robert C. Lewis, Anthony E. Rand. (Attachments: # <u>1</u> Exhibit Index, # <u>2</u> Exhibit A – Offender Information Report of Plaintiff, # <u>3</u> Exhibit B – Indictments, # <u>4</u> Exhibit C – Probable Cause Order, # <u>5</u> Exhibit D – Judgment & Commitment, # <u>6</u> Exhibit E – Newspaper Articles, # <u>7</u> Exhibit F – Deposition Excerpt, Stevens, # <u>8</u> Exhibit G – Deposition Excerpt, Butler) (Harrison, Jodi) (Entered: 11/10/2014) |
| 11/10/2014 | <u>37</u> | Memorandum in Support regarding <u>36</u> MOTION for Summary Judgment filed by Paul G. Butler, Jr. (Harrison, Jodi) (Entered: 11/10/2014) |
| 11/24/2014 | <u>38</u> | RESPONSE in Opposition regarding <u>30</u> MOTION for Summary Judgment filed by Paul G. Butler, Jr. (Harrison, Jodi) (Entered: 11/24/2014) |
| 12/01/2014 | <u>39</u> | Response in Opposition regarding <u>36</u> Motion for Summary Judgment filed by Shaun Antonio Hayden. (Simpson, Elizabeth) Modified on 12/1/2014 to reflect the correct docket entry and number. (Blankenship, T.) (Entered: 12/01/2014) |
| 12/01/2014 | <u>40</u> | REPLY to Response to Motion regarding <u>30</u> MOTION for Summary Judgment filed by Shaun Antonio Hayden. (Simpson, Elizabeth) (Entered: 12/01/2014) |
| 12/01/2014 | | NOTICE TO COUNSEL – Counsel is reminded that when submitting a pleading in response to a motion, to reflect the link of that particular motion and not the supporting memorandum. (Blankenship, T.) (Entered: 12/01/2014) |
| 12/01/2014 | <u>41</u> | REPLY to Response to Motion regarding <u>36</u> MOTION for Summary Judgment filed by Paul G. Butler, Jr. (Attachments: # <u>1</u> Exhibit A – Excerpt from Deposition of Mary Stevens) (Harrison, Jodi) (Entered: 12/01/2014) |
| 12/01/2014 | | Motions Submitted to United States District Judge Terrence W. Boyle regarding <u>36</u> MOTION for Summary Judgment , <u>33</u> MOTION to Seal <u>32</u> PROPOSED SEALED Exhibit and <u>30</u> MOTION for Summary Judgment . (Blankenship, T.) (Entered: 12/01/2014) |
| 12/01/2014 | <u>42</u> | RESPONSE in Opposition regarding <u>33</u> MOTION to Seal <u>32</u> PROPOSED SEALED Exhibit, filed by Paul G. Butler, Jr. (Harrison, Jodi) (Entered: 12/01/2014) |
| 07/01/2015 | <u>43</u> | NOTICE of Hearing on <u>36</u> MOTION for Summary Judgment and <u>30</u> MOTION for Summary Judgment: Motion Hearing set for 7/29/2015 at 02:00 PM in Raleigh – 7th Floor – Courtroom 2 before US District Judge Terrence W. Boyle. (McDowell, G.) (Entered: 07/01/2015) |
| 07/17/2015 | <u>44</u> | Notice of Substitution of Counsel filed by Joseph Finarelli on behalf of Paul G. Butler, Jr substituting for Jodi Harrison. (Finarelli, Joseph) (Entered: 07/17/2015) |
| 07/21/2015 | <u>45</u> | WRIT of Habeas Corpus issued to NC Department of Public Safety to produce Shawn Antonio Hayden on July 29, 2015 at 1:30 p.m. in Raleigh, NC. Signed by US District Judge Terrence W. Boyle. Copies mailed to Division of Prison, Processing Section; the Attorney General of North Carolina, Department of Justice, Raleigh, North Carolina; the Superintendent of Lumberton Correctional Institution; and the United States Marshal, Raleigh, North Carolina. (McDowell, G.) (Entered: 07/21/2015) |
| 07/21/2015 | | Copy of Writ has been mailed to Franklin Correctional Institution which is the current location of the plaintiff. (McDowell, G.) (Entered: 07/21/2015) |
