

CLOSED

**United States District Court
District of Massachusetts (Boston)
CIVIL DOCKET FOR CASE #: 1:84-cv-01062-REK**

Miller v. Corrections, et al
Assigned to: Judge Robert E. Keeton
Demand: \$0
Cause: 42:1983 Prisoner Civil Rights

Date Filed: 04/09/1984
Jury Demand: None
Nature of Suit: 550 Prisoner: Civil
Rights
Jurisdiction: Federal Question

Plaintiff**Sherman Miller**

represented by **Sherman Miller**
30 Administration Road
Bridgewater, MA 02324
PRO SE

V.

Defendant**Corrections, Commissioner of**

represented by **Timothy A. Mullen**
Attorney General's Office
131 Tremont Street
Boston, MA 02111
617-727-2200
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant**Michael V. Fair****Defendant****Charles Caughan****Defendant****James J. Callahan****Defendant****Richard Boucher**

Date Filed	#	Docket Text
01/02/1991	161	Motion by Sherman Miller for hearing relative to D's mtn to continue scheduled trial date (fmr) (Entered: 01/04/1991)
01/03/1991	162	Motion by Sherman Miller for leave to file supplemental complaint (fmr)

		(Entered: 01/04/1991)
01/03/1991	163	Judge Robert E. Keeton . Clerk's Notes: Hearing (rptr - Willette): Re: Ds' Motion for Continuance (Docket No. 157) Parties stipulate to a continuance and court ORDERS Trial set for april 25, 1991 at 9:30 a.m. Motion for Leave to File Supplemental Complaint (filed in court) Court DENIES Motio for Leave to File Supp. Complaint but will place proposed Supp. Complaint on the record. To the extent that new facts alleged re: existing count regarding treatment plan, the Supp. complaint is not necessary. To the extent that Supp. Complaint alleges any new OA's, it is too late in litigation to allow further amendment. P will be allowed to offer proof re: facts alleged in Supp. Complaint insofar as they relate to existing claims. P voluntarily dismisses Count 2 (opening of mail) and Count 3 (possession of banking docs) and Cout ALLOWS such dismissal. Court ALLOWS oral depos to be taken of Dr. Mark Sokol and Michael Stevens. D cl to contact P re: scheduling forthwith. court ALLOWS depos to be tape recorded; P to provide tapes, D to provide tape recorder. No transcript is necessary. Court allows P to propound written ints to Joseph Ponte and Ollie Langloss. All discovery must be completed before D files any Motion to Dismiss or Motion for Summary Judgment., (fmr) (Entered: 01/08/1991)
01/10/1991	164	Motion by Sherman Miller for reconsideration and/or mtn to consider relevant portions of P's supplemental complaint as amended complaint (fmr) (Entered: 01/14/1991)
01/10/1991	165	Memorandum by Sherman Miller in support of [164-1] motion for reconsideration and/or mtn to consider relevant portions of P's supplemental complaint as amended complaint (fmr) (Entered: 01/14/1991)
01/22/1991	166	Motion by Sherman Miller for court order authorizing P to take deposition testimony by tape recorder and topurcahse tape recorder (fmr) (Entered: 01/23/1991)
01/22/1991	167	Affidavit by Sherman Miller Re: [166-1] motion for court order authorizing P to take deposition testimony by tape recorder and topurcahse tape recorder (fmr) (Entered: 01/23/1991)
01/28/1991	168	Memorandum by Michael V. Fair, Charles Caughan, James J. Callahan, Richard Boucher in opposition to [164-1] motion for reconsideration and/or mtn to consider relevant portions of P's supplemental complaint as amended complaint (fmr) (Entered: 01/29/1991)
02/04/1991	169	Memorandum by Corrections, Dept. o, Michael V. Fair, Charles Caughan, James J. Callahan, Richard Boucher in opposition to [166-1] motion for court order authorizing P to take deposition testimony by tape recorder and topurcahse tape recorder (fmr) (Entered: 02/05/1991)
02/08/1991	170	Notice by Sherman Miller to take deposition of Michael Stevens (fmr) (Entered: 02/13/1991)
02/08/1991	171	Notice by Sherman Miller to take deposition of Mark Sokol (fmr)

