

**U.S. District Court
EASTERN DISTRICT OF NORTH CAROLINA (Western Division)
CIVIL DOCKET FOR CASE #: 5:09-ct-03021-FL**

Martin v. Keller et al
Assigned to: Chief Judge Louise Wood Flanagan
Referred to: USMJ David W. Daniel (Settlement)
Cause: 42:1983 Prisoner Civil Rights

Date Filed: 02/03/2009
Date Terminated: 03/08/2010
Jury Demand: Plaintiff
Nature of Suit: 550 Prisoner: Civil Rights
Jurisdiction: Federal Question

Plaintiff

Victor L Martin

represented by **W. Swain Wood**
Wood Jackson PLLC
301 Glenwood Ave., Ste. 280
Raleigh , NC 27603
919 829 7001
Fax: 919 829 7396
Email: swood@woodjacksonlaw.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Katherine Lewis Parker
American Civil Liberties Union of North
Carolina
P. O. Box 28004
Raleigh , NC 27611
919-834-3466
Fax: 866-511-1344
Email: acluncklp@nc.rr.com
ATTORNEY TO BE NOTICED

V.

Defendant

Alvin W. Keller

represented by **James Philip Allen**
N. C. Dept. of Justice
P. O. Box 629
Raleigh , NC 27602-0629
919-716-6541
Fax: 919-716-6761
Email: pallen@ncdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Director Boyd Bennett

represented by **James Philip Allen**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Administrator Gerald Branker

represented by **James Philip Allen**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Captain Frederick S. O'Neal

represented by **James Philip Allen**
(See above for address)

*LEAD ATTORNEY
ATTORNEY TO BE NOTICED*

Date Filed	#	Docket Text
02/03/2009	<u>1</u>	COMPLAINT against all defendants (Filing fee \$ 350 receipt number 0417000000000794594.), filed by Victor L Martin. (Attachments: # <u>1</u> Civil Cover Sheet Cover Sheet) (Wood, W.) (Entered: 02/03/2009)
02/03/2009	<u>2</u>	ORDER that all future filing should reflect the revised case number of 5:09-CT-3021-FL. Signed by Clerk of Court on 2/3/2009. (Indig, A.) (Entered: 02/03/2009)
02/05/2009		NOTICE OF DEFICIENCY re: <u>1</u> Complaint – The summons were not attached to the complaint. Please re-file the complaint and attached any summons. (McDowell, G.) (Entered: 02/05/2009)
02/05/2009	<u>3</u>	COMPLAINT against all defendants (Filing fee \$ 350 receipt number 0417000000000794594.), filed by Victor L Martin. (Attachments: # <u>1</u> Summons to Keller, # <u>2</u> Summons to Boyd, # <u>3</u> Summons to O'Neal, # <u>4</u> Summons to Branker) (Wood, W.) (Entered: 02/05/2009)
02/05/2009	<u>4</u>	NOTICE of Appearance by Katherine Lewis Parker on behalf of Victor L Martin (Parker, Katherine) (Entered: 02/05/2009)
04/07/2009	<u>5</u>	ORDER DIRECTING CLERK TO CONTINUE MANAGEMENT OF CASE. Signed by Chief Judge Louise Wood Flanagan on 4/7/2009. (Shannon, K.) (Entered: 04/07/2009)
04/07/2009	<u>6</u>	Order of Investigation--NCPLS to investigate pltf's claims. Signed by Dennis Iavarone, Clerk cc to pltf. w/notice and waiver form and cc to NCPLS and NCAG. Response to Order due by 7/6/2009. Signed by Clerk of Court on 4/7/2009. (Shannon, K.) (Entered: 04/07/2009)
04/08/2009	<u>7</u>	Summons Issued as to Alvin W. Keller, Boyd Bennett, Gerald Branker, Frederick S. O'Neal. (Shannon, K.) (Entered: 04/08/2009)
04/20/2009	<u>8</u>	ORDER that the Clerk of Court's April 7, 2009 order of investigation is hereby vacated. Signed by Chief Judge Louise Wood Flanagan on 4/19/2009. (Indig, A.) (Entered: 04/20/2009)
05/21/2009	<u>9</u>	AFFIDAVIT of Service for Summons and Complaint served on Boyd Bennett; Captain Frederick S. O'Neal; Gerald Branker; Alvin W. Keller on May 18, 2009, filed by Victor L Martin. (Attachments: # <u>1</u> Exhibit Signed Certified Mail Green Cards) (Wood, W.) (Entered: 05/21/2009)
05/29/2009	<u>10</u>	NOTICE of Appearance by James Philip Allen on behalf of Alvin W. Keller, Boyd Bennett, Gerald Branker, Frederick S. O'Neal (Allen, James) (Entered: 05/29/2009)
05/29/2009	<u>11</u>	MOTION for Extension of Time to File Answer by Alvin W. Keller, Boyd Bennett, Gerald Branker, Frederick S. O'Neal. (Attachments: # <u>1</u> Text of Proposed Order) (Allen, James) (Entered: 05/29/2009)
06/02/2009	<u>12</u>	ORDER granting <u>11</u> Motion for Extension of Time to Answer Alvin W. Keller answer due 7/8/2009; Boyd Bennett answer due 7/8/2009; Gerald Branker answer due 7/8/2009; Frederick S. O'Neal answer due 7/8/2009.. Signed by Clerk of Court on 6/2/2009. (Indig, A.) (Entered: 06/02/2009)
07/08/2009	<u>13</u>	ANSWER to <u>3</u> Complaint, <u>1</u> Complaint, ANSWER to <u>3</u> Complaint, <u>1</u> Complaint by Alvin W. Keller, Boyd Bennett, Gerald Branker, Frederick S. O'Neal. (Allen, James) (Entered: 07/08/2009)
07/14/2009	<u>14</u>	Request for Discovery Stipulation. (Indig, A.) (Entered: 07/14/2009)
07/22/2009	<u>15</u>	MOTION for Extension of Time to file discovery stipulation by Alvin W. Keller, Boyd Bennett, Gerald Branker, Frederick S. O'Neal. (Attachments: # <u>1</u> Text of Proposed Order granting extension of time to file discovery stipulation) (Allen, James) (Entered: 07/22/2009)

