



BJR 5/11/05 15:03
3:05-CV-01013 KINITI V. WAGNER
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CMP.

ISAAC K. KINITI
(Name)
1115 N. IMPERIAL AVE
(Address)
EL CENTRO, CA 92243
(City, State, Zip)
A 78-091-772
(CDC Inmate No.)

FILED
05 MAY -9 PM 3:58
CLERK U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY *B Reed* DEPUTY

United States District Court
Southern District of California

ISAAC KIGONDU KINITI,)
(Enter full name of plaintiff in this action.))
)
Plaintiff,)
)
v.)
)
BARBARA WAGNER (WARDEN),)
OFFICERS HARPER, ALVAREZ, WINTERS,)
OFFICER PAYNE, BERAN)
CORRECTIONS CORPORATION OF AMERICA)
(Enter full name of each defendant in this action.))
Defendant(s).)

'05 CV 1013 **DMS (PC)**
Civil Case No. _____
(To be supplied by Court Clerk)

Complaint Under the
Civil Rights Act
42 U.S.C. § 1983

A. Jurisdiction

Jurisdiction is invoked pursuant to 28 U.S.C. § 1343(a)(3) and 42 U.S.C. § 1983. If you wish to assert jurisdiction under different or additional authority, list them below.

B. Parties

1. Plaintiff: This complaint alleges that the civil rights of Plaintiff, ISAAC KIGONDU KINITI
(print Plaintiff's name)
, who presently resides at 1115 N. IMPERIAL AVE
(mailing address or place of confinement)
EL CENTRO CA, 92243, were violated by the actions
of the below named individuals. The actions were directed against Plaintiff at SAN DIEGO
CORRECTIONAL FACILITY on (dates) 11:24:04 TO _____, and 12:03:04
(institution/place where violation occurred) (Count 1) (Count 2) (Count 3)

2 Defendants: (Attach same information on additional pages if you are naming more than 4 defendants)

Defendant: Corrections Corporation of America resides in _____
Name (County of residence)

And is employed as a Private Contractor. This defendant is sued in
(Defendant's position/title (if any))

his/her individual official capacity. (check one or both.) Explain how this defendant was acting under the color of law. The Immigration and Customs Enforcement Department formerly the Immigration and Naturalization Service (INS) has contracted the Corrections Corporation of America (C.C.A) to hold their civil detainees who are in immigration proceedings before an immigration judge.

Defendant Barbara Wagner resides in San Diego
Name (County of residence)

And is employed as a Warden. This defendant is sued in
(Defendant's position/title (if any))

his/her individual official capacity. (check one or both.) Explain how this defendant was acting under the color of law. The Immigration and Customs Enforcement Department formerly the Immigration and Naturalization Service (INS) has contracted the Corrections Corporation of America (C.C.A) to hold their civil detainees who are in immigration proceedings before an immigration judge. Ms. Wagner acts as a warden for

this contract detention facility.

Defendant Harper resides in San Diego
Name (County of residence)

And is employed as a Detention officer. This defendant is sued in
(Defendant's position/title (if any))

his/her individual official capacity. (check one or both.) Explain how
this defendant was acting under the color of law. The Immigration and
Customs Enforcement Department formerly the Immigration and
Naturalization Service (INS) has contracted the Corrections Corporation of
America (C.C.A) to hold their civil detainees who are in immigration
proceedings before an immigration judge. Ms. Harper is a detention officer
for this contract detention facility.

Defendant Alvarez resides in San Diego
Name (County of residence)

And is employed as a Detention officer. This defendant is sued in
(Defendant's position/title (if any))

his/her individual official capacity. (check one or both.) Explain how
this defendant was acting under the color of law. The Immigration and
Customs Enforcement Department formerly the Immigration and
Naturalization Service (INS) has contracted the Corrections Corporation of
America (C.C.A) to hold their civil detainees who are in immigration
proceedings before an immigration judge. Ms. Winters is a detention officer

for this contract detention facility.

Defendant Winters resides in San Diego
Name (County of residence)

And is employed as a Detention officer. This defendant is sued in
(Defendant's position/title (if any))

his/her individual official capacity. (check one or both.) Explain how

this defendant was acting under the color of law. The Immigration and

Customs Enforcement Department formerly the Immigration and

Naturalization Service (INS) has contracted the Corrections Corporation of

America (C.C.A) to hold their civil detainees who are in immigration

proceedings before an immigration judge. Ms. Winters is a detention officer

for this contract detention facility.

Defendant Payne resides in San Diego
Name (County of residence)

And is employed as a Detention officer. This defendant is sued in
(Defendant's position/title (if any))

his/her individual official capacity. (check one or both.) Explain how

this defendant was acting under the color of law. The Immigration and

Customs Enforcement Department formerly the Immigration and

Naturalization Service (INS) has contracted the Corrections Corporation of

America (C.C.A) to hold their civil detainees who are in immigration

proceedings before an immigration judge. Mr. Payne is a detention officer for this contract detention facility.

Defendant Teran resides in San Diego
Name (County of residence)

And is employed as a Detention officer. This defendant is sued in
(Defendant's position/title (if any))

his/her individual official capacity. (check one or both.) Explain how

this defendant was acting under the color of law. The Immigration and

Customs Enforcement Department formerly the Immigration and

Naturalization Service (INS) has contracted the Corrections Corporation of

America (C.C.A) to hold their civil detainees who are in immigration

proceedings before an immigration judge. Mr. Teran is a detention officer

for this contract detention facility.

C. CAUSES OF ACTION (You may attach additional pages alleging other causes of action and the supporting facts supporting them if necessary.)

COUNT 1: The following civil rights have been violated: Due process, Access to the courts, Freedom from cruel and unusual punishment, 1st Amendments Right to petition government for redress, Right to free speech.

SUPPORTING FACTS:

On 11/3/04 I Isaac K. Kiniti the plaintiff was admitted to the San Diego Correctional Facility as a temporary room and board civil detainee. This detention facility is a contract facility operated by a private company called Corrections Corporation of America.

On 11/4/04 as I was leaving my cell to go eat the officer in charge of the unit instructed me to go back inside my cell and shut the door thinking this was normal procedure I complied with the order. The result was that I did not get to eat my meal. I then wrote a grievance on this officer. The unit manager said she would talk to the officer to ensure that all detainees are fed, so in good faith I dropped this grievance.

