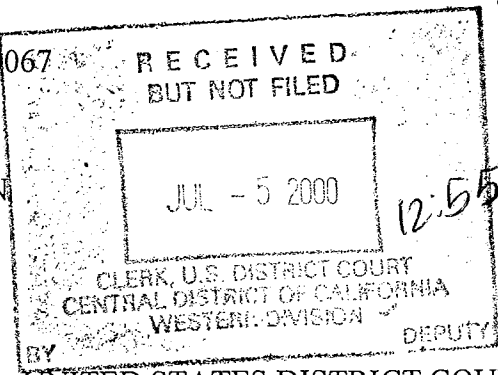
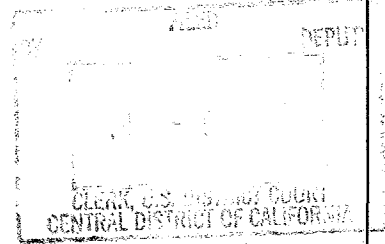


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00017.098



10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA
12 WESTERN DIVISION

13 GARRISON S. JOHNSON, an individual,) CASE NO. CV-95-01192-CBM (BOR)
14 Plaintiff,)
15 v.) **FOURTH AMENDED**
16 STATE OF CALIFORNIA; JAMES H. GOMEZ, an) **COMPLAINT FOR DEPRIVATION**
17 individual; JAMES ROWLAND, an individual; and) **OF CIVIL RIGHTS**
18 DOES 1 through 20, inclusive,) **[DEMAND FOR JURY TRIAL]**
19 Defendants.)

20 **INTRODUCTION**

21
22 1. This case arises from the invidious discrimination by the State of California
23 Department of Corrections, and its current and former Directors, James H. Gomez and James
24 Rowland, in formulating and implementing a policy and practice of housing prison inmates based
25 solely on their race. The race-based discriminatory housing policy has escalated racial tensions
26 in the prison population, fostered violence and distrust among the prison inmates, and created
27 conditions which have subjected plaintiff to duress, oppression, and other cruel and unusual
28 punishment in violation of the Eighth Amendment to the United States Constitution. The

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1 discriminatory policy has also deprived plaintiff of the equal protection of the law as guaranteed
2 by the Fourteenth Amendment to the United States Constitution. Plaintiff seeks damages for the
3 deprivation of his constitutional rights and injunctive relief to remedy the discriminatory
4 practices identified herein.

5
6 **PARTIES**
7

8 2. Plaintiff Garrison S. Johnson ("Mr. Johnson") is a prisoner in the custody of the
9 California Department of Corrections, inmate #D59672. Mr. Johnson has been incarcerated in
10 the State of California since 1987.

11 3. The State of California is a sovereign state within the United States and has the
12 capacity to sue and be sued. The California Department of Corrections ("CDC") is an agency of
13 the State of California.

14 4. Defendant James Rowland ("Mr. Rowland ") was, from 1987 to 1991, the
15 Director of the California Department of Corrections. Plaintiff is informed and believes, and
16 based thereon alleges, that Mr. Gomez' responsibilities included the formulation and
17 implementation of CDC policy, as well as the oversight of the operation and safety of all CDC
18 facilities.

19 5. Defendant James H. Gomez ("Mr. Gomez") is, and has been since 1991, the
20 Director of the California Department of Corrections. Plaintiff is informed and believes, and
21 based thereon alleges, that Mr. Rowland's responsibilities include the formulation and
22 implementation of CDC policy, as well as the oversight of the operation and safety of all CDC
23 facilities.

24 6. Defendants sued herein as DOES 1-20 are unknown to Plaintiff and therefore are
25 sued by their fictitious names. Plaintiff is informed and believes, and based thereon alleges, that
26 each of the fictitiously named Defendants is responsible in some manner for the acts, errors and
27 omissions alleged herein. Plaintiff will amend this Complaint to supply Defendants' actual
28 names when the same are ascertained by Plaintiff.

1 **JURISDICTION**

2
3 7. This action arises under the Eighth and Fourteenth Amendments to the
4 Constitution of the United States and is brought pursuant to the Civil Rights Act, 42 U.S.C. §
5 1983. Jurisdiction is based upon 28 U.S.C. §§ 1331 and 1343.

