

CLOSED

**U.S. DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK [LIVE] (Buffalo)  
CIVIL DOCKET FOR CASE #: 1:84-cv-01049-RJA-EFM**

Blissett v. Hernandez, et al  
Assigned to: Hon. Richard J. Arcara  
Referred to: USMJ Edmund F. Maxwell  
Demand: \$0  
Cause: 42:1983 Prisoner Civil Rights

Date Filed: 09/14/1984  
Jury Demand: Plaintiff  
Nature of Suit: 550 Prisoner: Civil  
Rights  
Jurisdiction: Federal Question

**Plaintiff**

**Donavan Jack Richard Blissett**

represented by **Alan J. Bozer**  
Phillips Lytle LLP  
3400 HSBC Center  
Buffalo, NY 14203  
(716) 847-5700  
Fax: 716-852-6100  
Email: abozer@phillipslytle.com  
*TERMINATED: 08/25/1994*  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Leigh E. Anderson**  
69 Delaware Avenue  
Suite 1001  
Buffalo, NY 14202  
716-855-3424  
Fax: 716-855-2180  
Email: andersonlaw@verizon.net  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Stanley L. Cohen**  
Attorney At Law  
119 Avenue D  
New York, NY 10009  
(212) 979-7572  
*TERMINATED: 02/18/1992*  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Robert F. Bensing**  
Prisoners' Legal Services  
22 Broad St.  
P.O. Box 1215  
Plattsburg, NY 12901  
*TERMINATED: 02/18/1992*

*ATTORNEY TO BE NOTICED*

V.

**Defendant****Thomas A Coughlin***TERMINATED: 05/23/1991***Defendant****Charles Hernandez**

represented by **Douglas S. Cream**  
State Attorney General's Office  
107 Statler Towers  
Buffalo, NY 14202  
716-847-7177  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Defendant****Harold J Smith**

represented by **Douglas S. Cream**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Defendant****R McCellane**

represented by **Douglas S. Cream**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Defendant****Smith**

represented by **Douglas S. Cream**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Defendant****Bowen**

represented by **Douglas S. Cream**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Defendant****H Offhaus**

represented by **Douglas S. Cream**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Defendant****John Dow Watson**

*TERMINATED: 09/02/1987*

*also known as*

Cadillac

**Defendant**

**A Wolcott**

*R.N. Medical Personnel*

represented by **Douglas S. Cream**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Defendant**

**Frances Mills**

*Psychologist - each individually and in  
their official capacities*

represented by **Douglas S. Cream**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Defendant**

**D.S.S. James E. Cochrane**

represented by **Douglas S. Cream**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Defendant**

**J. R. Rafferty**

represented by **Douglas S. Cream**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Defendant**

**Ronald G. Squires**

represented by **Douglas S. Cream**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Defendant**

**E. F. Helak**

represented by **Douglas S. Cream**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Defendant**

**D. Bates**

represented by **Douglas S. Cream**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Defendant**

**John Doe**

*TERMINATED: 09/02/1987*

**Defendant****Dr. F. Downs**

represented by **Douglas S. Cream**  
 (See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Defendant****P.A. R. Magee**

represented by **Douglas S. Cream**  
 (See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Defendant****R. J. Clark**

represented by **Douglas S. Cream**  
 (See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