The following day I received a cellmate whom we were not compatible at all due to the fact that the detainee spoke no English at all and I do not speak Spanish furthermore the detainee had a practice of throwing used toilet paper with excrement in the trash can in the cell instead of flushing the used toilet paper. Due to the lack of communication I could not inform this detainee that his behavior was not only gross

but also a health hazard and it also made living in the cell unbearable because of the smell. This was made worse by the fact that we were on lockdown basis for at least 22 hours a day. I called officer Morino and informed her about the situation. The officer instead of addressing my concerns was very rude as she told me that I was not in a hotel and should get used to it. I then filed a grievance on this officer and the lack of a working classification system which would ensure that cell mates were compatible to minimize conflicts due to the nature of close quarter living and the fact that detainees were on lockdown 22hours a day. The unit manager said she would retrain officer Morino but refused to address the classification issue to ensure cellmate compatibility. As she said Corrections Corporation of America [hereafter C.C.A] policy was not grievable. The detention authorities failed to determine if cellmates were compatible resulting in the fact that detainees often share cells with other detainees who suffer from psychiatric problems and/or who are violent ex-felons. This results in cases of rapes, assaults and psychological stress. Thus increased violence, which jeopardizes detainee safety.

The C.C.A. policy of housing three detainees in a tiny cell designed to accommodate only two people compounds this problem. This results in detainees in the cell being left with no space at all to move about in the cell as the space in which detainees are supposed to move about in, even to use the bathroom is occupied by the floor sleeper. As one detainee is assigned to sleep on the floor due to the tiny size of the cell. The detainee sleeping on the floor has to sleep with his head against the toilet meaning

that the other detainees urinates on him during the night. Also when other detainees used the toilet at night it will mean that the detainee sleeping on the floor cannot sleep, as the other detainees will be relieving themselves directly on top of the floor sleeper as his head is next to the toilet and when the toilet is flushed the noise further adds to his suffering. I was a floor sleeper my entire time whilst housed at C.C.A. This situation is further aggravated by the 16 hours a day detainees have to stay in this cramped conditions in their cells lying on their 'beds' as they have no space to even stand in. Thus I was detained in cruel and inhumane conditions that posed a substantial risk of harm.

C.C.A. officials are aware of these dangerous conditions but have failed to act. The C.C.A officials actually encourage these conditions to persist in their desire to cramp as many detainees as possible in their facilities so as to maximize their profits as they are a contract detention center. The officials in order to maintain these overcrowded facility often argue that the floor sleepers are only temporary but detainees who have been housed in this facility for two years will testify that they have always had a floor sleeper in their cell as when one leaves he is immediately replaced by another one thus the floor sleeper is a permanent rather than a temporary fixture at the C.C.A. facility.

During the second week of November as I was going for my evening meals officer Robles for no apparent reason called me stupid, the officer proceeded to tell me that he has heard about me writing grievances on officers and I can write as many

grievances as I want as nothing will happen to him or any officer I write up, again I wrote a grievance on the said officer. Unit manager Mr. Barreto assured me that he would counsel officer Robles so again in good faith I dropped the grievance.

I later wrote more grievances which as per C.C.A. policy I never received a copy of and I was at that time unable to use the library due to the total lack of access to the library policy imposed by C.C.A. on new arrivals so I could not make my own copies, when I was finally able to use the library I wrote grievances about the inhumane conditions and circumstances that I and all the other detainees were being subjected to See Exhibit A.

The unit manager Ms. Harper called me into her office and advised me to refrain from writing any more grievances, she also informed me that CCA policy was not grievable and should thus stop writing grievances about C.C.A.policies. Detainees also warned me against writing grievances as CCA has a custom of placing detainees' in segregation for doing so. But I persisted as I wrote more grievances about the lack of hygienic products like soap which the facility was not providing enough of.

On 11/24/04 during the 4.00pm count. Officer Teran who was the unit officer was involved in an argument with a white Caucasian detainee. Officer Teran ordered the detainee to get into his cell so that he could perform count but the said detainee refused to comply, forcing the officer to place him in a holding cell as he was physically obstructing him from performing count. During count officer Teran approached my cell, I was sleeping on the floor due to the chronic overcrowding. The

officer ordered me and my two cellmates to approach the door. As I approached the door I had my headphones on listening to my radio and I was involved in a conversation with my cellmates about the difficulty of trying to go to the door due to the lack of space to move in. The officer very rudely asked me if I was talking to him, I removed my headphones and informed the officer that I was having a private conversation with my cellmates that had nothing to do with him. The officer continued being rude and told me that I had better not be talking to him "or else". He conveyed this message with an implied threat. On noticing the threat I told the officer that I was not scared of him and he was welcome to open the door and carry out his threat. The officer then went ahead with count. After he was done with count he called Sgt. Santizo who came and asked me to accompany him outside. I complied with the order. When I got outside I explained to the Sgt what had happened, the Sgt. Said that it was a miscommunication and was about to send me back to my cell when counselor Alvarez and Ms. Harper who happened to be walking by stopped to find out what was going on.

Ms Harper immediately ordered me to face the wall then began to harshly question me on what had taken place. Every time I turned to look at Ms Harper so that I could answer her questions she screamed at me not to look at her and to look at the wall. Her actions were not done for any security reasons, as I was not shouting or violent and taking into consideration my diminutive stature of 5.5 feet and 127

pounds and the fact that there were four officers present. Ms. Harper's actions were done with the sole intent of vexing, annoying, harassing or intimidating me. Ms Harper and counselor Alvarez then ordered that I should be taken to the segregation unit. Whilst the other detainee who was Caucasian and who had refused to go to his cell for count was removed from the holding cell and told by Ms. Harper that he could return to his cell while I was placed in the holding cell to await transfer to the segregation unit. This obviously was a case of selective enforcement and racially motivated due to the fact that I am of African decent.. The other Caucasian detainee was in the same situation as I was in, for both of us had allegedly disrupted count though his offence was actually more serious than mine as the officer could not perform count until he first had the detainee put in a security holding cell whilst me on the other hand my charge was minor in nature as I was securely locked in my assigned cell and thus was not in a position to physically interfere with the officer performing count. This disparity in adverse action against me compared to no adverse action having been taken against the Caucasian detainee who was similarly situated with me was racially motivated. Thus I was denied equal protection of the law. Other detainees of color know Ms Harper's racial attitude as they have heard her to refer to other black detainees as monkeys.

