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**U.S. District Court  
DISTRICT OF ARIZONA (Phoenix Division)  
CIVIL DOCKET FOR CASE #: 2:98-cv-00641-RGS**

Whitmire, et al v. Arizona, State of, et al  
Assigned to: Judge Roger G Strand  
Demand: \$0  
Cause: 42:1983 Civil Rights Act

Date Filed: 04/14/1998  
Jury Demand: None  
Nature of Suit: 440 Civil Rights: Other  
Jurisdiction: Federal Question

**Plaintiff****Karl Whitmire**represented by **Daniel Joseph Pochoda**

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**Plaintiff****William Lyster***TERMINATED: 10/20/1999*represented by **William Lyster**

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PRO SE

V.

**Defendant****Arizona, State of***TERMINATED: 01/22/2003*represented by **James Russel Morrow**

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**Defendant**

**Arizona Corrections, Department of**  
*TERMINATED: 01/22/2003*

represented by **James Russel Morrow**  
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**William Charles Wilder**  
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*TERMINATED: 09/01/2000*  
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*ATTORNEY TO BE NOTICED*

**Defendant**

**Charles L Ryan**  
*Acting Director of ADOC, in his official  
 and individual capacities*

represented by **Susanna Carballo Pineda**  
 (See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Defendant**

**George Herman**  
*Acting Deputy Director of ADOC in his  
 official and individual capacities*

represented by **Susanna Carballo Pineda**  
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*ATTORNEY TO BE NOTICED*

<b>Date Filed</b>	<b>#</b>	<b>Docket Text</b>
04/14/1998	1	COMPLAINT FILED (MAP) (Entered: 04/20/1998)
04/24/1998	2	STANDARD CIVIL TRACK INITIAL ORDER by Judge Roger G. Strand (cc: all counsel) re: order [2-1] (MAP) (Entered: 04/24/1998)
08/10/1998	3	NOTICE by plas (all) of Service (MAP) (Entered: 08/11/1998)
09/09/1998	4	ORDER by Judge Roger G. Strand denying pla's mtn req ord to show cause (not rcvd in docketing); plas shall file and serve on opposing cnsl within 15 days from filing of this ord a stmt of good cause why this action should not be disp for failure to effect svc on dfts within time provided by FRCivP; failure to show good cause why this action should not be disp for lack of svc within time provided shall result in disml of this action w/o further ntc to pla; possbl dsm ddl set for 9/24/98 (cc: all counsel) (former emp) (Entered: 09/09/1998)
09/17/1998	5	MOTION to withdraw Order to Show Cause by pla Karl Whitmire [5-1] (MAP) (Entered: 09/18/1998)
09/23/1998	6	ORDER by Judge Roger G. Strand granting motion to withdraw Order to

