

CLOSED,NEBRASKA-DEFENDANT,NEBRASKADOCKET,PROSEDOCKET,TRIAL-OMAHA

U.S. District Court
District of Nebraska (8 Omaha)
CIVIL DOCKET FOR CASE #: 8:13-cv-00130-RGK-PRSE

Wilson et al v. Hopkins
Assigned to: Senior Judge Richard G. Kopf
Referred to: Pro Se Docket
Cause: 42:1983 Prisoner Civil Rights

Date Filed: 04/22/2013
Date Terminated: 11/03/2014
Jury Demand: None
Nature of Suit: 550 Prisoner: Civil Rights
Jurisdiction: Federal Question

Plaintiff

Harold B. Wilson

represented by **Harold B. Wilson**
37418
SPR-LINC CORR CTR, Lincoln
Correctional Center
Address Updated 4/2/2012
P.O. Box 22800
Lincoln, NE 68542-2800
PRO SE

Plaintiff

Gracy S. Sedlak

represented by **Gracy S. Sedlak**
1035 Hartley
Lincoln, NE 68503
471-4107
PRO SE

V.

Defendant

Jon Bruning

*Attorney General, All in their individual
and professional capacities
TERMINATED: 04/17/2014*

Defendant

Robert Houston

*Dir of Corrections, All in their individual
and professional capacities
TERMINATED: 04/17/2014*

Defendant

Robert Madsen

*Associate Warden LCC, All in their
individual and professional capacities
TERMINATED: 04/17/2014*

Defendant

Frank Hopkins

*Asst Dir, All in their individual and
professional capacities*

represented by **Kyle J. Citta**
ATTORNEY GENERAL'S OFFICE -
NEBRASKA
2115 State Capitol
Lincoln, NE 68509
(402) 471-1917
Fax: (402) 471-4725
Email: kyle.citta@nebraska.gov
ATTORNEY TO BE NOTICED

Defendant

Mario Peart

Warden LCC, All in their individual and professional capacities
TERMINATED: 04/17/2014

Defendant**State of Nebraska**

All in their individual and professional capacities
TERMINATED: 04/17/2014

Defendant**Dept of Corrections**

All in their individual and professional capacities
TERMINATED: 04/17/2014

Date Filed	#	Docket Text
04/22/2013	<u>1</u>	COMPLAINT against Jon Bruning, Dept of Corrections, Frank Hopkins, Robert Houston, Robert Madsen, Mario Peart, State of Nebraska filed by Gracy S. Sedlak, Harold B. Wilson. No Summons(es) issued.(AOA) (Entered: 04/24/2013)
04/22/2013	<u>2</u>	MOTION for Leave to Proceed in forma pauperis, MOTION for Injunctive Relief filed by Plaintiff Harold B. Wilson. (AOA) (Entered: 04/24/2013)
04/22/2013	<u>3</u>	PRISONER ACCOUNT STATEMENT by Plaintiff Harold B. Wilson. ACCESS TO THE PDF DOCUMENT IS RESTRICTED TO CASE PARTICIPANTS AND THE COURT PURSUANT TO THE E-GOVERNMENT ACT AND FEDERAL RULE OF CIVIL PROCEDURE 5.2(a). (AOA) (Entered: 04/24/2013)
04/22/2013	<u>4</u>	DECLARATION in Support of MOTIONS for Leave to Proceed in forma pauperis <u>2</u> filed by Plaintiff Gracy S. Sedlak.(AOA) (Entered: 04/24/2013)
04/22/2013	<u>5</u>	REQUEST for Class Action Status Certification filed by Plaintiffs Gracy S. Sedlak, Harold B. Wilson. (AOA) (Additional attachment(s) added on 4/30/2013: # <u>1</u> Corrected Request with signature) (AOA). (Entered: 04/24/2013)
04/24/2013	<u>6</u>	TEXT NOTICE OF DEFICIENCY by Deputy Clerk that the Request <u>5</u> has been filed and is considered deficient because the document is not signed. The plaintiff shall correct the deficiency within 15 days of the date of this entry or the pleading may be stricken from the record of this case. See NECivR 11.1.(AOA) Satisfied on 4/30/2013 (AOA). (Entered: 04/24/2013)
04/24/2013	<u>7</u>	NOTICE by Clerk acknowledging receipt of complaint filed by a pro se party. (AOA) (Entered: 04/24/2013)
04/24/2013	<u>8</u>	ORDER pursuant to General Order No. 2007-12: All pro se civil cases that are assigned to a district judge for trial, whether filed by a prisoner or not, are herewith exempted from the disclosure and conference requirements of F.R.Civ.P. 26, except in pending cases where a scheduling order (or packet) or progression order has been previously issued, the parties shall abide by such scheduling or progression orders. In the future, it will not be the practice of the court to issue scheduling packets in pro se civil cases assigned to district judges. Instead, it will be the practice to issue a progression order, addressing discovery and other issues, approximately 30 days after the last defendant has answered. Ordered by Senior Judge Richard G. Kopf. (Copy mailed to pro se party)(AOA) (Entered: 04/24/2013)
06/11/2013	<u>9</u>	MEMORANDUM AND ORDER – Plaintiffs Wilson and Sedlak shall respond in accordance with this Memorandum and Order within 21 days of the date of this order. The clerk's office is directed to enter a case management deadline in this matter using the following text: July 1, 2013: Deadline for plaintiffs to show cause. No further action shall be taken in this case until the court receives such responses. Failure to respond the courts order will result in dismissal of this matter without further notice and, as set forth above, may also result in the imposition of other sanctions. Ordered

