

DIST/OFFICE	DOCKET		FILING DATE			J	N/S	O	R	R	23	\$	DEMAND OTHER	JUDGE NUMBER	JURY DEM.	DOCKET		
	YR.	NUMBER	MO.	DAY	YEAR											YR.	NUM	
869/4	79	4064	05	21	79	3	550	1			X						79	4064

PLAINTIFFS

WABASHA, Elroy, Dale L. Clark and Kenny Kane, Individually and on behalf of all these similarly situated, c/o The South Dakota State Penitentiary, Sioux Falls, South Dakota

DEFENDANTS

*JANKLOW, William, Governor, Individually and in his official capacity, State Capitol Bldg., Pierre, South Dakota; Herman Solem, Warden, Individually and in his official capacity, The South Dakota Penitentiary, Sioux Falls, South Dakota

* Dism. 6-3-80

By Order 6-6-79 consolidated with CIV78-4072 for trial (6-3-80 CIV78-4072 Dismissed)

CAUSE

Cause of action arises under 42 USCA, Sec. 1983, 1985 and 1986 and lies in this Court by virtue of 28 USCA, Section 1343(3). Cause of action brought by inmates S.D. Penitentiary alleging deprivation under color of law of rights, privileges and immunities guaranteed by the Consitution of the United States and seeking redress therefor.

ATTORNEYS

Christopher D. Stanley
611 Rockefeller Building
Cleveland, Ohio 44113

Mark Meierhenry
Attorney General
Capitol Building
Pierre, South Dakota 57501

Terry H. Gilbert
535 Leader Building
Cleveland, Ohio 44114

Peter Gregory
~~East River Legal Services~~
333 329 N. Phillips Ave. #404
Sioux Falls, S. D. 57102

