

**U.S. District Court
Western District of Virginia (Roanoke)
CIVIL DOCKET FOR CASE #: 7:09-cv-00180-PMS**

Brown v. Ray et al
Assigned to: Magistrate Judge Pamela Meade Sargent
Cause: 42:1983 Prisoner Civil Rights

Date Filed: 05/15/2009
Date Terminated: 11/23/2010
Jury Demand: None
Nature of Suit: 550 Prisoner: Civil Rights
Jurisdiction: Federal Question

Plaintiff

Kelvin E. Brown

represented by **Kelvin E. Brown**
1106672
Wallens Ridge State Prison
PO Box 759
Big Stone Gap, VA 24219
PRO SE

Jeffrey Edward Fogel
JEFFREY E. FOGEL LAW OFFICE
913 E. JEFFERSON STREET
CHARLOTTESVILLE, VA 22902
434-984-0300
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TERMINATED: 04/29/2011
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant

Tracy S. Ray
Warden

represented by **Richard Carson Vorhis**
OFFICE OF THE ATTORNEY
GENERAL
900 EAST MAIN STREET
RICHMOND, VA 23219
804-786-4805
Fax: 804-786-4239
Email: rvorhis@oag.state.va.us
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

L. Fleming
Major

represented by **Richard Carson Vorhis**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

T. Pease
Mailroom Supervisor

represented by **Richard Carson Vorhis**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

John M. Jabe

represented by **Richard Carson Vorhis**
(See above for address)
LEAD ATTORNEY

Defendant

Benjamin Wright

represented by **Richard Carson Vorhis**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Larry Collins

represented by **Richard Carson Vorhis**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Barbara Gentry

represented by **Richard Carson Vorhis**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Linda Leatherwood

represented by **Richard Carson Vorhis**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Rita Bibbins

represented by **Richard Carson Vorhis**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Lois Fegan

represented by **Richard Carson Vorhis**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
05/15/2009	<u>1</u>	COMPLAINT pursuant to 42 USC 1983 against all defendants, filed by Kelvin E. Brown. (Attachments: # <u>1</u> Claims 1-6, # <u>2</u> envelope)(kab)
05/15/2009	<u>2</u>	Inmate Account Report by Kelvin E. Brown. (kab)
05/15/2009	<u>3</u>	Statement of Assets by Kelvin E. Brown. (kab)
05/15/2009	<u>4</u>	Verified Statements with attachments by Plaintiff Kelvin E. Brown. (Attachments: # <u>1</u> 2/23/2009 Grievance forms, # <u>2</u> 3/19/09 grievance forms, # <u>3</u> Grievance forms, log# 620-29039, # <u>4</u> Grievance forms 1/29/2009, # <u>5</u> Grievance forms dated 2/17/2009, # <u>6</u> Grievance forms stamped 1/26/2009, # <u>7</u> Grievance forms dated 3/23/09)(kab)
05/15/2009	<u>5</u>	MOTION for Leave to Proceed in forma pauperis by Kelvin E. Brown. Motions referred to Michael F. Urbanski. (kab)
05/18/2009	<u>6</u>	Order entered conditionally filing this action; Advising inmate as to 3 strikes rule of PLRA; Assessing a filing fee of \$ 350.00 but granting IFP to the extent that he will not have to prepay the filing fee in full; Deferring all action in this case; Advising inmate to comply within the allotted time and to notify of changes in address or risk dismissal re <u>1</u> Complaint filed by Kelvin E. Brown. Signed by Magistrate Judge Michael F. Urbanski on 05/18/2009. (kab)

