

CLOSED

**U.S. District Court  
Southern District of New York (Foley Square)  
CIVIL DOCKET FOR CASE #: 1:91-cv-06777-AGS**

Handlin, et al v. Garvey  
Assigned to: Judge Allen G. Schwartz  
Demand: \$6000000  
Cause: 42:1983 Prisoner Civil Rights

Date Filed: 10/08/1991  
Jury Demand: Both  
Nature of Suit: 550 Prisoner: Civil  
Rights  
Jurisdiction: Federal Question

**Plaintiff**

**Walter Francis Handlin, III**  
*TERMINATED: 09/09/1998*

represented by **Walter Francis Handlin, III**  
91-A-7378  
Camp Pharsalia Correctional Facility  
South Plymouth, NY 13844-0200  
PRO SE

**Plaintiff**

**David Redmond**

represented by **David Redmond**  
Lieber Correctional Institute  
P.O. Box 205  
Ridgevill, SC 29472  
PRO SE

**Plaintiff**

**Albert May**

represented by **Albert May**  
92-A-0003  
Sing Sing Correctional Facility  
354 Hunter Street  
Ossining, NY 10562  
PRO SE

**Plaintiff**

**John J. Clark**  
*TERMINATED: 03/27/1998*

represented by **John J. Clark**  
91-A-7374  
Elmira C.F.  
Box 500  
Elmira, NY 14902  
PRO SE

**Plaintiff**

**Jamie Bulson**  
*TERMINATED: 11/20/1996*

represented by **Jamie Bulson**  
Orange County Correctional Facility  
PRO SE

**Plaintiff**

**Larry Patterson**  
*TERMINATED: 11/20/1996*

represented by **Larry Patterson**  
 Orange County Correctional Facility  
 PRO SE

V.

**Defendant**

**Sheriff James Garvey**  
*Orange County Jail*

represented by **Pennock & Breedlove**  
 Pennock & Breedlove, LLP  
 17 Halfmoon Executive Park Drive  
 Clifton Park, NY 12065  
*LEAD ATTORNEY*

**Joseph D. Giannetti**  
 Horigan, Horigan, Pennock &  
 Lombardo, P.C.  
 49 East Main Street  
 P.O. Box 520  
 Amsterdam, NY 12010  
 (518)843-0043  
*LEAD ATTORNEY*

**Thomas J. Cione**  
 County Attorney-Orange County  
 255-275 Main Street  
 Goshen, NY 10924  
 (914) 294-5151  
*TERMINATED: 03/04/1997*  
*LEAD ATTORNEY*

<b>Date Filed</b>	<b>#</b>	<b>Docket Text</b>
10/08/1991	1	Order endorsed on declaration and support of request to proceed in forma pauperis, granted ; ( signed by Judge Charles L. Brieant ) (gc) (Entered: 10/17/1991)
10/08/1991	2	COMPLAINT filed; Summons issued and Notice pursuant to 28 U.S.C. 636(c); Jury demanded. (gc) (Entered: 10/17/1991)
11/19/1991	3	AFFIRMATION of Thomas J. Cione by James Garvey Re: in opposition to motion for tro and in support of motion for dismissal of complaint. (kg) (Entered: 11/19/1991)
11/26/1991	4	Notice of reasmnt to Judge Kenneth Conboy Copy of notice and judge's rules mailed to Attorney(s) of record: Larry Patterson, Jamie Bulson, John J. Clark, Albert May, David Redmond, Walter Francis Handlin III. (kg) (Entered: 12/12/1991)
12/05/1991	5	ORDER, reset pretrial conference for 12:00 12/30/91 ( signed by Judge Kenneth Conboy ); Copies mailed (ar) (Entered: 12/12/1991)