| 07/22/2015 | <u>46</u> | WRIT OF HABEAS CORPUS issued to NC Department of Public Safety to produce Shawn Antonio Hayden on July 29, 2015 at 1:30 p.m. in Raleigh, NC. Signed by US Magistrate Judge Robert B. Jones, Jr. Copies mailed to Division of Prison, Processing Section; the Attorney General of North Carolina, Department of Justice, Raleigh, North Carolina; the Superintendent of Franklin Correctional Center; and the United States Marshal, Raleigh, North Carolina. (Indig, A.) (Entered: 07/22/2015) |

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| 07/22/2015 | <u>47</u> | NOTICE of Hearing on Motion (Date and Time Change) as to <u>30</u> MOTION for Summary Judgment and <u>36</u> MOTION for Summary Judgment. Motion Hearing set for 7/27/2015 at 3:00 PM in Raleigh – 7th Floor – Courtroom 2 before District Judge Terrence W. Boyle. (Indig, A.) (Entered: 07/22/2015) |
| 07/22/2015 | <u>48</u> | WRIT OF HABEAS CORPUS issued to NC Department of Public Safety to produce Shawn Antonio Hayden on July 27, 2015 at 2:30 p.m. in Raleigh, NC. Signed by US Magistrate Judge Robert B. Jones, Jr. Copies mailed to Division of Prison, Processing Section; the Attorney General of North Carolina, Department of Justice, Raleigh, North Carolina; the Superintendent of Franklin Correctional Center; and the United States Marshal, Raleigh, North Carolina. (Indig, A.) (Entered: 07/22/2015) |
| 07/27/2015 | <u>49</u> | Minute Entry for proceedings held in Raleigh, NC before District Judge Terrence W. Boyle: Motions Hearing held on 7/24/2015. All parties present and ready to proceed. Written order to follow. (Court Reporter Donna Tomawski) (Romine, L.) (Entered: 07/27/2015) |
| 07/28/2015 | <u>50</u> | ORDER – As a supplement to the summary judgment materials now before the court, the defendants are ORDERED to provide certain data. Defendants shall provide this information on or before August 7, 2015. Signed by District Judge Terrence W. Boyle on 7/28/2015. (Indig, A.) (Entered: 07/28/2015) |
| 07/31/2015 | <u>51</u> | Letter from Shaun Hayden thanking the court for allowing his presence at the hearing. (Attachment: # <u>1</u> Envelope) (Indig, A.) (Entered: 07/31/2015) |
| 08/04/2015 | <u>52</u> | RESPONSE to Order regarding <u>50</u> Order, Set Deadlines,, filed by Paul G. Butler, Jr. (Attachments: # <u>1</u> Exhibit Requested Statistical Data) (Finarelli, Joseph) (Entered: 08/04/2015) |
| 08/06/2015 | <u>53</u> | ORDER – Plaintiff is allowed until August 18, 2015, to file a supplemental brief to which defendants may respond by August 28, 2015. Signed by District Judge Terrence W. Boyle on 8/6/2015. (Indig, A.) (Entered: 08/06/2015) |
| 08/07/2015 | <u>54</u> | Consent MOTION for Extension of Time <i>to file Supplemental Brief</i> filed by Shaun Antonio Hayden. (Attachments: # <u>1</u> Text of Proposed Order) (Simpson, Elizabeth) (Entered: 08/07/2015) |
| 08/07/2015 | | Motion Submitted to District Judge Terrence W. Boyle: <u>54</u> Consent MOTION for Extension of Time <i>to file Supplemental Brief</i> . (Indig, A.) (Entered: 08/07/2015) |
| 08/10/2015 | <u>55</u> | TEXT ORDER – This matter is before the court on plaintiff's motion for an extension of time to file a supplemental brief [D.E. 54] as ordered on August 6, 2015. Defendant consents to this motion. Good cause being shown, it is hereby ORDERED that the plaintiff be allowed until September 1, 2015, to file a supplemental brief to which defendants may respond by September 10, 2015. Signed by US District Judge Terrence W. Boyle on 8/10/2015. (McDowell, G.) (Entered: 08/10/2015) |
