

General Docket
United States Court of Appeals for the Ninth Circuit

Court of Appeals Docket #: 07-35829
Nature of Suit: 3550 Prisoner-Civil Rights
Gammett v. Idaho State Board, et al
Appeal From: U.S. District Court for Idaho, Boise
Fee Status: Paid

Docketed: 10/05/2007
Termed: 08/06/2009

Case Type Information:

- 1) civil
- 2) private
- 3) null

Originating Court Information:

District: 0976-1 : [CV-05-00257/MHW](#)
Court Reporter: Vicki Jones, Court Reporter
Trial Judge: Mikel H. Williams, Magistrate Judge
Date Filed: 06/30/2005
Date Order/Judgment:
09/07/2007

Date NOA Filed:
09/28/2007

Prior Cases:

None

Current Cases:

	Lead	Member	Start	End
Companion	07-35490	07-35829	10/05/2007	
	07-35490	07-35834	11/06/2007	
Consolidated	07-35829	07-35834	11/07/2007	

RANDALL GAMMETT, also known as Jennifer Ann Spencer
Plaintiff - Appellee,

Lena Ayoub Van Leeuwen, Esquire, Attorney
Direct: 510-868-0632
[COR LD NTC Retained]
LAW OFFICES OF LENA AYOUB VAN LEEUWEN
P.O. Box 11230
Oakland, CA 94611

Lea C. Cooper, Esquire
Direct: 208/433-9371
[COR LD NTC Retained]
3227 Morris Hill Rd.
Boise, ID 83706

Parisa Jorjani, Esquire
Direct: 415/268-6576
[COR LD NTC Retained]
Morrison & Foerster LLP
425 Market Street
San Francisco, CA 94105-2482

Mia Mazza, Attorney
Direct: 415-268-6024
[COR LD NTC Retained]
Morrison & Foerster LLP
425 Market Street
San Francisco, CA 94105-2482

Shannon Price Minter, Esquire, Legal Director
Direct: 415-392-6257
[COR LD NTC Retained]
National Center for Lesbian Rights
870 Market Street
Suite 370
San Francisco, CA 94102

James Walter Sinclair, Attorney
Direct: 208-342-5000
[COR LD NTC Retained]
Holland & Hart LLP
Suite 1400
800 W. Main Street
P.O. Box 2527
Boise, ID 83702

v.

IDAHO STATE BOARD OF CORRECTION
Defendant - Appellant,

Phillip J. Collaer, Esquire, Attorney
Direct: 208-344-5800
[COR LD NTC Retained]
Anderson Julian & Hull LLP
Suite 700
250 S. Fifth Street
Suite 700
Boise, ID 83707

CAROLYN MELINE, individually and in their official capacity as
member of the Idaho State Board of Corrections
Defendant - Appellant,

Phillip J. Collaer, Esquire, Attorney
Direct: 208-344-5800
[COR LD NTC Retained]
(see above)

RALPH TOWNSEND, individually and in their official capacity as
member of the Idaho State Board of Corrections
Defendant - Appellant,

Phillip J. Collaer, Esquire, Attorney
Direct: 208-344-5800
[COR LD NTC Retained]
(see above)

DWIGHT BOARD
Defendant - Appellant,

Phillip J. Collaer, Esquire, Attorney
Direct: 208-344-5800
[COR LD NTC Retained]
(see above)

JIM TIBBS
Defendant - Appellant,

Phillip J. Collaer, Esquire, Attorney
Direct: 208-344-5800
[COR LD NTC Retained]
(see above)

JAY NIELSEN
Defendant - Appellant,

Phillip J. Collaer, Esquire, Attorney
Direct: 208-344-5800
[COR LD NTC Retained]
(see above)

IDAHO DEPARTMENT OF CORRECTIONS
Defendant - Appellant,

Phillip J. Collaer, Esquire, Attorney
Direct: 208-344-5800
[COR LD NTC Retained]
(see above)

THOMAS BEAUCLAIR
Defendant - Appellant,

Phillip J. Collaer, Esquire, Attorney
Direct: 208-344-5800
[COR LD NTC Retained]
(see above)

