

CLOSED

U.S. District Court
Northern District of New York [LIVE - Version 2.4] (Prisoner)
CIVIL DOCKET FOR CASE #: 9:95-cv-00964-TJM-DEP

Harrison v. Barkley, et al
Assigned to: Judge Thomas J. McAvoy
Referred to: Magistrate Judge David E. Peebles
Demand: \$80000
Cause: 42:1983 Prisoner Civil Rights

Date Filed: 07/17/1995
Jury Demand: Both
Nature of Suit: 550 Prisoner: Civil
Rights
Jurisdiction: Federal Question

Plaintiff**Duane Harrison**

represented by **Duane Harrison**
101-25 West 147th Street, Apt. 15-I
New York, NY 10039
PRO SE

V.

Defendant

Wayne Barkley
*Superintendent of Riverview Corr.
Facility*

represented by **Deborah A. Ferro**
Office of Attorney General - Albany
State of New York
The Capitol
Albany, NY 12224
518-474-8370 (Main)
Fax: 518-473-1572
Email: deborah.ferro@wcb.state.ny.us
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Robert Hoehn
Dentist at Riverview Corr. Facility

represented by **Deborah A. Ferro**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Tammy Bechaz
Inmate Grievance Supervisor

represented by **Deborah A. Ferro**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Sylvia Laguna
Inmate Grievance Director

represented by **Deborah A. Ferro**
(See above for address)
LEAD ATTORNEY

ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
07/17/1995	1	COMPLAINT filed; FILING FEE \$ 5.25 RECEIPT # 23938 ; (fce) (Entered: 07/19/1995)
07/17/1995	2	In Forma Pauperis Application filed by Duane Harrison (fce) (Entered: 07/19/1995)
08/24/1995	3	ORDER granting [2-1] application (signed by Magistrate Judge Daniel Scanlon Jr.) (fce) (Entered: 08/24/1995)
08/24/1995		Original and 4 copies of SUMMONS(ES) issued for Wayne Barkley, Robert Hoehn, Tammy Bechaz, Sylvia Laguna and delivered to U. S. Marshal. Balance Order Done - Consent forms sent. (fce) (Entered: 08/24/1995)
10/10/1995	4	Plaintiff's notice of change of address to: Lyon Mountain Corr. Facility; P. O. Box 276; Lyon Mountain, N.Y. 12952. (fce) (Entered: 10/10/1995)
10/12/1995	5	Affidavit of Service of plaintiff of notice of change of address to Attorney General on 10/6/95. Change of address to: Lyon Mountain Corr. Facility; P. O. Box 276; Lyon Mountain, N.Y. 12952. (fce) (Entered: 10/12/1995)
10/25/1995	6	SUMMONS Returned Executed as to Sylvia Laguna on 10/17/95 : Answer due on 11/6/95 for Sylvia Laguna (fce) (Entered: 10/25/1995)
10/27/1995	7	SUMMONS Returned Executed as to Wayne Barkley on 10/17/95 : Answer due on 11/6/95 for Wayne Barkley (fce) (Entered: 10/30/1995)
10/27/1995	8	SUMMONS Returned Executed as to Tammy Bechaz on 10/17/95 : Answer due on 11/6/95 for Tammy Bechaz (fce) (Entered: 10/30/1995)
10/27/1995	9	SUMMONS Returned Executed as to Robert Hoehn on 10/17/95 : Answer due on 11/6/95 for Robert Hoehn (fce) (Entered: 10/30/1995)
10/31/1995	10	REQUEST and ORDER, to Extend Time , reset Answer deadline to 12/5/95 for Wayne Barkley, for Robert Hoehn, for Tammy Bechaz, for Sylvia Laguna (signed by Thomas G. Smith as per direction of Magistrate Judge Daniel Scanlon Jr.) (fce) (Entered: 10/31/1995)
12/06/1995	11	ANSWER to Complaint by Sylvia Laguna, Tammy Bechaz, Robert Hoehn, Wayne Barkley (Attorney Deborah A. Ferro, AAG),; jury demand (fce) (Entered: 12/06/1995)
12/20/1995	12	MOTION by Duane Harrison to Strike [11-1] answer , Hearing set for 1/18/96 , Response Deadline 1/4/96 , Reply to Response Deadline 1/11/96 Motion returnable before Judge/Mag. Judge: Scanlon (fce) (Entered: 12/20/1995)
12/20/1995	13	MOTION by Duane Harrison for partial Summary Judgment , Hearing set for 1/18/96 , Response Deadline 1/4/96 , Reply to Response Deadline