| 09/01/2015 | <u>56</u> | RESPONSE to Order regarding <u>53</u> Order <i>Re: Supplemental Briefing</i> filed by Shaun Antonio Hayden. (Attachments: # <u>1</u> Exhibit A — New Law) (Simpson, Elizabeth) (Entered: 09/01/2015) |
| 09/09/2015 | <u>57</u> | RESPONSE regarding <u>53</u> Order, <u>56</u> Response filed by Paul G. Butler, Jr. (Finarelli, Joseph) (Entered: 09/09/2015) |
| 09/25/2015 | <u>58</u> | ORDER – The court denies defendants' motion for summary judgment [D.E. 36] and grants in part and denies without prejudice in part Hayden's motion for summary judgment [D.E. 30]. Specifically, the court finds that the current North Carolina parole review process for juvenile offenders serving a life sentence violates the Eighth Amendment. The court denies without prejudice Hayden's request for the injunctive relief and gives the parties 60 days to present a plan for the means and mechanism for compliance with the mandates of Graham to provide a meaningful opportunity to obtain release based on demonstrated maturity and rehabilitation to juvenile offenders convicted as adults. DENYING <u>33</u> Motion to Seal. Signed by District Judge Terrence W. Boyle on 9/25/2015. (Indig, A.) (Entered: 09/25/2015) |
| 10/21/2015 | <u>59</u> | Interlocutory Notice of Appeal filed by Paul G. Butler, Jr, Alvin W. Keller, Robert C. Lewis, Anthony E. Rand as to <u>58</u> Order on Motion for Summary Judgment, Order on Motion to Seal,,,,,,,,,,,,. Filing fee, receipt number 0417-3459816. (Finarelli, Joseph) |

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| | | Modified on 10/21/2015 to add the word Interlocutory. (McDowell, G.). (Entered: 10/21/2015) |
| 10/21/2015 | | NOTICE OF CORRECTION regarding: <u>59</u> Notice of Appeal. Since a final judgment has not been entered in this case, the Notice of Appeal has been changed to Interlocutory Notice of Appeal. (McDowell, G.) (Entered: 10/21/2015) |
| 10/21/2015 | <u>60</u> | Transmission of Interlocutory Notice of Appeal and Docket Sheet to US Court of Appeals regarding <u>59</u> Interlocutory Notice of Appeal. (McDowell, G.) (Entered: 10/21/2015) |
| 10/21/2015 | <u>61</u> | Corrected Transmission of Interlocutory Notice of Appeal and Docket Sheet to US Court of Appeals regarding <u>59</u> Interlocutory Notice of Appeal. Correct to show that Appeal Fee has been paid. (McDowell, G.) (Entered: 10/21/2015) |
| 10/22/2015 | <u>62</u> | US Court of Appeals Case Number 15-7676 (Jeffrey S. Neal, Case Manager) as to <u>59</u> Notice of Appeal Paul G. Butler, Jr. (Indig, A.) (Entered: 10/22/2015) |
| 11/13/2015 | <u>63</u> | MOTION to Stay regarding <u>58</u> Order on Motion for Summary Judgment, Order on Motion to Seal,,,,,,,,, filed by Paul G. Butler, Jr. (Attachments: # <u>1</u> Text of Proposed Order Proposed Order) (Finarelli, Joseph) (Entered: 11/13/2015) |
| 11/13/2015 | <u>64</u> | Memorandum in Support regarding <u>63</u> MOTION to Stay regarding <u>58</u> Order on Motion for Summary Judgment, Order on Motion to Seal,,,,,,,,, filed by Paul G. Butler, Jr. (Finarelli, Joseph) (Entered: 11/13/2015) |
| 11/13/2015 | | Motion Submitted to US District Judge Terrence W. Boyle: regarding <u>63</u> MOTION to Stay regarding <u>58</u> Order on Motion for Summary Judgment. (McDowell, G.) (Entered: 11/13/2015) |