<b>Date Filed</b>	<b>#</b>	<b>Docket Text</b>
11/04/1988		ORDER REFERRING CASE to Magistrate Judge Edmund F. Maxwell ( signed by Judge John T. Elfvin ) (former empl) (Entered: 02/18/1992)
02/18/1992	87	ORDER, granting Atty. Cohen's request to w/draw as counsel for pltf. and for Appointment of Counsel for pltf, Leigh E. Anderson, Esq. ( signed by Judge Richard J. Arcara ) Notice and copy of order sent to Douglas S. Cream, Robert F. Bensing, Stanley L. Cohen, Leigh E. Anderson, Esq. (former empl) (Entered: 02/18/1992)
02/18/1992	88	ORDER, granting Dft. Comm'r Coughlin's mtn. for sum. jmt. & to Dismiss the case as to dft. Coughlin ( signed by Judge Richard J. Arcara ) Notice and copy of order sent to Douglas S. Cream, Leigh E. Anderson (former empl) (Entered: 02/18/1992)
02/19/1992		Minute entry: status conf. held; reset Jury Selection for 10:00 7/14/92 , and reset final Pretrial Conference for 4:00 7/8/92 (former empl) (Entered: 02/25/1992)
03/09/1992		Minute entry: reset Pretrial Conference for 7/8/92 (former empl) (Entered: 03/16/1992)
03/10/1992		Minute entry: reset Jury Selection for 10:00 7/14/92 (former empl) (Entered: 03/16/1992)
06/24/1992		WRIT of Habeas Corpus Ad Testificandum issued for Donovan Blissett on 7/7/92. (Orig'l & 1 Cert cpy to Marshal, 6 Cert cpies to AAG Douglas Cream, 1 cert cpy to Supt. Dean Riley of Fishkill Corr. Fac., & 1 cpy to pltf's atty.) (former empl) Modified on 06/24/1992 (Entered: 06/24/1992)
06/24/1992	89	PRETRIAL STATEMENT/MEMORANDUM by dfts' atty (former empl) (Entered: 06/24/1992)

06/24/1992	90	CERTIFICATE OF SERVICE re: item #89 (former empl) (Entered: 06/24/1992)
06/24/1992	91	Dfts' Proposed Voire dire questions (former empl) (Entered: 06/24/1992)
06/24/1992	92	Dfts' Requested Jury instructions/Charges (former empl) (Entered: 06/24/1992)
06/24/1992	93	Dfts' Witness list (former empl) (Entered: 06/24/1992)
06/24/1992	94	Dfts' Exhibit list (former empl) (Entered: 06/24/1992)
07/01/1992	95	PRETRIAL STATEMENT/MEMORANDUM by atty for pltf Donavan Jack Richard Blissett (former empl) (Entered: 07/01/1992)
07/01/1992	96	Pltf's EXHIBIT LIST (former empl) (Entered: 07/01/1992)
07/01/1992	97	Pltf's atty's stipulation re: verdict shee submitted by dfts to be used at trial, and exceptions thereto. (former empl) (Entered: 07/01/1992)
07/01/1992	98	Witness list by Donavan Jack Richard Blissett (former empl) (Entered: 07/01/1992)
07/01/1992	99	Pltf's Requested Jury instructions/Charges (former empl) (Entered: 07/01/1992)
07/01/1992	100	Proposed Voir dire questions by pltf Donavan Jack Richard Blissett (former empl) (Entered: 07/01/1992)
07/01/1992		Minute entry: Final pretrial cnf. (former empl) (Entered: 07/13/1992)
07/07/1992		Minute entry: Jury selection. Trial to commence 7/20/92. (former empl) (Entered: 07/14/1992)
07/20/1992		Minute entry: Trial - adjourned generally. No appearance. (former empl) Modified on 09/24/1992 (Entered: 07/30/1992)
09/23/1992		WRIT of Habeas Corpus Ad Testificandum issued for Donovan Blissett on 10/5/92 @ 9:30 a.m. (orig'l & 1 cert cpy to marshal, 2 cert cpy to atty gen'l, cert cpy to supt of Fishkill C. F., & 1 cpy to pltf's atty.) (former empl) Modified on 09/23/1992 (Entered: 09/23/1992)
09/24/1992		AMENDED WRIT of Habeas Corpus Ad Testificandum issued for Donovan Blissett to be delivered to Erie Cnty Hold'g Ctr asap for trial 10/5/92, etc. (orig'l & 2 cert. cpy to Marshal, 4 cert. cpy to AG, 1 cert cpy to Wayne Strack, Supt. of Fishkill C.F., & 1 cpy to pltf's atty.) (former empl) Modified on 09/24/1992 (Entered: 09/24/1992)
09/30/1992		WRIT of Habeas Corpus Ad Testificandum re-issued for Donovan Blissett on 10/5/92. (orig'l & 1 cert cpy to Marshal, 2 cert cpy to atty gen'l, 1 cert cpy to Dean Riley, Supt of Fishkill C.F., & 1 cpy to pltf's atty.) (former empl) (Entered: 09/30/1992)
09/30/1992	101	LETTER dtd 9/24/92 from Leigh E. Anderson to Judge Marquez re: excusal of juror Russell Parry. (former empl) (Entered: 09/30/1992)