On arrival at the segregation unit the officers proceeded to deprive me of my clothes. I was then put in a cell where the air conditioning was turned on at maximum without clothes or a blanket. Taking into consideration that the temperatures outside

was about 30 degrees the cell was freezing. I was fed in this condition and it was not until an hour later was I given clothes and a blanket. I wrote a grievance about this. Through out my stay in segregations the temperatures in the cell were extremely cold making sleeping impossible in that cold. All the detainees who were housed in that unit during this period all complained about the cold but their concerns fell on deaf ears. I talked to unit officers and the facility doctor and psychiatrist to give me an extra blanket or request that the management reduce the setting on the air conditioning as the single paper thin blanket provided was no protection against the cold in those temperatures but they all informed me that it was the C.C.A. policy and nobody can do anything about it. In desperation I attempted to block the vent with toilet paper in an effort to reduce the amount of cold air blowing from the vent. On noticing that I had put toilet paper on the vent, officers ordered me to take down the toilet paper from the vent. I informed the officers that it was extremely cold in the cell and I will gladly take down the toilet paper if they reduced the amount of cold air coming out of the vent or if I was issued another blanket. The officer informed me again that it was C.C.A. policy to issue detainees only one blanket and there was nothing he could do about it, I was issued a disciplinary report for covering the vent. See Exhibit B. As a result of these very cold temperatures I developed a nasty cough and cold I also had to sleep folded almost in two in an effort to conserve body heat, this resulted in considerable pain in my upper and lower back due to this posture that

I was forced to sleep in, in an attempt to conserve body heat. Thus my health was negatively affected.

I received no hearing until almost seven days after transfer to segregation and I was not provided with any investigative summary prior, during or after the hearing.

When I went for my disciplinary hearing I found Ms. Harper and Counselor Alvarez already in the office talking and laughing with the hearing officer Ms. Winters. When my hearing began I requested that my witnesses be called to testify on my behalf to which Ms. Winters flatly refused.

Officer Teran submitted an affidavit that contained statements he knew to be false or should have known were false had he not recklessly disregarded the truth. Teran's action was vindictive, as me and the officer had been involved in prior confrontation on a different day as the officer had ordered me not to stand near the stairwell whilst watching TV. I told the officer that I was not obstructing the stairs in any way as I was on the ground beside the stair railings and not on the stairs themselves and I was standing there as all seats were taken and due to the serious overcrowding there was no where else for me to stand. Teran had then insisted that I stand elsewhere, to which I replied that he should show me an empty space and I will gladly move. Teran could not show me any empty space and so I refused to move from where I was. Teran had then told me that I will learn to do as I am told once I stay long enough at the facility as I will realize that officers are not to be questioned by detainees and any detainee who questions them soon learns the hard way.

Ms. Winters denied me the witnesses who were present and who could have testified on my behalf and proved that the officer's statements were false. Thus in effect she denied me the right to present any evidence and put up a defense on my behalf.

According to the detainees handbook the infraction I had been charged with "interfering with an officer during count" is a mid category offence which carries a maximum of 3 days in segregation. But Ms. Winters sentenced me to 36 days in segregation for this offence. But by Ms. Harper being Ms. Winter's superior, she conspired with her and counselor Alvarez to sentence me to much more than the maximum time allowed in order to punish me and please her boss who was motivated to punish me for the grievances I had written and the fact that the hearing was heard in Ms. Harper's presence and in her office was clearly a violation of my due process rights to an administrative fact finder free from severe personal conflicts of interest, as Ms. Harper who was one of the people who had filed complaints about me and ordered my transfer to the segregation unit was not there as a witness but as a fact finder and to oversee the hearing officer as she is her superior. Counselor Alvarez's presence in the hearing was also a conflict of interest as he was not there as a witness as he did not testify to anything but as a fact finder and bearing in mind that he was also one of the complaining witnesses against me.

The result of this conspiracy was that Ms winters in her desire to punish me

went over the sentencing guidelines limit as set out in the detainee handbook, and imposed major sanctions for a minor infraction without stating why the infraction was treated as a major violation in both the notice and in her decision to do so. According to the detainee handbook the infraction I had been charged with carries a maximum of three days in segregation but Ms. Winters sentenced me to thirty-six days in segregation for this infraction. This was a gross violation of my due process rights. When I informed Ms. winters about the sentencing guidelines outlined in the detainee handbook she informed me that as a hearing officer she is at liberty to do as she pleases and I can go ahead and appeal her decision but it will do me no good. I was never provided a record of the proceedings and any written findings. I was shortly on transferred before I could appeal this capricious decision. Due to the maximum security restricted conditions imposed on detainees in segregation I had a liberty interest in remaining free from maximum security. Ms winters actions were malicious, capricious and arbitrary and only intended to punish me for the grievances I had written despite being warned by her boss Ms. Harper to refrain from writing any grievances. Ms. Winter's excessive imposition of restrictions on me was only meant to chill or deter other detainees and myself from filling any grievances in the future. This interferes with ones right of access to the courts as this right includes the right to bring a grievance. The punishment I received could deter a reasonable person from exercising this right to bring a grievance.

Officer Teran maliciously and knowingly filed false charges against me, but

even with the officer's dishonest statements my 'infraction' did not warrant being sent to the segregation unit for more time than was authorized by the detainee hand book.

Ms. Winters conspired with Ms. Harper and deprived me off the means to present my evidence, as they refused to call my witnesses for no reason and taking into consideration that the hearing was held in Ms. Harper's office which is directly opposite to the housing unit and i could see my witnesses walking about in the housing unit during the hearing. MS Winters used this disciplinary proceeding to excessively punish me but the real reason for the excessive and arbitrary punishment was the grievances I had filed. All this was done as retaliation for my filing grievances thus violating my First amendment rights. What proves this is the fact that before I started filling grievances I had refused to stand count due to the lack of space to stand in and thus 'interfered with an officer during count'. I had thus been accused of committing the same infraction, but on that occasion the infraction was not serious enough to even warrant a hearing nor a warning nor counseling leave alone being sent to segregation. But after being warned by Ms. Harper about filling grievances, a warning which I did not heed. The same infraction was now treated as a major offense with excessive punishment. Thus this action was taken with the intent of discouraging me and other detainees from filling grievances.

Furthermore due to the fact that I typed my grievances Ms. Harper had told me that I couldn't use the library to type my grievances as they were not considered

legal work and only legal work could be typed in the library. I informed Ms. Harper that grievances were legal work and there was no rule against typing grievances so I continued to type grievances in the library. Thus by placing me in administrative segregation Ms. Harper's intent was also to stop me from typing grievances as detainees in administrative segregation have no physical access to the library as per C.C.A. policy.

During my confinement in the administrative segregation unit I was subjected To inhumane, degrading and unsafe sanitary conditions, with the sole intent of punishment. As the conditions I was subjected to did not serve any security or administrative purpose.

On 11/27/04 I informed the officer working in segregation that the toilet in my cell was flooded. The officer told me that he was going to put a work order for the plumber to come and fix it. I was left in this degrading condition of having to eat and sleep in a cell reeking of human waste, as the toilet was not fixed for almost five days.