| 11/13/2015 | <u>65</u> | ORDER granting <u>63</u> Motion to Stay. Signed by US District Judge Terrence W. Boyle on 11/13/2015. (McDowell, G.) (Entered: 11/13/2015) |
| 11/19/2015 | <u>66</u> | MOTION to Withdraw as Attorney filed by Shaun Antonio Hayden. (Attachments: # <u>1</u> Text of Proposed Order Granting Withdrawal of Attorney Elizabeth Simpson) (Simpson, Elizabeth) (Entered: 11/19/2015) |
| 11/20/2015 | | Motion Submitted to District Judge Terrence W. Boyle: regarding <u>66</u> MOTION to Withdraw as Attorney . (Indig, A.) (Entered: 11/20/2015) |
| 11/23/2015 | <u>67</u> | ORDER – GRANTING <u>66</u> Motion to Withdraw as Attorney. Attorney Elizabeth Guild Simpson terminated. Signed by District Judge Terrence W. Boyle on 11/23/2015. (Indig, A.) (Entered: 11/23/2015) |
| 02/24/2016 | <u>68</u> | Letter regarding grievances from Shaun Antonio Hayden. (Attachments: # <u>1</u> Documents in Support and Grievances, # <u>2</u> Envelope) (Blankenship, T.) (Entered: 02/24/2016) |
| 08/01/2016 | <u>69</u> | Unpublished Opinion from Fourth Circuit Court of Appeals – DISMISSED. (Indig, A.) (Entered: 08/01/2016) |
| 08/01/2016 | <u>70</u> | US Court of Appeals Judgment as to <u>59</u> Notice of Appeal, filed by Robert C. Lewis, Alvin W. Keller, Paul G. Butler, Jr., Anthony E. Rand. (Indig, A.) (Entered: 08/01/2016) |
| 08/23/2016 | <u>71</u> | MANDATE of US Court of Appeals (certified copy) as to <u>59</u> Notice of Appeal, filed by Robert C. Lewis, Alvin W. Keller, Paul G. Butler, Jr., Anthony E. Rand. (Indig, A.) (Entered: 08/23/2016) |
| 08/25/2016 | <u>72</u> | ORDER LIFTING STAY and the parties have 60 days to present a plan for the means and mechanism for compliance with the mandates of Graham v. Florida, 560 U.S. 48 (2010). Signed by District Judge Terrence W. Boyle on 8/25/2016. (Indig, A.) (Entered: 08/25/2016) |
| 08/30/2016 | <u>73</u> | Notice of Appearance filed by Benjamin S. Finholt on behalf of Shaun Antonio Hayden. (Finholt, Benjamin) (Entered: 08/30/2016) |
| 08/31/2016 | <u>74</u> | Notice of Appearance filed by Elizabeth Guild Simpson on behalf of Shaun Antonio Hayden. (Simpson, Elizabeth) (Entered: 08/31/2016) |

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| 09/06/2016 | <u>75</u> | MOTION for Leave to Proceed in forma pauperis , filed by Eddie Smith. (Mills, John) (Entered: 09/06/2016) |
| 09/06/2016 | <u>76</u> | Notice of Appearance filed by John Robert Mills on behalf of Eddie Smith. (Mills, John) (Entered: 09/06/2016) |
| 09/14/2016 | | Notice. This entry is a test of the electronic filing system. All parties to this matter may ignore this entry unless you have been in touch with the CM-ECF Help Desk. (Cannon, S) (Entered: 09/14/2016) |
| 09/22/2016 | <u>77</u> | ORDER – As this matter was stayed pending adjudication of defendants' interlocutory appeal; this matter should have been removed from the court's active docket as of the date of entry of its order allowing defendants' motion to stay. [November 13, 2015, D.E. 65.] The matter should then have been returned to the court's active docket on August 25, 2016, when the stay was lifted upon issuance of the mandate. [Order, D.E. 72.] The clerk is DIRECTED to amend the court's docket accordingly. Signed by District Judge Terrence W. Boyle on 9/22/2016. (Indig, A.) (Entered: 09/22/2016) |