		Show Cause by pla Karl Whitmire [5-1] Order to Show Cause withdrawn (cc: all counsel) (MAP) (Entered: 09/23/1998)
09/28/1998	7	MOTION for default judgment against Arizona, State of, ADOC by Karl Whitmire, William Lyster [7-1] (MAP) (Entered: 09/29/1998)
10/07/1998	8	NOTICE to the Court re Pla's status and MOTION (REQUEST) for assignment on the Prisoner Pro Se Track by dfts (all) [8-1] , for the Court to "screen" complaint to identify cognizable claims by dfts (all) [8-2] , to stay proceedings until further "screening" of the complaint can be done by dfts (all) [8-3] (MAP) (Entered: 10/08/1998)
10/07/1998	9	RESPONSE by dfts (all) to motion for default judgment against Arizona, State of, ADOC by Karl Whitmire, William Lyster [7-1] (MAP) (Entered: 10/08/1998)
10/14/1998	11	MOTION for order to control mailings to support safety by pla Karl Whitmire [11-1] (former emp) (Entered: 10/16/1998)
10/14/1998	12	RESPONSE by pla Karl Whitmire to motion for assignment on the Prisoner Pro Se Track by dfts (all) [8-1] (former emp) (Entered: 10/16/1998)
10/14/1998	13	RESPONSE by pla Karl Whitmire to dfts resp to motion for default judgment against Arizona, State of, ADOC by Karl Whitmire, William Lyster [7-1] [7-1] (former emp) (Entered: 10/16/1998)
10/15/1998	10	ORDER by Judge Roger G. Strand denying motion for default judgment against Arizona, State of, ADOC by Karl Whitmire, William Lyster [7-1] (cc: all counsel) (KMG) (Entered: 10/15/1998)
10/30/1998	14	ORDER by Judge Roger G. Strand vacating Court's 4/23/98 Standard Civil Track Order [2-1] FURTHER ORDERED granting motion for assignment on the Prisoner Pro Se Track by dfts (all) [8-1], granting motion for the Court to "screen" complaint to identify cognizable claims by dfts (all) [8-2], granting motion to stay proceedings until further "screening" of the complaint can be done by dfts (all) [8-3] FURTHER ORDERED there being no basis in law or fact, denying Plas' motion for default judgment raised in their response to Dfts' motion for assignment to Prisoner Pro Se Track [12-1] (cc: all counsel) (MAP) (Entered: 10/30/1998)
11/06/1998	15	RESPONSE by plas (all) to Court's Order vacating Civil Track Order of 4/23/98 [14-1] (MAP) (Entered: 11/10/1998)
11/06/1998	15	MOTION for removal of Pla Lyster as party to this action by plas (all) [15-1] , for reconsideration of Court's Order vacating Court's Civil Track Order of 4/23/98 by plas (all) [15-2] (MAP) (Entered: 11/10/1998)
12/31/1998	16	ORDER by Judge Roger G. Strand denying motion for removal of Pla Lyster as party to this action by plas (all) [15-1], denying motion for reconsideration of Court's Order vacating Court's Civil Track Order of 4/23/98 by plas (all) [15-2] (cc: all counsel) (KMG) (Entered: 12/31/1998)

01/05/1999	17	RESPONSE by plas (all) to order denying remand [16-1] (MAP) (Entered: 01/07/1999)
02/18/1999	18	ATTORNEY SUBSTITUTION: terminating attorney Lorrie Lynne Luellig for AZ Corrections Dept and Arizona, State of and substituting attorney William Charles Wilder (MAP) (Entered: 02/19/1999)
04/20/1999	19	ORDER by Judge Roger G. Strand denying motion for order to control mailings to support safety by pla Karl Whitmire [11-1] (cc: all counsel) (MAP) (Entered: 04/20/1999)
10/20/1999	20	ORDER by Judge Roger G. Strand that Plas' response to Order, Request (17) is treated as a Notice of Voluntary Dismissal of Pla Lyster pursuant to Rule 41(a)(1) of Fed.R.Civ.P., dismissing w/out prejudice Pla William Lyster FURTHER ORDERED denying Pla Lyster's request for a copy of the Federal Rules (17) as moot FURTHER ORDERED granting Pla Whitmire's request for assignment of this action to the Standard Civil Track (17) pursuant to Local Rule 2.12(b)(4) FURTHER ORDERED vacating the stay of proceedings previously granted on 10/30/98 FURTHER ORDERED that Dfts shall have 20 days from the date this Order is filed w/in which to answer the complaint or otherwise respond by appropriate motion (cc: all counsel) (MAP) (Entered: 10/20/1999)
11/09/1999	21	MOTION to dismiss complaint for failure to state a claim by dfts (all) [21-1] (MAP) (Entered: 11/11/1999)
11/24/1999	22	RESPONSE by pla Karl Whitmire to motion to dismiss complaint for failure to state a claim by dfts (all) [21-1] (MAP) (Entered: 11/29/1999)
11/30/1999	23	MOTION for enlarged amount of time for Rule 18.(a) by pla Karl Whitmire [23-1] (former emp) (Entered: 12/01/1999)
12/06/1999	24	REPLY by dfts (all) to response to motion to dismiss complaint for failure to state a claim by dfts (all) [21-1] (MAP) (Entered: 12/07/1999)
12/06/1999	25	RESPONSE by dfts (all) to motion for enlarged amount of time for Rule 18.(a) by pla Karl Whitmire [23-1] (MAP) (Entered: 12/07/1999)
12/22/1999	26	REPLY by pla to response to motion for enlarged amount of time for Rule 18.(a) by pla Karl Whitmire [23-1] (former emp) (Entered: 12/22/1999)
12/22/1999	28	MOTION to strike dfts reply to plas response to dfts motion to dismiss by pla Karl Whitmire [28-1] (former emp) (Entered: 12/22/1999)
12/22/1999	27	REQUEST by pla Karl Whitmire for production of documents (former emp) (Entered: 12/27/1999)
12/30/1999	29	MOTION for leave to introduce into the recored supportive content (attached) by pla Karl Whitmire [29-1] (former emp) (Entered: 12/30/1999)
01/04/2000	30	(OBJECTION) RESPONSE by dft Arizona, State of, dft AZ Corrections Dept to motion for leave to introduce into the recored supportive content