Doug Cummings
617 W. 11th Street
Sioux Falls, S.D. 57104

CHECK HERE IF CASE WAS FILED IN FORMA PAUPERIS

FILING FEES PAID

DATE	RECEIPT NUMBER	C.D. NUMBER

STATISTICAL CARD

CARD	DATE MAILED
JS-5	
JS-6	

DATE	NR.	CIV79-4064	PROCEEDINGS
5-21-79	1	Civil Cover Sheet Filed	
5-21-79	2	Complaint for Money, Damages and Injunctive Relief (Class Action) Filed	
5-21-79	3	Motion of Wabasha, Clark and Kane for Preliminary Injunction Filed	
5-21-79	4	Notice of Motion on 5-22-79 at 1:30 P.M. Filed	
5-21-79		Summons Issued. Fur. 2 copies for service and del. to U.S. Marshal in Sioux Falls	
-22-79		Enter Hearing on Various Motions before the Hon. Fred J. Nichol, Chief Judge, this case & CIV78-4072. <u>Ruling</u> : (1) Dfdt. Janklow May be Dismissed (2) Consolidation of this case & CIV78-4072 Ordered after Amended Complaint in Wabasha Case Dismissing Janklow is Filed	
5-24-79	5	Summons for William Janklow, Governor, and Herman Solem, Warden, S. D. State Penitentiary, Returned & Filed	
-6-79	6	copy of Order consolidating this case with CIV78-4072 filed. Original filed in CIV78-4072.	
5-13-79	7	Copy of Defendants' Answer with request for Jury Trial and attached Exhibit A in this case and CIV78-4072 filed. Original filed in CIV78-4072.	
5-8-79	8	Plaintiffs' Request for Production of Documents for Inspection and Copying filed, this case and CIV78-4072. Original filed in CIV78-4072.	
1980			
-3-80		Enter Pre-Trial Hearing before the Hon. Fred J. Nichol, Chief Judge Trial date set for June 2, 1980, this case and CIV78-4072.	
-28-80	9	Copy of Praeipce for Subpoena for Herman Solem filed. Original filed in CIV78-4072.	
-28-80		Issuing Subpoena for Herman Solem. Del. to US Marshal in Sioux Falls & fur. copy for service.	
-28-80	10	Copy of Praeipce for Subpoena for Robert Hansen filed. Original filed in CIV78-4072	
-28-80		Issuing Subpoena for Robert Hansen. Del. to US Marshal in Sioux Falls & fur. copy for service.	
-28-80	11	Copy of Praeipce for Subpoena for Benjamin Dearduff filed. Original filed in CIV78-4072.	
-28-80		Issuing Subpoena for Benjamin Dearduff. Del. to US Marshal in Sioux Falls & fur. copy for service.	
-28-80	12	Copy of Praeipce for Subpoena for Richard Rist Filed. Original filed in CIV78-4072.	
-28-80		Issuing Subpoena for Richard Rist. Del. to US Marshal in Sioux Falls & fur. copy for service.	
-29-80	13	Copy of Praeipce for Subpoena for Robert Hansen filed. Original filed in CIV79-4064	
-29-80		Issuing Subpoena Duces Tecum for Robert Hansen. Del. to US Marshal in Sioux Falls & fur. copy for service.	
-2-80	14	Copy of Praeipce for Subpoena for Timothy Barnett filed. Orig. filed in CIV78-4072.	
-2-80		Issuing Subpoena for Timothy Barnett and given to Douglas Cummings, Jr. together with copy for service, this case & CIV78-4072	
-2-80		Enter Hearing on Pre-trial motions before the Hon. Fred J. Nichol, Chief Judge. Stipulation to be prepared dismissing CIV78-4072 without prejudice. Trial on CIV79-4064 only.	
-2-80	15	Praeipce for Subpoena for Herman Solem, or his Designee filed	
-2-80		Issuing Subpoena for Herman Solem and del. orig. & 1 copy to U.S. Marshal for service.	
-2-80	16	Praeipce for Subpoena for John Andrews filed.	
-2-80		Issuing Subpoena for John Andrews and del. orig. & 1 copy to U.S. Marshal for service.	
-2-80	17	Praeipce for Subpoena for Clifford Hoff filed.	
-2-80		Issuing Subpoena for Clifford Hoff and del. orig. & 1 copy to U.S. Marshal for service.	
6-2-80	18	Copy of Subpoena Duces Tecum for Robert Hansen returned & filed. Original filed in CIV78-4072.	

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CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF		DEFENDANT	DOCKET NO. 79-4064
Elroy Wabasha, et. al.		William Janklow, etc., et al.	PAGE 2 OF ____ PAGE
DATE	NR.	PROCEEDINGS	
6-2-80	19	Copy of Subpoena for Robert Hansen returned & filed. Original filed in CIV78-4072	
6-2-80	20	Copy of Subpoena for Herman Solem returned & filed. Original filed in CIV78-4072	
6-2-80	21	Copy of Subpoena for Benjamin Dearduff returned & filed. Orig filed in CIV78-4072	
6-2-80	22	Copy of Subpoena for Richard Rist returned & filed. Original filed in CIV78-4072	
6-3-80	23	Praeipce for Subpoena Duces Tecum for John Andrews filed, this case and CIV78-4072	
6-3-80		Issuing Subpoena Duces Tecum for John Andrews and del. orig. & 1 copy to U.S. Marshal for services.	
6-3-80	24	Order dismissing William Janklow, Governor from action and amending caption filed.	
6-3-80		Notice of Entry and copy of Order mailed Christopher D. Stanley, Terry H. Gilbert, Douglas P. Cummings, and Mark Meierhenry.	
6-3-80	25	Order that Court finds suit is property maintainable as class action pursuant to Rule 23 of the Fed. Rules of Civil Procedure and reserving judgment on whether names Plaintiffs interests are fair and adequately protected filed.	
6-3-80		Notice of Entry and copy of Order mailed Christopher D. Stanley, Terry H. Gilbert, Douglas P. Cummings, and Mark Meierhenry.	
6-3-80		Enter Court Trial Proceedings before the HON. Fred J. Nichol, Chief Judge, Sioux Falls.	
6-4-80	26	Subpoena for John Andrews returned & filed	
6-4-80	27	Subpoena for Clifford Hoff returned & filed	
6-4-80	28	Subpoena Duces Tecum for Herman Solem returned & filed	
6-4-80		Enter Court Trial Proceedings before the Hon. Fred J. Nichol, Chief Judge, Sioux Falls.	
6-5-80		Enter Court Trial Proceedings before the Hon. Fred J. Nichol, Chief Judge, Sioux Falls. Hearing set for June 9, 1980 at 9:00 A.M. to discuss Preliminary Injunction.	
6-5-80	29	Plaintiff's Exhibit List filed	
6-5-80	30	Defendant's Exhibit List filed	
6-9-80	31	Defendant's Brief in Opposition To Motion For Preliminary Injunction filed.	
6-9-80		Enter Hearing on Preliminary Injunction before the Hon. Fred J. Nichol, Chief Judge. Court denies Preliminary Injunction at this time with the filing of Defendant's Exhibit "C" Amended Policy Change.	
6-9-80	32	Defendant's Exhibit List filed	
6-9-80	33	Order allowing David Kemp, para-legal for East River Legal Services to remove Plaintiff's Exhibit 17 for 15 days, filed.	
6-9-80	34	Receipt signed by David Kemp for Plaintiff's Exhibit 17 filed.	
6-10-80	35	Subpoena Duces Tecum for John Andrews Returned & Filed	
6-23-80		Plaintiff's Exhibit 17 Returned by David Kemp	
8-7-80	36	Plaintiffs' Notice For Deposition of John D. Thompson filed	
8-7-80	37	Plaintiffs' Certificate of Service filed	
9-23-80	38	Order allowing David Kemp, para-legal for East River Legal Services to remove Plaintiff's Exhibit 14 for 2 days, filed.	
9-24-80		Plaintiff's Exhibit 14 returned by David Kemp this date.	
9-25-80	39	Deposition of Dr. John D. Thompson, taken on August 14, 1980, by the Plaintiff, Filed (not fastened in)	
12-8-80		Enter Court Trial Proceedings before the Hon. Fred J. Nichol, Senior Judge, Sioux Falls.	