DAVID HAAS
Defendant - Appellant,

Phillip J. Collaer, Esquire, Attorney
Direct: 208-344-5800
[COR LD NTC Retained]
(see above)

KEVIN KEMPH
Defendant - Appellant,

Phillip J. Collaer, Esquire, Attorney
Direct: 208-344-5800
[COR LD NTC Retained]
(see above)

DOCTOR KRZICH
Defendant,

DOCTOR FLERCHINGER, Edward Cheeney; Greg Fisher;

John J. Burke, Attorney

Kenneth Khatain; Chad Sombke; Prison Health Services; Robin
Sandy; Vaughn Killeen; John Hardison; Mary Perrien; Dr. Sharlene
Green: Correctional Medical Services;
Defendant,

Direct: 208-343-5454
[COR LD Retained]
Elam & Burke, PA
P.O. Box 1539
251 E. Front St.
Boise, ID 83702

Joseph D. McCollum, Jr., Esquire, Attorney
Direct: 208-344-6000
[COR LD Retained]
Hawley Troxell Ennis & Hawley LLP
Suite 1000
877 West Main Street
Boise, ID 83702

RANDALL GAMMETT, also known as Jennifer Ann Spencer,

Plaintiff - Appellee,

v.

IDAHO STATE BOARD OF CORRECTION; CAROLYN MELINE, individually and in their official capacity as member of the Idaho State Board of Corrections; RALPH TOWNSEND, individually and in their official capacity as member of the Idaho State Board of Corrections; DWIGHT BOARD; JIM TIBBS; JAY NIELSEN; IDAHO DEPARTMENT OF CORRECTIONS; THOMAS BEAUCLAIR; DAVID HAAS; KEVIN KEMPH,

Defendants - Appellants,

and

DOCTOR KRUZICH; DOCTOR FLERCHINGER, Edward Cheeney; Greg Fisher; Kenneth Khatain; Chad Sombke; Prison Health Services; Robin Sandy; Vaughn Killeen; John Hardison; Mary Perrien; Dr. Sharlene Green: Correctional Medical Services,;

Defendants.