		(attached) by pla Karl Whitmire [29-1] (former emp) Modified on 01/05/2000 (Entered: 01/05/2000)
01/04/2000	31	MOTION to strike plas request for productions by dft Arizona, State of, dft AZ Corrections Dept [31-1] (former emp) (Entered: 01/05/2000)
01/04/2000	32	RESPONSE by dft Arizona, State of, dft AZ Corrections Dept to motion to strike dfts reply to plas response to dfts motion to dismiss by pla Karl Whitmire [28-1] (former emp) (Entered: 01/05/2000)
01/11/2000	33	ORDER by Judge Roger G. Strand striking request [27-1] pursuant to Rule 1.2(a)(2). Clk to strike the instrument from the record, and reject any responses, with notice to counsel. (cc: all counsel) (MAP) (Entered: 01/11/2000)
01/19/2000	34	REPLY by pla Karl Whitmire to response to motion for leave to introduce into the recored supportive content (attached) by pla Karl Whitmire [29-1] (MAP) (Entered: 01/20/2000)
08/30/2000	35	ORDER by Judge Roger G. Strand granting motion to dismiss complaint for failure to state a claim by dfts (all) [21-1] FURTHER ORDERED denying all remaining pending motions as moot (cc: all counsel) (MAP) (Entered: 08/30/2000)
08/30/2000	36	JUDGMENT: that this Cout having granting Dfts' motion to dismiss, Pla take nothing (cc: all counsel) re: judgment [36-1] (MAP) (Entered: 08/30/2000)
09/01/2000	37	ATTORNEY SUBSTITUTION: terminating attorney William Charles Wilder for Dfts (all) and substituting attorney James Russel Morrow (MAP) (Entered: 09/05/2000)
09/26/2000	38	NOTICE OF APPEAL by pla Karl Whitmire from District Court judgment [36-1], and order [35-1] (cc: 9CCA/All Counsel/RGS) (REW) Modified on 06/27/2001 (Entered: 10/04/2000)
09/26/2000		Received \$105.00 appeal fee (REW) (Entered: 10/04/2000)
10/04/2000		Certificate of Record Transmitted to 9CCA [38-1] (REW) (Entered: 10/04/2000)
10/24/2000		Notification by 9CCA of Appellate Docket Number 00-16896 (REW) (Entered: 10/24/2000)
12/19/2000	39	Copy of 9CCA Order; appellant's late motion for extension of time to file opening brief granted; briefing schedule reset, re: 00-16896 [38-1] (cc: RGS) (REW) (Entered: 12/19/2000)
01/30/2001	40	Copy of 9CCA Order; court in receipt of appellees' motion for extension of time to file answering brief until court files an acceptable opening brief from appellant; if he has not already done so, within 14 days appellant shall file a corrected opening brief and excerpts of record or an informal form brief; upon receipt of a corrected opening brief and excerpts of record or the informal form brief, court will reset the due date