10/05/1992		Minute entry: Trial status conf; Jurors 3 & 6 are excused; Case to be tried by Judge Marquez; Crt conducts supplemental voir dire, etc. (mj) (Entered: 10/07/1992)
10/05/1992		Minute entry: Trial resumes from 7/7/92; Doug Cream replaces Andrew Lipkind as counsel for dfts; 1 juror excused and replaced; testimony of witnesses held; trial adj to 10/6/92.-Marquez (mj) (Entered: 10/09/1992)
10/06/1992		Minute entry: Meeting w/juror re: failure to appear for trial on 10/5/92; juror Heller excused from service. (mj) (Entered: 10/08/1992)
10/06/1992		Minute entry: Trial continues; pltf rests; dfts move to dismiss complaint and mtn denied; trial adj to 10/7/92.-Marquez (mj) (Entered: 10/09/1992)
10/07/1992		Minute entry: Trial resumes; witnesses for dfts; trial adj to 10/8/92.-Marquez (mj) (Entered: 10/09/1992)
10/08/1992	102	JURY VERDICT for Donovan Jack Richard Blissett (attorneys to prepare final judgment for filing pursuant to chambers) (mj) (Entered: 10/09/1992)
10/08/1992		Minute entry: Trial resumes; dfts rest; dfts renew mtn to dismiss; motion denied; court charges jury; summations held; jury retires to deliberate; jury renders verdict in favor of pltf (judgment to be prepared by attorney).-Marquez (mj) (Entered: 10/09/1992)
10/08/1992	105	STIPULATION and ORDER, re: naming remaining dfts, issues of fact remaining to be tried & exhibits, etc. signed by Judge Richard J. Arcara . Notice and copy of order sent to Douglas S. Cream, Leigh E. Anderson . (former empl) (Entered: 02/05/1993)
10/09/1992		Received Court exhibits 1 & 2 (mj) (Entered: 10/09/1992)
10/16/1992	103	Return of service unexecuted as to J. R. Rafferty (mj) (Entered: 10/19/1992)
12/09/1992	104	WRIT of Habeas Corpus Ad Testificandum returned executed (mj) (Entered: 12/10/1992)
02/22/1993	106	STIPULATION and ORDER, to Dismiss complt as amended, w/ prejudice, as to dfts Coughlin, Hernandez, Harold Smith, Cochrane, McCellane, Rafferty, Bates, Watson, Doe, Downs, Magee, Wolcott & Mills a/k/a Miles, et al. & directing the clerk to enter jmt agnst Wm Bowen, Robt Clark, & David Smith jointly for \$75,000 compensatory damages; Wm. Bowen for \$5,000 punitive damages; Robt Clark for \$10,000 punitive damages; David Smith for \$10,000 punitive damages; & Wm. Bowen (\$10,000), Edwin Helak (\$5,000), & Howard Offhaus (\$5,000) for punitive damages only on pltf's claim of confinement under conditions in violation of 8th amdmnt rts. (signed by USDJ Alfredo C. Marquez) Notice and copy of stipulation/order sent to Douglas S. Cream, Leigh E. Anderson. (former empl) (Entered: 02/22/1993)
02/22/1993	107	JUDGMENT on jury verdict (& with certain stipulations by the parties) (signed by USDJ Alfredo C. Marquez). Notice and copy of judgment sent