		1/11/96 Motion returnable before Judge/Mag. Scanlon (fce) (Entered: 12/20/1995)
12/20/1995		Motion(s) referred: [13-1] motion for partial Summary Judgment referred to Magistrate Judge Daniel Scanlon Jr. (fce) (Entered: 12/20/1995)
12/20/1995	14	Addendum by Duane Harrison to Re: [12-1] motion to Strike [11-1] answer (fce) (Entered: 12/20/1995)
01/08/1996	15	Letter to the Court from AAG Ferro dd 1/3/96 re: plaintiff's motion to strike affirmative defenses and for summary judgment are adjourned to 2/1/96. (fce) (Entered: 01/08/1996)
01/08/1996		Deadline updated; Motion Hearing set for 1/18/96 re: [13-1] motion for partial Summary Judgment, set for <1/18/96> re: [12-1] motion to Strike [11-1] answer , Response to Motion reset to 1/18/96 for [13-1] motion for partial Summary Judgment, reset to <1/18/96> for [12-1] motion to Strike [11-1] answer , Reply to Response to Motion reset to 1/25/96 for [13-1] motion for partial Summary Judgment, reset to <date not set> for [12-1] motion to Strike [11-1] answer (fce) (Entered: 01/08/1996)
01/19/1996	16	Plaintiff's notice of change of address to: Adirondack Corr. Facility; P.O. Box 110; Ray Brook, New York 12977-0110. (fce) (Entered: 01/22/1996)
02/02/1996	17	Defendants' REQUEST and ORDER, to Extend Time , Motion Hearing set for 2/27/96 re: [13-1] motion for partial Summary Judgment, for 2/27/96 re: [12-1] motion to Strike [11-1] answer , and Response to Motion reset to 2/13/96 for [13-1] motion for partial Summary Judgment, reset to 2/13/96 for [12-1] to Strike [11-1] answer (signed by Thomas G. Smith as per direction of Magistrate Judge Daniel Scanlon Jr.) (fce) (Entered: 02/02/1996)
02/08/1996	18	REQUEST and ORDER, to Extend Time , Motion Hearing set for 2/27/96 re: [13-1] motion for partial Summary Judgment, set for 2/27/96 re: [12-1] motion to Strike [11-1] answer , Response to Motion reset to 2/13/96 for [13-1] motion for partial Summary Judgment, reset to 2/27/96 for [12-1] motion to Strike [11-1] answer (signed by Magistrate Judge Daniel Scanlon Jr.) (fce) (Entered: 02/08/1996)
02/08/1996	19	Rule 16 Scheduling Order Issued. Discovery Deadline 5/20/96 ; Discovery motion filing deadline 6/19/96 Motion Filing Deadline 7/19/96 (Signed by Magistrate Judge Daniel Scanlon Jr.) (fce) (Entered: 02/08/1996)
02/14/1996	20	Plaintiff's ltr dd 2/12/96, that he is in receipt of AG's request for extension of time and Order of Mag. Scanlon that was mailed to plaintiff at Lyon Mountain Corr. Fac., and notifying that as of 1/16/96, he has change of address to: Adirondack Corr. Fac., P.O. Box 110, Ray Brook, NY 12977-0110. (fce) (Entered: 02/14/1996)
02/14/1996	21	RESPONSE by Sylvia Laguna, Tammy Bechaz, Robert Hoehn, Wayne Barkley to [12-1] motion to Strike [11-1] answer (fce) (Entered: 02/14/1996)

