

CLOSED, CONMAG

**U. S. District Court
Eastern District of Louisiana (New Orleans)
CIVIL DOCKET FOR CASE #: 2:99-cv-03257-SSV-JCW**

Miller v. Foti, et al
Assigned to: Chief Judge Sarah S. Vance
Referred to: Magistrate Judge Joseph C. Wilkinson, Jr
Demand: \$0
Cause: 42:1983 Prisoner Civil Rights

Date Filed: 11/02/1999
Date Terminated: 10/11/2000
Jury Demand: None
Nature of Suit: 550 Prisoner: Civil Rights
Jurisdiction: Federal Question

Plaintiff**James D Miller**

represented by **James D Miller**
26114-034
FPC
Federal Prison Camp
P. O. Box 5010
Oakdale, LA 71463
PRO SE

V.

Defendant

Charles C Foti, Jr
Criminal Sheriff for Orleans Parish

represented by **Freeman Rudolph Matthews**
Usry, Weeks & Matthews
1615 Poydras St.
Suite 1250
New Orleans, LA 70112
504-592-4600
Email: pmatthews@uwmlaw.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

John Vito Quaglino

Juge, Napolitano, Guilbeau, Ruli, Frieman
& Whiteley
3320 W. Esplanade Ave. North
Metairie, LA 70002
504-831-7270
Email: jquaglino@wcdefense.com
LEAD ATTORNEY

Linda Pacetti Morin

Linda P. Morin, Attorney at Law
15164 Old Farms Road
Folsom, LA 70437
504-450-9494
Email: morinl@opcs.org
ATTORNEY TO BE NOTICED

Defendant**Deputy Chaney**

represented by **Freeman Rudolph Matthews**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
11/02/1999	1	COMPLAINT (2 summons(es) issued) (daf) Modified on 11/08/1999 (Entered: 11/04/1999)

11/02/1999	2	ORDER granting pla leave to proceed in forma pauperis ; Further Ordered to pay initial filing fee of \$10.00 with remainder to be paid as stated by Magistrate Karen W. Roby (daf) Modified on 11/08/1999 (Entered: 11/04/1999)
11/02/1999		Automatic Referral (Utility Event) to Magistrate Karen W. Roby (daf) (Entered: 11/04/1999)
11/03/1999	3	Notice by plaintiff James Miller of related case(s) 99-0663-R(2) (daf) (Entered: 11/08/1999)
11/10/1999	4	ORDER Case reassigned to Judge Sarah S. Vance, Mag. Judge 2 due to related matter CA 99-663 R by Judge Helen G. Berrigan Date Signed: 11/9/99 (kh) (Entered: 11/12/1999)
11/10/1999		Automatic Referral (Utility Event) to Magistrate Joseph C. Wilkinson Jr. (bb) (Entered: 12/01/1999)
11/16/1999	5	MINUTE ENTRY(11/15/99): Ordered that plaintiff file statement of facts, and exhibit and witness lists by 12/7/99; further ordered that counsel for dfts furnish a verified copy of pla's medical records to the Mag and to pla w/in 30 days by Magistrate Joseph C. Wilkinson Jr. (bb) (Entered: 11/17/1999)
11/19/1999	6	USM RETURN OF SERVICE of summons and complaint upon defendant Charles C Foti Jr on 11/17/99 (bb) (Entered: 11/23/1999)
11/29/1999	7	MINUTE ENTRY (11/24/99): Ordered that pla sign the consent to proceed bfr the Mag form and forward it to dft's counsel w/in 21 days; if pla declines to consent, he must notify the court in writing by Magistrate Karen W. Roby (bb) (Entered: 11/29/1999)
12/09/1999	8	ORDERED that pla show cause in writing by 1/6/00 why his suit should not be dismissed for failure to comply w/the Court's order dated 11/15/99 by Magistrate Joseph C. Wilkinson Jr. (bb) (Entered: 12/10/1999)
12/13/1999	9	ANSWER by defendant Charles C Foti Jr to complaint by plaintiff James Miller [1-1] (cca) (Entered: 12/14/1999)
12/20/1999		Mail Returned [8-1] order to show cause hearing addressed to plaintiff James Miller (bb) (Entered: 12/27/1999)
01/10/2000	<u>10</u>	MINUTE ENTRY (1/7/00): Clerk is directed to remail a copy of the orders issd by the Mag on 11/15/99 and 12/9/99; pla is granted until 1/31/00 to resp to the orders by Magistrate Joseph C. Wilkinson Jr. (bb) (Entered: 01/11/2000)
01/24/2000	12	Response by plaintiff James Miller to order entered 11/17/99 (bb) (Entered: 01/26/2000)
01/25/2000	<u>11</u>	MINUTE ENTRY (1/24/00): Preliminary Conference set 10:30 2/17/00 by telephone; Warden is directed to have pla made available for the conf by Magistrate Joseph C. Wilkinson Jr. (bb) (Entered: 01/25/2000)
02/17/2000	<u>13</u>	MINUTE ENTRY (2/17/00): Clerk is directed to file pla's medical record into the record by Magistrate Joseph C. Wilkinson Jr. (bb) Modified on 02/17/2000 (Entered: 02/17/2000)
02/17/2000	<u>14</u>	MINUTE ENTRY (2/17/00): Preliminary Conference held 10:30 2/17/00; pla has been forwarded a form to indicate whether he consents to proceed bfr a Mag; the question of whether the instant case should be consolidated with the other two related cases in this court for trial will be taken under advisement pending the parties' decision concerning consent by Magistrate Joseph C. Wilkinson Jr. (bb) (Entered: 02/18/2000)
02/28/2000	<u>15</u>	Motion by defendant Charles C Foti Jr and ORDER for appearance of John Vito Quaglino as co-counsel by Magistrate Joseph C. Wilkinson Jr. (bb) (Entered: 02/29/2000)
03/02/2000	16	Consent to proceed trial before a U.S. Magistrate pursuant to 28 USC 636(c) filed by plaintiff James Miller III (jd) (Entered: 03/03/2000)