		by Senior Judge Richard G. Kopf. (Copy mailed to pro se parties)(AOA) (Entered: 06/11/2013)
06/27/2013	<u>10</u>	AFFIDAVIT of Harold B. Wilson on behalf of Plaintiff Harold B. Wilson.(AOA) (Entered: 06/27/2013)
06/28/2013	<u>11</u>	PAGE 2 STRICKEN – AFFIDAVIT and Response filed by Plaintiff Gracy Sedlak .(AOA) Modified on 7/22/2013 to reflect document filed by plaintiff Gracy Sedlak and page 2 stricken per strike order 12 (CCB). (Entered: 06/28/2013)
07/22/2013	12	TEXT STRIKE ORDER that Pursuant to NEGenR 1.3(a)(4), Page 2 of the Affidavit and Response <u>11</u> is stricken for the following reason: page two of document filed in incorrect case. Document will be re–filed in the correct case 4:12cv3061. Ordered by Deputy Clerk. (Copy mailed to pro se plaintiffs)(CCB) (Entered: 07/22/2013)
07/31/2013	<u>13</u>	MEMORANDUM AND ORDER – Sedlak is directed to correct the above–listed technical defect in the Complaint within 30 days of the date of this Memorandum and Order. Accordingly, Sedlak must pay the \$400.00 fees to the Clerk of the court, or submit a request to proceed in forma pauperis and an affidavit of poverty in support thereof. Sedlak is reminded that Rule 11(a) requires that she sign every pleading, written motion, and other paper that she submits to the court, and that it is improper for Plaintiff Harold Wilson to sign papers in place of, or to otherwise represent, her. (See court's order from June 11, 2013 (Filing No. 9).) Failure to comply with this Memorandum and Order will result in dismissal of this matter as to Sedlak without further notice. The Clerk of the court is directed to send to Sedlak the Form AO240, Application to Proceed Without Prepayment of Fees and Affidavit. The Clerk of the court is directed to set a pro se case management deadline in this matter with the following text: September 1, 2013: Check for MIFP or payment. Ordered by Senior Judge Richard G. Kopf. (Copy mailed to pro se party with form)(GJG) (Entered: 07/31/2013)
08/07/2013	<u>14</u>	MOTION for Leave to Proceed in forma pauperis filed by Plaintiff Gracy S. Sedlak.(AOA) (Entered: 08/08/2013)
08/13/2013	<u>15</u>	ORDER granting <u>2</u> Motion for Leave to Proceed in forma pauperis. Plaintiff Harold Wilson shall pay an initial partial filing fee of \$15.94 by September 12, 2013, unless an enlargement of time is granted in response to a written motion. The clerk's office is directed to send a copy of this order to the appropriate official at Plaintiff's institution. The clerk's office is directed to set a pro se case management deadline in this case using the following text: September 13, 2013: initial partial filing fee payment due. Pro Se Case Management Deadline set for 9/13/2013. Ordered by Senior Judge Richard G. Kopf. (Copies mailed as directed and to pro se party)(AOA) (Entered: 08/13/2013)
08/13/2013	<u>16</u>	MEMORANDUM AND ORDER – Leave to proceed in forma pauperis <u>14</u> is provisionally granted, and the Complaint shall be filed as to Plaintiff Gracy Sedlak without payment of fees. Ordered by Senior Judge Richard G. Kopf. (Copy mailed to pro se party)(AOA) (Entered: 08/13/2013)
08/20/2013	<u>17</u>	Mail Returned as Undeliverable addressed to Harold B. Wilson regarding Memorandum and Order on Motion for Leave to Proceed in forma pauperis filing <u>15</u> . Mail was not resent as there is no forwarding address. (GJG) (Entered: 08/20/2013)
08/20/2013	<u>18</u>	NOTICE of refused mail regarding Mail Returned <u>17</u> on behalf of Plaintiff Harold B. Wilson. (GJG) (Entered: 08/23/2013)
08/27/2013		TEXT ENTRY THAT INITIAL FILING fee paid on behalf of Harold B. Wilson on 8/27/13. Receipt number 8025511, in the amount of \$ 15.94. (JSF) (Entered: 08/27/2013)
10/07/2013		TEXT ENTRY THAT PARTIAL FILING fee paid on behalf of Harold B. Wilson on 10/7/2013. Receipt number 8026031, in the amount of \$ 19.18. (TCL) (Entered: 10/07/2013)
10/23/2013	<u>19</u>	REQUEST for Injunction & Restraining order filed by Plaintiffs Gracy S. Sedlak, Harold B. Wilson. (AOA) (Entered: 10/23/2013)
11/06/2013		TEXT ENTRY THAT FILING fee paid on behalf of HAROLD WILSON on 11/06/2013. Receipt number 8–26366, in the amount of \$ 20.15. (SCR,) (Entered: 11/06/2013)