02/14/1992	6	ACKNOWLEDGEMENT OF SERVICE as to James Garvey by James Garvey on 1/30/92 Answer due on 2/19/92 for James Garvey (dcap) (Entered: 06/11/1992)
05/07/1992	7	ORDER placing case on suspense docket. ( Signed by Judge Kenneth Conboy ) (vb) (Entered: 05/07/1992)
07/16/1992	8	APPLICATION by David Redmond for appointment of counsel (vb) (Entered: 07/16/1992)
07/23/1992		Memo endorsed on motion; denying [8-1] motion for appointment of counsel w/leave to renew at the reinstatement of the case on the courts active docket ( signed by Judge Kenneth Conboy ); Copies mailed. (vb) (Entered: 07/24/1992)
07/24/1992	9	ORDER, for leave to file plttfs request for production of Documents is granted ( signed by Judge Kenneth Conboy ); Copies mailed (vb) (Entered: 07/24/1992)
07/24/1992	10	REQUEST for Production of Documents by Walter Francis Handlin III, David Redmond, Albert May, John J. Clark, Jamie Bulson, Larry Patterson attached to doc 9 (vb) (Entered: 07/24/1992)
01/26/1994	11	Notice of reasmnt _ to Judge Allen G. Schwartz Copy of notice and judge's rules mailed to Attorney(s) of record: David Redmond, John J. Clark, Jamie Bulson, Larry Patterson, Albert May, Walter Francis Handlin III. (rjm) (Entered: 01/26/1994)
02/22/1994		NOTICE of CHANGE XOF ADDRESS by Albert May (mk) (Entered: 03/01/1994)
02/22/1994	12	ORDER, that Mid-Hudson Legal Services Inc., counsel for plttfs & the Orange County Attorney, counsel for the deft, advise the Court in writing as to the status of the case & stating the reasons why the case should remain open & on the Suspense Docket ( signed by Judge Allen G. Schwartz ); Copies mailed (mk) (Entered: 04/05/1994)
07/07/1994		NOTICE of CHANGE OF ADDRESS by Walter Francis Handlin III (mk) (Entered: 07/12/1994)
12/29/1994	13	(DUPLICATE ORIGINAL) Case closed administratively Pursuant to Memorandum From the Administrative Office of the United States Courts, Dated June 15th, 1973. (original filed in 83 Civ.2779 VLB) SO ORDERED CHIEF JUDGE THOMAS P. GRIESA (kg) (Entered: 01/04/1995)
03/22/1995	14	ORDER, reinstating the action to the active civil docket of this Court from the Suspense Docket; the Clerk of the Court is directed to forward copies of this order to counsel for all parties ( signed by Judge Allen G. Schwartz ); Copies mailed (jr) (Entered: 03/22/1995)
03/22/1995		Case reopened (jr) (Entered: 03/22/1995)
05/12/1995	15	ANSWER to Complaint by James Garvey (Attorney Thomas J. Cione), ;