On or about 11/29/04 Counselor Alvarez came to bring me my legal mail but to my surprise my mail was opened. When I inquired as to why my legal mail was not opened in my presence, Alvarez claimed that he opened the mail when I turned around to get a pencil to sign for it. But since this was not the case I refused to sign for the said legal mail. Alvarez then smiled and told me " write me up I don't give a shit." I filled a grievance about this incident as well. Alvarez opened my incoming legal mail with no justification other than harassment. Before Alvarez left I informed

him about my toilet to which he replied that he already knows and I just have to wait until they get to it, as it was not a priority. I requested Alvarez to move me to one of the many numerous empty cells available but he refused, though he was later the same day going to move another detainee from one cell to another empty cell because the detainee 'did not like' the cell he was in. Alvarez's actions demonstrated deliberate indifference and violated my due process rights as he deliberately placed and left me in unsafe sanitary conditions that endangered my health without any justification his actions were malicious and only intended to cause harm as there were other empty cells with working toilets he could have placed me in had he wanted to do so.

Due to all this mistreatment I went on a hunger strike. To my amazement officer Payne came to my cell and told me that he and Alvarez were betting if I would eat the next day and Alvarez had wagered him money that I would succumb to hunger and eat whilst Payne had bet that I would not eat. Thus Payne was coming to let me know that he had 'faith' in me that I would not eat the next day. This further shows the official neglect of human misery that I was subjected to. For the next four days I did not eat anything, as I could not bring myself to eat in a cell smelling and looking at my own excrement as I would throw up when I tried to eat..

On 12/2/04 at 8.00am in the morning public health official Ms Graham was making her rounds in the unit. As she got to my cell she called me and told me to flush the toilet due to the smell coming out of my cell. Ms. Graham could not even

come close to my cell door due to the ghastly sight that was my toilet and the smell coming from it. I informed Ms. Graham that for the last five days I had been living in that condition. She called counselor Alvarez to inform him about this condition but Alvarez informed her that he already knew about the situation. Ms Graham instructed Alvarez that the toilet should be fixed immediately or I should be moved to another cell and she was going to come back the next day to check on it.

At about 2.00pm the same day, I was to be transferred and it was not until then when I was packing my belongings to leave that Alvarez finally sent for the plumber who immediately came to fix my toilet as I was leaving. Thus had Alvarez wanted to have my toilet fixed all those days I had to live in a cell looking at and smelling my own excrement he could have done so. But he purposely refused to do so, for he maliciously sought to cause me harm with the sole intent of increasing my suffering and degradation.

When I was in segregation I was denied even a pencil to write with and could only write my grievances when I managed to borrow a pencil from my next-door cellmate. Since I was on 24 hour lock down I could only give the officers my grievances to put in the mail box for me and I wonder how many actually made it to the mail box for a soon as I handed the officers the grievances they would proceed to read them despite my protests then laugh and tell me to ask those who have been there for a while and they will let me know that I am wasting my time by filling those grievances as nothing will be done and the grievances wount help me.

Whilst in segregation the cells are constantly illuminated. This has the effects of depriving one off sleep as one cannot sleep with the lights on. When I complained about this I was once again informed that it was C.C.A. policy and nobody could do anything about it and it is thus not grievable as all C.C.A. policy is non grievable.

From the numerous officers remarks and detainees complaints it is clear that C.C.A. is unwilling or unable to discipline their officers. Further more these actions were carried out at the direction or with the support of senior officers some of whom like Ms. Harper are the ones in charge of the grievance process. Taking this into consideration it leaves no doubt that the officers' remarks about their ability to violate detainees rights with impunity and the futility of filling grievances were correct. Thus C.C.A. has failed to adequately train, discipline and supervise their officers resulting in the officers' unconstitutional conduct towards me.

In a detention facility, where all the persons involved are in close and daily contact. The warden and supervisors have the ability to daily monitor the activities of subordinates as well as the conduct of officers on detainees. As a result the C.C.A. warden knew or should have known of her officers conduct and cruel treatment they inflicted upon me but she failed to act to stop them. When I formally complained to the warden about her officers conduct See Exhibit C she never did address my concerns in any way, as she has not replied to me up to now. Her actions thus demonstrate deliberate indifference.

This conduct by C.C.A. officers towards me is made worse by the fact that I am a civil detainee and not a prisoner or inmate and thus should be accorded more considerate treatment and conditions of confinement than inmates and prisoners whose conditions of confinement are designed to punish. If it is cruel and unusual punishment to hold convicted criminals in unsafe conditions, it must be unconstitutional to confine detainees who may not be punished at all in unsafe conditions.

Ms. Harper, officers Teran, Payne, Winters and counselor Alvarez conspired under color of Federal law to subject me to the hardships and injuries I suffered in violation of substantive due process and equal protection, whilst under their custody. They acted maliciously, sadistically and with the sole intent to punish me for filing grievances. Thus in violating of the First Amendment.

The Immigration and Customs Enforcement Agency (ICE) formerly the INS has a duty not to violate detainees due process rights by turning over the management of its detention centers to private correctional entrepreneurs known to violate and mistreat detainees. ICE cannot “avoid its responsibilities... merely by delegating custodial responsibilities to irresponsible private persons, any more than a state could avoid its duty not to impose cruel and unusual punishment by turning over the management of its prisons to private correctional entrepreneurs known to inflict cruel and unusual punishments’. Due to the fact that there are numerous law suits against C.C.A the ICE is well aware of the numerous violations of detainees’ rights by C.C.A.

In addition ICE sets standards for the conduct of private detention facilities and is required to monitor these facilities. Thus it is clear that those persons to whom ICE contracts its responsibilities for holding their detainees act as agents of the Federal government. Merely because ICE contracts out this work, it is not relieved of its duty to exercise the constitutional and federal treatment standards of detainees under the due process clause.

The conditions of detention I was detained under were torturous, humiliating and degrading. They violated my 1st, 5th, 8th and 14th amendments of due process and equal protection, as they did not serve any security or administrative need but were permitted to continue even after the officers named above leant of them because they intended this conditions to serve as punishment. No other detainee even in segregation was left in the conditions I was left in. I was forced to eat and sleep in a cell reeking with human waste; these unhygienic and unsafe conditions were a serious hazard to my health. When I could no longer bear to eat looking and smelling my own waste I went on a hunger strike but the result was complete deliberate indifference by Ms. Harper, officer Payne and Counselor Alvarez who refused to move me to another cell despite the fact that there were other available empty cells available. The warden knew or should have known of my perilous condition but she failed to intervene on my behalf, as the law requires.