		for the answering brief, re: 00-16896 [38-1] (cc: RGS) (REW) (Entered: 01/30/2001)
03/09/2001	41	CERTIFIED COPY of 9CCA Mandate dismissing the appeal for failure to file a corrected opening brief pursuant to the 1/24/01 order, or otherwise comply with rules requiring processing appeal to hearing, re: 00-16896 (cc: all counsel/RGS) (REW) (Entered: 03/09/2001)
06/27/2001		Clerk's record on appeal transmitted to 9th Circuit re [38-1]; 1 volume clerk's record (REW) (Entered: 06/27/2001)
07/26/2001	42	Certified Copy of 9th Circuit Order of 4/27/01; appellant's request for court to reconsider the actions of the clerk is construed as a motion to reinstate the appeal and granted, re: 00-16896 [38-1] (cc: judge/cnsl) (REW) (Entered: 07/26/2001)
09/13/2002		Original Record Returned from 9th Circuit re [38-1] 1 volume original file; (REW) (Entered: 09/13/2002)
09/19/2002	43	CERTIFIED COPY of 9th Circuit Mandate reversing and remanding the decision of the District Court; the district court erred in holding, on a 12 (b)(6) motion, that a common-sense connection exists between the ADOC visitation policy and the penological interest of correctional safety; the judgment is reversed and the case is remanded to the district court for further proceedings (we emphasize that we are ruling on a 12(b) (6) dismissal on the pleadings; we intimate no view on the merits after the development of an appropriate record), re: 00-16896 Appeal [38-1] Case reopened [43-1] [43-1] (cc: all counsel/judge) (REW) (Entered: 09/19/2002)
12/03/2002	44	MINUTE ORDER: IT IS ORDERED setting a ; status hearing regarding a remand on Thursday, December 19, 2002 at 10:30 a.m. , before Judge Roger G. Strand, Courtroom 602, 6th floor. (cc: all counsel/RGS) [44-3] (LCF) (Entered: 12/03/2002)
12/13/2002	45	NOTICE OF ATTORNEY SUBSTITUTION: terminating attorney James Russel Morrow for Arizona, State of and substituting attorney Susanna Carballo Pineda (former emp) (Entered: 12/17/2002)
12/17/2002	46	ATTORNEY APPEARANCE for pla Karl Whitmire by Pamela Kirkpatrick Sutherland (former emp) (Entered: 12/18/2002)
12/17/2002	47	MOTION to continue status conference by pla Karl Whitmire [47-1] (former emp) (Entered: 12/19/2002)
12/19/2002	48	ORDER by Judge Roger G. Strand granting motion to continue status conference by pla Karl Whitmire [47-1] ; status conference hearing reset for 11:00 1/22/03 (cc: all counsel) (DMT) (Entered: 12/19/2002)
01/22/2003	49	MINUTE ENTRY before Judge Roger G. Strand . Crt Rptr: Vicki Reger. Present: Pamela Sutherland, Robert Mintz for Pla. Susanna Pineda for Dfts. Status hearing held. Status hearing reset for 11:30 2/13/03. [cc: RGS/CD] [49-3] (LCF) (Entered: 01/22/2003)

01/22/2003	50	AMENDED COMPLAINT by pla; [1-1] terminating dft AZ Corrections Dept, dft Arizona, State of; adding dft Charles L Ryan, George Herman (DMT) (Entered: 01/27/2003)
01/22/2003	51	MOTION to dismiss case by dft Arizona, State of, dft AZ Corrections Dept, dft Charles L Ryan, dft George Herman [51-1] (DMT) (Entered: 01/27/2003)
02/13/2003	52	MINUTE ENTRY before Judge Roger G. Strand . Crt Rptr: Marilyn Sanchez. By telephone: Pamela Sutherland for pla; SUsanna Pineda for dft. Status hearing held. Pla proposes a stipulated agreement as to dft's visitation policies. Dft intends to file a supplemental motion to dismiss. ORDERED motion to be filed by 2/27/03; response to be in accordance with the rules. [52] (former emp) (Entered: 02/13/2003)
02/25/2003	53	MOTION to dismiss case as moot by dft Ryan and Herman [53-1] (DMT) (Entered: 02/26/2003)
03/21/2003	54	RESPONSE by pla to motion to dismiss case by dft Arizona, State of, dft AZ Corrections Dept, dft Charles L Ryan, dft George Herman [51-1], motion to dismiss case as moot by dft Ryan and Herman [53-1] (DMT) (Entered: 03/24/2003)
03/25/2003	55	REPLY by dft Charles L Ryan, dft George Herman to response to motion to dismiss case as moot by dft Ryan and Herman [53-1] (DMT) (Entered: 03/26/2003)
04/11/2003	56	NOTICE by pla Karl Whitmire of failure of the AZ Department of Corrections to change policy regarding same-sex couples kissing and hugging (former emp) (Entered: 04/14/2003)
05/08/2003	57	ATTORNEY APPEARANCE for pla Karl Whitmire by Daniel Joseph Pochoda (DMT) (Entered: 05/09/2003)
06/05/2003	58	ORDER by Judge Roger G. Strand denying motion to dismiss case by dft Arizona, State of, dft AZ Corrections Dept, dft Charles L Ryan, dft George Herman [51-1], denying motion to dismiss case as moot by dft Ryan and Herman [53-1] ; status conference hearing set for 10:30 7/9/03 (cc: all counsel) (DMT) (Entered: 06/05/2003)
06/20/2003	59	ANSWER to complaint (amended) [50-1] by dft Charles L Ryan, dft George Herman (DMT) (Entered: 06/25/2003)
07/09/2003	60	MINUTE ENTRY before Judge Roger G. Strand. Crt Rptr: Linda Schroeder-Willis. Appearances: Daniel Pochoda for plaintiff; Susanna Pineda for defendants. Status hearing is held. Counsel have submitted a stipulation to dismiss, which is not in proper form. Counsel for defendant will submit the proper stipulation with separate judgment this date. [cc: RGS] [60-2] (KCB) (Entered: 07/09/2003)
07/14/2003	61	STIPULATION for entry of judgment by pla Karl Whitmire, dft Charles L Ryan, dft George Herman (DMT) (Entered: 07/14/2003)
07/14/2003	62	JUDGMENT entered by Judge Roger G. Strand : that dfts shall