6 8. The claims alleged herein arose in the County of Los Angeles, State of California.
7 Therefore, venue is proper in the Central District of California pursuant to 28 U.S.C. § 1391.

8
9 **FACTS COMMON TO ALL CLAIMS FOR RELIEF**

10
11 9. Plaintiff is housed in a two-man cell at the California State Prison in the Antelope
12 Valley. Since 1987, plaintiff has been housed at three California prison facilities: Folsom (1987-
13 1992), Calipatria (1992-1994) and Lancaster-Antelope Valley (1994 to present). At each
14 California prison facility where plaintiff has been housed, including the Antelope Valley facility,
15 plaintiff has been segregated by race in cell assignment.

16 10. Plaintiff is informed and believes, and based thereon alleges, that
17 the CDC has instituted a policy and practice of housing inmates based exclusively on the race
18 and ethnicity of the prisoner, rather than based on the first available cell. Thus, African-
19 American prisoners are only housed with other African-American prisoners, Latino prisoners are
20 only housed with other Latino prisoners, Caucasian prisoners are only housed with other
21 Caucasian prisoners, and all "Other" prisoners are housed together. This discriminatory policy
22 and practice treats prisoners from different racial and ethnic groups unequally without any
23 rational relation to a permissible purpose and fosters enmity and distrust among them.

24 11. The discriminatory policy of housing inmates according to their race and ethnicity
25 is evidenced by, among other things, the prison guards' refusals to integrate the cells and
26 statements by guards and prison officials to plaintiff such as "You can't be placed in that cell.
27 It's a white cell."

28 12. Racial segregation has reinforced division along gang lines and created an

1 environment of fear, racism, and violence. The result of the policy and practice was, and is,
2 foreseeable to defendants, and those foreseeable consequences have manifested themselves
3 through violent outbreaks and riots at the California prisons. The same invariable consequences
4 have been repeated over and over again since this policy has been instituted: violence, rioting,
5 and racism. Defendants have acted recklessly and with deliberate indifference by ignoring the
6 probable and foreseeable consequences of racial segregation, and in continuing to segregate
7 prisoners with knowledge of the invariable result.

8 13. Plaintiff is informed and believes, and based thereon alleges, that other prison
9 systems in the United States have been available to the CDC as a model for integrated prisons,
10 but defendants have recklessly ignored these other models, in favor of a flawed policy of racial
11 segregation.

12 14. Plaintiff is informed and believes, and based thereon alleges, that Mr. Gomez and
13 Mr. Rowland are aware of the deleterious effects of segregation, and continue to perpetuate the
14 policy because the racial tension created enables all prison staff members to collect the higher
15 wages allowed during times of racial unrest.

16 15. Plaintiff is further informed and believes, and based thereon alleges, that the racial
17 segregation practice perpetuates divisiveness among the inmates, which prevents them from
18 uniting to present grievances against the prison. Plaintiff is informed and believes, and based
19 thereon alleges, that the CDC continues to implement the practice of racial segregation so that it
20 will not have to address prisoner grievances which might otherwise be raised.

21

22

FIRST CLAIM FOR RELIEF

23

(For Eighth Amendment Cruel and Unusual Punishment Violation Against All Defendants)

24

16. Plaintiff hereby incorporates by references paragraphs 1 through 15, inclusive, as
25 though fully set forth herein.

26

17. Plaintiff has been deprived of the minimal civilized measures of life's necessities
27 because of the extraordinary duress, institutional violence, and emotional distress he has
28 suffered, and continues to suffer, as a consequence of the policy and practice of racial

1 segregation.

2 18. Plaintiff has been stripped of any sense of bodily security because of the threat of
3 physical violence from other racially prejudiced prisoners harboring violent intent, and because
4 of the threat of physical force from prison officials attempting to quash prisoner fighting and
5 rioting. The concomitant emotional distress caused by this ceaseless threat of physical violence
6 is so severe that plaintiff regularly obtains counseling from a prison psychologist.

7 19. Plaintiff is informed and believes, and based thereon alleges, the defendants have
8 acted with recklessness and deliberate indifference toward plaintiff's health, safety and needs.
9 The prison officials have allowed this policy of segregation to continue in the face of the
10 increasing racial tension and violence caused by the policy and practice of racial segregation,
11 with an awareness that such violence jeopardizes the prisoners' health and safety.