		Firm of: Richard B. Golden by attorney Thomas J. Cione for defendant James Garvey (djc) (Entered: 05/18/1995)
09/15/1995	16	PRETRIAL SCHEDULING ORDER setting (1) Deposition of plaintiff, Walter Francis Handlin, to be held within thirty days, and to be concluded by 10/12/95. (2) Defendant's motion to be made no later than 11/13/95. (3) Plaintiff's Response to motion deadline 12/13/95. SO ORDERED: ( signed by Judge Allen G. Schwartz ) (ae) (Entered: 09/19/1995)
09/19/1995	17	NOTICE by James Garvey to take deposition of Walter Francis Handlin on 10/12/95 at 10:00 a.m.; subpoena(s) issued. (ls) (Entered: 09/26/1995)
10/27/1995	18	NOTICE OF MOTION by James Garvey to dismiss the above entitled action w/ prejudice and w/ costs to Defts. , Return date 11/14/95 (ls) (Entered: 10/30/1995)
10/27/1995	18	AFFIDAVIT in support of Thomas J. Cione by James Garvey Re: [18-1] motion to dismiss the above entitled action w/ prejudice and w/ costs to Defts. (ls) (Entered: 10/30/1995)
10/27/1995	19	MEMORANDUM by James Garvey in support of [18-1] motion to dismiss the above entitled action w/ prejudice and w/ costs to Defts. (ls) (Entered: 10/30/1995)
11/10/1995	20	MEMORANDUM OF LAW by Walter Francis Handlin III in opposition to [18-1] motion to dismiss the above entitled action w/ prejudice and w/ costs to Defts. (ae) (Entered: 11/21/1995)
11/10/1995	21	AFFIDAVIT of Richard L. Baumgarten, Esq. by Walter Francis Handlin III in opposition to Re: [18-1] motion to dismiss the above entitled action w/ prejudice and w/ costs to Defts. (ae) (Entered: 11/21/1995)
03/29/1996	22	NOTICE by James Garvey to take deposition of Walter Francis Handlin on 04/15/96 upon Oral Exam; no subpoena(s) issued. (djc) (Entered: 04/01/1996)
04/11/1996	23	NOTICE to take deposition of Walter Francis Handlin on 4/15/96 @10:00 (pl) (Entered: 04/12/1996)
05/01/1996	24	NOTICE of Change of Address by Albert May (pl) (Entered: 05/03/1996)
06/27/1996	25	ORDER mooting [18-1] motion to dismiss; set pretrial conference for 4:30 8/6/96 at the US Courthouse, 300 Quarropas St. White Plains NY Correspondence with the Court on this matter should continue to be directed to the US Courthouse 500 Pearl St. NYC.. ( signed by Judge Allen G. Schwartz ); Copies mailed (kk) (Entered: 06/27/1996)
09/05/1996	26	NOTICE of change of address by Albert May. (kw) (Entered: 09/06/1996)
09/06/1996	27	NOTICE OF MOTION by James Garvey to dismiss the summons and complaint with prejudice for failure to prosecutei, except for plntf W.

		Handlin , Return date 9/26/96 (cd) (Entered: 09/10/1996)
09/06/1996	28	MEMORANDUM by James Garvey in support of [27-1] motion to dismiss the summons and complaint with prejudice for failure to prosecute, except for plntf W. Handlin (cd) (Entered: 09/10/1996)
09/09/1996	29	APPLICATION by Albert May for appointment of counsel (ae) (Entered: 09/10/1996)
09/09/1996	30	AFFIDAVIT of Albert May in opposition to Re: [27-1] motion to dismiss the summons and complaint with prejudice for failure to prosecute, except for plntf W. Handlin (ae) (Entered: 09/10/1996)
09/16/1996	31	Affidavit of service as to plntfs, re motion and memo of law, by on 9/5/96 (cd) (Entered: 09/17/1996)
09/16/1996	32	OPPOSITION by David Redmond to defts' [27-1] motion to dismiss the summons and complaint with prejudice for failure to prosecute, except for plntf W. Handlin (lam) (Entered: 09/18/1996)
09/16/1996	33	NOTICE OF MOTION by David Redmond for appointment of counsel. Return date not indicated. (lam) (Entered: 09/18/1996)
09/16/1996	33	AFFIDAVIT by David Redmond in SUPPORT of [33-1] motion for appointment of counsel. (lam) (Entered: 09/18/1996)
09/16/1996	34	MEMORANDUM by David Redmond in support of [33-1] motion for appointment of counsel. (lam) (Entered: 09/18/1996)
09/19/1996	35	Affidavit of service of Notice of Motion and Memorandum of Law by certified mail, return receipt requested on 8/27/96 (ae) (Entered: 09/24/1996)
09/23/1996	36	Affidavit of service of Notice of Motion, Affidavit of Matthew J. Nothnagle, Esq. by certified mail, return receipt requested on 8/27/96 (ae) (Entered: 09/25/1996)
09/25/1996	39	ANSWER AND NOTICE OF MOTION by John J. Clark for an order denying defts motion for dismissal of the Summons and Complaint w/prejudice for failure to prosecute as to this Pro-Se and for an order for assignment of counsel with respect to this plttf. Return date 9/26/96 (kg) Modified on 09/27/1996 (Entered: 09/27/1996)
09/25/1996	39	AFFIDAVIT in support of John J. Clark by John J. Clark Re: [39-1] motion for an order denying defts motion for dismissal of the Summons and Complaint w/prejudice for failure to prosecute as to this Pro-Se plttf and for an order for assignment of counsel with respect to this plttf. (kg) (Entered: 09/27/1996)
09/26/1996	37	REPLY MEMORANDUM by James Garvey re: Responsive Papers of Plaintiffs John Clark, Albert May and David Redmond (pl) (Entered: 09/27/1996)
09/26/1996	38	AFFIDAVIT of Matthew J. Nothnagle in reply Re: to papers submitted by Plaintiffs John Clark, Albert May and David Redmond in response to