| 10/13/2016 | <u>78</u> | MOTION to Intervene <i>as Plaintiff</i> filed by Eddie Smith. (Attachments: # <u>1</u> Exhibit Exhibit A, # <u>2</u> Exhibit Exhibit B, # <u>3</u> Exhibit Exhibit C, # <u>4</u> Exhibit Exhibit D, # <u>5</u> Exhibit Exhibit E, # <u>6</u> Exhibit Exhibit F, # <u>7</u> Exhibit Exhibit G, # <u>8</u> Exhibit Exhibit H, # <u>9</u> Exhibit Exhibit I, # <u>10</u> Exhibit Exhibit J, # <u>11</u> Exhibit Exhibit K, # <u>12</u> Exhibit Exhibit L, # <u>13</u> Exhibit Exhibit M, # <u>14</u> Exhibit Exhibit N, # <u>15</u> Exhibit Exhibit O, # <u>16</u> Exhibit Exhibit P, # <u>17</u> Exhibit Exhibit Q, # <u>18</u> Exhibit Exhibit R, # <u>19</u> Exhibit Exhibit S, # <u>20</u> Exhibit Exhibit T, # <u>21</u> Exhibit Exhibit U, # <u>22</u> Exhibit Exhibit V, # <u>23</u> Exhibit Exhibit W, # <u>24</u> Index Exhibit Index) (Mills, John) (Entered: 10/13/2016) |
| 10/13/2016 | | NOTICE OF DEFICIENCY regarding: <u>78</u> Motion to Intervene. Pursuant to the CM/ECF Policies and Procedures Manual Section L(2)(b)(c) Attachments and exhibits must be identified with a clear and complete description of the document. (e.g., Exhibit 1 is insufficient. Affidavit of Jane Doe would meet the requirement.) The first attached exhibit or attachment must be an index of all of the subsequently attached documents. (Indig, A.) (Entered: 10/13/2016) |
| 10/13/2016 | <u>79</u> | MOTION to Intervene <i>as Plaintiff</i> filed by Eddie Smith. (Attachments: # <u>1</u> Index Index of Exhibits, # <u>2</u> Exhibit Indictment, State v. Smith, 86-CRS-28322, # <u>3</u> Exhibit Judgment and Commitment Misd. Assault 1, State v. Smith 86-CRS-29772, # <u>4</u> Exhibit Judgment and Commitment Misd. Assault 2, State v. Smith 86-CRS-29772, # <u>5</u> Exhibit Judgment and Commitment, Crime Against Nature, State v. Smith 86-CRS-29772, # <u>6</u> Exhibit Judgment and Commitment Intimidation of a Witness, State v. Smith 86-CRS-29772, # <u>7</u> Exhibit Judgment and Commitment First Degree Sexual Offense, State v. Smith 86-CRS-29772, # <u>8</u> Exhibit Declaration of Eddie Smith, # <u>9</u> Exhibit Declaration of Felicia McMillan, # <u>10</u> Exhibit Declaration of Sharon Pierce, # <u>11</u> Exhibit Declaration of Glen Robinson, # <u>12</u> Exhibit Letter from Rep. Rodney Moore, # <u>13</u> Exhibit Letter from Anthony Siler, # <u>14</u> Exhibit Declaration of Jamie Wernsman PhD, # <u>15</u> Exhibit Declaration of Kalisha Bellamy, # <u>16</u> Exhibit Certificates of Completion, NCDPS, # <u>17</u> Exhibit Certificate of Completion SOAR Program, # <u>18</u> Exhibit SOAR Program Summary Report for Eddie Smith, # <u>19</u> Exhibit SOAR Statistics Memo, June 2006, # <u>20</u> Exhibit NC DPS Infractions History of Eddie Smith, # <u>21</u> Exhibit Declaration of Priscilla Bell, # <u>22</u> Exhibit Declaration of Anthony Siler, # <u>23</u> Exhibit Letter from Eddie Smith to NC Parole Commission, # <u>24</u> Exhibit NC DPS SOAR Fact Sheet) (Mills, John) (Entered: 10/13/2016) |
| 10/18/2016 | <u>80</u> | Financial Disclosure Statement by Eddie Smith (Mills, John) (Entered: 10/18/2016) |
| 10/24/2016 | <u>81</u> | Notice filed by Shaun Antonio Hayden <i>Proposed Plan for Compliance with Graham</i> . (Simpson, Elizabeth) (Entered: 10/24/2016) |
| 10/24/2016 | <u>82</u> | Memorandum in Support regarding <u>81</u> Notice – other <i>Proposed Plan for Compliance with Graham</i> filed by Shaun Antonio Hayden. (Attachments: # <u>1</u> Exhibit A --- Review for Release Article) (Simpson, Elizabeth) (Entered: 10/24/2016) |