		(Entered: 02/13/1991)
02/14/1991	172	Notice by Sherman Miller to take deposition of Mark Sokol Ph.D. (fmr) (Entered: 02/19/1991)
02/14/1991	173	Notice by Sherman Miller to take deposition of Michael Stevens (fmr) (Entered: 02/19/1991)
02/28/1991	174	Letter from Joanne Cull to Mr. Miller re: enclosed jis two subpoenas for the deposition you intend to take along with a Marshal's Form.....(see letter for more details) (fmr) (Entered: 03/04/1991)
03/06/1991	175	Return of depo subpoena on Mark Sokol service executed 2/19/91 (fmr) (Entered: 03/07/1991)
03/06/1991	176	Return of depo subpoena on Michael Stevens service executed 2/19/91 (fmr) (Entered: 03/07/1991)
03/28/1991	177	Judge Robert E. Keeton . Memorandum and Order - P's mtn for Reconsideration is DENIED. P's mtn to purchase tape recorder is DENIED, ENTERED, cc/cl. (fmr) (Entered: 04/01/1991)
04/08/1991	178	Motion by Sherman Miller to shorten time for Deft Joseph Ponte to resopnd to pltf's interrogatories , filed, c/s. (ktb) (Entered: 04/12/1991)
04/08/1991	179	Letter to Trina Pilcher, Deputy Clerk from Sherman Miller, Pro Se re-submitting documents received by the Court on 4/2/91 and returned to him as they did not conform with Local Rule 37, filed, c/s. (ktb) (Entered: 04/12/1991)
04/08/1991	180	Motion by Sherman Miller to compel discovery and judgment of contempt , filed, c/s. (ktb) (Entered: 04/12/1991)
04/08/1991	181	Affidavit by Sherman Miller Re: [180-1] motion to compel discovery and judgment of contempt, filed, c/s. (ktb) (Entered: 04/12/1991)
04/08/1991	182	Memorandum by Sherman Miller in support of [180-1] motion to compel discovery and judgment of contempt, filed, c/s. (ktb) (Entered: 04/12/1991)
04/09/1991	183	Motion by Sherman Miller to amend complaint by substituting parties and joining additional parties , filed, c/s. (ktb) (Entered: 04/12/1991)
04/12/1991	184	Motion by Corrections, Dept. of Michael V. Fair, Charles Caughan, James J. Callahan, Richard Boucher to dismiss and/or for summary judgment , filed, c/s. (ktb) (Entered: 04/12/1991)
04/12/1991	185	Memorandum by Sherman Miller in support of [184-1] motion to dismiss and/or for summary judgment, w/attached exhibits, filed, c/s. (ktb) (Entered: 04/12/1991)
04/16/1991	186	Judge Robert E. Keeton . (rptr-Willette) Clerk's Notes: Civil Non Jury Trial Day 1- Collquy re mtns currently pending. Ct stated preference for proceeding with trial and addressing issues if necessary as they arise at trail. Collquy re pre-trial discovery matters raised by P Miller after asking