		Dft's motion to dismiss (pl) (Entered: 09/27/1996)
11/20/1996	40	OPINION & ORDER # 77616 granting in part, denying in part [27-1] motion to dismiss the summons and complaint with prejudice for failure to prosecute, except for plntf W. Handlin.....THE CLAIMS OF PLTFFS BULSON & PATTERSON ARE DISMISSED FOR FAILURE TO PROSECUTE PURS TO RULE 41(B) OF THE FRCP. THE CLAIMS OF PLTFFS REDMOND, CLARK AND MAY ARE NOT DISMISSED. The Court sets the following schedule for further proceedings in this matter : all discovery due for set for 2/28/97 ; Any party wishing to file a dispositive motion shall notify the Court in writing of its intentions before 3/14/97, the Court will either schedule a conference to discuss it or set an appropriate briefing schedule . DENYING [33-1] motion for appointment of counsel, DENYING [29-1] motion for appointment of counsel .....WITHOUT PREJUDICE TO RENEWAL. ( Signed by Judge Allen G. Schwartz ) Copies mailed. (original doc. sent to J.C. on 11/21/96) (lam) Modified on 11/21/1996 (Entered: 11/21/1996)
12/04/1996	41	NOTICE OF MOTION by James Garvey for an Order granting leave to take the depositions of plaintiffs Albert May, John Clark and David Redmond, pursuant to Rules 26 and 30 of the Fed. R. Civ. P. , Return date 12/23/96 (kw) (Entered: 12/06/1996)
12/04/1996	42	MEMORANDUM by James Garvey in support of [41-1] motion for an Order granting leave to take the depositions of plaintiffs Albert May, John Clark and David Redmond, pursuant to Rules 26 and 30 of the Fed. R. Civ. P. (kw) (Entered: 12/06/1996)
12/20/1996	43	REQUEST for Production of Documents by David Redmond. (kw) (Entered: 07/15/1997)
12/24/1996		Memo endorsed on motion; granting [41-1] motion for an Order granting leave to take the depositions of plaintiffs Albert May, John Clark and David Redmond, pursuant to Rules 26 and 30 of the Fed. R. Civ. P. ( signed by Judge Allen G. Schwartz ); Copies mailed. (kw) (Entered: 12/26/1996)
01/17/1997	44	NOTICE OF MOTION by Albert May for reconsideration of application for appointment of Counsel , Return date 2/3/97 (djc) (Entered: 01/21/1997)
02/03/1997	45	NOTICE OF MOTION by James Garvey to substitute attorney Horigan Horigan for Richard Golden , to amend the answer , Return date 2/28/97; attached are papers in support (cd) (Entered: 02/05/1997)
02/03/1997	46	MEMORANDUM by James Garvey in support of [45-2] motion to amend the answer (cd) (Entered: 02/05/1997)
02/07/1997	47	AFFIDAVIT in opposition of Albert May by Albert May Re: [45-1] motion to substitute attorney Horigan Horigan for Richard Golden, [45-2] motion to amend the answer (cd) (Entered: 02/13/1997)
02/14/1997	48	REPLY AFFIDAVIT of Richard L. Baumgarten, atty for Walter Francis