		11/08/2013)
11/07/2013	<u>20</u>	MEMORANDUM AND ORDER – Plaintiffs' claim that they are being "denied the right to marry the person of [their] choosing" in violation of the Equal Protection Clause of the United States Constitution fails to state a claim upon which relief may be granted, and is dismissed. Plaintiffs shall have until 45 days from the date of this Memorandum and Order to amend their Complaint to clearly state a claim upon which relief may be granted against Defendants in accordance with this Memorandum and Order. If Plaintiffs fail to file an amended complaint, their claims against Defendants will be dismissed without further notice. The Clerk of the court is directed to set a pro se case management deadline in this case using the following text: Check for amended complaint on December 20, 2013. Plaintiffs' Motion for Preliminary Injunction (Filing No. <u>19</u>) is denied. Ordered by Senior Judge Richard G. Kopf. (Copy mailed to pro se parties) (AOA) (Entered: 11/07/2013)
12/04/2013		TEXT ENTRY THAT FILING fee paid on behalf of HAROLD WILSON on 12/04/2013. Receipt number 80266701, in the amount of \$ 19.17. (SCR,) (Entered: 12/05/2013)
12/10/2013	<u>21</u>	AMENDED COMPLAINT filed by Gracy S. Sedlak, and Harold B. Wilson against Defendant Jon Bruning, Dept of Corrections, Frank Hopkins, Robert Houston, Robert Madsen, Mario Peart, State of Nebraska. (GJG) (Entered: 12/10/2013)
01/02/2014	<u>22</u>	SUPPLEMENT BRIEF to the Amended Complaint filed by Plaintiffs Gracy S. Sedlak, Harold B. Wilson.. (AOA) (Entered: 01/02/2014)
01/06/2014		TEXT ENTRY THAT FILING fee paid on behalf of HAROLD WILSON on 01/06/2014. Receipt number 8027068, in the amount of \$ 17.10. (SCR,) (Entered: 01/07/2014)
02/07/2014		TEXT ENTRY THAT FILING fee paid on behalf of HAROLD WILSON on 02/07/2014. Receipt number 8027435, in the amount of \$ 20.17. (SCR,) (Entered: 02/10/2014)
03/03/2014	<u>23</u>	MOTION for Summary Judgment filed by Plaintiffs Gracy S. Sedlak, Harold B. Wilson. (AOA) (Entered: 03/03/2014)
03/06/2014		TEXT ENTRY THAT FILING fee paid on behalf of HAROLD WILSON on 03/06/2014. Receipt number 8027786, in the amount of \$ 16.02. (SCR,) (Entered: 03/07/2014)
03/27/2014	<u>24</u>	MOTION for Status and Preliminary Injunction filed by Plaintiffs Gracy S. Sedlak, Harold B. Wilson. (AOA) (Entered: 03/27/2014)
04/03/2014		TEXT ENTRY THAT FILING fee paid on behalf of HAROLD WILSON on 04/03/2014. Receipt number 8028134, in the amount of \$ 73.63. (SCR,) (Entered: 04/07/2014)
04/17/2014	<u>25</u>	MEMORANDUM AND ORDER – Plaintiffs' First Amendment claim against Frank Hopkins in his individual and official capacities may proceed to service of process. All other claims against all other Defendants are dismissed. To obtain service of process on Defendant Frank Hopkins, Plaintiffs must complete and return the summons forms that the Clerk of the court will provide. The Clerk of the court shall send two summons forms and two USM–285 forms to Plaintiff, together with a copy of this Memorandum and Order for service on Frank Hopkins in his individual and official capacities. Plaintiff shall, as soon as possible, complete the forms and send the completed forms back to the Clerk of the court. In the absence of the forms, service of process cannot occur. The Clerk of Court is directed to set a pro se case management deadline in this case with the following text: "August 15, 2014: Check for completion of service of summons." Ordered by Senior Judge Richard G. Kopf. (Copy mailed to pro se party with summonses) (AOA) (Entered: 04/17/2014)
05/09/2014		TEXT ENTRY THAT FILING fee paid on behalf of HAROLD WILSON on 05/09/2014. Receipt number 8028550, in the amount of \$ 5.08. (SCR,) (Entered: 05/12/2014)
05/15/2014	<u>26</u>	Summons Issued (COPY) as to defendant Frank Hopkins regarding Supplement <u>22</u> , and Amended Complaint <u>21</u> . (GJG) (Entered: 05/16/2014)