This treatment caused untold emotional anguish, mental, psychological, and

physical suffering. I have a well-documented sleeping disorder for which I was seeing the facility's psychiatrist and was on prescribed medication for. By the cell being extremely cold, the lights continuously being left on and the nausea I felt as a result of being bombarded by the human waste in the broken toilet, I couldn't sleep which further deteriorated my medical condition with the result that I could not sleep due to the cold and thus had to try and sleep folded almost in half so as to try and not loose any body heat. This resulted in muscle aches and back pains, which I still suffer today. I saw the facility psychiatrist during this period and requested him to authorize me to have an extra blanket or have the vent blowing the cold air to be reset so as not to blow so much cold air as I could not sleep in this conditions. The psychiatrist informed me that C.C.A. policy required that all detainees be issued only a single blanket and the air conditioning to be as it was and there was nothing he could do about it. As a result I was left to endure this harsh and unsafe sanitary conditions until I was transferred.

D. Previous Lawsuits and Administrative Relief

1. Have you filed other lawsuits in state or federal courts dealing with the same or similar facts involved in this case? Yes **X** No

If your answer is "Yes", describe each suit in the space below. [If more than one, attach additional pages providing the same information as below]

(a) Parties to the previous lawsuit:

Plaintiffs: _____ N/A _____

Defendants: _____

(b) Name of the court and docket number: _____

(c) Disposition: [For example, was the case dismissed, appealed, or still pending?] _____

(d) Issues raised:

_____ N/A _____

(e) Approximate date case was filed: _____ N/A _____

(f) Approximate date of disposition: _____

(2) Have you previously sought and exhausted all forms of informal or formal relief from the proper administrative officials regarding the acts alleged in part C above? [E.g., CDC inmate/parolee appeal Form 602, etc.]

X Yes No

If your answer is "Yes", briefly describe how relief was sought and the results. If your answer is "NO", briefly explain why administrative relief was not sought.

The administrative remedies available to me was filling 'grievance' form, of

which I filed several see exhibit A and B but I did not receive an answer as I was transferred to another institution thus making the remedy unavailable to me. Whist in another institution I tried exhaust my remedies by filling a complaint with the warden See Exhibit but the warden failed to reply to my complaints thus I exhausted all remedies available to me because since the warden chose to ignore or deny my claims and taking into consideration that the warden is the last person one can appeal to about any grievance one has filed. I thus exhausted any remedies available to me when I wrote the warden about my complaints. Finally the 'grievance' process does not provide monetary relief and any grievance filed asking for monetary damages claim would result in rejection of claim by administrative board as constituting improper subject matter for administrative review. Thus the grievance process is futile or inadequate as it does not provide monetary relief for the detainee and furthermore C.C.A. policy is not grievable.

E. Request for Relief

Plaintiff requests that this Court grant the following relief:

1. An injunction preventing defendant(s): FROM HOUSING THREE DETAINEES
IN A CELL FOR MORE THAN ONE WEEK.

2. Damages in the sum of \$ 150,000: 00 (one hundred and fifty thousand)

3. Punitive damages in the sum of \$ two hundred and fifty thousand(250,000:00

4. Other: _____

F. Demand for Jury Trial

Plaintiff demands a trial by Jury Court. (Choose one.)

G. Consent to Magistrate Judge Jurisdiction

In order to insure the just, speedy and inexpensive determination of Section 1983 Prisoner cases filed in this district, the Court has adopted a case assignment involving direct assignment of these cases to magistrate judges to conduct all proceedings including jury or bench trial and the entry of final judgment on consent of all the parties under 28 U.S.C. § 636(c), thus waiving the right to proceed before a district judge. The parties are free to withhold consent without adverse substantive consequences.

The Court encourages parties to utilize this efficient and expeditious program for case resolution due to the trial judge quality of the magistrate judges and to maximize access to the court system in a district where the criminal case loads severely limits the availability of the district judges for trial of civil cases. Consent to a magistrate judge will likely result in an earlier trial date. If you request that a district judge be designated to decide dispositive motions and try your case, a magistrate judge, will nevertheless hear and decide all non-dispositive motions and will hear and issue a recommendation to the district judge as to all dispositive motions.

You may consent to have a magistrate judge conduct any and all further proceedings in this case, including trial, and the entry of final judgment by indicating your consent below.

Choose only one of the following:

Plaintiff consents to magistrate judge jurisdiction as set forth above.

OR

Plaintiff requests that a district judge be designated to decide dispositive matters and trial in this case.

5/6/05
Date

[Signature]
Signature of Plaintiff

EXHIBIT A

Grievance No.: Copy

Form 14-5A - For Official Use Only

CCA INMATE/RESIDENT GRIEVANCE FORM

Name (Print): KWITI ISAAC K
Last Name First Middle Initial

Number: 78-091-772 Housing Assignment: _____

INFORMAL RESOLUTION ATTEMPTED? Yes No

NAME OF STAFF CONTACTED All unit officers, unit manager and Chief of Security

STATE GRIEVANCE (Include documentation, witnesses, date of incident and any other information pertaining to the grievance subject. Attach additional pages if necessary).

SEE ATTACHED

Requested Action

Inmate/Resident's Signature: [Signature] Date Submitted: 11/18/04

GRIEVANCE OFFICER'S REPORT

GRIEVANCE OFFICER'S DECISION

Grievance Officer's Signature: _____ Date: _____

Inmate/Resident's Signature (upon request): _____ Date: _____

APPEAL: Yes No STATE REASON (S) FOR APPEAL: _____

WARDEN/ADMINISTRATOR'S RESPONSE

Warden/Administrator's Signature: _____ Date: _____

Inmate/Resident's Signature (upon request): _____ Date: _____

The current C.C.A. policy that detainees cannot use their blankets to cover themselves even under extremely cold temperatures during the whole day is both unacceptable and unconstitutional based on the following reasons. First we detainees are currently on lockdown for approximately 16 hrs. a day. Due to the chronic overcrowding we are housed three people to a cell built to house only two. Thus there is no room for movement at all as the space intended for this purpose is taken over by the floor sleeper. Under these circumstances there is no room for the three detainees in a cell to maneuver around in order to make their beds without bumping into one another. This bumping into each other causes tempers to flare and the risk of violence is imminent.

Secondly the cells are temperature controlled and as a result the temperatures in these cells are very low in an effort to control the spread of germs. This taken into consideration that detainees cannot move about in their cells due to the limitation of space caused by the overcrowding leaves the detainees with laying on their beds as the only alternative they have. For the institution to mandate that under these circumstances detainees cannot use their blankets to protect themselves from the cells' cold temperatures is both a violation of the United States constitution and Federal Law. In *Pell v Procunier*, 417 U.S. 817. The United States Supreme Court held that "prisoners are not stripped off all their constitutional rights." The Federal Courts have gone further when in *Smith v Sullivan* 553 F.2d 373, the Federal District Court held that "inmates cannot be subjected to extremes of either hot or cold temperatures. As this would constitute cruel and unusual punishment in violation of the 8th constitutional amendment. See also *Chandler v Baird* 926 F2d 1057 (11th cir 1991)

This policy also demonstrates a deliberate indifference. As a result of this unnecessary exposure to cold temperatures, detainees are falling sick with colds and flu's which has resulted in further burdening already overburdened medical treatment lines as more and more detainees seek treatment. Federal courts have stated time and again that a detainee "has a constitutional right to a safe and healthy environment." See *Green v Baron* 879 F.2d 305 (8th Cir. 1989).

