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The Honorable Franklin Burgess

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA**

RICKEY PERALEZ, on behalf of
himself and others similarly situated,

Plaintiff,

v.

THE WASHINGTON STATE
DEPARTMENT OF CORRECTIONS;
HAROLD CLARKE; DOUGLAS
WADDINGTON; BELINDA
STEWART; KEVIN SHANAHAN;
JEAN STEWART; and JOHN DOES 1-
20, employees and officials of the
Washington Department of Corrections
and/or Stafford Creek Corrections Center,

Defendants.

NO. C06-5625 FDB

DEFENDANTS' ANSWER TO
PLAINTIFF'S CLASS ACTION
COMPLAINT

AND JURY DEMAND

Defendants, Washington State Department of Corrections, Harold Clarke, Douglas Waddington, Belinda Stewart, Kevin Shanahan, and Jean Stewart file the following answer to plaintiff's complaint.

1 **INTRODUCTION**

2 1. Paragraph 1 states the basis for plaintiff’s complaint. Defendants deny they
3 discriminated against anyone.

4 **PLAINTIFF**

5 2. Defendants admit that Rickey Peralez is a former inmate of the Department of
6 Corrections and the Stafford Creek Corrections Center. Defendants are without knowledge or
7 information sufficient to form a belief as to the truth of the remaining allegations contained in
8 paragraph 2 of plaintiff’s complaint and, therefore, deny the same.

9 **DEFENDANTS**

10 3. The State admits that the Department of Corrections is a State agency that operates
11 correctional facilities including prisons and work release facilities. Defendants deny the
12 remaining allegations contained in paragraph 3.

13 4. Paragraph 4 states a legal conclusion and requires no answer.

14 5. The defendants admit that Harold Clarke, Douglas Waddington, Belinda Stewart,
15 Kevin Shanahan and Jean Stewart reside in the State of Washington and are employed by the
16 Department of Corrections. Defendants deny that each of the individually named defendants
17 participated in the discrimination alleged in the complaint. Defendants admit they acted within
18 the course and scope of their duties as employees. As to whether the individually named
19 defendants are U.S. citizens, the defendants are without knowledge or information sufficient to
20 determine the truth of those allegations and, therefore, deny the same.

21 6. The defendants admit the allegations contained in paragraph 6 of plaintiff’s
22 complaint.

23 7. The defendants admit the allegations contained in paragraph 7 of plaintiff’s
24 complaint.

25 8. Defendants admit the allegations contained in paragraph 8 of plaintiff’s complaint.

26 9. Defendants admit the allegations contained in paragraph 9 of plaintiff’s complaint.

1 10. Defendants admit the allegations contained in paragraph 10.

2 11. Paragraph 11 requires no response from the defendants at this time.

3 **JURISDICTION AND VENUE**

4 12. Defendants admit that this court has subject matter jurisdiction over the allegations
5 in this matter.

6 13. Defendants admit that this is the proper venue to hear the allegations in this matter.

7 **GENERAL ALLEGATIONS REGARDING**
8 **WORK RELEASE AND WORK ETHIC CAMP**

9 14. Defendants admit that there is a program known as “work release” within the
10 Department of Corrections. The remainder of the statements made by plaintiff in paragraph 14
11 are argumentative and not a short and plain statement of the facts as required by FRCP 8(a), and
12 therefore require no response.

13 15. Defendants admit that there is a program known as “work ethic camp” within the
14 Department of Corrections. The remainder of the statements made by plaintiff in paragraph 14
15 are argumentative and not a short and plain statement of the facts as required by FRCP 8(a), and
16 therefore require no response. Plaintiff was not eligible for work ethic camp as per his Judgment
17 and Sentence.

18 **FACTS**

19 16. Defendants admit that Rickey Peralez is a former inmate of the DOC, confined to the
20 Stafford Creek Corrections Center, and had an expected earned early release date of November 4,
21 2006.

22 17. Defendants deny that they refused to allow Mr. Peralez to participate in work
23 release due to his disability. As to the remaining allegations contained in paragraph 17,
24 defendants do not have knowledge or information sufficient to determine the truth of those
25 allegations and, therefore, deny the same.
26

1 18. Defendants deny that work release is a “right.” Defendants further deny that
2 plaintiff was denied the “right” to participate in the work release program. The remainder of this
3 paragraph is argumentative and not a short and plain statement of the facts as required by FRCP
4 8(a), and therefore require no response. In addition, until further investigation is done, defendants
5 cannot verify what correspondence was received and/or sent by plaintiff and, therefore, deny these
6 allegations.

7 19. Defendants deny the allegations contained in paragraph 19.