| 10/24/2016 | <u>83</u> | Notice filed by Paul G. Butler, Jr regarding <u>72</u> Order Lifting Stay, <u>58</u> Order on Motion for Summary Judgment, Order on Motion to Seal <i>Defendant's Proposed Plan in Response to 25 September 2015 Order</i> . (Finarelli, Joseph) (Entered: 10/24/2016) |
| 10/24/2016 | <u>84</u> | RESPONSE regarding <u>81</u> Notice – other, <u>82</u> Memorandum in Support <i>in Opposition</i> filed by Paul G. Butler, Jr. (Finarelli, Joseph) (Entered: 10/24/2016) |

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| 10/31/2016 | <u>85</u> | RESPONSE regarding <u>83</u> Notice – other, <u>84</u> Response to <i>Defendants' Plan</i> filed by Shaun Antonio Hayden. (Simpson, Elizabeth) (Entered: 10/31/2016) |
| 11/02/2016 | <u>86</u> | RESPONSE in Opposition regarding <u>79</u> MOTION to Intervene as <i>Plaintiff</i> filed by Paul G. Butler, Jr. (Finarelli, Joseph) (Entered: 11/02/2016) |
| 11/09/2016 | <u>87</u> | First MOTION to Amend/Correct <i>Motion to Intervene</i> filed by Eddie Smith. (Attachments: # <u>1</u> Supplement Amended Motion to Intervene, # <u>2</u> Supplement Complaint, # <u>3</u> Index Index to Exhibits in Support of Amended Motion to Intervene, # <u>4</u> Exhibit Exhibit A, Indictment, State v. Smith, # <u>5</u> Exhibit Exhibit B, Judgment and Commitment, State v. Smith, 86CRS28320, # <u>6</u> Exhibit Judgment and Commitment, State v. Smith, 86CRS29772, # <u>7</u> Exhibit Exhibit D, Judgment and Commitment, 86CRS28321, # <u>8</u> Exhibit Exhibit E, Judgment and Commitment, State v. Smith, 86CRS29773, # <u>9</u> Exhibit Exhibit F, Judgment and Commitment, State v. Smith, 86CRS28322, # <u>10</u> Exhibit Exhibit G, Declaration of Eddie Smith, # <u>11</u> Exhibit Exhibit H, Declaration of Felicia McMillan, # <u>12</u> Exhibit Exhibit I, Declaration of Sharon Pierce, # <u>13</u> Exhibit Exhibit J, Declaration of Glen Robinson, # <u>14</u> Exhibit Exhibit K, March 31, 2014, Letter from State Representative Moor, # <u>15</u> Exhibit Exhibit L, Letter from Anthony Siler, # <u>16</u> Exhibit Exhibit M, Declaration of Jamie Wernsman, PhD, # <u>17</u> Exhibit Exhibit N, Declaration of Kalisha Bellamy, # <u>18</u> Exhibit Exhibit O, Certificates of Completion, NCDPS and Collegiate Programming, # <u>19</u> Exhibit Exhibit P, Dec. 6, 2013, Certificate of Completion, NCDPS SOAR Program, # <u>20</u> Exhibit Exhibit Q, Jan. 8, 2014 SOAR program Report for Eddie Smith, # <u>21</u> Exhibit Exhibit R, June 2006 SOAR Memo, # <u>22</u> Exhibit Exhibit S, DPS Infractions History for Eddie Smith, Oct. 10, 2016, # <u>23</u> Exhibit Exhibit T, Declaration of Priscilla Bell, # <u>24</u> Exhibit Exhibit U, Declaration of Anthony Siler, # <u>25</u> Exhibit Exhibit V, Letter from Eddies Smith to Parole Commission, Mar. 5, 2016, # <u>26</u> Exhibit Exhibit W, NCDPS SOAR Fact Sheet) (Mills, John) (Entered: 11/09/2016) |
| 12/06/2016 | | Motions Submitted to District Judge Terrence W. Boyle: regarding <u>79</u> MOTION to Intervene as <i>Plaintiff</i> and <u>87</u> First MOTION to Amend <i>Motion to Intervene</i> . (Indig, A.) (Entered: 12/06/2016) |