By me being a Federal detainee I expect and have a right to be treated according to Federal Law.

Furthermore this draconian policy is not instituted to serve any administrative, security or health procedures, if anything it is enforced for the sole purpose of giving officers reason to vex, annoy or harass detainees.

For the institution to punish detainees by placing them in administrative segregation for trying to protect their health by covering themselves with their blankets in cold temperatures is a gross violation of the due process clause of the 14th Amendment of the U.S. Constitution.

The institution should come up with a reasonable and practical solution such as that one cannot leave their cells without making ones bed. Rather than stick to the current policy that is unreasonable, impractical and illegal.

The C.C.A. administration should also understand that where their policies are in contradiction of Federal Law, their policies are null and void as Federal law is Supreme, thus any policy that is in violation of Federal Law is actually an illegal policy being imposed on detainees and as such detainees are not mandated to follow any illegal policy irrespective of who issues it.

Grievance No.: _____

Form 14-5A - For Official Use Only

CCA INMATE/RESIDENT GRIEVANCE FORM

Name (Print): KINTI ISAAC K
Last Name First Middle Initial

Number: A#78-091-772 Housing Assignment: _____

INFORMAL RESOLUTION ATTEMPTED? Yes No

NAME OF STAFF CONTACTED Unit Manager, Chief of Security.

STATE GRIEVANCE (Include documentation, witnesses, date of incident and any other information pertaining to the grievance subject. Attach additional pages if necessary).

SEE ATTACHED.

Requested Action

Inmate/Resident's Signature: [Signature] Date Submitted: 11/23/04

GRIEVANCE OFFICER'S REPORT

GRIEVANCE OFFICER'S DECISION

Grievance Officer's Signature: _____ Date: _____

Inmate/Resident's Signature (upon request): _____ Date: _____

APPEAL: Yes _____ No _____ STATE REASON (S) FOR APPEAL: _____

WARDEN/ADMINISTRATOR'S RESPONSE

Warden/Administrator's Signature: _____ Date: _____

Inmate/Resident's Signature (upon request): _____ Date: _____

ATTACHED

I am writing about the serious overcrowding here at C.C.A.

The cells are built to hold a maximum of two people but C.C.A. has exceeded this capacity by housing three people in this very tiny cells. This is not a temporary situation as detainees who have been here for more than six months have had to live in this squalid conditions.

This overcrowding has resulted in inhumane living conditions for detainees as one is forced to use the restroom while the floor sleeper's head is only about six inches from the toilet bowl. This is not only degrading and debasing but also unhygienic.

The distance between the bottom bunk and the floor sleeper is no more than eight inches. The floor sleeper has thus taken any available space in the cell and as a result bodily movement of the detainees in the cells is almost non-existent. In this conditions simple tasks like making ones' bed and using the restroom are very difficult to perform and the likelihood of accidents are very high due to this lack of space to maneuver.

The chronic overcrowding has resulted in violent and predatory detainees being housed in the same units and cells as non violent detainees. This has put the non violent detainees lives in danger of physical and even sexual attacks from these violent detainees with whom they have to share the overcrowded cells with.

Another result of this overcrowding is that detainees are being served cold meals due to extended feeding times. Medical care is being postponed as more and more detainees seek help. The bathroom facilities are overburdened resulting in cold showers for detainees who are last on the shower lines. The danger of violence has also been increased as detainees compete for the limited resources such as seats, board games and other items which are in short supply due to the overcrowding.

The most serious result however is that detainees are now ordered out of their cells at 12.30 am. are placed in overcrowded holding cells until 6.00 am when they are transported to court, where they are again held in overcrowded holding cells until they see an immigration judge, some don't see the judge until 2.00 p.m.. Thus by the time they see the judge the detainees are mentally and physically exhausted and are not in a position to competently present their case to the judge this is a very disturbing issue taking into consideration that 99% of the detainees are Pro se litigants. Thus the detainees are actually being hindered from effectively representing themselves as by the time they get to see the judge they are not in a state

either mentally or physically to effectively represent themselves due to the ordeal they have had to endure before getting to court.

Grievance No.: Copy

Form 14-5A - For Official Use Only

CCA INMATE/RESIDENT GRIEVANCE FORM

Name (Print): KWITI ISAAC K
Last Name First Middle Initial

Number: 78-091-772 Housing Assignment: Add-Sec

INFORMAL RESOLUTION ATTEMPTED? Yes No

NAME OF STAFF CONTACTED All unit officers & Counselor Alvarez

STATE GRIEVANCE (Include documentation, witnesses, date of incident and any other information pertaining to the grievance subject. Attach additional pages if necessary)

It has now been six days or more since my toilet stopped working or rather flooded. My requests to be transferred to a different cell or have the toilet fixed have all been met by the same reply "We will put in a work order to have that toilet fixed" but nothing has been done. As a result I am forced to eat & live in this cell in this condition.

Requested Action:

This treatment vested out against me is basically unjustified. It is inhumane to treat someone like this. Alvarez should be prose

Inmate/Resident's Signature: [Signature] Date Submitted: 12/03/04

GRIEVANCE OFFICER'S REPORT

[Blank lines for Grievance Officer's Report]

GRIEVANCE OFFICER'S DECISION

[Blank lines for Grievance Officer's Decision]

Grievance Officer's Signature: _____ Date: _____

Inmate/Resident's Signature (upon request): _____ Date: _____

APPEAL: Yes _____ No _____ STATE REASON (S) FOR APPEAL: _____

[Blank lines for Appeal Reason]

WARDEN/ADMINISTRATOR'S RESPONSE

[Blank lines for Warden/Administrator's Response]

Warden/Administrator's Signature: _____ Date: _____

Inmate/Resident's Signature (upon request): _____ Date: _____

EXHIBIT B

DISCIPLINARY REPORT INVESTIGATION FORM

Inmate / Detainee Name and #: KINITI-WAIRIMU, ISAACK AH 78-091-772

Date / Time of Incident: 12-1-04 0045

Date / Time Reported: 12-1-04 0100

Investigator: SCO KITCHENS

Date & Time Investigation Begun: 12-1-04 0608 Location: A/B-204

Date & Time Investigation Ended: 12-1-04 Ours

RESULTS: On December 1, 2004 I advised detainee Kiniti-Wairimu AH 78-091-772 of a disciplinary report charging him with refusing to take down toilet paper stuck to his cell vent. I read to him the description of offense and ask why he did not remove the toilet paper from him vent. Kiniti stated the the vent blew all cold air and that he could not sleep due to it being so cold in his cell. I told Kiniti he could not place any object on the vent restricting circulation. Kiniti complied and removed the toilet paper. END OF STATEMENT

Investigator SCO K. J.