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CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF		DEFENDANT	CIV79-4064 DOCKET NO. _____ PAGE 3 OF _____ PAGES
Elroy Wabasha, et al		Herman Solem, et al.	
DATE	NR.	PROCEEDINGS	
12-9-80		Enter Court Trial Proceedings before the Hon. Fred J. Nichol, Senior Judge, Sioux Falls.	
12-10-80		Enter Court Trial Proceedings before the Hon. Fred J. Nichol, Senior Judge, Sioux Falls.	
12-11-80		Enter Court Trial Proceedings before the Hon. Fred J. Nichol, Senior Judge, Sioux Falls.	
12-11-80	40	Plaintiff's Exhibit List filed.	
12-11-80	41	Defendant's Exhibit List filed.	
<u>1981</u>			
1-9-81	42	Plaintiff's Motion For Continuance filed.	
1-16-81	43	Order Granting Continuance filed	
1-16-81		Notice of Entry and copies Order Granting Continuance mailed Christopher D. Stanley, Terry H. Gilbert, Peter Gregory and Mark Meierhenry and Douglas Cummings	
3-16-81	44	DEFENDANT'S Post-Trial Brief filed with Certificate of Service	
3-27-81	45	VOL. I of TRANSCRIPT filed (Not fastened in)	
3-27-81	46	VOL. II of TRANSCRIPT filed (Not fastened in)	
3-27-81	47	VOL. III of TRANSCRIPT filed (Not fastened in)	
4-6-81	48	PLAINTIFF'S REPLY TO DEFENDANT'S POST-TRIAL BRIEF filed.	
10-6-81		Deposition letter filed in CIV78-4072. Depositions of Richard Rist, Robert Hanson, Herman Solem and Ben Dearduff returned to Douglas P. Cummings, Jr.	
<u>1982</u>			
4-13	49	MEMORANDUM DECISION AND ORDER filed	
4-13		Correct copy entered in 1982 S.D. Order Book, Page 169	
4-13		Notice of entry and copy of Memorandum Decision and Order mailed to Christopher D. Stanley, Terry H. Gilbert, Peter Gregory, Douglas Cummings and Mark D. Meierhenry	
6/9/82		Enter proceeding for hearing re: proposed changes and conditions at the penitentiary before the Hon. Fred J. Nichol, Senior District Judge. Hearing continued.	
7-1-82	50	MOTION by Terry H. Gilbert for Attorney Fees Filed	
7/12/82	51	MOTION for Award of Attorneys Fees by Christopher D. Stanley filed.	
7/13/82	52	NOTICE of Hearing on August 30, 1982 filed.	
8-30-82		Enter Continuation of Hearing on Proposed Changes at the South Dakota State Penitentiary before the Hon. Fred J. Nichol, Senior Judge. Granted and Denied in Part. Judgment to be Entered.	
<u>1983</u>			
2-7-83	53	APPLICATION for the Award of Reasonable Attorneys Fees, Costs, and Expenses by Douglas P. Cummings, Jr. filed.	
2-7-83	54	AFFIDAVIT of David Kemp filed.	
2-7-83	55	AFFIDAVIT of Douglas P. Cummings, Jr. filed.	
2-18-83	56	JUDGMENT Filed	
2-18-83		Correct copy entered in 1983 S.D. Order Book, Page 59	
2-18-83		Notice of Entry and copy of Judgment mailed Christopher D. Stanley, Terry H. Gilbert, Peter Gregory, Douglas Cummings and Mark Meierhenry	
7/11/83	57	SUPPLEMENTAL MEMORANDUM in Support of Motion for Attorney Fees Filed	

