

TERMED

**U.S. District Court  
Western District of Missouri (St. Joseph)  
CIVIL DOCKET FOR CASE #: 5:89-cv-06099-HFS**

Swiler, et al v. Ashcroft, et al  
Assigned to: Judge Howard F. Sachs  
Demand: \$0  
Cause: 42:1983 Prisoner Civil Rights

Date Filed: 11/15/1989  
Jury Demand: None  
Nature of Suit: 550 Prisoner: Civil  
Rights  
Jurisdiction: Federal Question

**Plaintiff**

**Starr K Swiler  
Jr.**

represented by **Steven G. Emerson**  
Stinson, Morrison, Hecker, LLP  
1201 Walnut Street  
Suite 2800  
Kansas City, MO 64106  
(816) 691-3407  
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Email: semerson@stinsonmoheck.com  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Plaintiff**

**Ronnie J Lobato**

represented by **Steven G. Emerson**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Plaintiff**

**Mark Ray**  
*Mark W. Ray*

represented by **Steven G. Emerson**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Plaintiff**

**Randall Lee Smith**

represented by **Steven G. Emerson**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Plaintiff**

**Dennis M Healey**

represented by **Dennis M Healey**  
#59729  
CCF  
Centennial Correctional Facility  
P.O. Box 600

Canon City, CO 81212  
PRO SE

**Steven G. Emerson**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Plaintiff**

**Clyde Fultz**

represented by **Steven G. Emerson**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Plaintiff**

**Anthony Ciceralli**

represented by **Steven G. Emerson**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Plaintiff**

**Robert Hamburg**

represented by **Steven G. Emerson**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Plaintiff**

**Mark Garcia**

represented by **Mark Garcia**  
WMCC  
Western Missouri Correctional Center  
609 E. Pence Rd.  
Cameron, MO 64429  
PRO SE

**Steven G. Emerson**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Plaintiff**

**James Flowers**

represented by **Steven G. Emerson**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Plaintiff**

**Lance Furnari**

represented by **Steven G. Emerson**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Plaintiff****Ronnie G Martinez**represented by **Steven G. Emerson**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED***Plaintiff****Michael A Booker**represented by **Steven G. Emerson**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED***Plaintiff****Alvin Coslett**represented by **Steven G. Emerson**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED***Plaintiff****Walter Schubert**represented by **Steven G. Emerson**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED***Plaintiff****Anthony Garcia**represented by **Steven G. Emerson**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

V.

**Defendant****John D Ashcroft**represented by **Claudia J. York**  
Shughart Thomson & Kilroy, PC-  
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*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED***Thomas Alan Sheehan**  
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 Fax: (913)652-9415  
 Email: sheehanlaw@kc.rr.com  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Defendant**

**Dick D Moore**

represented by **Claudia J. York**  
 (See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Thomas Alan Sheehan**  
 (See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Defendant**

**Michael Kemna**

represented by **Claudia J. York**  
 (See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Thomas Alan Sheehan**  
 (See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Defendant**

**Ron Heien**

represented by **Claudia J. York**  
 (See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Thomas Alan Sheehan**  
 (See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

<b>Date Filed</b>	<b>#</b>	<b>Docket Text</b>
11/15/1989	1	COMPLAINT with JS44-c filed. \$120.00 R# 52921 ( none Summons(es) issued) (Court Employee) (Entered: 11/15/1989)
11/15/1989		Notice: Case referred to Pro Se office to Prisoner Pro Se (Court Employee) (Entered: 11/15/1989)
11/17/1989		Receipt# 52921 \$120.00 from Plts'. (Court Employee) (Entered: 11/17/1989)