| 07/05/2017 | <u>88</u> | ORDER – Smith's motion to amend his motion to intervene (DE <u>87</u>) is GRANTED. Smith's motion to intervene (DE <u>79</u> , <u>87</u>) is DENIED. As a result, Smith's motion for leave to proceed in forma pauperis (DE <u>75</u>) is DENIED as MOOT. The parties are DIRECTED to confer and inform the court of their mediation preferences as set forth above or to move for appointment of a special master within 14 days of the date of this order. Signed by District Judge Terrence W. Boyle on 7/3/2017. (Agiovlassitis, J.) (Entered: 07/05/2017) |
| 07/17/2017 | <u>89</u> | MOTION to Appoint Special Master filed by Shaun Antonio Hayden. (Simpson, Elizabeth) (Entered: 07/17/2017) |
| 07/17/2017 | <u>90</u> | Memorandum in Support regarding <u>89</u> MOTION to Appoint Special Master filed by Shaun Antonio Hayden. (Simpson, Elizabeth) (Entered: 07/17/2017) |
| 07/27/2017 | <u>91</u> | RESPONSE to Order regarding <u>88</u> Order on Motion for Leave to Proceed in forma pauperis, Order on Motion to Intervene, Order on Motion to Amend/Correct,,,,, <u>89</u> MOTION to Appoint Special Master filed by Shaun Antonio Hayden. (Attachments: # <u>1</u> Exhibit Mr. Horn's CV, # <u>2</u> Exhibit Mr. Horn's Biography) (Finholt, Benjamin) (Entered: 07/27/2017) |
| 07/28/2017 | | Motion Submitted to District Judge Terrence W. Boyle regarding: <u>89</u> MOTION to Appoint Special Master. (Agiovlassitis, J.) (Entered: 07/28/2017) |
| 07/28/2017 | | Motion No Longer Submitted to District Judge Terrence W. Boyle regarding <u>89</u> MOTION to Appoint Special Master. (Agiovlassitis, J.) (Entered: 07/28/2017) |
| 08/07/2017 | <u>92</u> | RESPONSE in Opposition regarding <u>89</u> MOTION to Appoint Special Master filed by Paul G. Butler, Jr. (Finarelli, Joseph) (Entered: 08/07/2017) |
| 08/11/2017 | | Motion Submitted to District Judge Terrence W. Boyle regarding: <u>89</u> MOTION to Appoint Special Master. (Agiovlassitis, J.) (Entered: 08/11/2017) |
| 10/06/2017 | <u>93</u> | NOTICE of Hearing: Hearing set for 10/27/2017 at 10:00 AM in Raleigh – 7th Floor – Courtroom 2 before District Judge Terrence W. Boyle. (Agiovlassitis, J.) (Entered: 10/06/2017) |

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| 10/23/2017 | <u>94</u> | WRIT of HABEAS CORPUS issued as to SHAUN ANTONIO HAYDEN #0174678 for the purpose of appearing at a hearing scheduled in the above captioned case before the Honorable Terrence W. Boyle, United States District Judge on Friday, October 27, 2017 at 10:00 a.m. at the United States Courthouse, 310 New Bern Avenue, Raleigh, North Carolina. Copy sent via US Mail to Warden of Lanesboro Correctional Institution and via facsimile to NC Prison Administration and via email to the US Marshal Service. (Agiovlassitis, J.) (Entered: 10/23/2017) |
| 10/27/2017 | <u>95</u> | Minute Entry for proceedings held before District Judge Terrence W. Boyle: Status Conference held on 10/27/2017. Plaintiff present with counsel. Counsel for defendant present. Written order to follow. (Court Reporter Amy Condon) (Agiovlassitis, J.) (Entered: 10/30/2017) |
| 11/02/2017 | <u>96</u> | ORDER – the court GRANTS plaintiff's request for injunctive relief and ADOPTS defendant's proposed plan. The court DIRECTS defendant to implement its proposed plan within 90 days of the date of this order. Any future challenges to the new parole procedures must be brought in an independent action. Because the court has adopted defendant's proposed plan, plaintiff's motion to appoint a special master (DE <u>89</u>) is DENIED as MOOT. The Clerk of Court is DIRECTED to close this case. Signed by District Judge Terrence W. Boyle on 11/2/2017. (Agiovlassitis, J.) (Entered: 11/02/2017) |