		<p>P what facts he hoped to learn form discovery not yet completed, ct again stated preference for proceedings w/trial giving P an opp'y to subpoena Michael Stevens with a subpoena duces tecum to appear rail. Ct deffered addressing issue of what Stevens most produce until Stevens or his attny has opp'y to respond. Collquy re: P's proposed witnesses. P not prep'd to list witnesses. Collquy re affect of Pearson decision by J Mazzone, aff'd by 1st Circuit on P remaining two counts. Arg by Mullen. collqu re issue of P;s standing to sue based on denial of access of cts of other persons. Arg by Miller on applicability of 1st Circuit. Bruder decision to his case. Miller submitted proposed witness list and made opening statement describing evidence he proposed to offer on two remaining counts in amended compliant. Opening by Mullen. Collquy re: declaratory relief on Count One and damages based on hiring cl. Ct directed Miller to submit evidence on damages by affdvt for COunt One and to submit brief on treatment claim in Count 6 on 4/30/91. D responses in affdvt and any bref due on 5/114/91. Info request for cross-x., ct will take u/a on 5/14/91. Ct deferred ruling on necessity of recieving evidence on Cunt 6 until it determines whether P's proffer is sufficient to state claim in light of Browder, filed (fmr) (Entered: 04/24/1991)</p>
04/16/1991	197	Motion by Sherman Miller to strike [184-1] motion to dismiss and/or for summary judgment (fmr) (Entered: 06/18/1991)
04/16/1991	198	Witness list by Sherman Miller (fmr) (Entered: 06/18/1991)
04/29/1991	187	Motion by Sherman Miller to extend time to file a memo of law to 5/10/91 (fmr) (Entered: 05/02/1991)
04/29/1991		Judge Robert E. Keeton . Endorsed Order granting [187-1] motion to extend time to file a memo of law to 5/10/91 (fmr) (Entered: 05/02/1991)
05/13/1991	188	P's memo of law, filed (fmr) (Entered: 05/13/1991)
05/13/1991	189	Memo of law in support of First Cuase of action, filed (fmr) (Entered: 05/13/1991)
05/13/1991	190	Affidavit fo Sherman Miller (fmr) (Entered: 05/13/1991)
05/13/1991	191	Affidavit of John H, Cunha, Jr., filed (fmr) (Entered: 05/13/1991)
05/13/1991	199	Affidavit by Sherman Miller (fmr) (Entered: 06/18/1991)
05/16/1991	192	Supplement to P's trial brief and affdvt, filed (fmr) (Entered: 05/20/1991)
05/16/1991	193	Affidavit of John H. Cunha, Jr. (fmr) (Entered: 05/20/1991)
05/16/1991	194	Memorandum by Sherman Miller in support of first cause of action, filed (fmr) (Entered: 05/20/1991)
06/11/1991	195	Judge Robert E. Keeton . Memorandum and Order - It is ORDERED: On the forgoing findings and conclusions, judgment will be entered fr D on P's sixth cause of action; declaratory releif in accordance with these findings and conclusions will be granted to P on his first cause of action; D will be ordered to pay P \$500.00 as reimbursement for P's attny fees in

		enforcing this ct's order of 12/10/85; and all other claims are dismissed as directed in previous orders of this ct in this case. P's mtn to amend complaint, mtn to shorten time to respond to interrogatories and mtn to compel discovery are all dismissed at moot. Final Judgment shall be entered forthwith in a separate document, ENTERED, cc/cl (fmr) (Entered: 06/12/1991)
06/11/1991	196	Judge Robert E. Keeton . Judgment for Sherman Miller against Corrections, Dept. o, Michael V. Fair, Charles Caughan, James J. Callahan, Richard Boucher It is ORDERED D shall pay P \$500.00 as reimbursement for attny fees incurred by P in seeking to enforce this ct's Order of 12/10/85. Judgment for D's against P on P's sixth cause of action. The second, Third, Fourth, Fifth and Seventh Causes of action, To the extent that the First Cause of Action requests relief beyond the declaratory relief and reimbursement set out above, it is DISMISSED. Exercising the discretion provided for in Fed. R. Civ. P 54(d) and in light of this ct's determination that no party properly may be designated the prevailing party for the case as a whole, the ct will not award costs to any party. D shall pay interest on the amount awarded in paragraph (1) at the post-judgment interest rate of 6.09% per annum from the date of judgment until paid, ENTERED, cc/cl (fmr) (Entered: 06/12/1991)
06/11/1991		Case closed (fmr) (Entered: 06/26/1991)
06/24/1991	200	Motion by Sherman Miller for reconsideration of [196-1] judgment order, [195-1] memorandum order (fmr) (Entered: 06/25/1991)
07/02/1991	201	Motion by Sherman Miller for reconsideration of [196-1] judgment order, [195-1] memorandum order to Judge Robert E. Keeton (fmr) (Entered: 07/02/1991)
07/02/1991	202	Affidavit by Sherman Miller Re: [201-1] motion for reconsideration of [196-1] judgment order, [195-1] memorandum order (fmr) (Entered: 07/02/1991)
07/05/1991	203	Motion by Corrections, Dept. o, Michael V. Fair, Charles Caughan, James J. Callahan, Richard Boucher to extend time to respond to P's mtn for partial reconsideration and clarification to Judge Robert E. Keeton (fmr) (Entered: 07/09/1991)
07/09/1991	204	Notice of appeal by Sherman Miller Fee Status: (fmr) (Entered: 07/10/1991)
07/11/1991		Judge Robert E. Keeton . Endorsed Order granting [203-1] motion to extend time to respond to P's mtn for partial reconsideration and clarification (fmr) (Entered: 07/15/1991)
07/16/1991	205	Letter to the clerk from Sherman Miller re: money for the appeal will be at the court within 40 day period. (See letter for more details), filed. (fmr) (Entered: 07/16/1991)
07/16/1991	206	Memorandum by Michael V. Fair, Charles Caughan, James J. Callahan, Richard Boucher in opposition to [201-1] motion for reconsideration of