		to Douglas S. Cream, Leigh E. Anderson (former empl) (Entered: 02/22/1993)
02/22/1993		Case closed (former empl) (Entered: 02/22/1993)
03/04/1993	108	MOTION by Bowen, H Offhaus, Smith, E. F. Helak, R. J. Clark for New Trial (former empl) (Entered: 03/04/1993)
03/26/1993	109	ORDER, pltf's Response to Motion set to 4/30/93 for dfts' [108-1] motion for New Trial , & Motion Hearing/oral argumt set for 9:00 5/13/93 for [108-1] motion for New Trial ( signed by Judge Richard J. Arcara ). Notice and copy of order sent to Douglas S. Cream, Leigh E. Anderson (former empl) (Entered: 03/26/1993)
04/30/1993	111	NOTICE of affidavit in opposition to motion for trial de novo by pltf's atty (mj) (Entered: 05/04/1993)
05/03/1993	110	ORDER directing that post trial motions are made returnable before District Judge Marquez, etc. ( signed by Judge Richard J. Arcara ) Notice and copy of order sent to Douglas S. Cream, Leigh E. Anderson (mj) (Entered: 05/04/1993)
09/09/1993	112	TRANSCRIPT of trial held on 10/5/92 (mj) (Entered: 09/09/1993)
09/09/1993	113	TRANSCRIPT of trial held on 10/6/93 (mj) (Entered: 09/09/1993)
09/09/1993	114	TRANSCRIPT of trial held on 10/7/93 (mj) (Entered: 09/09/1993)
09/09/1993	115	TRANSCRIPT of trial held on 10/8/92 (mj) (Entered: 09/09/1993)
11/30/1993	116	ORDER, denying Plaintiff's request for Court to recind its Order of May 3, 1993. ( signed by USDJ Richard J. Arcara ) Notice and copy of order sent to Douglas S. Cream, Leigh E. Anderson, Robert F. Bensing, Stanley L. Cohen (SMO) (Entered: 12/03/1993)
07/06/1994	117	NOTICE of attorney appearance for Donavan Jack Richard Blissett by Alan J. Bozer (JL) (Entered: 07/07/1994)
07/18/1994		Mailed on 7/18/94 to Judge Alfredo Marquez (Tuscon, AZ), Clerk's file and certified copy of docket entries. Pursuant to Order of Judge Arcara, dated 4/30/93 (filed 5/3/93) the defendants' post-trial motion was to be returnable before visiting judge. (LK) (Entered: 07/18/1994)
07/28/1994		Tele-conference held (Judge Marquez - Arizona). Court orders that the motion for new trial is denied. Court further grants a stay of execution of the judgment in this case. Counsel to prepare a formal order for approval by the Court. (LK) (Entered: 08/18/1994)
08/16/1994	118	ORDER denying [108-1] motion for New Trial and defendants' motion to stay the execution of the judgment pending appeal is granted. (Judge Marquez (Arizona) Notice and copy of order sent to Douglas S. Cream, Alan J. Bozer, E. Anderson (LK) (Entered: 08/22/1994)
08/16/1994	119	STIPULATION and ORDER, that the Clerk of the Wyoming County Court shall vacate the filing of the transcripts of judgment of the United

