

District	Off.	Yr.	Docket No. Number	OR	Mo.	Filing Date Day	Yr.	J	Nature Suit	R 23	Judge	Mag.	Jury Dem	ARB	MDL Docket	Yr.	Docket Number
0978	3	89	00807	1	12	20	89	3	550		7809 7807		-P			89	00807

CAUSE: TITLE 42 SEC. 1983 - PRISONER - CIVIL RIGHTS

PLAINTIFFS

WITHEROW, JOHN

AMENDED COMPLAINT filed 1/18/90 #5

DEFENDANTS

WINNEY, VINCENT, SHERIFF
WASHOE COUNTY, in
individual and official
capacity

CONSOLIDATED W/CV-N-91-65-ECR(BASE FILE)

GOT EXEMPT FRCP 16(b)

FOR PLAINTIFF:

ATTORNEYS

FOR DEFENDANTS:

John Witherow
IN PRO PER
My State Prison
Box 1588
Rly. NV 89301
 inmate #29313

AND
Donald York Evans
P.O. Box 864
Reno, NV 89504
(702) 348-7400

SPECIAL APPEARANCE
MILLS LANE
WASHOE COUNTY DIST. ATTORNEY
THOMAS-F.-RILEY JOHN B. RHODES
CHIEF DEPUTY DIST. ATTORNEY
P.O. Box 11130
Reno, NV 89520
(702) 328-3400
For D.

New civil 2-13-91 BH

<input type="checkbox"/> CHECK HERE IF CASE WAS FILED IN FORMA PAUPERIS	FILING FEES PAID			STATISTICAL REPORTS PROCESSED
	DATE	RECEIPT NUMBER	C.D. NUMBER	Filing _____
				Termination _____
				Change _____

UNITED STATES DISTRICT COURT DOCKET

DC-111S (7/85)

Baker v. Sweeney



PC-NV-013-000b

DATE pg 2	NR.	PROCEEDINGS JOHN WITHEROW VS VINCENT SWINNEY CV-N-89-807-HDM <i>ECR</i>
12/20/89	1	COMPLAINT. kf.
--	2	MOTION/ORDER: (HDM) ORD P allwd to prcd in F/P; the Clrk is dirctd to file the cmplt; Movnt is permttd to maintn this actn to conclsn w/out the necessity of premt of fees or costs or the giving of security. Cps dis 1/8/89. kf.
--	-	IS-5 (AT). kf.
--	3	MINUTE ORDER: P shall file amend cmplt. (cps dist. 12/20/89) kf.
1/18/90	4	MINUTE/ORDER: (HDM) ORD clk of crt directed to issue Summons for amd comp & file amd comp; P shl hve 20 days w/in wh to furnish 285 USM forms to USM; P shl srv D(s) or, if cnsl has appeared, upon the atty, a copy of all pldng, mtn or other doc subd to the crt. P shl include w/orig paper a cert wh states the dte a true copy was mld to D(s) or cnsl. Any paper recvd by dist judg or mag wh has not been fld w/clk or wh fails to include cert of srv will be disregarded by crt. (cps dist) (AT) dr.
--	5	AMENDED COMPLAINT obo P. dr.
1/22/90	--	SUMMONS issd to P for srv by USM. dr.
4/30/90	6	SUMMONS/RTN unsrvd as to Vincent Swinney as of 4/20/90. dr.
5/16/90	7	NOTICE re 4J, due 6-16-90. (AT) dr.
5/24/90	8	LETTER to crt re 4J notice obo P. dr.
5/25/90	--	SUB TO HDM: #7 & 8. dr.
6/15/90	--	SUMMONS issd to P for srv by USM. dr.
7/23/90	9	SUMMONS/RTN unsrvd as to Vincent Swinney as of 7/23/90. bh.
8/6/90	10	EX -PARTE APPLICATION for deflt jdgmt obo P, w/affdvt, Exhbs. & Propsc jdgmt attachd. (m-7/24/90) (AT) blg.
8/10/90	--	SUB to HDM: Item #10. (AT) blg.
8/16/90	11	OPPOSITION to exparte applicatn (#10) obo Ds. (m) blg.
8/22/90	--	SUB to HDM: Item #11. blg.
8/23/90	12	NOTICE 4(j) actn due 10/23/90 sent to P. Cps.Dist. (AT) blg.
8/24/90	13	ORDER: (HDM) ORD D sh hv till 9/10/90 to resp to am cmplt, clk is direct to sve cpy of ord on Thomas F. Riley & on D Swinney by mail @ address listed herein. (Cps dist 8/29/90) bh.
8/27/90	14	REPLY in sup of ex parte app for deflt jdgmt (#10) obo P. (m 8/23/90) jl.
9/7/90	15	ANSWER to amnd cmplt obo Ds. (m 9/5/90) ke
9/15/90	16	SCHEDULING ORDER: (HDM) ORD Disc c/o 12/21/90; mtns due 2/5/91. (Cps dist 9/20/90). (AT) bh. See Docket entries on Page #3

CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF JOHN WITHEROW	DEFENDANT VINCENT SWINNEY, et al	CV-N-89-807-HDM DOCKET NO. <u> </u> PAGE <u>3</u> OF <u> </u> PAGES
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DATE	NR.	PROCEEDINGS
9/17/90	17	X MOTION to strike certn Defense contained in ans to amend complt obo P w/P&A & propsd ord. (m 9/13/90). (AT) bh.
10/3/90	18	OPPOSITION to mtn to strike certn (#17) obo Ds w/ P&As. (m 10/2/90) br
10/26/90	--	SUB TO HDM: Item #17. (AT) bh.
10/30/90	19	MINUTE ORDER: (HDM) ORD P's mtn to strike (#17) is denied . The denial is w/o prej to renew upon the completion of discov. (Cps. dist 11/6/90) (AT) bh.
1/22/91	20	X MOTION to compel prodctn of docmnts obo Ds. (m) (AT) blg.
1/28/91	21	X MOTION to ext ti for filing/ X MOTION for S/J obo Ds. (m) (AT) bh. [per crc await for opposition then sub]
2/11/91	22	OPPOSITION to mtn to compel (#20) & X REQUEST for costs obo P. (m) (AT) blg.
2/19/91	--	SUB TO HDM: Item #20 & 21. (AT) bh.
3/5/91	23	MINUTE/ORDER: (HDM) ORD mtn compel prodctn docmnts (#20) req that P prov cps of all docmnts fld in case number C-88-20202-WAI in USDC Northern Dist. of CA. grntd. Unless D sets forth justifiable sec concerns, these cps sh be md while P is present & sh be @ Ds. expense. All cps must be obtained by 4/1/91. Mtn to ext tm for flg mtn for S/J (#21) grntd parties sh hv til 4/1/91 to file any S/J mtns. Cps. Dist. (AT) blg. *mld-3/7/91.
3/5/91	24	MINUTE ORDER: (HDM) ORD parties sh meet & confer on Jry inst 10 days prior to trial. (furth inst & Ord) (Cps. dist 3/12/91). (AT) bh.
3/6/91	25	MINUTE ORDER: (HDM) ORD actn is plcd on cal 6/25/91 8:30am., for Jry Trial. Cps. dist 3/12/91. (AT) bh.
4/1/91	26	X MOTION for S/J obo Ds. (m 3/28/91) (AT) bh. <i>22, 28, 31</i>
4/4/91	--	SUB TO HDM: Item #22. (AT) bh.
4/18/91	27	OPPOSITION (answer) to mtn for S/J obo P. (m) crc.
5/7/91	28	REPLY to oppos to mtn for S/J (#26) obo P. (m) (AT) crc.
5/8/91	--	SUB TO HDM: Item #26. (AT) crc.
6/11/91	29	MINUTE ORDER (HDM): ORD action set on cal of 6/13/91, 3:45 p.m. for tele stat conf. Trial set 6/25/91 is advanced to 6/24/91, 8:30 a.m. Cps dist. (AT) crc.