Date: 12-1-04

EXHIBIT C

To: The Warden
C.C.A. San Diego Correctional Facility
P.O.BOX 439049
San Diego, Ca 92143

From: Isaac K. Kiniti A# 78-091-772
EEC/SPC
1115 N. IMPERIAL AVENUE
EL CENTRO, CA 92243-1739

12/13/04

**REF: CITIZENS COMPLAINT AGAINST VARIOUS CORRECTIONS
CORPORATION OF AMERICA OFFICERS FOR VIOLATING
DETAINEE ISAAC KINITI'S CIVIL AND CONSTITUTIONAL RIGHTS.**

Dear Warden,

I am filling this citizens complaint with your office, as I am no longer a detainee at your facility and thus cannot file a grievance report.

On 11/3/04 I was admitted to the San Diego Correctional Facility as a temporary room and board civil detainee.

On 11/4/04 as I was leaving my cell to go eat the officer in charge of the unit instructed me to go back inside my cell and shut the door, thinking this was normal procedure I complied with the order. The result was that I did not get to eat my meal. I wrote a grievance on this officer. The unit manager said she would talk to the officer to ensure that all detainees are fed, so in good faith I dropped this grievance. The following day I received a cellmate whom we were not compatible at all due to the fact that the detainee spoke no English at all and I do not speak Spanish furthermore the detainee had a practice of throwing used toilet paper with excrement in the trash can in the cell instead of flushing the used toilet paper. Due to the lack of communication I could not inform this detainee that his behavior was not only gross but also a health hazard and it also made living in the cell unbearable because of the smell. This was made worse by the fact that we were on lockdown basis for at least 22 hours a day. I called officer Morino and informed her about the situation. The officer instead of addressing my concerns was very rude as she told me that I was not in a hotel and should get used to it. I then filed a grievance on this officer and the lack of a working classification system which would ensure that cell mates were compatible to minimize conflicts due to the nature of close quarter living and the fact that detainees were on lockdown 22hours a day. The unit manager said she would retrain officer

Morino but refused to address the classification issue to ensure cellmate compatibility. On that issue my grievance was still pending when I was transferred.

During the second week of November as I was going for my evening meals officer Robles for no apparent reason called me stupid, the officer proceeded to tell me that I can write as many grievances as I want as nothing ill happen to him, again I wrote a grievance on the said officer. Unit manager Mr. Barreto assured me that he would counsel officer Robles so again in good faith I dropped the grievance. I later wrote more grievances, and then unit manager Ms. Harper called me into her office and advised me to refrain from writing any more grievances, she also informed me that CCA policy is not grievable. Detainees warned me against writing grievances as CCA has an unofficial policy of placing detainees' in segregation for doing so. But I continued

The Corrections Corporation of America (hereafter CCA) was involved in numerous abuses of detainees' civil rights of which I wrote up grievances about. See Exhibit A.

On 11/24/04 during the 4.00pm count. Officer Teran who was the unit officer was involved in an argument with a white Caucasian detainee. Officer Teran ordered the detainee to get into his cell so that he can perform count the said detainee refused to comply forcing the officer to place him in a holding cell so that he can do the count. During count officer Teran approached my cell, I was sleeping on the floor due to the chronic overcrowding. The officer ordered me and my two cellmates to approach the door. As I approached the door I had my headphones on listening to my radio and I was involved in a conversation with my cellmates. The officer very rudely asked me if I was talking to him, I removed my headphones and informed the officer that I was having a private conversation with my cellmates that had nothing to do with him. The officer continued being rude and told me that I had better not be talking to him "or else". He conveyed this message with an implied threat. On noticing the threat I told the officer that I was not scared of him and he was welcome to open the door and carry out his threat. The officer then went ahead with count. After he was done with count he called Sgt. Santizo who came and asked me to accompany him outside. I complied with the order. When I got outside I explained to the Sgt what had happened, the Sgt. Said that it was a miscommunication and was about to send me back to my cell when Ms. Harper came. She immediately ordered me to face the wall then began to harshly question me on what had taken place. Every time I turned to look at Ms Harper so that I could answer her questions she screamed at me not to look at her and to look at the wall. Her actions were not done for any security reasons as I was not shouting or violent but she only wanted to harass and intimidate me. Ms Harper then ordered that I should be taken to the segregation unit. Whilst the other detainee who was Caucasian and who had refused to go to his cell for count was told

by Ms. Harper that he could return to his cell. This obviously was a case of selective enforcement and racially motivated due to the fact that I am black. Ms Harper has been heard to refer to other black detainees as monkeys. On arrival at the segregation unit the officers proceeded to deprive me of my clothes. I was then put in a cell where the air conditioning was turned on at maximum without clothes or a blanket. Taking into consideration that the temperatures outside was about 30 degrees the cell was freezing. I was fed in this condition and it was not until an hour later was I given clothes and a blanket. I wrote a grievance about this. Through out my stay in segregations the temperatures in the cell were extremely cold making sleeping impossible in that cold. I talked to all unit officers and the facility doctor to give me an extra blanket or reduce the setting on the air conditioning as the single paper thin blanket provided was no protection against the cold in those temperatures but they all informed me that it was the C.C.A. policy and nobody can do anything about it. When I went for my hearing I found Ms. Harper and Counselor Alvarez already in the office talking and laughing with the hearing officer Ms. Winters. When my hearing began I requested that my witnesses be called to testify on my behalf to which Ms. Winters flatly refused. According to the detainees handbook the infraction I had been charged with "interfering with an officer during count" is a mid category offence which carries a maximum of 3 days in segregation. But Ms. Winters sentenced me to 36 days in segregation for this offence. But by Ms. Harper being Ms. Winter's superior it was rather obvious that she will be influenced to sentence me to the maximum time allowed in order to please her boss and the fact that the hearing was heard in Ms. Harper's presence and in her office. But she went over the limit, which was a gross violation of my rights. When I informed Ms. winters about the sentencing guidelines outlined in the detainee handbook she informed me that as a hearing officer she is at liberty to do as she pleases and I can go ahead and appeal her decision but it will do me no good. Officer Teran knowingly filed false charges against me, Ms. Winters conspired with Ms. Harper to deprive me the means to present my evidence, and to excessively punish me but the real reason for the punishment was the numerous grievances I had filed. All this was done as retaliation for my filing grievances. What proves this is the fact that before I started filling grievances I had refused to stand count and thus interfered with an officer during count. I had thus been accused of committing the same infraction but on that occasion the infraction was not serious enough to even warrant a hearing nor a warning nor counseling leave alone being sent to segregation. But after being warned by Ms. Harper about filling grievances, a warning which I did not heed. The same infraction now was treated as a major offense with excessive punishment.