02/14/1996	22	CROSS MOTION by Sylvia Laguna, Tammy Bechaz, Robert Hoehn, Wayne Barkley for Summary Judgment , Hearing set for 2/27/96 , Response Deadline 2/20/96 (fce) (Entered: 02/14/1996)
02/14/1996	23	MEMORANDUM of Law by Sylvia Laguna, Tammy Bechaz, Robert Hoehn, Wayne Barkley in support of [22-1] cross motion for Summary Judgment (fce) (Entered: 02/14/1996)
02/14/1996	24	Rule 10J Statement in Support of [22-1] cross motion for Summary Judgment filed by Sylvia Laguna, Tammy Bechaz, Robert Hoehn, Wayne Barkley (fce) (Entered: 02/14/1996)
02/23/1996	25	RESPONSE by Duane Harrison , Response Deadline ; Response re: [22-1] cross motion for Summary Judgment (fce) (Entered: 02/23/1996)
02/23/1996	26	MEMORANDUM of Law by Duane Harrison in opposition to [22-1] cross motion for Summary Judgment (fce) (Entered: 02/23/1996)
02/23/1996	27	Rule 7.1(f) Statement in opposition to [22-1] cross motion for Summary Judgment filed by Duane Harrison (fce) (Entered: 02/23/1996)
02/23/1996	28	Affirmation by Duane Harrison in opposition to Re: [21-1] motion response (fce) (Entered: 02/23/1996)
03/05/1996	29	RESPONSE by Duane Harrison to Affidavit of Dr. Mirza in support of [22-1] cross motion for Summary Judgment (fce) (Entered: 03/05/1996)
06/17/1996	30	Addendum by Duane Harrison in opposition to [22-1] cross motion for Summary Judgment (fce) (Entered: 06/17/1996)
06/19/1996	31	MOTION by Duane Harrison to Compel Discovery , Hearing set for 7/18/96 , Response Deadline 7/4/96 , Reply to Response Deadline 7/11/96 Motion returnable before Judge/Mag. Judge: Scanlon (fce) (Entered: 06/19/1996)
07/22/1996	32	Defendants' RESPONSE in opposition to plaintiff's [31-1] motion to Compel Discovery and in Support of Defendants' Request for Protective Order and Stay of Further Discovery. (fce) (Entered: 07/23/1996)
07/24/1996	33	Letter to the court from plaintiff dd 7/22/96 regarding defendant's have not responded to plaintiff's motion to compel discovery, plaintiff ready for trial and request for default judgment in favor of the plaintiff. (fce) (Entered: 07/24/1996)
07/25/1996	34	REPLY by Duane Harrison to response to [31-1] motion to Compel Discovery and Defendants' Request for Protective Order and Stay of Further Proceedings. (fce) (Entered: 07/25/1996)
07/26/1996	35	Defendant's REQUEST and ORDER, to Extend Time until 7/24/96 to file opposition to plaintiff's request for additional documents and to request a stay of discovery pending determination of the summary judgment motions. , reset Discovery (signed by Carolyn D. Brown as per direction of Magistrate Judge Daniel Scanlon Jr.) (fce) (Entered: 07/26/1996)
08/12/1996		Motion(s) referred: [22-1] cross motion for Summary Judgment referred