07/22/2009	<u>16</u>	ORDER granting <u>15</u> Motion for Extension of Time to file discovery stipulations until 9/2/2009. Signed by Clerk of Court on 7/22/2009. (Indig, A.) (Entered: 07/22/2009)
09/02/2009	<u>17</u>	Rule 26(f) Report (joint) by Victor L Martin, Alvin W. Keller, Boyd Bennett, Gerald Branker, Frederick S. O'Neal. (Parker, Katherine) (Entered: 09/02/2009)
09/03/2009		NOTICE OF DEFICIENCY re: <u>17</u> Rule 26(f) Report (joint) ; Pursuant to Local Civil Rule 6.1, or the judges practice preferences on the courts website, counsel must submit a proposed order. The order must be filed electronically using the event PROPOSED ORDER located in the RESPONSES AND REPLIES category. (Indig, A.) (Entered: 09/03/2009)
09/03/2009	<u>18</u>	Proposed Order re <u>17</u> Rule 26(f) Report (joint) filed by Victor L Martin, Alvin W. Keller, Boyd Bennett, Gerald Branker, Frederick S. O'Neal. (Parker, Katherine) (Entered: 09/03/2009)
09/08/2009	<u>19</u>	Proposed Order re <u>17</u> Rule 26(f) Report (joint) filed by Victor L Martin, Alvin W. Keller, Boyd Bennett, Gerald Branker, Frederick S. O'Neal. (Parker, Katherine) (Entered: 09/08/2009)
09/17/2009		NOTICE of Hearing: Initial Conference set for 9/24/2009 09:30 AM in Telephonic before Chief Judge Louise Wood Flanagan. Attendance of all counsel of record via telephone is required. Counsel will be notified of conference call details in advance of the conference. (McDowell, G.) (Entered: 09/17/2009)
09/21/2009	<u>20</u>	ORDER that this matter is before the court of its own initiative, and in furtherance of the mandate embodied in Rule 1 of the Federal Rules of Civil Procedure, where the courts administration of the case shall further its just, speedy, and inexpensive determination. It appears in this case certain processes mistakenly have been invoked by the clerk of court in its case administration. Order commenting on the same will aid future litigation, as well. Signed by Chief Judge Louise Wood Flanagan on 9/21/2009. (Indig, A.) (Entered: 09/21/2009)
09/24/2009		Minute Entry for proceedings held before Chief Judge Louise Wood Flanagan: Initial Telephonic Scheduling Conference held on 9/24/2009. Present at conference – W. Swain Wood or Plaintiff; James Philip Allen for Defendants; Melissa Michaud and Mandy Smith; Law Clerks; Gayle McDowell, Case Manager; Christa Baker, Deputy Clerk. Issues bearing on case management and scheduling addressed. Written case management order to issue. (Baker, C.) (Entered: 09/24/2009)
10/01/2009	<u>21</u>	CASE MANAGEMENT ORDER: Discovery due by 5/14/2010. Motions due by 6/14/2010. Jury Trial set for 10/18/2010 09:00 AM in Raleigh – Courtroom TBA before Chief Judge Louise Wood Flanagan. Signed by Chief Judge Louise Wood Flanagan on 9/24/2009. (McDowell, G.) (Entered: 10/01/2009)
10/07/2009	<u>22</u>	NOTICE by Victor L Martin, Alvin W. Keller, Boyd Bennett, Gerald Branker, Frederick S. O'Neal of <i>Consent to Settlement Conference</i> (Allen, James) (Entered: 10/07/2009)
11/02/2009	<u>23</u>	ORDER REFERRING CASE to Magistrate Judge USMJ David W. Daniel for court-hosted settlement conference. Signed by Chief Judge Louise Wood Flanagan on 11/2/2009. (Shannon, K.) (Entered: 11/03/2009)
11/09/2009	<u>24</u>	Order Setting Hearings – Settlement Conference set for 1/21/2010 at 9:30 AM at the U.S. Brankruptcy Court Building in Wilson, NC before USMJ David W. Daniel. Signed by USMJ David W. Daniel on 11/9/2009. (Indig, A.) (Entered: 11/10/2009)
12/18/2009	<u>25</u>	MOTION for Writ to <i>Produce Plaintiff at Court-Hosted Settlement Conference</i> by Victor L Martin. (Parker, Katherine) (Entered: 12/18/2009)
01/04/2010		Motions Submitted to Magistrate Judge Daniel: <u>25</u> MOTION for Writ to <i>Produce Plaintiff at Court-Hosted Settlement Conference</i> (McDowell, G.) (Entered: 01/04/2010)
01/07/2010	<u>26</u>	ORDER that the court-hosted settlement conference presently scheduled for January 21, 2010 at 9:30a.m. in Wilson, North Carolina will be held in Courtroom #1 of the Terry Sanford Federal Building in Raleigh, North Carolina. Signed by USMJ David W. Daniel on 1/6/2010. (Indig, A.) (Entered: 01/07/2010)