12 20. Plaintiff has suffered severe humiliation, depression, and emotional distress by
13 reason of the deprivation of his civil rights in an amount subject to proof at trial, but estimated to
14 be in excess of \$10,000.

15 **SECOND CLAIM FOR RELIEF**

16 (For Fourteenth Amendment Equal Protection Violation Against All Defendants)

17 21. Plaintiff hereby incorporates by reference paragraphs 1 through 15, inclusive, and
18 paragraphs 17 through 20, inclusive, as though fully set forth herein.

19 22. Defendants have subjected plaintiff to racial discrimination, by employing a
20 policy and practice of segregating prisoners in cells on the basis of race.

21 23. The racial segregation policy is not reasonably related to the legitimate
22 penological interests of the CDC.

23 24. The policy and practice of racial segregation creates and fosters racial hostility
24 and tension among the prisoners by ensuring that they remain divided, on a physical and
25 psychological basis. These divisions inevitably create the stereotyping that leads to prejudiced
26 attitudes and beliefs, and violence.

27 25. The climate of increased racial animosity has directly led to a sharp increase in the
28 amount of racial violence perpetrated upon prisoners by other prisoners in the last decade. The

1 policy and practice of racial segregation is therefore flawed and not rationally related to the
2 legitimate penological interests of the CDC because it creates a situation where the occurrence of
3 violence among prisoners is significantly heightened, not restrained. The pitting of racial groups
4 against each other also develops the need for another layer of violence, because of the physical
5 force that must be exerted by prison officials against prisoners to quell such physical altercations.
6 All of the foregoing has resulted in a deprivation of plaintiff's civil rights.

7 26. Defendants have instituted the policy and practice of racial segregation out of
8 malice and reckless indifference to the consequences of segregation.

9 27. Plaintiff has suffered damages by reason of the CDC policy of racial
10 discrimination, including but not limited to, humiliation, fear, depression, and emotional distress.
11 Plaintiff's damages are subject to proof at trial, but estimated to be in excess of \$10,000.

12 13 THIRD CLAIM FOR RELIEF

14 (For § 1985(3) Conspiracy to Deprive a Person of the Equal Protection of the Laws)

15 28. Plaintiff hereby incorporates by reference each and every allegation contained in
16 paragraphs 1 through 15, paragraphs 17 through 20, inclusive, and paragraphs 22 through 27,
17 inclusive, as though fully set forth therein.

18 29. Plaintiff is informed and believes, and based thereon alleges, that defendants
19 conspired between and among themselves to deprive plaintiff of the equal protection of the laws.
20 Defendants have acted in concert with each other, and other unknown co-conspirators, to
21 perpetrate a policy of segregation by race, although that policy is not related to legitimate
22 penological purposes, and harms the physical and psychological safety of the prisoners, including
23 Mr. Johnson.

24 30. Defendants acted in furtherance of the conspiracy to deprive plaintiff of his
25 constitutional rights in order to obtain higher compensation and overtime, which is paid to prison
26 staffs during times of racial crises.

27 31. Plaintiff has suffered damages as a result of the deprivation of his civil rights and
28 the conspiracy engaged in by defendants in an amount subject to proof at trial, but estimated to

1 be in excess of \$10,000.

2

3 WHEREFORE, Plaintiff prays for relief as follows:

4 1. For declaratory relief that the policy and practice of racial segregation by the CDC
5 violates the Eighth and Fourteenth Amendments to the Constitution of the United States;

6 2. For compensatory damages for deprivation of plaintiff's constitutional rights in an
7 amount subject to proof at trial, but estimated to be in excess of \$10,000;

8 3. For injunctive relief directing the CDC to cease its policy and practice of racial
9 segregation;

10 4. For punitive damages;

11 5. For attorney's fees and costs;

12 6. For such other and further relief as the Court deems just and proper.

13

14 DATED: June 30, 2000

PROSKAUER ROSE LLP
BERT H. DEIXLER
KENNETH S. INGBER

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By: 
KENNETH S. INGBER

18

Attorneys for Plaintiff
GARRISON S. JOHNSON

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DEMAND FOR JURY TRIAL

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Plaintiff hereby demands a trial by jury.

23

24 DATED: June 30, 2000

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