See page 4

CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF		DEFENDANT	CV-N-89-807-HDM DOCKET NO. <u> </u> PAGE <u>4</u> OF <u> </u> PAGES
JOHN WITHEROW		VINCENT SWINNEY	
DATE	NR.	PROCEEDINGS	
6/14/91	30	MINUTES OF TELEPHONIC HEARING ON D'S MTN FOR S/J (HDM): ORD trial set on 6/24/91 is VACATED. FUR ORD D's mtn for S/J (#26) stands subm. Cps dist. (C/R Donna Casey)(AT) crc.	
--	31	MINUTE ORDER (HDM): ORD D hv 30 days to suppl mtn for S/J, P hv 20 days to suppl oppos & D hv 15 days to suppl reply. Cps dist 6/18/91. (AT) crc.	
7/16/91	32	SUPPLEMENT to motion for S/J (per #31) obo D. (m) mcm.	
9/9/91	--	SUB TO HDM: Items #26 & #32. (AT) crc.	
9/11/91	33	MINUTE ORDER (HDM): ORD case set for J/T on 2/24/92, 8:30 AM. Prop Voir Dire Questions shall be fld nlt 2/24/92. Prop joint PTO shall be lodged nlt 12/27/91. Cps dist. (AT) crc.	
--	34	ORDER RE PREPARATION OF JURY INSTRUCTIONS (HDM): ORD all prop J/I are required to be fld at least seven days bef trial begins. Cps dist. (AT) crc.	
10/18/91	35	MINUTE ORDER (HDM): ORD action ref to ECR for reassignment. Cps dist. (AT) crc.	
--	--	SUB TO ECR: Item #26 #32 & #35. (AT) crc.	
10/21/91	36	MINUTE ORDER (ECR): ORD action shall be assigned to ECR for all fur procdgs & that action shall bear case #CV-N-89-807-ECR, which shall appear on all future docs fld w/Crt. Cps dist. (AT) crc.	
10/22/91	37	MINUTE ORDER (ECR): ORD P hv 15 days fr date of ord to file a suppl oppos to Ds' suppl to its mtn for S/J. If P files a suppl oppos, D shall hv 15 days thereaft to file a suppl reply. Cps dist. (AT) crc.	
11/29/91	--	SUB TO ECR: Items #21 & 26. (AT) crc.	
12/31/91	--	SUB TO COLE: Does she have PTO? crc,	
1/8/92	38	PROPOSED PRETRIAL ORDER obo D. (m 12/27/91) (AT) bh.	
--	39	MINUTE ORDER: (ECR) ORD that this mattr (#38) is ref to U.S. Magist Judge for the purp of condctng a hrg to settle the propsd pretrial Ord. Cps. dist. 1/9/92. (AT) bh.	
1/9/91	--	SUB TO PHA: Items #38 & 39. (AT) bh.	
2/19/92	40	ORDER (ECR): ORD Ds' mtn for S/J (#26) is DENIED. Cps dist. (AT) EOC 2/20/92. crc.	
4/9/92	41	NOTICE/APPEARANCE of Donald York Evans as cnsl w/P. (m)(AT) crc.	
--	42	CERTIFICATE required by LR 135-5 obo Donald York Evans. crc.	

(SEE PAGE #5)

CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF		DEFENDANT	CV-N-89-807-ECR DOCKET NO. _____ PAGE 5 OF _____ PAGES
JOHN WITHEROW		VINCENT SWINNEY	
DATE	NR.	PROCEEDINGS	
4/9/92	43	PROPOSED PRETRIAL ORDER obo P. (m) crc.	
4/28/92	44	MINUTE ORDER (ECR): ORD that the ord ref action to Mag Judge (#39) is withdrawn. Cps dist. (AT) crc.	
6/22/92	45	LETTER to clrk re trial date fr P dtd 6/12/92. crc.	
--	--	SUB TO ECR: Item #45 - request for fur prcdgs. crc.	
7/24/92	46	MINUTE ORDER (ECR): ORD proposals rec'd by clrk be plcd in file but no action sh be tkn by Crt. FUR ORD joint PTO sh be fld on or bef 8/24/92 w/shall contain all necessary signatures, or ita, a stmt of inability sh be fld by cnsl as to why all signatures cannot be obtained. Cps dist. (AT) crc.	
9/3/92	--	SUB to ECR prop PTO. cm	
--	47	JOINT PRETRIAL ORDER (ECR): ORD case set for trial on stacked cal on 11/10/92, 10:00 AM. Trial briefs, jury instrctns & voir dire by 11/2/92. Cps dist. (AT) crc.	
--	48	MINUTE ORDER (PHA): ORD matter refd to PHA for status/settlement conf. Cps dist. (AT) crc.	
10/2/92	49	MINUTE ORDER: (ECR) ORD tht ord referring matt'r to PHA (#48) vacated ; FUR ORD tht matt'r is referrd to Mag/Judge Roger Hunt in L.V. for purp status/settlmnt conf & dup/cum re witnesses as listd on jnt PTO. (see ord for specs. Cps dist 10/7/92 (AT) mj	
10/7/92	--	SUBD TO Mag/Judge Hunt (noted tht trial still set 11/10/92)	
10/8/92	--	TRANSCRIPT TELEPHONE CONFERENCE (hld 6/13/91 @4pm) (C/R: Donna Casey) MJ	
10/22/92	50	ORDER SCHEDULING A SETTLEMENT CONFERENCE: (RLH) Ord that settlmt conf set 11/02/92. (See ord for specifics) Cps dist 10/21/92. (AT) jl.	
11/2/92	51	PROPOSED JURY QUESTIONS obo P. (m) (AT) jl.	
--	52	STOCK JURY INSTRUCTIONS obo P. (m) (AT) jl.	
--	53	TRIAL BRIEF obo P. (m) (AT) jl.	
--	54	OFFER OF PROOF (purs to ord #49) obo P. (m) jl.	
--	55	SPECIAL JURY INSTRUCTIONS obo P. (m) (AT) jl.	
11/4/92	56	TRIAL BRIEF obo D. (p) (AT) jl.	
--	57	PROPOSED STOCK JURY INSTRUCTIONS obo D. (p) (AT) jl.	
--	58	PROPOSED VOIR DIRE QUESTIONS obo D. (p) (AT) jl.	