		States District Court, nunc pro tunc as of 7/11/94 and strike them from the judgment rolls . Notice and copy of order sent to Douglas S. Cream, Alan J. Bozer, Leigh E. Anderson and Wyoming County Court. (LK) (Entered: 08/22/1994)
09/14/1994	120	NOTICE OF APPEAL by Bowen, H Offhaus, Smith, E. F. Helak, R. J. Clark . Fee Status: Paid \$105.00 Receipt #50770 (copy mailed to E. Anderson, and to Clerk, USCA, with copy of docket entries) (USCA Forms C, C-A, and D given to D. Cream)(DR) Modified on 09/15/1994 (Entered: 09/14/1994)
09/15/1994	121	AMENDED NOTICE OF APPEAL by Bowen, H Offhaus, Smith, E. F. Helak, R. J. Clark . Fee Status: Fee Not Paid (copy mailed to L. Anderson, and to Clerk, USCA, with copy of docket entries) (DR) (Entered: 09/16/1994)
09/28/1994		Received USCA Scheduling Order Re: [121-1] appeal by R. J. Clark, E. F. Helak, Smith, H Offhaus, Bowen USCA NUMBER: 94-2527 Appeal record due on 10/19/94 (JBG) (Entered: 09/28/1994)
09/28/1994		Received Exhibits from D. Cream (DR) (Entered: 09/29/1994)
10/19/1994	122	TRANSCRIPT of proceedings held before Judge Arcara on 7/7/92 (24 pages) (DR) (Entered: 10/19/1994)
10/28/1994		Certified and transmitted record on appeal to U.S. Court of Appeals: [121-1] appeal by R. J. Clark, E. F. Helak, Smith, H Offhaus, Bowen (DR) (Entered: 10/28/1994)
10/20/1995	123	OPINION and JUDGMENT OF USCA (certified copy) Re: [121-1] appeal by R. J. Clark, E. F. Helak, Smith, H Offhaus, Bowen, [120-1] appeal by R. J. Clark, E. F. Helak, Smith, H Offhaus, Bowen affirming the Judgment of District Court (DR) (Entered: 10/20/1995)
10/20/1995	124	Statement of costs of the USCA taxed in the amount of \$226.30 in favor of appellee Donovan J. R. Blisset (DR) (Entered: 10/20/1995)
10/25/1995	125	MOTION by attorney for Donovan Jack Richard Blissett for Attorney Fees with attached attorney affidavit and declaration. (DLC) (Entered: 10/31/1995)
11/01/1995	126	AFFIDAVIT by Assistant Attorney General in opposition to [125-1] motion for Attorney Fees by Donovan Jack Richard Blissett. (DLC) (Entered: 11/02/1995)
11/03/1995	127	ORDER, making the Mandate of the USCA the Judgment of this Court ( signed by USDJ Richard J. Arcara ) Notice and copy of order sent to Douglas S. Cream, Alan J. Bozer, Leigh E. Anderson, Robert F. Bensing, Stanley L. Cohen (DR) (Entered: 11/06/1995)
11/14/1995	128	REPLY MEMORANDUM by attorney's for Donovan Jack Richard Blissett in support of [125-1] motion for Attorney Fees. (DLC) (Entered: 11/15/1995)



11/14/1995	129	AFFIDAVIT by attorney Andrew LoTempio in support of [125-1] motion for Attorney Fees for Leigh Anderson, Esq. (DLC) (Entered: 11/15/1995)
11/14/1995	130	AFFIDAVIT by Thomas Moll, Esq., in support of [125-1] motion for Attorney Fees for Leigh Anderson, Esq. (DLC) (Entered: 11/15/1995)
11/14/1995	131	REPLY AFFIDAVIT Leigh Anderson attorney for plaintiff Re: [126-1] opposition affidavit by defendant's. (DLC) (Entered: 11/15/1995)
11/14/1995	132	REPLY AFFIDAVIT by Alan Bozer attorney for plaintiff Re: [126-1] affidavit in opposition by defendant's. (DLC) (Entered: 11/15/1995)
12/12/1995	133	ORDER OF USCA (certified copy) granting plaintiff-appellee's motion for fees in the amount of \$17,207.50 and costs in the amount of \$744.44 for a total of \$17,951.94 (DR) (Entered: 12/13/1995)
12/18/1995	134	AFFIDAVIT by Alan Bozer, Esq. for plaintiff regarding attorney fees. (JMD) (Entered: 12/20/1995)
01/26/1996		Status conference/Oral argument on plaintiff's motion for award of attorney's fees before Judge Arcara is set at 9:00 on 2/6/96. (DLC) (Entered: 02/01/1996)
02/16/1996	135	ORDER granting plaintiff's counsel [125-1] motion for Attorney Fees and costs and awards attorney Leigh Anderson attorney's fees and costs in the amount of \$23,700.00 and the law firm of Albrecht, Maguire, Heffern & Gregg, P.C., attorneys' fees and costs of \$482.10. The Clerk of the Court is hereby ordered to enter a judgment. (Signed by USDJ Richard J. Arcara). Notice and copy of order sent Douglas S. Cream, Leigh E. Anderson. (DLC) (Entered: 02/21/1996)
04/17/1996		Record on appeal returned from U.S. Court of Appeals: [121-1] appeal by R. J. Clark, E. F. Helak, Smith, H Offhaus, Bowen, [120-1] appeal by R. J. Clark, E. F. Helak, Smith, H Offhaus, Bowen (DR) (Entered: 04/17/1996)

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