05/29/2014	<u>27</u>	SUMMONS Returned Executed upon defendant Frank Hopkins on 5/21/2014. (GJG) (Entered: 05/29/2014)
06/05/2014		TEXT ENTRY THAT FILING fee paid on behalf of HAROLD WILSON on 06/05/2014. Receipt number 8028896, in the amount of \$ 5.32. (SCR,) (Entered: 06/06/2014)
06/12/2014	<u>28</u>	MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM by Attorney Kyle J. Citta on behalf of Defendant Frank Hopkins. (AOA) (Entered: 06/12/2014)
06/12/2014	<u>29</u>	BRIEF in support of MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM <u>28</u> by Attorney Kyle J. Citta on behalf of Defendant Frank Hopkins. (AOA) (Entered: 06/12/2014)
06/12/2014	30	TEXT NOTICE OF FAILURE TO FILE ELECTRONICALLY the Brief <u>29</u> , Motion to Dismiss for Failure to State a Claim <u>28</u> by Deputy Clerk. Pursuant to NECivR 5.0.1(b), all documents submitted for filing shall be filed using the Electronic Filing System. An attorney who willfully or negligently fails as a registered attorney to electronically file documents may be ordered to show cause why the court should not impose sanctions. This notice is for your information for future filings.(AOA) (Entered: 06/12/2014)
06/27/2014	<u>31</u>	BRIEF in opposition to MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM <u>28</u> on behalf of Plaintiffs Gracy S. Sedlak and Harold B. Wilson. (JSF) (Entered: 06/30/2014)
07/11/2014		TEXT ENTRY THAT FILING fee paid on behalf of HAROLD WILSON on 07/07/2014. Receipt number 8029236, in the amount of \$ 5.32. (SCR,) Modified on 9/9/2014 to correct the receipt number (ADB,). (Entered: 07/11/2014)
07/11/2014	<u>32</u>	INTERLOCUTORY APPEAL, Request for Transcript and Bill of Exceptions regarding Memorandum and Order <u>25</u> on behalf of Plaintiff Gracy S. Sedlak. (Part 1 of 2) (Copy mailed to pro se parties) (JSF) Modified on 7/21/2014 to indicate an interlocutory appeal (JSF). (Entered: 07/14/2014)
07/11/2014		(Part 2 of 2) MOTION for Leave to Appeal in forma pauperis on behalf of Plaintiff Gracy S. Sedlak. (JSF) (Entered: 07/14/2014)
07/14/2014	<u>33</u>	COPY OF UNTIMELY MEMO prepared by deputy clerk and sent to Judge Kopf. (JSF) (Entered: 07/14/2014)
07/15/2014	<u>34</u>	MEMORANDUM AND ORDER that the clerk's office shall not process Plaintiff Gracy Sedlak's appeal. Plaintiff Gracy Sedlak may not proceed on appeal in forma pauperis. The clerk's office is directed to provide a copy of this Memorandum and Order to the Eighth Circuit Court of Appeals. Ordered by Senior Judge Richard G. Kopf. (Copies mailed as directed) (JSF) (Entered: 07/15/2014)
07/15/2014	<u>35</u>	NOTIFICATION OF APPEAL AND NOA SUPPLEMENT by Clerk to USCA regarding Notice of Appeal to USCA <u>32</u> , Memorandum and Order <u>25</u> , Memorandum and Order denying Motion for Leave to Appeal in forma pauperis <u>34</u> . Notice of Appeal filed on 7/11/14 by Plaintiff Gracy S. Sedlak. (JSF) (Entered: 07/15/2014)
07/17/2014	<u>36</u>	COPY of Order from USCA – 8th Circuit (14–2696). The \$505 appellate filing and docketing fee has not been paid and is due. Appellant is directed to either pay the fee in the district court or file a motion for leave to proceed in forma pauperis in this court within 28 days of the date of this order. If appellant does not pay the fee or move for IFP status by August 14, 2014, this appeal will be dismissed for failure to prosecute without further notice. (Attachments: # <u>1</u> Transmittal Letter)(GJG) (Entered: 07/18/2014)
08/08/2014		TEXT ENTRY THAT FILING fee paid on behalf of HAROLD WILSON on 08/08/2014. Receipt number 8029643, in the amount of \$ 45.48. (SCR,) (Entered: 08/13/2014)
08/19/2014	<u>37</u>	COPY of Judgment from USCA – 8th Circuit (14–2696) that the appellant has not responded to the court's order of 7/17/14. It is hereby ordered that the appeal is dismissed for failure to prosecute. (JSF) (Entered: 08/19/2014)