		[196-1] judgment order, [195-1] memorandum order (fmr) (Entered: 07/18/1991)
07/19/1991		USCA appeal fees received \$ 105, receipt #10874 (fmr) (Entered: 07/30/1991)
07/23/1991		Certified copy of docket and record on appeal forwarded to U.S. Court of Appeals: [204-1] appeal (fmr) (Entered: 07/23/1991)
07/24/1991	207	Motion by Sherman Miller for leave to file nunc pro tunc memo of reasons to Judge Robert E. Keeton (fmr) (Entered: 07/24/1991)
07/24/1991	208	Motion by Sherman Miller for leave to file reply brief opposing D's opposition to P's mtn for partial reconsideration and clairification of the ct's 6/11/91 memo and order to Judge Robert E. Keeton (fmr) (Entered: 07/24/1991)
07/24/1991	209	Memorandum by Sherman Miller in support of [207-1] motion for leave to file nunc pro tunc memo of reasons (fmr) (Entered: 07/24/1991)
07/24/1991	210	Affidavit by Sherman Miller Re: [209-1] support memorandum, [208-1] motion for leave to file reply brief opposing D's opposition to P's mtn for partial reconsideration and clairification of the ct's 6/11/91 memo and order, [207-1] motion for leave to file nunc pro tunc memo of reasons (fmr) (Entered: 07/24/1991)
07/24/1991	211	Affidavit of Gerard Ready, filed (fmr) (Entered: 07/24/1991)
07/25/1991		Notice of Docketing ROA from USCA Re: [204-1] appeal USCA NUMBER: 91-1706 (fmr) (Entered: 07/26/1991)
08/05/1991	212	Letter to the clerk from P re: enclosed is copies of a letter and a check in the amount of \$105.00... (See letter for more details), filed (fmr) (Entered: 08/06/1991)
08/22/1991	213	Mandate of USCA Re: [204-1] appeal ISSUED. Appeal Dismissed (fmr) (Entered: 08/23/1991)
08/26/1991	214	Judge Robert E. Keeton . Memorandum -... A separate order ruling on pending mtns will be entered forthwith... (See Memo for more detials), ENTERED, cc/cl. (fmr) (Entered: 08/26/1991)
08/26/1991	215	Judge Robert E. Keeton . Order denying [201-1] motion for reconsideration of [196-1] judgment order, [195-1] memorandum order, denying [200-1] motion for reconsideration of [196-1] judgment order, [195-1] memorandum order (fmr) (Entered: 08/26/1991)
09/23/1991	216	Ex- parte Motion by Sherman Miller to extend time for filing of appeal to Judge Robert E. Keeton (fmr) (Entered: 09/23/1991)
09/23/1991	217	Motion by Sherman Miller for further review, to supplement pleadings and/or to reopen the case. to Judge Robert E. Keeton (fmr) (Entered: 09/23/1991)
09/23/1991	218	Motion by Sherman Miller for leave to file to amend P's pleadings to