03/15/2000	<u>17</u>	MINUTE ENTRY (3/15/00): Present defense counsel of record are ordered to advise the court whether they will represent dft Chaney in this case, and if so file an answer or responsive pleading w/in 10 days by Magistrate Joseph C. Wilkinson Jr. (bb) (Entered: 03/15/2000)
03/22/2000	18	ANSWER by defendant Deputy Chaney to complaint by plaintiff James Miller [1-1] (bb) (Entered: 03/22/2000)
03/23/2000	<u>19</u>	MINUTE ENTRY (3/22/00): Ordered that this case will be set for trial and ptc bfr the Mag w/CA 99-663 R and 99-3167 S; Pre-Trial Conference set 2:00 4/27/00; Non-jury Trial set 10:00 5/15/00; further ordered that counsel for plas and dfts in CA 99-663 and 99-3167 must include references to the claims, witnesses & exhibits of pla James Miller in the pretrial order by Magistrate Joseph C. Wilkinson Jr. (bb) (Entered: 03/23/2000)
03/23/2000	<u>20</u>	ORDER that Case is referred to Magistrate Joseph C. Wilkinson Jr. for all further proceedings and entry of jgm by Judge Sarah S. Vance (bb) (Entered: 03/24/2000)
04/28/2000	<u>21</u>	MINUTE ENTRY (4/27/00): pre-trial conference held; ordered that plas will participate in trial by telephone; further ordered that counsel for plas and dfts send to plas copies of all trial exhibits by 5/8/00; further ordered that parties may submit findings of fact & conclusions of law & pretrial memoranda by 4:00 on 5/12/00; further ordered that the Court will conduct an inspection of the Orleans Parish Prison where the alleged incidents occurred on 5/16/00 by Magistrate Joseph C. Wilkinson Jr. (bb) Modified on 05/15/2000 (Entered: 04/28/2000)
04/28/2000	<u>22</u>	MINUTE ENTRY (4/28/00): trial is set 5/15/00 and 5/16/00; the Warden of Federal Prison Camp is ordered to make pla available for trial by telephone by Magistrate Joseph C. Wilkinson Jr. (bb) (Entered: 04/28/2000)
04/28/2000	<u>23</u>	PRE-TRIAL ORDER: PTC held; non jury trial set 5/15/00 at 10:00 by Magistrate Joseph C. Wilkinson Jr. Date Signed: 4/27/00 (bb) (Entered: 05/01/2000)
04/28/2000	24	DOCUMENT NUMBER 24 IS NOT USED (bb) Modified on 06/01/2000 (Entered: 05/01/2000)
05/01/2000	<u>25</u>	MINUTE ENTRY (5/1/00): The Clerk of Court's Court Reporter Section is directed to take possession of the cassette tape of the conf conducted by telephone on 2/17/00 & hold same for further use by Magistrate Joseph C. Wilkinson Jr. (bb) (Entered: 05/02/2000)
05/10/2000	26	Transcript of telephone conf held 2/17/00 bfr Mag Wilkinson (bb) (Entered: 05/15/2000)
05/15/2000	<u>27</u>	PROCEEDING: Reported/Recorded by Rhonda Hardin; Non-jury Trial held; all present & ready; plas' mtn for sequestration of witnesses granted; exhibits admitted; witnesses sworn & testified; court adjourned until 5/16/00 at 10:00 by Magistrate Joseph C. Wilkinson Jr. (bb) (Entered: 05/18/2000)
05/16/2000	<u>28</u>	PROCEEDING: Reported/Recorded by Rhonda Hardin; non jury trial cont; witnesses sworn & testified; exhibits admitted; plas' mtns to have medical records entered into evidence granted; dft's mtn to dismiss damage claims - deferred; dft's mtn to dismiss 1983 claims agst Sheriff Foti - deferred; court adjourned until 5/17/00 at 9:00 by Magistrate Joseph C. Wilkinson Jr. (bb) (Entered: 05/18/2000)
05/17/2000	<u>29</u>	PROCEEDING: Reported/Recorded by Rhonda Hardin; non jury trial cont from 5/16/00; all present & ready; witnesses sworn & testified; exhibits admitted; stip entered into the record; dfts reurge their mtn of dismissal of 1983 and legal access claims agst dft Foti - deferred; pla waives closing argument; dfts waive closing argument; post trial brief to be submitted by 5/31/00; all matters are submitted at this time; court adjourned by Magistrate Joseph C. Wilkinson Jr. (bb) (Entered: 05/18/2000)
08/04/2000	<u>30</u>	MINUTE ENTRY (8/1/00) Settlement conference is set at 10:00 8/23/00 by Magistrate Sally Shushan (bb) (Entered: 08/04/2000)
08/25/2000	<u>31</u>	MINUTE ENTRY (8/25/00) Telephone Settlement conference held at 10:00 8/23/00; the parties advised that they are unable to negotiate a settlement at this time by Magistrate Sally Shushan (bb) (Entered: 08/25/2000)