		to Magistrate Judge Daniel Scanlon Jr. (cdl) (Entered: 08/12/1996)
10/18/1996	36	NOTICE of change of address to Mt. McGregor CF, dd 10/15/96, filed by Duane Harrison (cbm) (Entered: 10/23/1996)
11/29/1996	37	Plaintiff's notice of change of address to Hudson Correctional Facility (fce) (Entered: 12/02/1996)
01/17/1997	38	REPORT AND RECOMMENDATIONS of Magistrate Judge Daniel Scanlon Jr. dtd 1/14/97; Service Date: 1/17/97 Re: [22-1] Defts' cross motion for Summary Judgment & [13-1] Pltf's motion for partial Summary Judgment; RECOMMENDATION - deny Pltf's motion for partial summary judgment & grant Defts' cross motion for summary judgment. (Objection to R and R due by 2/6/97 for Duane Harrison, for Wayne Barkley, for Robert Hoehn, for Tammy Bechaz, for Sylvia Laguna); Motion(s) no longer referred (lmp) (Entered: 01/17/1997)
01/17/1997	38	ORDER denying as moot [31-1] motion to Compel Discovery, denying as moot [12-1] motion to Strike [11-1] answer & denying as moot [32-1] Defts' request for a protective order & stay of further discovery. (signed by Magistrate Judge Daniel Scanlon Jr. on 1/14/97) (lmp) (Entered: 01/17/1997)
01/17/1997		Motion(s) no longer referred: [31-1] motion to Compel Discovery, [22-1] cross motion for Summary Judgment, [13-1] motion for partial Summary Judgment, [12-1] motion to Strike [11-1] answer (lmp) (Entered: 01/17/1997)
01/30/1997	39	OBJECTION by Duane Harrison to [38-1] report and recommendations (cbm) (Entered: 01/30/1997)
04/14/1997	40	MEMORANDUM-DECISION AND ORDER approving and adopting [38-1] report and recommendations; granting Defts' [22-1] cross motion for Summary Judgment, denying [13-1] Pltf's motion for partial Summary Judgment. (signed by Judge Rosemary S. Pooler on 4/11/97) (lmp) (Entered: 04/14/1997)
04/14/1997	41	JUDGMENT for Sylvia Laguna, Tammy Bechaz, Robert Hoehn, Wayne Barkley against Duane Harrison (lmp) (Entered: 04/14/1997)
04/14/1997		Case closed (lmp) (Entered: 04/14/1997)
04/28/1997	42	NOTICE OF APPEAL by Duane Harrison . Appeal record due on 5/28/97 (fce) (Entered: 05/05/1997)
05/09/1997		Notice of appeal and certified copy of docket to USCA re: [42-1] appeal by Duane Harrison (parties noticed). (lmp) (Entered: 05/09/1997)
05/09/1997		Certified and transmitted record on appeal (ENTIRE FILE) to U.S. Court of Appeals: [42-1] appeal by Duane Harrison (lmp) (Entered: 05/09/1997)
05/16/1997	43	Plaintiff's letter to Court dated 5/13/97 re: unable to pay fee of \$105.00, wishes for his request for appt. of counsel to be granted. in hopes atty.

		can provide remedy (fce) (Entered: 05/21/1997)
05/21/1997		Copy of Document #43 sent to CCA (fce) (Entered: 05/21/1997)
05/21/1997		NOTICE of Docketing ROA from USCA Re: [42-1] appeal by Duane Harrison USCA NUMBER: 97-2286 (Imp) (Entered: 05/21/1997)
05/21/1997		USCA Case Number Re: [42-1] appeal by Duane Harrison USCA NUMBER: 97-2286 (Imp) (Entered: 05/21/1997)
07/21/1997	44	JUDGMENT OF USCA (certified copy) Re: [42-1] appeal by Duane Harrison, Appeal dismissed for failure to submit an financial affidavit and a prisoner Authorization form. (fce) (Entered: 07/21/1997)
02/26/1998	45	COURT NOTICE sent to 2CCA advising them of receipt of \$105 for filing fee for Notice of Appeal. Receipt #34283;2/24/98 (fce) (Entered: 02/26/1998)
05/29/1998	46	REINSTATEMENT OF APPEAL by Duane Harrison; motion for appointment of counsel is DENIED; appellant's brief to be filed by 6/22/98; appellee's brief by 7/22/98; appeal will be submitted as early as week of 8/31/98. (Imp) (Entered: 05/29/1998)
08/14/2000	47	MANDATE OF USCA reversing judgment of district court and remanded for further proceedings. (certified copy) Re: [46-1] appeal by Duane Harrison (fce) (Entered: 08/15/2000)
08/14/2000		Case reopened (Pursuant to Mandate entered on 8/14/00) (dmf) (Entered: 08/28/2000)
09/06/2000		Record on appeal returned from U.S. Court of Appeals: [46-1] appeal by Duane Harrison (dmf) (Entered: 09/06/2000)
01/11/2001		CASE reassigned to Judge Thomas J. McAvoy - Judge Pooler no longer a district judge. (tjm) (Entered: 01/11/2001)
01/11/2001		CASE REFERRED to Magistrate Judge David E. Peebles - Mag/Judge Scanlon is deceased. (tjm) (Entered: 01/11/2001)
03/05/2001		Tele-conference set at 3/27/01, at 11:00 AM with Mag. Jg. Peebles. Clerk's Notice sent by Linda Payne to all parties. (ljr) (Entered: 03/06/2001)
03/05/2001	48	CLERK'S NOTICE of Telephone Conference set for 3/27/01, at which time plaintiff and defense counsel are to advise the Court as the status of this case; The Attorney General is directed to make arrangements to initiate this telephone conference and to notify the facility where plaintiff is presently housed and has access to a table for his legal materials. (ljr) (Entered: 03/06/2001)
03/09/2001		3/9/01 Tel. message from Mrs. Heath at Hudson Corr. Fac. advising that Pltf. Harrison was released to parole supervision in 1999. (Imp) (Entered: 03/09/2001)
03/12/2001	49	Mail returned undeliverable. Sent to plaintiff Duane Harrison [48-1]