05/27/2009	<u>7</u>	Consent to Fee by Plaintiff Kelvin E. Brown. (kab)
05/28/2009	<u>8</u>	Response re <u>6</u> Order Prisoner Condfil., filed by Kelvin E. Brown. (Attachments: # <u>1</u> Attachments to response)(tvt)
06/29/2009	<u>9</u>	Order entered Directing the Clerk to attempt service of process in the usual manner upon the named defendants re <u>1</u> Complaint filed by Kelvin E. Brown, <u>8</u> Response filed by Kelvin E. Brown. Signed by Magistrate Judge Michael F. Urbanski on 06/29/2009. (kab) (Entered: 06/30/2009)
06/30/2009		Notice of Conditional Filing to AG-PLU as to Kelvin E. Brown (kab)
06/30/2009	<u>10</u>	REQUEST FOR WAIVER of Service sent to all defendants in C/O AG-PLU on 6/30/2009. Waiver of Service due by 8/29/2009.(kab)
07/27/2009	<u>11</u>	NOTICE of Appearance by Richard Carson Vorhis on behalf of Tracy S. Ray, L. Fleming, T. Pease (Vorhis, Richard)
07/27/2009	<u>12</u>	WAIVER OF SERVICE Returned Executed by Tracy S. Ray, L. Fleming, T. Pease. Tracy S. Ray waiver sent on 6/30/2009, answer due 8/31/2009; L. Fleming waiver sent on 6/30/2009, answer due 8/31/2009; T. Pease waiver sent on 6/30/2009, answer due 8/31/2009.(Vorhis, Richard)
08/31/2009	<u>13</u>	ANSWER to Complaint by Tracy S. Ray, L. Fleming, T. Pease.(Vorhis, Richard)
09/03/2009	<u>14</u>	Order to Respond: Defendants are hereby directed to file any dispositive motions within fifteen (15) days. Responses due by 9/19/2009. Signed by Magistrate Judge Michael F. Urbanski on 09/02/2009. (kab)
09/14/2009	<u>15</u>	Response re <u>13</u> Answer to Complaint. filed by Kelvin E. Brown. (Attachments: # <u>1</u> "Documents of Exhausting Administrative Remedies", # <u>2</u> "All Forms of Disapproved Publications", # <u>3</u> "Ledger", # <u>4</u> "Documents to show I've done all I could do to result this matter"— Part 1, # <u>5</u> "Documents to show I've done all I could do to result this matter" – Part 2, # <u>6</u> "This is an issue of the publication that is being denied" and envelope)(kab)
09/15/2009		Filing Fee Received: \$ 5.00, receipt number 700023992 (kab)
09/17/2009	<u>16</u>	MOTION to Continue by Tracy S. Ray, L. Fleming, T. Pease.Motions referred to Michael F. Urbanski. (Vorhis, Richard)
09/17/2009	<u>17</u>	MOTION for Summary Judgment by Tracy S. Ray, L. Fleming, T. Pease. (Vorhis, Richard)
09/17/2009	<u>18</u>	Brief / Memorandum in Support re <u>17</u> MOTION for Summary Judgment. filed by Tracy S. Ray, L. Fleming, T. Pease. (Attachments: # <u>1</u> Affidavit F. Taylor – Part 1 of 8, # <u>2</u> Affidavit F. Taylor – Part 2 of 8, # <u>3</u> Affidavit F. Taylor – Part 3 of 8, # <u>4</u> Affidavit F. Taylor – Part 4 of 8, # <u>5</u> Affidavit F. Taylor – Part 5 of 8, # <u>6</u> Affidavit F. Taylor – Part 6 of 8, # <u>7</u> Affidavit F. Taylor – Part 7 of 8, # <u>8</u> Affidavit F. Taylor – Part 8 of 8, # <u>9</u> Affidavit Tracy S. Ray – Part 1 of 7, # <u>10</u> Affidavit Tracy S. Ray – Part 2 of 7, # <u>11</u> Affidavit Tracy S. Ray – Part 3 of 7, # <u>12</u> Affidavit Tracy S. Ray – Part 4 of 7, # <u>13</u> Affidavit Tracy S. Ray – Part 5 of 7, # <u>14</u> Affidavit Tracy S. Ray – Part 6 of 7, # <u>15</u> Affidavit Tracy S. Ray – Part 7 of 7)(Vorhis, Richard)
09/18/2009	<u>19</u>	Roseboro Notice (kab)
09/18/2009	<u>20</u>	ORDER granting <u>16</u> Motion to Continue. Responses due 10/05/2009. Signed by Magistrate Judge Michael F. Urbanski on 09/18/2009. (kab)
09/24/2009	<u>21</u>	Response re <u>17</u> MOTION for Summary Judgment, <u>18</u> Brief / Memorandum in Support filed by Kelvin E. Brown. (Attachments: # <u>1</u> Grievance forms, # <u>2</u> Enclosure A– VDOC OP "Incoming Publications", # <u>3</u> Enclosure B– "Inmate Grievance", # <u>4</u> envelope)(kab)
09/28/2009	<u>22</u>	CONSENT to Jurisdiction by US Magistrate Judge by Kelvin E. Brown, Tracy S. Ray, L. Fleming, T. Pease. Case reassigned to Magistrate Magistrate Judge Michael F. Urbanski. (kab)