08/19/2014	<u>38</u>	MANDATE from USCA – 8th Circuit (14–2696) that in accordance with the judgment of 8/19/14, and pursuant to the provisions of Federal Rule of Appellate Procedure 41(a), the formal mandate is hereby issued in the above–styled matter regarding Notice of Appeal to USCA <u>32</u> . (JSF) (Entered: 08/19/2014)
09/10/2014		TEXT ENTRY THAT FILING fee paid on behalf of HAROLD WILSON on 09/10/2014. Receipt number 8030015, in the amount of \$ 6.57. (SCR,) (Entered: 09/10/2014)
10/10/2014		TEXT ENTRY THAT FILING fee paid on behalf of HAROLD WILSON on 10/10/2014. Receipt number 8030396, in the amount of \$ 5.08. (SCR,) (Entered: 10/14/2014)
11/03/2014	<u>39</u>	MEMORANDUM AND ORDER that defendant's Motion to Dismiss <u>28</u> is granted. Accordingly, Plaintiffs' Complaint is dismissed with prejudice for failure to state a claim upon which relief may be granted. Plaintiffs' Motion for Summary Judgment <u>23</u> is denied. Plaintiffs' Motion for Preliminary Injunction <u>24</u> is denied. A separate judgment will be entered in accordance with this Memorandum and Order. Ordered by Senior Judge Richard G. Kopf. (Copy mailed to pro se party) (JSF) (Entered: 11/03/2014)
11/03/2014	<u>40</u>	JUDGMENT – Plaintiffs' Complaint and Amended Complaint are dismissed with prejudice for failure to state a claim upon which relief may be granted. Ordered by Senior Judge Richard G. Kopf. (Copy mailed to pro se party) (JSF) (Entered: 11/03/2014)
11/07/2014		TEXT ENTRY THAT FILING fee paid on behalf of HAROLD WILSON on 11/07/2014. Receipt number CQ15–21, in the amount of \$ 5.57. (SCR,) (Entered: 11/10/2014)
12/08/2014		TEXT ENTRY THAT FILING fee paid on behalf of HAROLD WILSON on 12/08/2014. Receipt number 8031172, in the amount of \$ 36.99. (SCR,) (Entered: 12/09/2014)
12/15/2014	<u>41</u>	NOTICE OF APPEAL regarding Memorandum and Order <u>39</u> and Judgment <u>40</u> on behalf of Plaintiff Gracy S. Sedlak. Copy of Notice of Appeal mailed to plaintiff Gracy S. Sedlak at 1035 Hartley, Lincoln, NE 68503. (JSF) (Entered: 12/15/2014)
12/15/2014	<u>42</u>	COPY OF UNTIMELY APPEAL MEMO prepared by deputy clerk and sent to Pro Se Law Clerk as to plaintiff Gracy S. Sedlak. (JSF) (Entered: 12/15/2014)
12/15/2014	<u>43</u>	COPY OF IFP MEMO prepared by Deputy Clerk and sent to Pro Se Law Clerk regarding Notice of Appeal <u>41</u> as to plaintiff Gracy S. Sedlak. (JSF) (Entered: 12/15/2014)
01/14/2015		TEXT ENTRY THAT FILING fee paid on behalf of HAROLD WILSON on 01/14/2015. Receipt number 8031607, in the amount of \$ 4.84. (SCR,) (Entered: 01/26/2015)
01/15/2015	<u>44</u>	MEMORANDUM AND ORDER – Plaintiff's notice of appeal was not timely filed. The clerk's office is directed to send a copy of this order to the Eighth Circuit Court of Appeals. Ordered by Senior Judge Richard G. Kopf. (Copy mailed to pro se party and as directed) (JSF) (Entered: 01/15/2015)
01/15/2015	<u>45</u>	NOTIFICATION OF APPEAL AND NOA SUPPLEMENT by Clerk to USCA regarding Notice of Appeal to USCA <u>41</u> , Memorandum and Order <u>39</u> , Judgment <u>40</u> and Memorandum and Order that the appeal was not timely filed <u>44</u> . Notice of Appeal filed on 12/15/14 by Plaintiff Gracy S. Sedlak. (JSF) (Entered: 01/15/2015)
01/26/2015	<u>46</u>	COPY of Order from USCA – 8th Circuit (15–1154) that the appellant is directed to either pay the filing fee in the district court or file a motion for leave to proceed in forma pauperis. (Attachments: # <u>1</u> Transmittal Letter) (JSF) (Entered: 01/26/2015)
02/12/2015		TEXT ENTRY THAT FILING fee paid on behalf of HAROLD WILSON on 02/12/2015. Receipt number 8032020, in the amount of \$ 5.57. (SCR,) (Entered: 02/17/2015)