11/17/1989	2	ORDER by Judge Howard F. Sachs (1) the Clerk of the Court shall obtain service of proces on the named dfts' by cert. mail addressed to the Mo. Atty Gen (P035-314-179); (2) answer due within 20 days from the date of service. (cc: all counsel) (Court Employee) (Entered: 11/20/1989)
11/28/1989	3	MOTION by plaintiffs' for Emergency temporary restraining order (Court Employee) (Entered: 11/29/1989)
12/05/1989	4	ORDER that the (1) Clerk of the Court is directed to mail each plt. (except plf Smit) an in forma pauperis affidavit; (2) pltfs are directed to complete and return such affidavits to this Court for filing; (3) The Clerk of the Court is directed to mail dfts a copy of plt Smith's motion filed 11/28/89; and (4) dfts' are directed to respond to plf. Smith's "motion for emergency injunction, restraining order" within 10 days from the date of this Order. by Judge Howard F. Sachs (cc: all counsel) (Court Employee) (Entered: 12/08/1989)
12/08/1989	5	MOTION by plaintiffs for appointment of counsel (Court Employee) (Entered: 12/11/1989)
12/08/1989	6	AFFIDAVIT of Randall Lee Smith regarding motion for appointment of counsel [5-1] (Court Employee) (Entered: 12/11/1989)
12/08/1989	21	MOTION by plaintiff Randall Lee Smith for temporary restraining order (Court Employee) (Entered: 12/13/1989)
12/11/1989	7	DECLARATION by plaintiff Dennis M Healey to proceed in forma pauperis. (Court Employee) (Entered: 12/12/1989)
12/11/1989	8	DECLARATION by plaintiff Anthony Ciccerali to proceed in forma pauperis. (Court Employee) (Entered: 12/12/1989)
12/11/1989	9	DECLARATION by plaintiff Starr K Swiler to proceed in forma pauperis. (Court Employee) (Entered: 12/12/1989)
12/11/1989	10	DECLARATION by plaintiff Walter Schubert to proceed in forma pauperis. (Court Employee) (Entered: 12/12/1989)
12/11/1989	11	DECLARATION by plaintiff James Flowers to proceed in forma pauperis. (Court Employee) (Entered: 12/12/1989)
12/11/1989	12	DECLARATION by plaintiff Ronnie J Lobato to proceed in forma pauperis. (Court Employee) (Entered: 12/12/1989)
12/11/1989	13	DECLARATION by plaintiff Clyde Fultz to proceed in forma pauperis. (Court Employee) (Entered: 12/12/1989)
12/11/1989	14	DECLARATION by plaintiff Anthony Garcia to proceed in forma pauperis. (Court Employee) (Entered: 12/12/1989)
12/11/1989	15	DECLARATION by plaintiff Alvin Coslett to proceed in forma pauperis. (Court Employee) (Entered: 12/12/1989)
12/11/1989	16	DECLARATION by plaintiff Michael A Booker to proceed in forma pauperis. (Court Employee) (Entered: 12/12/1989)

12/11/1989	17	DECLARATION by plaintiff Robert Hamburg to proceed in forma pauperis. (Court Employee) (Entered: 12/12/1989)
12/11/1989	18	DECLARATION by plaintiff Lance Furnari to proceed in forma pauperis. (Court Employee) (Entered: 12/12/1989)
12/11/1989	19	DECLARATION by plaintiff Mark Garcia to proceed in forma pauperis. (Court Employee) (Entered: 12/12/1989)
12/11/1989	20	DECLARATION by plaintiff Mark Ray to proceed in forma pauperis. (Court Employee) (Entered: 12/12/1989)
12/11/1989	22	Claudia J. York & Thomas A. Sheehan ATTORNEY APPEARANCE for defendants. (Court Employee) (Entered: 12/13/1989)
12/11/1989	23	MOTION by defendants to extend time to answer or otherwise respond to pltfs' complaint. (Court Employee) (Entered: 12/13/1989)
12/11/1989	24	Suggestions by defendants in support of motion to extend time to answer or otherwise respond to pltfs' complaint. [23-1] (Court Employee) (Entered: 12/13/1989)
12/14/1989	25	Response by defendants to Order of Dec.5,1989. (Court Employee) (Entered: 12/18/1989)
12/15/1989	26	ORDER by Judge Howard F. Sachs (1) graned leave to proceed in forma pauperis. (2)J granting motion for appointment of counsel [5-1] (3) Steven G. Emerson is requested to enter his appearance on behalf of te pltfs'.(4) the clerk of the Court shall forward with this Order a complete copy of the case file to Mr. Emerson.(5) within 20 days of the date of this Order, plt. Martinez is to inform the Court whether he wishes to continue with this action; (6) failure of plt. Martinez to respond as ordered will result in his being severed and dismissed as a plt.(7) the Clerk of the Court is directd to mail plt. Martinez a copy of this Order by reg mail and cert. mail, return receipt . P 035 314 207. (cc: all counsel) (Court Employee) (Entered: 12/19/1989)
12/20/1989	27	ATTORNEY APPEARANCE for plaintiffs' Steven G. Emerson of Morris & Larson. (Court Employee) (Entered: 12/28/1989)
12/22/1989	28	ORDER by Judge Howard F. Sachs granting motion to extend time to answer or otherwise respond to pltfs' complaint. [23-1] due 1/5/90 for Ron Heien, for Mike Kemna, for Dick D Moore, for John D Ashcroft (cc: all counsel) (Court Employee) (Entered: 12/28/1989)
01/05/1990	29	ANSWER by defendant John D Ashcroft, defendant Dick D Moore, defendant Mike Kemna, defendant Ron Heien (Court Employee) (Entered: 01/08/1990)
03/02/1990	30	MOTION and suggestions by plaintiffs for leave to file FIRST AMENDED COMPLAINT (Court Employee) (Entered: 03/05/1990)
03/08/1990	31	ORDER by Judge Howard F. Sachs granting motion for leave to file FIRST AMENDED COMPLAINT [30-1] (cc: all counsel) (Court