09/28/2009	<u>23</u>	ORDER TRANSFERRING CASE. Case transferred to Magistrate Judge Pamela Meade Sargent for all further proceedings. Magistrate Judge Michael F. Urbanski no longer assigned to case. Signed by District Judge Glen E. Conrad on 09/28/2009. (kab)
10/05/2009	<u>24</u>	MOTION to Seal by Tracy S. Ray, L. Fleming, T. Pease. (Vorhis, Richard)
10/05/2009	<u>25</u>	MOTION for Summary Judgment by Tracy S. Ray, L. Fleming, T. Pease. (Vorhis, Richard)
10/05/2009	<u>26</u>	Brief / Memorandum in Support re <u>25</u> MOTION for Summary Judgment. filed by Tracy S. Ray, L. Fleming, T. Pease. (Attachments: # <u>1</u> Affidavit Benjamin A. Wright)(Vorhis, Richard)
10/06/2009	<u>27</u>	Roseboro Notice (tvt)
10/07/2009	<u>28</u>	MOTION to Appoint Counsel by Kelvin E. Brown. (Attachments: # <u>1</u> Affidavit in Support, # <u>2</u> envelope)(kab)
10/08/2009	<u>29</u>	ORDER denying <u>28</u> Motion to Appoint Counsel. Signed by Magistrate Judge Pamela Meade Sargent on 10/8/09. (ejs)
10/16/2009	<u>30</u>	RESPONSE in Opposition re <u>24</u> MOTION to Seal. filed by Kelvin E. Brown. (kab)
10/16/2009	<u>31</u>	RESPONSE in Opposition re <u>25</u> MOTION for Summary Judgment. filed by Kelvin E. Brown. (Attachments: # <u>1</u> Memorandum in Support, # <u>2</u> Letters, # <u>3</u> copies of 2 front pages of "The Final Call"— actual newspapers found in clerk's office, # <u>4</u> cover sheets and envelope)(kab)
10/26/2009	<u>32</u>	Prisoner Motion: "Motion for Rehearing En Banc" by Kelvin E. Brown. (kab)
12/07/2009	<u>33</u>	Letter regarding payment of his filing fee by Kelvin E. Brown. (kab)
12/21/2009	<u>34</u>	ORDER denying <u>32</u> Prisoner Motion. Signed by Magistrate Judge Pamela Meade Sargent on 12/21/09. (ejs)
02/01/2010	<u>35</u>	Letter regarding monies deducted from inmate account by Kelvin E. Brown. (Attachments: # <u>1</u> Exhibits, # <u>2</u> envelope)(kab)
02/26/2010	<u>36</u>	OPINION. Signed by Magistrate Judge Pamela Meade Sargent on 2/26/10. (Bordwine, Robin)
02/26/2010	<u>37</u>	ORDER granting in part and denying in part <u>25</u> defendants' motion for summary judgment; granting in part and denying in part <u>17</u> defendants' motion for summary judgment; and granting the <u>24</u> the defendant's motion to file document under seal. Signed by Magistrate Judge Pamela Meade Sargent on 2/26/10. (Bordwine, Robin)
05/10/2010	<u>38</u>	Letter regarding status of case by Kelvin E. Brown. (kab)
05/12/2010	<u>39</u>	Sealed Documents. (See Motion at <u>24</u> and order granting motion at <u>37</u>). (eps)
05/18/2010	<u>40</u>	Request for Copies by Kelvin E. Brown. (kab)
05/19/2010	41	NOTICE of Hearing: Bench Trial set for July 15 and 16, 2010, at 9:00 AM in Big Stone Gap before Magistrate Judge Pamela Meade Sargent. (eps)
05/20/2010	<u>42</u>	Response re <u>40</u> Request for Copies.. (kab)
05/26/2010	<u>43</u>	Letter in response to response from Pro Se Law Clerk regarding copies of filings by Kelvin E. Brown. (kab)
05/26/2010	<u>44</u>	Response re <u>43</u> Letter. Clerk sent copies of some requested documents to Mr. Brown on this date.. (kab)
07/09/2010	<u>45</u>	NOTICE of Appearance by Jeffrey Edward Fogel on behalf of Kelvin E. Brown (Fogel, Jeffrey)
07/09/2010	<u>46</u>	First MOTION to Continue <i>Trial Date</i> by Kelvin E. Brown. (Fogel, Jeffrey)
07/12/2010	47	ORAL ORDER granting <u>46</u> Motion to Continue. Signed by Magistrate Judge Pamela Meade Sargent on 7/12/10. (eps)