- 10/05/2007 3 DOCKETED CAUSE AND ENTERED APPEARANCES OF COUNSEL. CADS SENT (Y/N): y. setting schedule as follows: CADS is past due; CADS must be filed no later than 10/12/07; appellant's designation of RT is due 10/9/07,, ; appellee's designation of RT is due 10/18/07; appellant shall order transcript by 10/29/07,, ; court reporter shall file transcript in DC by 11/28/07; certificate of record shall be filed by 12/5/07 ; appellant's opening brief is due 1/14/08,, ; appellees' brief is due 2/13/08; appellants' reply brief is due 2/27/08,, ; [07-35829] (GR) [Entered: 10/05/2007 03:01 PM]
- 10/18/2007 13 Filed Appellee Randall Gammett's response to CADS; served on 10/18/07 (to CONFATT) [07-35829] (Hom, Howard) [Entered: 11/13/2007 12:09 PM]
- 10/22/2007 5 Filed order MOATT (KEW) The appeal filed 9/28/07 is a preliminary injunction appeal. Accordingly, 9th Cir.R. 3-3 shall apply. The briefing schedule established prevsly is VACATED. if they have not already done so, within 7 calendar days of the filing date of this order, the parties shall make arrangements to obtain from the court reporter an official transcript of proceedings in the dc that will be included in the record on appeal. The briefing schedule is set as follows: the opening brief is due not later than 10/26/07; the answering brief is due 11/23/07 or 28 days after service of the opening brief, whichever is earlier; and the optional reply brief is due within 14 days of service of the ans brf. See 9th Cir.R. 3-3(b). If aplts fail to file timely the opening brief, this appeal will be dismissed automatically by the clerk for failure to prosecute. See 9th Cir.R. 42-1. [07-35829] (Hom, Howard) [Entered: 10/22/2007 03:33 PM]
- 10/26/2007 7 Filed order MOATT (RB) This is a preliminary injunction appeal. Aplts' oral motion for a 14-day ext of time to file the opening brief is GRANTED. The opening brief is due 11/9/07; the answering brief is due 12/7/07; and the optional reply brief is due within 14 days after service of the ans brf. [07-35829] (Hom, Howard) [Entered: 10/26/2007 12:43 PM]
- 11/06/2007 9 Filed Appellants Idaho State Board, et al. and aple Randall Gammett's joint motion for consolidation; affidavit of Phillip J. Collaer; served on 11/5/07 [6338231] (to MOATT) (Hom, Howard) [Entered: 11/06/2007 03:23 PM]
- 11/06/2007 11 Filed Appellee Randall Gammett's statement of non-opposition to joint motion for consolidation; served on 11/6/07 (MOATT) [07-35829, 07-35834] (GV) [Entered: 11/07/2007 05:20 PM]
- 11/07/2007 10 Filed order MOATT (KEW) Appeal No. 07-35829 is a preliminary injunction appeal. The joint, unopposed mtn to consolidate these appeals is granted. Appeal Nos. 07-35829 and 07-35834 are consolidated. The br sch in appeal 07-35829 is vacated. The following br sch shall govern these consolidated appeals: the consolidated opening br and excs are due 1/22/08; the consolidated ans br is due 2/19/08, and the consolidated optional rpy br is due 3/4/08. The parties request to file oversized brs is denied without prejudice to renewal. The parties have not met the requirements of 9th Cir. Rule 32-2. "Motions to Exceed the Page or Type Volume Limitations." (faxed per MOATT) [07-35829, 07-35834] (GV) [Entered: 11/07/2007 05:07 PM]
- 11/09/2007 14 Case rejected from Circuit Mediation Program. (SB) [Entered: 12/11/2007 11:05 AM]
- 01/11/2008 16 Filed order CONFATT (AJ) The court will initiate a further assessment conference by telephone on 1/14/08, at 1:45pm Pacific (S.F.) Time. [07-35829, 07-35834] (Hom, Howard) [Entered: 01/11/2008 10:37 AM]
- 01/16/2008 20 Filed order CONFATT (AJ) The briefing schedule prevsly set by the court is amended as follows: the consolidated opening brief shall be filed on or before 2/5/08; the consolidated answering brief shall be filed on or before 3/6/08; the consolidated optional reply brief is due within 14 days from the service date of the ans brf. The court will initiate a further conference with csl for defts by telephone on 1/16/08, at 10:00am Pacific (S.F.) Time. The court will initiate a further conference with all csl by telephone on 1/14/08, at 1:45pm Pacific (S.F.) Time. A telephonic conference with all csl will be held on 1/22/08, at 10:00am Pacific (S.F.) Time.... [07-35829, 07-35834] (Hom, Howard) [Entered: 01/16/2008 12:50 PM]
- 01/24/2008 22 Filed order CONFATT (AJ) The briefing schedule prevsly set by the court is amended as follows: the consolidated opening brief shall be filed on or before 3/6/08; the consolidated answering brief shall be filed on or before 4/7/08; the consolidated optional reply brief is due within 14 days from the service date of the ans brf. The court will initiate a further conference with csl for Dept. of Corrections by telephone on 1/25/08, at 9:30am Pacific (S.F.) Time. A further telephone conference with all csl will be held on 2/1/08, at 9:00am Pacific (S.F.) Time.... [07-35829, 07-35834] (Hom, Howard) [Entered: 01/24/2008 09:30 AM]
- 03/10/2008 [23](#)
2 pg, 23.74 KB Filed order MEDIATION (AJ): Vacating Order to set briefing schedule in 07-35829 [07-35829, 07-35834] (SC) [Entered: 03/10/2008 03:14 PM]
- 06/02/2008 [24](#)
3 pg, 34.68 KB Filed order MEDIATION (aj): An in-person mediation will be held on June 9, 2008, at 10:00 a.m., at the U.S. Courthouse, 6th Floor (Room 687), 550 W. Fort Street, Boise, Idaho. [07-35829, 07-35834] (BJB) [Entered: 06/02/2008 11:50 AM]
- 06/11/2008 [25](#)
2 pg, 33.89 KB Filed order MEDIATION (aj): A further telephonic conference will be held on July 7, 2008, at 12:00 p.m. (Noon) Pacific (San Francisco) Time. In order to participate, the participants shall call (866) 207-0257, and give authorization code 51629486 to the attendant. [07-35829, 07-35834] (BJB) [Entered: 06/11/2008 02:52 PM]
- 06/11/2008 [26](#) Filed order MEDIATION (aj): A further in-person mediation will be held on July 10, 2008, at 9:30 a.m., at the