10/11/2000	<u>32</u>	MINUTE ENTRY (10/11/00) The clerk is directed to take custody of the depos & exhibits submitted during the trial by Magistrate Joseph C. Wilkinson Jr. (bb) (Entered: 10/12/2000)
10/11/2000	<u>33</u>	ORDER that the Warden w/draw funds from pla's prisoner account as set out in document by Magistrate Joseph C. Wilkinson Jr. (bb) (Entered: 10/13/2000)
10/11/2000	<u>34</u>	Findings of fact and conclusions of law by Magistrate Joseph C. Wilkinson Jr. Date signed: 10/10/00 (bb) (Entered: 10/13/2000)
10/11/2000	<u>35</u>	JUDGMENT: Ordered that there be jgm in favor of dfts Charles C. Foti Jr. & Gerald Chaney and agst pla, dismissing pla's claims under 42:1983 w/prej; further ordered that there be jgm in favor of pla and agst dfts Foti & Chaney in the amt of \$250.00 w/interest; all parties to bear own costs by Loretta G. Whyte, Clerk; Approved as to form by Magistrate Joseph C. Wilkinson Jr. (CLOSED) (bb) (Entered: 10/13/2000)
10/27/2000	<u>36</u>	Notice of appeal by plaintiff James Miller from Dist. Court [34-1] findings of fact, [35-2] judgment (gw) (Entered: 11/01/2000)
11/08/2000	<u>37</u>	MINUTE ENTRY (11/8/00) Hrg on pla's obj to Findings of Fact and Conclusions of law; denied by Magistrate Joseph C. Wilkinson Jr. (bb) (Entered: 11/09/2000)
01/17/2001	<u>38</u>	ORDER from Court of Appeals: dismissing the appeal for want of prosecution; the appellant failed to timely pay the docketing fee [36-1] by Clerk USCA (ijg) (Entered: 01/18/2001)