		Handlin III in response to deft James Garvey's [45-1] motion to substitute attorney Horigan Horigan for Richard Golden, [45-2] motion to amend the answer (lam) (Entered: 02/19/1997)
03/04/1997	49	ORDER granting [45-1] motion to substitute attorney Horigan Horigan for Richard Golden terminated Added, granting [45-2] motion to amend the answer, denying [44-1] motion for reconsideration of application for appointment of Counsel, The Clerk of the Curt shall note the substitution of counsel on the docket sheet, and deft. shall file and serve the amended answer w/in 10 days...SO ORDERED... ( signed by Judge Allen G. Schwartz ); Copies mailed (ls) (Entered: 03/04/1997)
03/19/1997	50	AMENDED ANSWER to Complaint by James Garvey : amends [15-1] answer; jury demand (pl) (Entered: 03/20/1997)
03/21/1997	51	NOTICE OF MOTION by Albert May to compel discovery. , (ae) (Entered: 03/25/1997)
03/21/1997	51	AFFIDAVIT in support of Albert May by Albert May Re: [51-1] motion to compel discovery. (ae) (Entered: 03/25/1997)
04/28/1997	52	NOTICE OF MOTION by David Redmond to compel discovery , Return date 3/31/97 (cd) (Entered: 05/02/1997)
04/28/1997	53	MEMORANDUM by David Redmond in support of [52-1] motion to compel discovery (cd) (Entered: 05/02/1997)
05/02/1997	54	AFFIDAVIT of Joseph D. Giannetti, atty for James Garvey Re: in opposition to [51-1] motion to compel discovery. (lam) (Entered: 05/05/1997)
05/02/1997	55	MEMORANDUM by James Garvey (lam) (Entered: 05/06/1997)
05/13/1997	56	Filed Memo_Endorsement on letter by Joseph D. Giannetti to Judge Schwartz dated 5/6/97, Defendant's opposition papers to plaintiff's motion to compel discovery filing deadline set for 5/30/97. ( signed by Judge Allen G. Schwartz ) (ae) (Entered: 05/13/1997)
05/30/1997	57	AFFIDAVIT in opposition of Joseph D. Giannetti by James Garvey Re: [52-1] motion to compel discovery (emil) (Entered: 06/03/1997)
05/30/1997	58	MEMORANDUM by James Garvey in opposition to [52-1] motion to compel discovery (emil) (Entered: 06/03/1997)
07/16/1997	59	ORDER granting in part, denying in part [51-1] motion to compel discovery., granting in part, denying in part [52-1] motion to compel discovery, set defendant's motion for summary judgment filing deadline for 9/8/97; plaintiffs shall have until 10/20/97, to file and serve papers in opposition to defendant's motion; defendant's shall have until 11/10/97, to file any reply papers. ( signed by Judge Allen G. Schwartz ); Copies mailed (ae) (Entered: 07/16/1997)
09/08/1997	60	NOTICE OF MOTION by James Garvey for summary judgment dismissing the action , to substitute attorney Pennock & Breedlove for

