

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

MOHAMED A. EL-TABECH,) 4:04CV3231

Plaintiff,)

v.)

AROLD CLARKE, et al,)
Defendants.)

) MOTION FOR A
) PRELIMINARY INJUNCTION
) AND A TEMPORARY
) RESTRAINING ORDER

FILED
U.S. DISTRICT COURT
DISTRICT OF NEBRASKA
MAY 31 PM 2:37
OFFICE OF THE CLERK

COMES NOW the plaintiff, Mohamed A. EL-Tabech, and pursuant to FRCP 65 and NELR 65.1, moves this Court for the issuance of a Temporary Restraining Order, followed by a preliminary Injunction, enjoining the defendants from denying plaintiff indispensable medical care, and continuing with their atrocious, malicious, and systematic abuse as a retaliation against plaintiff in violation of 42 USC § 1997d. plaintiff's affidavit in support of this motion is incorporated hereto.

WHEREFORE, plaintiff prays this motion be granted, and a Temporary Restraining Order issue followed by a preliminary Injunction.

Respectfully Submitted,

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MAY 31 2005

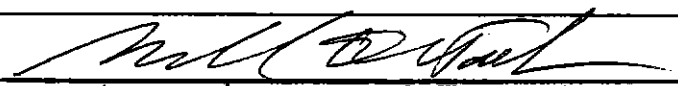
CLERK
U.S. DISTRICT COURT
OMAHA



Mohamed A. EL-Tabech
Tecumseh State Correctional Instit.
2725 North Highway 50
P.O. Box 900
Tecumseh, NE 68450

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Motion for a preliminary Injunction and a Temporary Restraining Order with Affidavit in support was served on Eileen L. McBride, Assistant Attorney General, 2115 State Capitol, Lincoln, NE 68509-8920, and Travis P. O'Gorman, Cline, Williams, Wright, Johnson & Oldfather, L.P., 1900 U.S. Bank Building, 233 South 13th street, Lincoln, NE 68508-2095, by United States Mail, First Class, postage prepaid, on this 22 day of May, 2005.



Mohamed A. EL-Tabech
plaintiff, pro se

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

MOHAMED A. EL-TABECH,) 4:04 CV 3231
Plaintiff,)
) AFFIDAVIT OF
v.)
) PLAINTIFF
)
)
HAROLD CLARKE, et al.,)
Defendants.)

STATE OF NEBRASKA)
COUNTY OF JOHNSON) SS.

COMES NOW Mohamed A. EL Tabech, being First
duly sworn upon Oath, and states and deposes
as follows:

1. That he is the plaintiff in the above-captioned case.
2. That his shoulder(s) and back conditions have deteriorated tremendously, by virtue of the long overdue and needed treatment which he has been denied as asserted in Filing No. 1, Pg 56-61; Filing No. 48, Addendum "A"; and Filing No. 53, Pg. 17-18. The pain and complications have increased, and further delay in treatment would result in additional irreparable harm as he verily feels and believes.

3. That the retaliation against him, specifically the physical, barbaric, vicious, and systematic as stated in Filing No. 53, pg. 33-34, and Exhibit # XIV remains unchanged, with additions as stated below.

4. That on January 26, 2005, at 2:30 P.M. and under the pretense of a major shakedown, defendants agents went on a rampage search of his cell, and pillaged items and property that were authorized to possess, by virtue of the legal and proper purchase prior to arrival at SMU from the CU at NSP, and under defendants' Britten's Memorandum of May 3, 2001, directed to NSP population who were to be transferred to TSCI, that properly purchased items at NSP will be grandfathered at TSCI, and will not be taken away upon transferring. Defendants' agents took his prescription glasses, personal sweatshirt, boots, and pen, all of which have been in his cell since July 18, 2002, the date of transfer from NSP to TSCI.

Also were taken, prescribed skin ointment for the ailment he developed as a result of the conditions of confinement; and the replacement clothing given to him the day before, for the regularly stolen clothings as stated in Filing No. 1, pg. 97, Exhibit # 72 and Filing No. 53, Exhibit # X. The agents used a drugs-dog desecrating his cell, thus nullifying his prayers by not providing him with cleaning

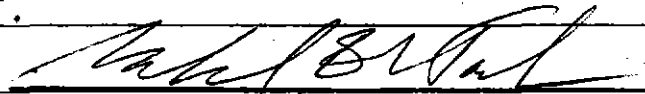
supplies to remove the Filth Left. Had he possessed any of the items that were taken, without authority, he would have received and subjected to misconduct reports as mandated by defendants' rules.

5. That despite the foregoing, again, on February 8, 2005, between 2:50 P.M. and 3:40 P.M. defendants' agents headed by SMU manager conducted another major shakedown with the drugs - dog handler and others while he was at the law library, and took all his legal and personal papers, giving him less than 5 minutes, upon returning from the library, while in full restraints, to choose only part of the authorized four feet of legal and personal papers. When he inquired as to why he is being subjected to what others have not, he was told by SMU manager that it was the Warden's Orders. Next day, the rest of the papers were brought back, only to discover tampering and the disappearance of Filing No. 10 (order on Initial Review) in violation of Wolff v. McDonnell 418 U.S. 539, and Rule 007 of Chapter 3, title 68 of defendants' rules.

6. That prior to the Filing of this action, a minimum of (250) two hundred and fifty searches left his property intact, and unmolested.

7. That he believes the Court can clearly fathom the necessity for an appointment of counsel, not

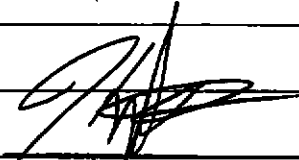
only by virtue of the serious claims, but by the
audacious interference in prosecuting this complaint.
Further affiant saith not.


AFFIANT / PLAINTIFF

SUBSCRIBED AND SWORN TO, before me
this 12 day of May, 2005.



SEAL


NOTARY PUBLIC

May 22, 2005

clerk of
The U.S. District Court
Roman L. Hruska U.S. Courthouse
111 S. 18th plaza, Suite 1152
Omaha, NE 68102 - 1322

RE: 4:04CV3231

Mohamed A. EL-Tabech V. Harold Clarke

Dear Clerk,

please find enclosed for filing in the
above referenced matter with a proof of service:

- 1 - Motion For a preliminary Injunction
and a Temporary Restraining Order.
- 2 - Motion To add a defendant.

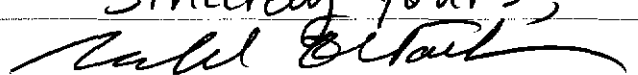
I would greatly appreciate it, if you bring it to
the attention of The Honorable Joseph F.
Bataillon to whom the case is assigned.

Thank you for your time and consideration.

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CLERK
U.S. DISTRICT COURT
OMAHA

Sincerely yours,


Mohamed A. EL-Tabech
Tecumseh State Correctional Instit.
2725 North Highway 50
P.O. Box 900
Tecumseh, NE 68450

