

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

COREY DUANE HAMILTON,)

Plaintiff,)

vs.)

Case No. 06-CV-1193-F

JUSTIN JONES, in his capacity as Director)

Oklahoma Department of Corrections;)

MARTY SIRMONS, in his capacity as)

Warden, Oklahoma State Penitentiary;)

W. MARK LUTTRULL, ROBERT L.)

RAINEY, EARNEST D. WARE, DAVID)

C. HENNEKE, TED LOGAN, BEVERLY)

YOUNG and ERNEST GODLOVE, in their)

capacities as members of the Oklahoma)

Board of Corrections; and UNKNOWN)

EXECUTIONERS, in their capacities as)

Employees and/or Agents of the Oklahoma)

Department of Corrections,)

Defendants.)

ANSWER

Defendants, Justin Jones, in his capacity as Director Oklahoma Department of Corrections, Marty Sirmons, in his capacity as Warden of Oklahoma State Penitentiary, Robert L. Rainey, W. Mark Luttrell, Ernest Godlove, David C. Henneke, Ted Logan, Beverly Young, and Earnest D. Ware, in their capacities as members of the Oklahoma Board of Corrections, (collectively "Defendants") submit their Answer to Plaintiffs' Complaint on file herein and allege and state:

1. Defendants deny the allegations contained in numerical paragraph 1 of Plaintiff's Complaint.

2. Defendants admit Plaintiff is bringing an action under 42 U.S.C. § 1983, but deny any cause of action has arisen under that authority as otherwise alleged in numerical paragraph 2 of Plaintiff's Complaint.

3. Defendants deny the allegations contained in numerical paragraph 3 of Plaintiff's Complaint.

4. Defendants admit the allegations contained in numerical paragraph 4 of Plaintiff's Complaint.

5. Defendants admit the allegations contained in numerical paragraph 5 of Plaintiff's Complaint.

6. Defendants admit the allegations contained in numerical paragraph 6 of Plaintiff's Complaint.

7. There are no allegations against these Defendants contained in numerical paragraph 7 of Plaintiff's Complaint.

8. Denied as to allegations of recklessness and deliberate indifference.

9. This paragraph contains jurisdictional statements only.

10. Admitted.

11. Denied as to exhaustion of remedies.

12. Denied.

13. Denied.

14. Denied. (Defendants also deny the substance of Plaintiff's footnote # 1, and all other allegations that are based on newspaper articles.)

15. Denied.

16. Denied.

17. Denied.

18. Denied.

19. Denied.

20. Denied.

21. Denied.

22. Denied.

23. Admitted.

24. Admitted.

25. Denied.

26. Denied as to “confusing and complicated” and the remainder of the paragraph is denied as it appears as written to be taken out of context, by beginning with paragraph # 4. Also, denied as to “it is not known who, if anyone, directs the sequence of drug administration for the executioners”

27. Denied.

28. Denied.

29. Denied.

30. Admitted, although allegations are in the wrong order.

31. Admitted.

32. Denied.

33. Denied.

34. Denied.

35. Denied.

36. Defendants lack sufficient information or knowledge to admit or deny the allegations contained in numerical paragraph 36 of Plaintiff’s Complaint.

37. Denied.

38. Denied.

39. Denied.

40. Denied.

41. Denied.

42. Denied.

43. Denied.

44. Denied.

45. Denied.

46. Denied.

47. Admitted.

48. Denied.

49. Denied.

50. Defendants lack sufficient information or knowledge to admit or deny the allegations contained in numerical paragraph 50 of Plaintiff's Complaint.

51. Defendants lack sufficient information or knowledge to admit or deny the allegations contained in numerical paragraph 51 of Plaintiff's Complaint.

52. Defendants lack sufficient information or knowledge to admit or deny the allegations contained in numerical paragraph 52 of Plaintiff's Complaint.

53. Defendants lack sufficient information or knowledge to admit or deny the allegations contained in numerical paragraph 53 of Plaintiff's Complaint.