		deft James Garvey Return date 10/10/97; attached are papers in support (cd) (Entered: 09/11/1997)
09/08/1997	61	Rule 3(g) statement filed by James Garvey (cd) (Entered: 09/11/1997)
09/08/1997	62	MEMORANDUM by James Garvey in support of [60-1] motion for summary judgment dismissing the action, [60-2] motion to substitute attorney Pennock & Breedlove for deft James Garvey (cd) (Entered: 09/11/1997)
09/29/1997	63	Filed Memo-Endorsement on letter to Judge Schwartz from Brian H. Breedlove dated 09/22/97, Return date reset to 11/21/97 for [60-1] motion for summary judgment dismissing the action (signed by Judge Allen G. Schwartz) (djc) (Entered: 09/30/1997)
10/01/1997	64	AFFIDAVIT in opposition of Brian H. Breedlove by James Garvey Re: to Plaintiff May's Request for Leave to Appeal in Forma Pauperis (djc) (Entered: 10/03/1997)
11/10/1997	65	OPPOSITION by David Redmond re: [60-1] motion for summary judgment dismissing the action (pl) (Entered: 11/13/1997)
11/12/1997	66	REPLY MEMORANDUM by James Garvey re: [60-1] motion for summary judgment dismissing the action (lam) (Entered: 11/14/1997)
11/12/1997	67	REPLY AFFIRMATION of Brian H. Breedlove, atty for James Garvey in response to plttf David Redmond's [65-1] opposition memorandum, to deft's [60-1] motion for summary judgment dismissing the action (lam) (Entered: 11/14/1997)
12/05/1997	68	ORDER; granting [60-2] motion to substitute attorney Pennock & Breedlove for deft James Garvey; ( signed by Judge Allen G. Schwartz ); Copies mailed (ls) (Entered: 12/08/1997)
12/12/1997	69	ORDER, if no response papers are submitted by plaintiffs May and Clark on or before 1/31/98 for [60-1] motion for summary judgment dismissing the action, this action, insofar as it concerns those plaintiffs, will be dismissed for failure to prosecute, pursuant to Rule 41(b) of the FRCP ( signed by Judge Allen G. Schwartz ); Copies mailed (ae) (Entered: 12/15/1997)
01/15/1998	70	RESPONSE by Albert May to [60-1] motion for summary judgment dismissing the action. (kw) (Entered: 01/26/1998)
03/27/1998	71	ORDER, this action, insofar as it concerns plaintiff John J. Clark, is dismissed pursuant to Rule 41(b) for failure to prosecute ( signed by Judge Allen G. Schwartz ); Copies mailed (kw) (Entered: 03/30/1998)
08/05/1998	72	ORDER; counsel for deft in this action has advised the Court that he has been unable, for the past several months, to contact Richard L. Baumgarten, Esq., counsel for plttf Walter Francis Handlin. Chambers staff have also attempted to contact Mr. Baumgarten by telephone, and have been unsuccessful. Mr. Baumgarten's last contact with the Court appears to have been on 8/6/96, when he appeared for a pre-trial



		conference. There is no record in the Court's file that Mr. Baumgarten has taken any steps to prosecute this action since that date. If Mr. Baumgarten fails to notify the Court in writing, on or before 9/4/98, of the steps he intends to take on behalf of his client or of his continued representation of his client, this action, insofar as it concerns plttf Handlin, will be dismissed for failure to prosecute, purs. to Rule 41(b) of the FRCP ( signed by Judge Allen G. Schwartz ); Copies mailed (sac) Modified on 08/05/1998 (Entered: 08/05/1998)
08/13/1998	73	SUPPLEMENTAL MEMORANDUM by James Garvey re: this memorandum will demonstrate that the plttf David Redmond has not shown the court that there is an issue of material fact to his claim of a constitutional violation of his first amendment right to exercise her religion (sac) (Entered: 08/14/1998)
09/09/1998	74	ORDER, this action insofar as it concerns plaintiff Handlin, is dismissed for failure to prosecute, purs to Rule 41(b) of the FRCP (signed by Judge Allen G. Schwartz ); Copies mailed (dj) (Entered: 09/10/1998)
09/10/1998	75	OPINION AND ORDER #81193 granting [60-1] motion for summary judgment dismissing the action; the Clerk of the Court is directed to enter judgment for the defendant on all claims. The Clerk shall thereafter close the file in this action ( Signed by Judge Allen G. Schwartz ); Copies mailed. (Sent document to J.C. on 9/11/98) (kw) (Entered: 09/11/1998)
09/11/1998	76	JUDGMENT that defendant's motion for summary judgment is granted on all claims for the reasons stated in the Court's Opinion (81193) and Order dated 9/9/98; accordingly, this action is closed. ( signed by James M. Parkison, Clerk of Court ); Mailed copies and notice of right to appeal. EOD: 9/11/98 (kw) (Entered: 09/11/1998)
09/11/1998		Case closed (kw) (Entered: 09/11/1998)
10/07/1998	77	NOTICE of Entry of Judgment by James Garvey (cd) (Entered: 10/08/1998)

<b>PACER Service Center</b>			
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10/14/2005 14:01:09			
<b>PACER Login:</b>	hs0328	<b>Client Code:</b>	
<b>Description:</b>	Docket Report	<b>Search Criteria:</b>	1:91-cv-06777-AGS
<b>Billable Pages:</b>	5	<b>Cost:</b>	0.40