07/12/2010	48	Notice of Cancellation of Court Trial scheduled for July 15 and 16, 2010 (eps)
07/23/2010	49	NOTICE of Hearing: Bench Trial reset for November 16 and 17, 2010, at 9:00 AM in Big Stone Gap before Magistrate Judge Pamela Meade Sargent. (eps)
07/27/2010	<u>50</u>	First MOTION to Amend/Correct <u>1</u> Complaint by Kelvin E. Brown. (Attachments: # <u>1</u> Exhibit Proposed Amended Complaint)(Fogel, Jeffrey)
07/28/2010	<u>51</u>	Order to Respond re <u>50</u> First MOTION to Amend/Correct <u>1</u> Complaint – Responses due by 8/11/2010. Signed by Magistrate Judge Pamela Meade Sargent on 7/28/10. (eps)
08/11/2010	<u>52</u>	Response re <u>51</u> Order to Respond. filed by Tracy S. Ray, L. Fleming, T. Pease. (Vorhis, Richard)
09/02/2010	<u>53</u>	ORDER granting <u>50</u> Motion to Amend/Correct. Signed by Magistrate Judge Pamela Meade Sargent on 9/2/10. (ejs)
09/02/2010	<u>54</u>	AMENDED COMPLAINT against Rita Bibbins, Larry Collins, Lois Fegan, L. Fleming, Barbara Gentry, John M. Jabe, Linda Leatherwood, T. Pease, Tracy S. Ray, Benjamin Wright, filed by Kelvin E. Brown.(ejs)
09/10/2010	<u>55</u>	AMENDED ANSWER to <u>54</u> Amended Complaint by Rita Bibbins, Larry Collins, Lois Fegan, L. Fleming, Barbara Gentry, John M. Jabe, Linda Leatherwood, T. Pease, Tracy S. Ray, Benjamin Wright. (Vorhis, Richard)
11/12/2010	56	Notice of Cancellation of Court Trial set for November 16 &17, 2010 in Big Stone Gap (ejs)
11/18/2010	<u>57</u>	Letter for information regarding the settlement in this case by Kelvin E. Brown. (kab)
11/19/2010	<u>58</u>	STIPULATION of Dismissal / <i>Consent Order</i> by Kelvin E. Brown. (Fogel, Jeffrey)
11/19/2010	<u>59</u>	Letter from Judge Sargent to plaintiff regarding status of case. (Bordwine, Robin)
11/23/2010	<u>60</u>	ORDER DISMISSING CASE. Signed by Magistrate Judge Pamela Meade Sargent on November 22, 2010. (tvt)
11/24/2010	<u>61</u>	Letter Request for Settlement Information by Kelvin E. Brown. (lmh)
01/11/2011	<u>62</u>	Letter re regarding balance of remaining court costs. by Kelvin E. Brown. (kab)
01/21/2011	<u>63</u>	Letter from Financial re <u>62</u> regarding the balance of fees owed. (erf)
03/04/2011	<u>64</u>	Letter regarding financial issues by Kelvin E. Brown. (kab)
03/04/2011	<u>65</u>	Letter by Financial to Kelvin E. Brown in response to his letter <u>64</u> regarding copies of receipts. (erf)
04/29/2011	<u>66</u>	NOTICE of Change of Address and Request for current balance by Kelvin E. Brown (kab)
04/29/2011	<u>67</u>	Letter from Financial in response to <u>66</u> regarding the balance of filing fees by Kelvin E. Brown. (erf)