		notice RE: Doc. #: [48-1] Address sent to: Hudson Correctional Facility; Envelope Marked paroled 5/15/99 Great Meadow. (ljr) (Entered: 03/12/2001)
03/13/2001	50	Change of Address received by AAG Deborah Ferro for Plaintiff Harrison. Effective date: May 1999 inmate was paroled from Great Meadow Correctional Facility; As per pro bono counsel who represented plaintiff in his appeal, the New Address: 101-25 West 147th St., Apt. 15-I, New York, N.Y. 10039 (ljr) (Entered: 03/13/2001)
03/13/2001		Tele-conference set at 11:00 4/6/01 before Mag. Jg. Peebles. (ljr) (Entered: 03/13/2001)
03/13/2001	51	CLERK'S NOTICE of Telephone Conference Schedule before Mag. Jg. Peebles, on April 6, 2001 at 11:00AM at which time plaintiff and defense counsel are to advise the Court as to the Status of this case. AAG Ferro, is directed to make arrangements to initiate this conference, and Mr. Harrison is to confirm with Ms. Ferro his availability on that date and time. (ljr) (Entered: 03/13/2001)
04/06/2001	52	Minute entry: Tel.Conf. w/MJ Peebles - Pltf. & AAG advise discovery is completed & list proposed witnesses to be called at trial; Pltf. will request appointment of atty. for trial; Pltf. & AAG advise as to status of settlement negotiations; MJ Peebles sets further Tel.Conf.; set Pretrial Conference for 3:00 pm on 5/7/01 via telephone w/Defts' atty. to initiate call. APP: Duane Harrison, pro se Pltf.; Deborah Ferro for Defts.; Court Reporter/ECRO: None (lmp) (Entered: 04/06/2001)
04/10/2001	53	ORDER, Setting Pretrial Conference for 3:00 5/7/01 ; by Telephone; Defendants attorney is directed to make arrangements for initiating the call to counsel for all parties and the court. (signed by Magistrate Judge David E. Peebles) Date 4/10/01 (ljr) Modified on 04/10/2001 (Entered: 04/10/2001)
05/03/2001	54	REQUEST and ORDER, by Deborah Ferro, requesting that the 5/7/01 conference be adjourned for two weeks; Request Granted Resetting Telephone Conference for 3:00 5/21/01 (signed by Magistrate Judge David E. Peebles) (ljr) (Entered: 05/03/2001)
05/21/2001	55	Minute entry: Tel. conf. w/MJ Peebles - AAG Ferro advises as to status of settlement offer; Pltf. refuses present settlement offer & requests case be scheduled for trial; MJ Peebles to forward file to DJ McAvoy w/memo as to Pltf's request for atty., list of witnesses to be called & Defts' intention to file motion in limine to dismiss Defts. Bechax, Laguna & Barkley. APP: Duane Harrison pro se Pltf.; Deborah Ferro for Defts.; Court Reporter/ECRO: None (lmp) (Entered: 05/21/2001)
06/07/2001	56	LETTER of Deborah A. Ferro, AAG dd 6-05-01 that parties have agreed to settle and will submit Stipulation of Discontinuance to the Court (pta) (Entered: 06/07/2001)
06/20/2001	57	JUDGMENT DISMISSING ACTION BY REASON OF SETTLEMENT Date Served & Entered: 6/20/01 (cml) (Entered: 06/20/2001)

06/20/2001		Case closed (cml) (Entered: 06/20/2001)
07/09/2001		RECEIVED Proposed Stipulation of Discontinuance [forward to chambers/SST] (pta) (Entered: 07/09/2001)
07/12/2001	58	STIPULATION of dismissal by Sylvia Laguna, Tammy Bechaz, Robert Hoehn, Wayne Barkley, Duane Harrison (amt) (Entered: 07/15/2001)

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