		implement and maintain visitation policies that do not differentiate on basis of sex or sexual orientation of the prisoner or visitor. A Visitor of the same sex as the prisoner visited will be allowed to engage in the kissing and hugging permitted a visitor of the opposite sex and a member of the prisoner's family as defined by ADOC policy. Dfts shall not implement or enforce any visitation policy that is inconsistent with the requirements of paragraph 1 above. No less than 30 days after the entry of this jgm, dfts shall cause the attached notice to be posted in all ADOC visitation areas, to remain posted for no less than 60 days. Within 45 days from this date, pla shall file their application for attorneys' fees and costs. Dfts shall have 30 days thereafter to respond, and pla 15 days thereafter to reply. Court shall have the power to enforce this order upon appropriate motion.terminating case (cc: all counsel, jgm draw) (DMT) (Entered: 07/14/2003)
08/06/2003	63	MOTION for attorney's fees by pla [63-1] (DMT) (Entered: 08/08/2003)
08/27/2003	64	NOTICE of motion and MOTION for attorney's fees for pla's appeal by pla [64-1] (DMT) (Entered: 08/29/2003)
08/27/2003	65	MEMORANDUM IN SUPPORT by pla of motion for attorney's fees for pla's appeal by pla [64-1] (DMT) (Entered: 08/29/2003)
08/27/2003	66	DECLARATION of Douglas E Mirrell re motion for attorney's fees for pla's appeal by pla [64-1] by pla (DMT) (Entered: 08/29/2003)
08/27/2003	67	DECLARATION of Martha A Matthews re motion for attorney's fees for pla's appeal by pla [64-1] by pla (DMT) (Entered: 08/29/2003)
08/27/2003	68	DECLARATION of Courtney G Joslin re motion for attorney's fees for pla's appeal by pla [64-1] by pla (DMT) (Entered: 08/29/2003)
08/27/2003	69	DECLARATION of Anne-Marie Dinius re motion for attorney's fees for pla's appeal by pla [64-1] by pla (DMT) (Entered: 08/29/2003)
09/03/2003	70	NOTICE of SETTLEMENT by pla, dfts and OF WITHDRAWAL by pla of motion for attorney's fees by pla [63-1] (DMT) (Entered: 09/08/2003)
11/21/2003	71	ORDER by Judge Roger G. Strand directing dfts to file response to motion for attorney's fees for pla's appeal by pla [64-1] within 14 days of the date of the filing of this order. Permitting pla to file reply within 5 days of service of dfts' response(cc: all counsel) (DMT) (Entered: 11/21/2003)
12/02/2003	72	RESPONSE by dft Charles L Ryan, dft George Herman to motion for attorney's fees for pla's appeal by pla [64-1] (DMT) (Entered: 12/04/2003)
12/15/2003	73	REPLY by pla Karl Whitmire to response to motion for attorney's fees for pla's appeal by pla [64-1] (DMT) (Entered: 12/17/2003)
12/22/2003	74	NOTICE OF SETTLEMENT as to motion for attorneys fees for pla's appeal and WITHDRAWAL by pla of motion for attorney's fees for pla's appeal by pla [64-1] (DMT) (Entered: 01/02/2004)

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