		Employee) (Entered: 03/12/1990)
03/08/1990	32	FIRST AMENDED COMPLAINT Number of summon(s): -0- (Court Employee) (Entered: 03/12/1990)
03/19/1990	33	MOTION by defendants to extend time to answer or otherwise respond to pltfs' First Amended Complaint. (Court Employee) (Entered: 03/20/1990)
03/21/1990	34	ORDER by Judge Howard F. Sachs granting motion to extend time to answer or otherwise respond to pltfs' First Amended Complaint. [33-1] 3/30/90 for Ron Heien, for Mike Kemna, for Dick D Moore, for John D Ashcroft Answer due 3/30/90. (cc: all counsel) (Court Employee) (Entered: 03/23/1990)
03/30/1990	35	Separate ANSWER by defendant Mike Kemna to First Amended Complaint. (Court Employee) (Entered: 04/03/1990)
03/30/1990	36	MOTION of separte dft. Missouri Dept. of Corrections and Human resources to dismiss for failure to state a claim upon which relief can be granted. (Court Employee) (Entered: 04/03/1990)
03/30/1990	37	Suggestions in support of motion of separte dft. Missouri Dept. of Corrections and Human resources to dismiss for failure to state a claim upon which relief can be granted. [36-1] (Court Employee) (Entered: 04/03/1990)
04/11/1990	38	Reply suggestions by plaintiff to motion of separte dft. Missouri Dept. of Corrections and Human resources to dismiss for failure to state a claim upon which relief can be granted. [36-1] (Court Employee) (Entered: 04/13/1990)
04/30/1990	39	Writ of Habeas Corpus Ad Testificandum. (Court Employee) (Entered: 05/07/1990)
05/01/1990	40	ORDER by Judge Howard F. Sachs that the persons to whom the Writ was directed shall comply with its terms. [39-1] (cc: all counsel) (Court Employee) (Entered: 05/07/1990)
05/03/1990	41	MOTION by plaintiff for preliminary injunction (Court Employee) (Entered: 05/07/1990)
05/04/1990	42	AFFIDAVIT of Lance L. Furnari, Jerry W. Savoy, Ronnie Lobato, Walter Schubert, Dennis M. Healey, Anthony Garcia, Robert Hamburg, Anthony Ccicceralli and Starr K. Swiler, Jr. (Court Employee) (Entered: 05/07/1990)
05/09/1990	43	Suggestions by defendant John D Ashcroft, defendant Dick D Moore, defendant Mike Kemna, defendant Ron Heien in opposition motion for preliminary injunction [41-1] (Court Employee) (Entered: 05/11/1990)
05/11/1990	44	MEMORANDUM AND ORDER: by Judge Howard F. Sachs granting motion for preliminary injunction [41-1]; that pending litigation, dfts Kemna & the director of the Dept of Corrections shall promptly, & w/in no more than 10 days (unless the time is extended by the court f/some