2 pg, 31.65 KB U.S. Court of Appeals, 95 Seventh Street, Suite 109, San Francisco, California [telephone (415) 355-7900]. [07-35829, 07-35834] (BJB) [Entered: 06/11/2008 03:55 PM]

07/14/2008 [27](#) 2 pg, 25.98 KB Filed order MEDIATION (aj): On or before August 5, 2008, counsel for plaintiffs shall contact the undersigned by phone [(415) 556-9906] or e-mail (Ann_Julius@ca9.uscourts.gov) to provide a status report. [07-35829, 07-35834] (BJB) [Entered: 07/14/2008 11:57 AM]

08/06/2008 [28](#) 2 pg, 26.13 KB Filed order MEDIATION (aj): On or before September 5, 2008, counsel for plaintiffs shall contact the undersigned by phone [(415) 556-9906] or e-mail (Ann_Julius@ca9.uscourts.gov) to provide a status report. [07-35829, 07-35834] (BJB) [Entered: 08/06/2008 09:26 AM]

09/12/2008 [29](#) 2 pg, 25.77 KB Filed order MEDIATION (AJ): On or before September 25, 2008, counsel for plaintiffs shall contact the undersigned by phone [(415) 556-9906] or e-mail to provide a status report. [07-35829, 07-35834] (BJB) [Entered: 09/12/2008 09:35 AM]

10/02/2008 [30](#) 2 pg, 25.68 KB Filed order MEDIATION (AJ): On or before October 22, 2008, counsel for plaintiffs shall contact the undersigned by phone [(415) 355-7906] or e-mail (Ann_Julius@ca9.uscourts.gov) to provide a status report. [07-35829, 07-35834] (BJB) [Entered: 10/02/2008 09:57 AM]

11/03/2008 [31](#) 2 pg, 34.64 KB Filed order MEDIATION (AJ): A telephonic status conference to discuss settlement documents with all interested counsel will be held on November 12, 2008, at 12:00 p.m. (Noon) Pacific (San Francisco) Time. A further telephonic conference, with counsel for defendants only, will be held on November 13, 2008, at 12:00 p.m. (Noon) Pacific (San Francisco) Time. A further telephonic conference, with counsel for plaintiff only, will be held on November 18, 2008, at 11:00 a.m. Pacific (San Francisco) Time. [07-35829, 07-35834] (BJB) [Entered: 11/03/2008 04:02 PM]

05/18/2009 [32](#) 2 pg, 26.33 KB Filed order MEDIATION (AJ): The court is informed that the parties have reached a tentative settlement of their dispute. Within 14 days of the filing date of this order, the parties shall file either a motion or a stipulation to dismiss these matters pursuant to Fed. R. App. P. 42(b), or shall contact the Circuit Mediator. A copy of any motion or stipulation to dismiss shall be faxed to the undersigned at (415) 355-8566, or emailed (ann_julius@ca9.uscourts.gov). [07-35829, 07-35834] (BJB) [Entered: 05/18/2009 02:29 PM]

08/04/2009 [33](#) 6 pg, 170.88 KB Filed 42b stipulation to dismiss. Served on 08/04/2009. [7016723] (CW) [Entered: 08/05/2009 11:28 AM]

08/06/2009 [34](#) 2 pg, 24.55 KB Order filed (Deputy Clerk: AJ) Pursuant to the stipulation of the parties, these appeals are voluntarily dismissed. Fed. R. App. P. 42(b). The parties shall bear their own costs and attorneys' fees on appeal. This order served on the district court shall act as and for the mandate of this court. [7018500] [07-35829, 07-35834] (BJB) [Entered: 08/06/2009 12:27 PM]

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