54. Defendants deny the allegations contained in numerical paragraph 54 of Plaintiff's Complaint.

55. This paragraph does not contain any allegations against these Defendants.

56. This paragraph does not contain any allegations against these Defendants.

57. Defendants deny the allegations contained in numerical paragraph 57 of Plaintiff's Complaint.

58. Defendants deny the allegations contained in numerical paragraph 58 of Plaintiff's Complaint.

59. Defendants deny the allegations contained in numerical paragraph 59 of Plaintiff's Complaint.

60. Defendants deny the allegations contained in numerical paragraph 60 of Plaintiff's Complaint.

61. Defendants deny the allegations contained in numerical paragraph 61 of Plaintiff's Complaint.

62. Defendants deny the allegations contained in numerical paragraph 62 of Plaintiff's Complaint.

63. Defendants deny the allegations contained in numerical paragraph 63 of Plaintiff's Complaint.

64. Defendants deny the allegations contained in numerical paragraph 64 of Plaintiff's Complaint.

65. Defendants deny the allegations contained in numerical paragraph 65 of Plaintiff's Complaint.

66. Defendants deny the allegations contained in numerical paragraph 66 of Plaintiff's Complaint.

67. Defendants deny the allegations contained in numerical paragraph 67 of Plaintiff's Complaint.

68. Defendants deny the allegations contained in numerical paragraph 68 of Plaintiff's Complaint.

69. Defendants deny the allegations contained in numerical paragraph 69 of Plaintiff's Complaint.

70. Defendants deny the allegations contained in numerical paragraph 70 of Plaintiff's Complaint.

71. Defendants deny the allegations contained in numerical paragraph 71 of Plaintiff's Complaint.

72. Denied.

73. Defendants deny the allegations contained in numerical paragraph 73 of Plaintiff's Complaint.

74. Defendants deny the allegations contained in numerical paragraph 74 of Plaintiff's Complaint.

75. Denied.

76. Denied.

77. Defendants deny that Plaintiff is entitled to the relief sought therein.

78. Defendants deny Plaintiff is entitled to the relief sought in numerical paragraph 78 of Plaintiff's Complaint.

79. Defendants deny Plaintiff is entitled to the relief sought in numerical paragraph 79 of Plaintiff's Complaint.

80. Defendants deny Plaintiff is entitled to the relief sought in numerical paragraph 80 of Plaintiff's Complaint.

AFFIRMATIVE DEFENSES

Defendants, Justin Jones, in his capacity as Director Oklahoma Department of Corrections, Marty Sirmons, in his capacity as Warden of Oklahoma State Penitentiary, Robert L. Rainey, W. Mark Luttrell, Ernest Godlove, David C. Henneke, Ted Logan, Beverly Young, and Earnest D. Ware, in their capacities as members of the Oklahoma Board of Corrections, (collectively “Defendants”) for their affirmative defenses to Plaintiffs’ Complaint on file herein, allege and state:

1. The Complaint fails to state a claim upon which relief may be granted.
2. The Complaint fails to state a claim for any constitutional violation.
3. The Complaint fails to state a claim for a violation of the Eighth Amendment.
4. The Complaint fails to state a claim for a violation of the Fifth Amendment.
5. The Complaint fails to state a claim under 42 U.S.C. § 1983.
6. The Complaint fails to state a claim for injunctive relief.
7. The Complaint fails to state a claim for declaratory relief.
8. Counsel for Plaintiff violates notice pleading under the FRCP.
9. The claims set forth by Plaintiffs lack ripeness.
10. Plaintiff has failed to exhaust his administrative remedies as required by the Prison

Litigation Reform Act

11. Allegations of negligence are insufficient to establish liability under the Eighth Amendment.
12. Plaintiff cannot demonstrate Defendants have exhibited the required culpable state of mind of deliberate indifference.
13. Allegations which constitute a difference of medical opinion are insufficient to establish liability under 42 U.S.C. § 1983.

14. Defendants Rainey, Luttrell, Henneke, Godlove, Logaon, Young, and Ware do not personally participate in any facet of the execution process or adoption of lethal injection procedures.

15. Defendants' policies, practices and procedures relevant hereto are constitutional and meet the minimum medical requirements under prevailing caselaw.

16. Defendants respectfully reserve the right to assert additional affirmative defenses as they become known or relevant through discovery.

Having answered Plaintiff's Complaint fully, Defendants, Justin Jones, in his capacity as Director Oklahoma Department of Corrections, Marty Sirmons, in his capacity as Warden of Oklahoma State Penitentiary, Robert L. Rainey, W. Mark Luttrell, Ernest Godlove, David C. Henneke, Ted Logan, Beverly Young, and Earnest D. Ware, in their capacities as members of the Oklahoma Board of Corrections, respectfully request the Court to dismiss the same in its entirety. Defendants demand a trial by jury.

Respectfully submitted,

s/ Richard N. Mann

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Attorney for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on December 4, 2006, I electronically transmitted the attached document to the Clerk of the Court using the ECF system for filing and transmittal of a Notice of Electronic Filing to the following ECF registrant:

Robert R. Nigh, Jr.
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Attorney for Plaintiff

s/ Richard N. Mann
Richard N. Mann