docketing contd pg 6

CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF JOHN WITHEROW	DEFENDANT VINCENT SWINNEY	CV-N-89-807-ECR DOCKET NO. _____ PAGE <u>6</u> OF _____ PAGES
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DATE	NR.	PROCEEDINGS
11/4/92	59	PROPOSED SPECIAL JURY INSTRUCTIONS obo D. (p) (AT) jl.
--	60	ORDER REGARDING TRIAL: (ECR) ORD trial set 11/10/92 stack w/ cal call 11/5/92, 8:30am. (see ord for specifics) Cps dist 11/5/92. jl.
11/5/92	61	ORDER: (RLH) ORD that P's witness Swinney, DiMeo, Ramos, Smith, Loflin & Ernst & Ds' witness Swinney & Deurmyer are duplic/cumul & won't be called at trial. FUR ORD trial witness limit to John Witherow, John Bonnefant, Ernest K. Nielsen, James Myers & Paul Kari. Cps dist 11/4/92. jl.
--	62	MINUTE/ORDER: (ECR) ORD trial contd on stack for 1/26/93, 10am; cal call 1/25/93, 8:30am; cnsl sh refer to atch format of trial re mtns, etc. (see ord for specifics) Cps dist 11/17/92. (AT) jl.
12/24/92	63	MOTION obo D for consolidation w/case VC-N-91-65-ECR (p) (AT). rm ^{68, 72, 73} 76
1/5/93	--	SUBD TO ECR: ITEM #63--does he want to wait for response? rm
1/4/93	64	CERTIFICATE of srvc re #63 obo Ds. rm
1/11/93	65	MOTION/ORDER: (ECR) ORD tht P shl hv ext of time to/includng 2/5/93 w/in whc to file oppo to mtn for consolidatn (#63). Cps dist (AT) mj
--	66	MINUTE ORDER: (ECR) ORD tht trial settng this matttr currently set 1/26/93 is vacated ; FUR ORD tht as soon as the mtn to consolidate is ready, Clk shl promptly submit the mtn to Crt for its considrtm. Cps dist (AT) mj
2/3/93	67	OPPOSITION obo P to D's mtn for consolidation (#63) (m) (AT). rm
---	68	MOTION obo P for lv to file 2nd a/c (w/a/c atchd) (m) (AT). rm ⁷¹
2/16/93	--	SUBD TO ECR: ITEM #63(68). rm
2/25/93	69	MOTION obo D for extnsn of time to respond to P's mtms (#63, #68) (m) (AT). rm 70
---	70	MINUTE ORDER (ECR): ORD Ds mtn for extnsn of tm (#69) is denied (cps dist) (AT). rm
3/4/93	71	OPPOSITION obo D to mtn to file 2nd A/C (#68) (m) (AT). rm
---	72	REPLY obo D in sprt of mtn for consolidatn (#63) (m) (AT). rm
3/5/93	--	SUBD TO ECR: ITEM #72 *updated submission*. rm
3/12/93	73	ORDER (ECR): ORD tht D in case CV-N-89-807 shl hv <u>16</u> days to srv th ord, mtn (#63), oppo (#67) & reply (#72) on cnsl in CV-N-91-65; cnsl in 91-65 shl hv 15 days frm svc of sd docs to file P&As; responses 10 days thereafter; Clk shl resub both cases to Crt aft tm has run (cps dist) (AT). rm ⁷⁴

CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF JOHN WITHEROW	DEFENDANT VINCENT SWINNEY	CV-N-89-807-ECR DOCKET NO. _____ PAGE <u>7</u> OF _____ PAGES
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DATE	NR.	PROCEEDINGS
3/18/93	74	AFFIDAVIT OF SERVICE & cmpliance w/#73. rm
4/14/93	--	SUBD TO ECR: ITEMS #63(72), 68(71); subd w/91-65 by BH. rm
4/15/93	75	MINUTE ORDER (ECR): ORD parties shl hv add'l period of 15 days to file PTO (cpy of ord iss'd in CV-N-91-65-ECR). rm
4/16/93	76	ORDER (ECR): ORD Ds mtn to consolidate (#63) is granted; this case consolidtd w/CV-N-91-65-ECR; consolidtd cases are referred to PHA for status conf/settlement conf; PHA to set trial date for consltdtd cases & is auth to enter all ords needed to expedite & aid in conduct of consltdtd trial; FUR ORD that all iss of damages are bifurcated for subsequent trial; 1st trial iss of liability for damages will be decided; upon mtn of parties aft 1st trial is cmplte 2nd bifurcated trial on issue of damages will be set (cps dist)(AT)r
<p>***** CONSOLIDATED w/CV-N-91-65-ECR(BASE FILE) NO FURTHER DOCKETING THIS ACTN ***** / (cpy)</p>		
5/25/93	77	ORDER SCHEDULING SETTLEMENT CONFERENCE: (RLH) ORD tht settlmnt conf set 6/17/93 @10am Rm 5011 - 300 Booth Street - Reno, NV before Mag Judge Hunt. (see ord for specs) (AT) Cps dist in base file. mj
6/24/93	78	ORDER: (cpy) (RLH) ORD tht follwng witns are nec & not cum or dup: Witherow, Rogers, Bonnenfant, Nielsen, Myers, Kari, Swinney, Ramos & Smith. (furth specs in Ord.) Tht this case is set for trial 10/5/93. Cps. dist. bh.
7/22/93	79	MINUTES OF SETTLEMENT CONFERENCE (JMB): ORD cnsl are to rept progress in settlement negotiations to Crt by 8/15/93; FUR ORD settlmnt conf shl be held on 8/26/93 @ 8:30 a.m. in Crtrm 5011 (cps dist) (AT).rm
8/26/93	80	MINUTE ORDER (JMB): ORD furth status/settlment conf be hld 9/17/93 by telephone (cps dist)(AT).rm
10/1/93	81	MINUTES OF TELEPHONIC STATUS CONFERENCE (JMB): ORD hrg contd to 10/8/93 @ 9:a.m.; FUR ORD trial sched 10/25/93 @ 8:30 a.m. before HDM; FUR ORD \$25,000 settlmnt figure is stricken frm rcd; FUR ORD cnsl shl meet & confer 10/5/93 re settlmnt (cps dist)(AT). rm
10/21/93	82	CONSENT DECREE (ECR): ORD jdgmnt is entered on injunctive provisions set forth in decree wh are effective 45 days frm date of entry unl otherwise extnd by Crt (see decree for specs); FUR ORD this crt shl retain jursidctn for 2 yrs; FUR ORD tht prior to seeking Crt inter-vention, cnsl for class shl attempt to resolve allegatns of non-compliance; FUR ORD th Crt finds Ps are prevailing parties & are entitled to attnys fees & costs (as specified); FUR ORD cpys of

CONTD

CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF ROGER DALE BAKER	DEFENDANT VINCENT SWINNEY	<div style="text-align: right; margin-bottom: 5px;">JMB</div> CV-N-89-807- ECR DOCKET NO. _____ PAGE 8 OF _____ PAGES
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DATE	NR.	PROCEEDINGS
		<p>contd frm p. 7:</p> <p>this decree shl be avail to detainees & inmates on req thru staff @ WC Detntn Facility; FUR ORD Crt finds tht John Witherow, P in case no. CV-N-89-807-ECR is a member of the P class in this actn & tht the parties in CV-N-98-807 are also parties to this consent decree (cps dist)(AT).rm</p>
10/27/93	--	JS-6(AT).rm
---	83	STIPULATION/ORDER (ECR): ORD P's cmplt & all A/Cs are dism w/prej w/costs & attny fees to be pd to P's cnsl purs to consent decree (#82) entered 10/21/93 in CV-N-91-65-ECR (cps dist)(AT).rm
2/24/94	84	MINUTE ORDER (ECR): ORD actn assigned to JMB for all furth proceedings; Clk shl frwrđ cpy of this ord w/cpy of pending mtn for ord to show cause (#90 in 91-65) to JMB (cps dist)(AT).rm
2/28/94	85	MINUTE ORDER (ECR): ORD of Crt filed 2/24/94 (#84) is amended to read as follows: ORD consolidtd actns are assigned to JMB for all furth proceedings; cptn of this case shl bear #s CV-N-91-65-HMB & CV-N-89-807-JMB; CV-N-91-65-JMB is base file; Clk shl frwrđ cpy of this min ord to JMB (cps dist)(AT). rm