01/07/2010	<u>27</u>	Writ of Habeas Corpus to produce Victor L. Martin and deliver to the US Courthouse 310 New Bern Ave., Raleigh, North Carolina, on the 21st of January, 2010. Signed by David W. Daniel, US Magistrate Judge. (Indig, A.) (Entered: 01/07/2010)
01/12/2010	<u>28</u>	ORDER the court-hosted settlement conference presently scheduled for January 21, 2010 at 9:30a.m. will begin at 12:00p.m., January 21, 2010. Signed by USMJ David W. Daniel on 1/12/2010. (Indig, A.) (Entered: 01/12/2010)
01/21/2010	<u>29</u>	Minute Entry for proceedings held before USMJ David W. Daniel: Settlement Conference held on 1/21/2010. (Court Reporter FTR Gold.) (Indig, A.) (Entered: 01/22/2010)
01/22/2010	<u>30</u>	ORDER to consummate the settlement and file the appropriate documents to close the case on or before February 23, 2010. Signed by USMJ David W. Daniel on 1/22/2010. (Indig, A.) (Entered: 01/22/2010)
02/19/2010	<u>32</u>	MOTION for Extension of Time <i>to consummate settlement</i> by Alvin W. Keller, Boyd Bennett, Gerald Branker, Frederick S. O'Neal. (Attachments: # <u>1</u> Text of Proposed Order Extending time to consummate settlement) (Allen, James) (Entered: 02/19/2010)
02/22/2010	<u>33</u>	ORDER granting <u>32</u> Motion for Extension of Time; Documents due by 3/9/2010. Signed by USMJ David W. Daniel on 2/22/2010. (McDowell, G.) (Entered: 02/22/2010)
03/08/2010	<u>34</u>	NOTICE of Voluntary Dismissal by Victor L Martin, Alvin W. Keller, Boyd Bennett, Gerald Branker, Frederick S. O'Neal (Attachments: # <u>1</u> Exhibit A – Settlement Agreement) (Parker, Katherine) (Entered: 03/08/2010)