8 20. Defendants admit that plaintiff was referred to work release in early October 2006.
9 Defendants deny that “intentional discrimination” occurred. As to all other allegations contained
10 in paragraph 20, the defendants are without knowledge or information sufficient to form a belief
11 as to the truth of those allegations and, therefore, deny the same.

12 21. Defendants admit that plaintiff was transferred to Reynolds Work Release. As to
13 the rest of the allegations contained in paragraph 21, defendants are without sufficient information
14 or knowledge to form a belief as to the truth of those allegations and, therefore, deny the same.

15 22. Defendants deny that “camp” is a “right.” Defendants also deny the allegation that
16 “intentional discrimination” occurred. As to the remaining allegations contained in paragraph 22,
17 defendants are without knowledge or information sufficient to form a belief as to the truth of those
18 allegations and, therefore, deny the same.

19 23. Defendants deny the allegations contained in paragraph 23.

20 24. Defendants are without knowledge or information sufficient to form a belief as to
21 the truth of the allegations contained in paragraph 24 and, therefore, deny the same.

22 CAUSES OF ACTION

23 25-27. Paragraphs 25 through 27 are plaintiff’s causes of action and state the basis for
24 plaintiff’s lawsuit. These paragraphs state legal conclusions that require no response.

1 **CLASS ACTION ALLEGATIONS**

2 28. Defendants deny the allegations contained in paragraph 28.

3 29. Defendants deny the allegations contained in paragraph 29.

4 30. Defendants deny the allegations contained in paragraph 30.

5 31. Defendants deny the allegations contained in paragraph 31.

6 32. Defendants deny the allegations contained in paragraph 32.

7 33. Defendants deny the allegations contained in paragraph 33.

8 **PRAYER FOR RELIEF**

9 The defendants deny that plaintiff is entitled to any of the relief requested in his Prayer
10 for Relief.

11 **AFFIRMATIVE DEFENSES**

12
13 By Way of FURTHER ANSWER and FIRST AFFIRMATIVE DEFENSE, the
14 defendants allege that the summons and complaint were never properly served upon the
15 individually named defendants or that the process served was insufficient.

16 By Way of FURTHER ANSWER and SECOND AFFIRMATIVE DEFENSE, the
17 defendants allege that all actions of the defendants herein alleged as negligence, manifest a
18 reasonable exercise of judgment and discretion by authorized public officials made in the exercise
19 of governmental authority entrusted to them by law and are neither tortious nor actionable.

20 By Way of FURTHER ANSWER and THIRD AFFIRMATIVE DEFENSE, the
21 defendants allege that the plaintiff has failed to state a claim upon which relief may be granted.

22 By Way of FURTHER ANSWER and FOURTH AFFIRMATIVE DEFENSE, the
23 defendants allege that the defendants at all times acted in good faith in the performance of their
24 duties and are therefore immune from suit for the matters charged in plaintiff's complaint.
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1 By Way of FURTHER ANSWER and FIFTH AFFIRMATIVE DEFENSE, the
2 defendants allege that the defendants are immune from suit for the matters charged in plaintiff's
3 complaint.

4 By Way of FURTHER ANSWER and SIXTH AFFIRMATIVE DEFENSE, the
5 defendants allege that the defendant State of Washington, its agencies and agents, are not subject
6 to civil suit for damages under the Eleventh Amendment of the Constitution of the United States.

7 By Way of FURTHER ANSWER and SEVENTH AFFIRMATIVE DEFENSE, the
8 defendants allege that the court lacks jurisdiction over the persons named as defendants.

9 By Way of FURTHER ANSWER and EIGHTH AFFIRMATIVE DEFENSE, the
10 defendants allege that that the plaintiff has failed to file a claim against the State of Washington
11 as required by RCW 4.92.100 and RCW 4.92.110.

12 By Way of FURTHER ANSWER and NINTH AFFIRMATIVE DEFENSE, the
13 defendants allege that the plaintiff has failed to exhaust administrative remedies or plaintiff's
14 remedies are administrative rather than judicial and therefore the action will not lie.

15 By Way of FURTHER ANSWER and TENTH AFFIRMATIVE DEFENSE, the
16 defendants allege that the plaintiff has not complied with the Prison Litigation Reform Act.

17 By Way of FURTHER ANSWER and ELEVENTH AFFIRMATIVE DEFENSE, the
18 defendants allege that the conduct of the defendants was privileged and nontortious absolute
19 privilege--qualified privilege.

20 By Way of FURTHER ANSWER and TWELFTH AFFIRMATIVE DEFENSE, the
21 defendants allege that defendant, State of Washington, is not subject to suit under 42 U.S.C. §
22 1983.

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CERTIFICATE OF SERVICE

I hereby certify that on November 22, 2006, I caused to be electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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