03/03/2015	<u>47</u>	JUDGMENT from USCA – 8th Circuit (15–1154) that appellant has not responded to the court's order entered January 26, 2015. It is hereby ordered that this appeal is dismissed for failure to prosecute. See Eighth Circuit Rule 3C. Mandate shall issue forthwith. (JSF) (Entered: 03/03/2015)
03/03/2015	<u>48</u>	MANDATE from USCA – 8th Circuit (15–1154) that in accordance with the judgment of 03/03/2015, and pursuant to the provisions of Federal Rule of Appellate Procedure 41(a), the formal mandate is hereby issued in the above–styled matter. (JSF) (Entered: 03/03/2015)
03/09/2015		TEXT ENTRY THAT FILING fee paid on behalf of HAROLD WILSON on 03/09/2015. Receipt number 8032389, in the amount of \$ 11.06. (SCR,) (Entered: 03/10/2015)
04/09/2015		TEXT ENTRY THAT FILING fee paid on behalf of Harold B. Wilson on 4/9/15. Receipt number 8032825, in the amount of \$6.78. (JSF) (Entered: 04/09/2015)
05/11/2015		TEXT ENTRY THAT FILING fee paid on behalf of Harold B. Wilson on 5/11/15. Receipt number 8033220, in the amount of \$4.98. (JSF) (Entered: 05/12/2015)