On 12/27/04 I informed the officer working in segregation that the toilet in my cell was flooding. The officer told me that he was going to put a work order for the

plumber to come and fix it. When the plumber had not come to fix the toilet by the next day I made it a point to tell every officer who came by my cell about the broken toilet, but they all gave me the same response that the plumber will come to fix it but in the meanwhile if I have to use the restroom just to "go ahead and fill it up".

Counselor Alvarez came to bring me my legal mail but to my surprise my mail was opened. When I inquired as to why my legal mail was not opened in my presence, Alvarez actually tried to tell me that he opened the mail when I turned around to go get a pencil to sign for it. But since this was not the case I refused to sign for the said legal mail. Alvarez then smiled and told me "write me up I don't give a shit." I filled a grievance about this incident as well. Before Alvarez left I informed him about my toilet to which he replied that he already knows and I just have to wait until they get to it. I requested Alvarez to move me to one of the many numerous empty cells available but he refused though he was later the same day going to move another detainee from one cell to another empty cell because the detainee did not like the cell he was in. Due to all this mistreatment I went on a hunger strike. To my amazement officer Payne came to my cell and told me that he and Alvarez were betting if I would eat the next day and Alvarez had wagered him money that I would succumb to hunger and eat whilst Payne had bet that I would not eat. Thus Payne was coming to let me know that he had faith in me that I would not eat the next day. For the next four days I did not eat anything, as I could not bring myself to eat in a cell smelling and looking at my own excrement.

On 12/2/04 at 8.00am in the morning public health official Ms Graham was making her rounds in the unit. As she got to my cell she called me and told me to flush the toilet due to the smell coming out of my cell. Ms. Graham could not even come close to my cell door due to the ghastly sight that was my toilet and the smell coming from it. I informed Ms. Graham that for the last five days I had been living in that condition. She called counselor Alvarez to inform him about this condition but Alvarez informed her that he already knew about the situation. Ms Graham instructed Alvarez that the toilet should be fixed immediately or I should be moved to another cell and she was going to come back the next day to check on it.

At about 2.00pm the same day I was to be transferred and it was not until then when I was packing my belongings to leave that Alvarez finally sent for the plumber who immediately came to fix my toilet as I was leaving.

When I was in segregation I was denied even a pencil to write with and could only write my grievances when I managed to borrow a pencil from my next-door cellmate. Since I was on 24 hour lock down I could only give the officers my grievances to put in the mail box for me and I wonder how many actually made it to the mail box for a soon as I handed the officers the grievances they would proceed to read them despite my protests then laugh and tell me to ask those who have been there for a while and

they will let me know that I am wasting my time by filling those grievances as nothing will be done and the grievances wount help me.

Your officers' actions towards me were criminal and inhumane. From the numerous officers remarks it is clear that C.C.A. is unwilling or unable to discipline their officers. Further more these actions were carried out at the direction or with the support of senior officers some of whom like Ms. Harper are the ones in charge of the grievance process. Taking this into consideration it leaves no doubt that the officers' remarks about their ability to violate detainees rights with impunity and the futility of filling grievances were correct.

The above named officers should be prosecuted for their criminal actions. They should be relieved off their duties immediately and investigated about these very serious abuses they inflicted on me.

This conduct by C.C.A. officers towards detainees at C.C.A. is made worse by the fact that the detainees there are not prisoners or inmates but civil detainees who should be accorded better treatment than inmates and prisoners.

I demand that my concerns be addressed without delay. Failure by your office to address my concerns and communicate with me in writing within 21 days of this complaint will be deemed a denial and I would then have exhausted all my administrative remedies.

Yours Truly,



Isaac K. Kiniti

Ps. Attached please see proof of service.

PROOF AND CERTIFICATE OF SERVICE

I Isaac K. Kiniti declare and state: That I am over the age of 18 years old and that I am a party to this action. I am a resident in the county where delivery occurred: My residence is

ECC/SPC
1115 N. Imperial Ave
El Centro, CA 92243

On December 13, 2004 I served a copy of the following documents:

- 1) **CITIZENS COMPLAINT AGAINST VARIOUS CORRECTIONS CORPORATION OF AMERICA OFFICERS FOR VIOLATING DETAINEE ISAAC KINITI'S CIVIL AND CONSTITUTIONAL RIGHT**

On the parties herein by placing a true and correct copy of each document enclosed in a sealed envelope, with first class postage fully prepaid by I.C.E. Detention Center, in the United States Post office at El Centro, California.

- a) Date of delivery: December 13, 2004
- b) Addressed as follows:

Attention. The Warden
C.C.A. San Diego Correctional Facility
P.O.Box 439049
San Diego, CA 92143-1739

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Declaration executed on 12/13/04 at El Centro, California.

ISAAC K. KINITI.
NAME


SIGNATURE

JS44

(Rev. 07/89)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

FILED
MAY - 9 2005
 CLERK U.S. DISTRICT COURT
 SOUTHERN DISTRICT OF CALIFORNIA
 BY _____ DEPUTY

I (a) PLAINTIFFS

ISAAC K. KINITI

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF (EXCEPT IN U.S. PLAINTIFF CASES)

DEFENDANTS

CORRECTIONS CORP OF AMERICA ET AL.,

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

**ISAAC K. KINITI A78-091-772
 1115 N. IMPERIAL AVE
 EL CENTRO, CA 92243**

ATTORNEYS (IF KNOWN)

'05 CV 1013 DMS (PCL)

II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PT | DEF | | PT | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY).

42 U.S.C. 1983

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> Marine <input type="checkbox"/> Miller Act <input type="checkbox"/> Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veterans Benefits <input type="checkbox"/> 160 Stockholders Suits <input type="checkbox"/> Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury-Medical Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 RR & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (13958) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(e)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reappointment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Tort to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Q her Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input checked="" type="checkbox"/> 550 Civil Rights			

VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)

- 1 Original Proceeding
- 2 Removal from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER f.r.c.p. 23

DEMAND \$

Check YES only if demanded in complaint:

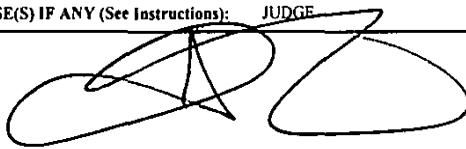
JURY DEMAND: YES NO

VIII. RELATED CASE(S) IF ANY (See Instructions):

JUDGE

Docket Number

DATE
5/10/05



~~SIGNATURE OF ATTORNEY OF RECORD~~