		compelling reason) comply w/the MO prison regulation mandating that the CO inmates presently housed in protective custody segregation at Cameron, MO, be afforded the same general privileges provided inmates in the general prison population, consistently w/existing available resources of the Dept of Corrections & the security needs to the Dept. It is further Ordered that, no measurable monetary harm to dfts being shown, (on the contrary, each day's delay inproviding relief adds to dfts' exposure to damages & attys' fees) & no material availability of plas' funds being established, no bond shall be required as a condition of preliminary injunctive relief in this case. (cc: counsel) (Phyllis Travers) (Entered: 05/11/1990)
05/29/1990	45	MOTION by plaintiff to withdraw attorney of Morrison & Larson. (Court Employee) (Entered: 05/30/1990)
05/29/1990	46	ATTORNEY APPEARANCE for plaintiff Steven G.Emerson of Watson,Ess,Marshall & Enggas. (Court Employee) (Entered: 05/30/1990)
10/09/1990	47	ORDER TO SHOW CAUSE: by Judge Howard F. Sachs ORDERED that within 20 days the parties shall submit to the court a status of the pending claims.(cc: all counsel) (Court Employee) (Entered: 10/09/1990)
10/15/1990	48	NOTICE by plaintiff Dennis M Healey of change of address to Centennial Correctional Facility, P.O. Box 600, Canon City, Co. 81215-0600. (Court Employee) (Entered: 10/15/1990)
10/23/1990	49	Plaintiffs' Status Report to the Court. (Court Employee) (Entered: 10/24/1990)
10/29/1990	50	Dfts'Report of the Status of Pending Claims. (Court Employee) (Entered: 11/01/1990)
12/10/1990	51	ORDER by Judge Howard F. Sachs ; Trial in KCMO 3/11/91 9:30a.m. voir dire and jury inst. due 3/7/91. (cc: all counsel) (Court Employee) (Entered: 12/10/1990)
01/03/1991	52	CERTIFICATE by defendant of service of 1st interrogatories to pla's. (Court Employee) (Entered: 01/07/1991)
02/11/1991	53	CERTIFICATE by defendant of service of Response to plfs' request for production of documents mailed. (Court Employee) (Entered: 02/13/1991)
02/13/1991	57	CERTIFICATE by plaintiff of service of answers to dfts' 1st interrogatories. (Court Employee) (Entered: 02/20/1991)
02/15/1991	54	REMARK: Plts' statement of anticipated length of trial (3-4 days) (Court Employee) (Entered: 02/19/1991)
02/15/1991	55	EXHIBIT LIST by plaintiffs'. (Court Employee) (Entered: 02/19/1991)
02/15/1991	56	Witness list submitted by plaintiffs'. (Court Employee) (Entered: 02/19/1991)



02/19/1991	58	MOTION by defendants for protective order (Court Employee) (Entered: 02/20/1991)
02/19/1991	59	MOTION by defendants for leave to file Witness lists, exhibits lists and statement of anticipated length of trial out of time. (Court Employee) (Entered: 02/21/1991)
02/19/1991	61	EXHIBIT LIST by defendant (Court Employee) (Entered: 02/21/1991)
02/19/1991	62	REMARK: Dfts' Statement of anticipated length of trial. (3-4) days. (Court Employee) (Entered: 02/21/1991)
02/21/1991	60	Witness list submitted by defendant (Court Employee) (Entered: 02/21/1991)
02/25/1991	63	CERTIFICATE by plaintiff of service of answers to dfts' 1st interrogatories mailed. (Court Employee) (Entered: 02/26/1991)
02/27/1991	64	ORDER by Judge Howard F. Sachs granting motion for leave to file Witness lists, exhibits lists and statement of anticipated length of trial out of time. [59-1] (cc: all counsel) (Court Employee) (Entered: 03/06/1991)
06/03/1991	65	CONFERENCE MEMORANDUM (Settlement check due 6/10/91) (Court Employee) (Entered: 06/04/1991)
06/11/1991	66	Stipulation of dismissal w/prejudice, w/each party to ber its own costs (Phyllis Travers) (Entered: 06/13/1991)
06/19/1991	67	ORDER by Judge Howard F. Sachs granting stipulation of dismissal w/prejudice, w/each party to bear its own costs [66-1] terminating case (cc: all counsel) (Phyllis Travers) (Entered: 06/20/1991)

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