| 11/02/2017 | <u>97</u> | CLERK'S JUDGMENT – that plaintiff's request for injunctive relief is granted and defendant's proposed plan is adopted. Signed by Peter A. Moore, Jr., Clerk of Court on 11/2/2017. (Agiovlassitis, J.) (Entered: 11/02/2017) |
| 11/16/2017 | <u>98</u> | MOTION for Attorney Fees filed by Shaun Antonio Hayden. (Attachments: # <u>1</u> Exhibit Attorney Time Statement, # <u>2</u> Exhibit CJA Rates, # <u>3</u> Exhibit NCPLS Expenses, # <u>4</u> Exhibit Declaration of Elizabeth Simpson, # <u>5</u> Exhibit Declaration of Ben Finholt, # <u>6</u> Exhibit NCPLS Contract with IDS) (Finholt, Benjamin) (Entered: 11/16/2017) |
| 11/16/2017 | <u>99</u> | Memorandum in Support regarding <u>98</u> MOTION for Attorney Fees filed by Shaun Antonio Hayden. (Finholt, Benjamin) (Entered: 11/16/2017) |
| 11/16/2017 | <u>100</u> | Consent MOTION regarding <u>98</u> MOTION for Attorney Fees filed by Shaun Antonio Hayden. (Attachments: # <u>1</u> Text of Proposed Order) (Finholt, Benjamin) (Entered: 11/16/2017) |
| 11/22/2017 | | Motion Submitted to District Judge Terrence W. Boyle regarding: <u>100</u> Consent MOTION regarding <u>98</u> MOTION for Attorney Fees. (Agiovlassitis, J.) (Entered: 11/22/2017) |
| 12/01/2017 | <u>101</u> | Notice of Appeal filed by Paul G. Butler, Jr as to <u>96</u> Order on Motion for Miscellaneous Relief,, <u>58</u> Order on Motion for Summary Judgment,,,, Order on Motion to Seal,,,,,, Filing fee, receipt number 266AQE3D. (Finarelli, Joseph) (Entered: 12/01/2017) |
| 12/01/2017 | <u>102</u> | MOTION to Stay regarding <u>101</u> Notice of Appeal filed by Paul G. Butler, Jr. (Attachments: # <u>1</u> Text of Proposed Order Proposed Order Granting Stay Pending Appeal) (Finarelli, Joseph) (Entered: 12/01/2017) |
| 12/01/2017 | <u>103</u> | Memorandum in Support regarding <u>102</u> MOTION to Stay regarding <u>101</u> Notice of Appeal filed by Paul G. Butler, Jr. (Finarelli, Joseph) (Entered: 12/01/2017) |
| 12/01/2017 | <u>104</u> | Transmission of Notice of Appeal and Docket Sheet to US Court of Appeals regarding <u>101</u> Notice of Appeal filed by Paul G. Butler, Jr. (Agiovlassitis, J.) (Entered: 12/01/2017) |
| 12/04/2017 | <u>105</u> | US Court of Appeals Case Number 17–7582 (Emily Musser, Case Manager) as to <u>101</u> Notice of Appeal filed by Paul G. Butler, Jr. (Agiovlassitis, J.) (Entered: 12/04/2017) |
| 12/05/2017 | | Motion Submitted to District Judge Terrence W. Boyle regarding: <u>102</u> MOTION to Stay regarding <u>101</u> Notice of Appeal. (Agiovlassitis, J.) (Entered: 12/05/2017) |
| 01/08/2018 | <u>106</u> | ORDER – plaintiff's motion to stay ruling on his motion for costs, attorneys' fees, and related expenses (DE <u>100</u>) is GRANTED, and the court holds plaintiff's motion for costs, attorneys' fees, and related expenses (DE <u>98</u>) in ABEYANCE as set forth above. Defendant's motion to stay the proceedings (DE <u>102</u>) is DENIED. Defendant |

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| | | <p>has until March 30, 2018, to implement the State's proposed plan. The Clerk of Court is DIRECTED to substitute Willis J. Fowler as a defendant in place of Paul G. Butler, Jr. Signed by District Judge Terrence W. Boyle on 1/5/2018. (Agiovlassitis, J.) (Entered: 01/08/2018)</p> |
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