		conform to facts set forth in P's 9/13/91 supplemental affdvt to Judge Robert E. Keeton (fmr) (Entered: 09/23/1991)
09/23/1991	219	supplemental Affidavit by Sherman Miller (fmr) (Entered: 09/23/1991)
09/23/1991	220	Memorandum by Sherman Miller in support of [218-1] motion for leave to file to amend P's pleadings to conform to facts set forth in P's 9/13/91 supplemental affdvt, [217-1] motion for further review, to supplement pleadings and/or to reopen the case. (fmr) (Entered: 09/23/1991)
09/30/1991	221	Notice of appeal by Sherman Miller Appeal record due on 10/30/91 (fmr) (Entered: 10/01/1991)
10/11/1991		Terminated document(s) mootng [216-1] motion to extend time for filing of appeal, mootng [208-1] motion for leave to file reply brief opposing D's opposition to P's mtn for partial reconsideration and clairification of the ct's 6/11/91 memo and order, mootng [207-1] motion for leave to file nunc pro tunc memo of reasons Requested by JMCull. (lt) (Entered: 10/11/1991)
10/28/1991		Certified copy of docket and record on appeal forwarded to U.S. Court of Appeals: [221-1] appeal (fmr) (Entered: 10/30/1991)
10/30/1991		Notice of Docketing ROA from USCA Re: [221-1] appeal USCA NUMBER: 91-2054 (fmr) (Entered: 10/30/1991)
11/04/1991	222	Judge Robert E. Keeton . Memorandum ISSUED re: A separate Final Order denying P's Motion for Further Review, to supplement pleadings, and/or to Reopen the Case, denying P's Motion for Leave to Amend P's Pleadings to Conform to Facts Set Forth in P's 9/13/91 Supplementary Affidavit, and granting P's Ex Parte Motion for extension of Time for Filing Notice of Appeal will be entered forthwith. See Gem Industries, Inc. v. Design Contempo, Inc., 940 F. 2d 716 (1st Cir. 1991) (post judgment orders "must comport with the separate document requirement of Fed. R. Civ. P. 58") (fmr) (Entered: 11/05/1991)
11/04/1991	223	Judge Robert E. Keeton . Final Order: For the reasons stated in the separate Memorandum of this date, it is ORDERED: (1) P's Motion for Further Review, to Supplement Pleadings, and/or to Reopen the Case (Docket No. 217) is DENIED. (2) P's Motion for Leave to Amend P's Pleadings to Conform to Facts Set Forth in P's 9/13/91 Supplemental Affidavit (Docket No. 218) is DENIED. (3) P's Ex Parte Motion for Extension of Time for Filing Notice of Appeal (Docket 216) is granted, and P is hereby granted an extension of time to file his notice of appeal to 11/14/91 (fmr) (Entered: 11/05/1991)
11/06/1991		Transmitted supplemental record on appeal: [221-1] Documents 222 and 223. (fmr) (Entered: 11/06/1991)
11/08/1991	224	Notice of appeal by Sherman Miller of the 8/26/91 Order, 6/11/91 Memo & Order, and 11/4/91 Final Order. Appeal record due on 12/8/91 (fmr) (Entered: 11/08/1991)
11/14/1991	225	Letter to the Clerk dated 11/12/91 enclosing a copy of a letter to court