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CIVIL DOCKET CONTINUATION SHEET

PLAINTIFF		DEFENDANT	CIV79-4064 DOCKET NO. _____ PAGE 4 OF _____ PAG
Elroy Wabasha, et al		Herman Solem, Warden, et al.	
DATE	NR.	PROCEEDINGS	
9-23-83	58	RESPONSE by David Kemp to Solem Correspondence in Wabasha v. Solem Filed	
11/9/83	59	Defendant Solem's BRIEF and RESPONSE to Request for Fees of \$66,655.00 filed	
11/9/83	60	AFFIDAVIT of Mark W. Barnett filed	
<u>1984</u>			
2-7-84	61	MEMORANDUM DECISION and ORDER filed.	
2-7-84		Correct copy entered in 1984 Southern Division Order Book, Page 24.	
2-7-84		Notice of Entry and copy of Order mailed Christopher D. Stanley, Terry H. Gilbert, Doug Cummings and Mark Meierhenry.	
2-9-84	62	JUDGMENT awarding attorneys' fees and costs filed.	
2-9-84		Correct copy entered in 1984 Southern Division Order Book, Page 25.	
2-9-84		Notice of Entry and copy of Judgment mailed Christopher D. Stanley, Terry H. Gilbert, Doug Cummings and Mark Meierhenry.	
4-24-84	63	MOTION by Plaintiffs to Reconsider Attorneys Fees and Affidavit of Douglas P. Cummings Filed	
5-4-84	64	ORDER Dismissing Motion by Plaintiffs to Reconsider Filed	
5-4-84		Correct copy entered in 1984 S.D. Order Book, Page 171	
5-4-84		Notice of Entry and copy of Order mailed Christopher D. Stanley, Terry Gilbert, Peter Gregory, Doug Cummings and Mark Meierhenry	
6/21/84	65	RECEIPT from Bill Froke for plaintiff's exhibits 1-19, 21, 22, and 23, filed.	
6-20-84	66	RECEIPT from Ben Dearduff for defendants exhibits filed.	
<u>1989</u>			
8/1/89	67	MOTION of Plff for an Order to Show Cause why the Defendant should not be held in Civil Contempt filed.	
<u>1991</u>			
8/14/91	68	ORDER denying plaintiffs' Motion for Order to Show Cause why Defendant should not be held in Civil Contempt and dismissing this proceeding as abandoned (dcktd 8/15/91)	
8/15/91		Notice of Entry and copy of Order mailed to Christopher D. Stanley, Terry H. Gilbert, Douglas Cummings and Attorney General's Office	
8/15/91		Enter correct copy of Order in 1991 SDOB, page 149	
8/28/91	69		