		reporter Tim Willette re: copy of transcript. FILED (fmr) (Entered: 11/15/1991)
11/14/1991		Certified copy of docket and record on appeal forwarded to U.S. Court of Appeals: [224-1] appeal (fmr) (Entered: 11/21/1991)
11/14/1991		Notice of Docketing ROA from USCA Re: [224-1] appeal USCA NUMBER: 91-2183 (fmr) (Entered: 11/21/1991)
01/02/1992	226	Judge Robert E. Keeton . Procedural Order Re: Request for transcripts at government expense. "...In order to aid the court in making that determination, plaintiff is directed to file a written submission with the Clerk of this court, on or before 1/28/92, stating what issues he intends to raise on appeal and why the requested transcripts are relevant to such issues." (fmr) (Entered: 01/07/1992)
01/06/1992		Transmitted supplemental record on appeal: Document 219; [224-1] appeal, [221-1] appeal (fmr) (Entered: 01/14/1992)
01/09/1992		Transmitted supplemental record on appeal: [224-1] appeal, [221-1] appeal (fmr) (Entered: 01/14/1992)
01/24/1992	228	Mandate of USCA Re: granting [6-1] motion to dismiss (fmr) (Entered: 02/04/1992)
01/27/1992	231	Letter to the clerk from Sherman Miller enclosing a check for appeal filing fee (fmr) (Entered: 02/13/1992)
01/27/1992		USCA appeal fees received \$ 105, receipt #14948. (fmr) (Entered: 02/25/1992)
01/28/1992	227	Motion by Sherman Miller to extend time upto 2/7/92 to file a written submission re: issues to be raised on appeal FILED c/s (fmr) (Entered: 02/03/1992)
01/28/1992		Judge Robert E. Keeton . Endorsed Order granting [227-1] motion to extend time upto 2/7/92 to file a written submission re: issues to be raised on appeal (fmr) (Entered: 02/07/1992)
02/05/1992	229	Motion by Sherman Miller to extend time to 2/11/92 to file a written submission (fmr) (Entered: 02/06/1992)
02/05/1992		Judge Robert E. Keeton . Endorsed Order granting [229-1] motion to extend time to 2/11/92 to file a written submission (fmr) (Entered: 02/06/1992)
02/10/1992	230	Memorandum by Sherman Miller in support of motion for transcript at Gov't expense FILED (fmr) (Entered: 02/11/1992)
02/13/1992	234	Judge Robert E. Keeton . Memorandum ISSUED, a separate Final Order will be entered forthwith. (fmr) (Entered: 02/19/1992)
02/13/1992	235	Judge Robert E. Keeton . Separate Order (1) This court certifies that plaintiff raises substantial and non-frivolous issues on appeal that relate to matters contained in the trial transcript of 4/16/91. (2) Plaintiff shall be

		provided with the transcript of his 4/16/91 trial at government expense. (3) Any and all further requests for relief from this court are DENIED. (fmr) (Entered: 02/19/1992)
02/14/1992	232	Transcript FILED. Conference before Judge Keeton held 1/3/92 (Reporter- Willette) (fmr) (Entered: 02/19/1992)
02/14/1992	233	Transcript FILED. Non Jury Trial Proceedings held before Judge Keeton on 4/16/91. (Reporter Willette) (fmr) (Entered: 02/19/1992)
02/21/1992		Transmitted supplemental record on appeal: Documents 232 through 233, [221-1] appeal (fmr) (Entered: 02/25/1992)
03/16/1992		Transmitted supplemental record on appeal: Document 234, [224-1] appeal, [221-1] appeal (fmr) (Entered: 03/19/1992)
06/01/1992		Terminated document(s) [217-1] motion for further review, to supplement pleadings and/or to reopen the case. Requested by jmc.As having been decided 11/4/91 (fmr) (Entered: 06/01/1992)
06/01/1992		Terminated document(s) [218-1] motion for leave to file to amend P's pleadings to conform to facts set forth in P's 9/13/91 supplemental affdvt Requested by jmc. As having been decided 11/4/91. (fmr) (Entered: 06/01/1992)
03/25/1993		Transmitted supplemental record on appeal: [224-1] appeal document 197 (eaf) (Entered: 03/29/1993)
08/05/1993	236	Mandate of USCA Re: [224-1] appeal affirming orders of the district court (eaf) (Entered: 08/06/1993)
08/05/1993	236	Mandate of USCA Re: [221-1] appeal affirming orders of the district court (eaf) (Entered: 08/06/1993)
08/06/1993		(eaf) (Entered: 08/06/1993)
08/06/1993		Record on appeal returned from U.S. Court of Appeals: (eaf) (Entered: 08/06/1993)

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