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STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

**FILED**  
5:13 pm, May 07, 2015  
U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
Laura A. Briggs, Clerk

Jay F. Vermillion,  
Plaintiff,

v.

Willard Plank, *et al.*,  
Defendants.

Case No. 1:15-CV-605-RLY-DKL

PLAINTIFF'S THIRD AMENDED  
PRISONER'S CIVIL RIGHTS COMPLAINT  
UNDER TITLE 42 U.S.C. § 1983

SECTION I. PARTIES

A. PLAINTIFF:

1. Plaintiff's name is Jay F. Vermillion and his Prisoner Identification number is 973683.
2. Plaintiff currently resides at the Indiana Reformatory/Pendleton Correctional Facility.
3. Plaintiff's current address is 4490 W. Reformatory Rd., Pendleton, IN 46064.
4. The events giving rise to this suit began at the Indiana State Prison and continued upon his transfer to the Westville Control Unit and the Indiana Reformatory.
5. These events occurred subsequent to Plaintiff's having been convicted, and while he was confined in the Indiana Department of Corrections, (IDOC), serving his sentence.

B. DEFENDANTS:

	<u>Name</u>	<u>Title/State Agency</u>	<u>Address (last known)</u>
1.	Willard Plank	I.A. Investigator/IDOC	302 W. Washington, Indianapolis, IN 46204.

2. Dawn Buss I.A. Investigator/IDOC 302 W. Washington, Indianapolis, IN 46204.
3. Charles Whelan ISP I.A. Investigator/IDOC 5501 S. 1100 W., Westville, IN 46391.
4. Ralph Carrasco ISP I.A. Investigator/IDOC One Park Row, Michigan City, IN 46360.
5. Mark Levenhagen Superintendent/IDOC 5501 S. 1100 W., Westville, IN 46391.
6. Brett Mize Deputy Dir. of Op./IDOC 302 W. Washington, Indianapolis, IN 46204.
7. Howard Morton ISP Admin. Asst./IDOC One Park Row, Michigan City, IN 46360.
8. Sally Nowatzke WCU Case Counselor/IDOC 5501 S. 1100 W., Westville, IN 46391.
9. Gary Brennan WCU Dir. of Operations/IDOC 5501 S. 1100 W., Westville, IN 46391.
10. IDOC Tort Claims Defendants 302 W. Washington, Indianapolis, IN 46204.

**C. JURISDICTION**

1. The court has jurisdiction over Plaintiff's claims of violations of his federal constitutional rights under Title 28 U.S.C. §§ 1331(1) and 1343.
2. The court has supplemental jurisdiction over Plaintiff's state law tort claims under Title 28 U.S.C. § 1367.

**D. TYPE OF TRIAL**

1. Plaintiff hereby requests a **JURY TRIAL**.

**SECTION II. GRIEVANCE PROCEDURES**

- A. All grievance procedures, tort claim notices, and administrative remedies have been timely filed and properly exhausted.

**SECTION III. CLAIMS AND SUPPORTING FACTS**

**A. FACTS:**

1. On Sunday, July 12, 2009, three (3) men with whom Vermillion was circumstantially

associated escaped from the Indiana State Prison, (hereinafter ISP), which is located in Michigan City, Indiana. And, because said escape was from the same housing unit in which all Indiana Death Row Inmates are housed, authorities from numerous investigative agency converged upon the ISP, including those from the Internal Affairs Division of the IDOC Central Office, which is located in Indianapolis, Indiana.

2. By July 22, 2009, all three men were apprehended without incident. However, because of their continuing investigation of the matter, at approximately **8:40AM** on Wednesday, July 29, 2009, Vermillion was taken to the ISP's office of Internal Affairs, where he then sat in the outer-office for approximately a half an hour waiting his turn to be questioned.
3. Thereafter, at approximately **9:15AM** on the same Wednesday, July 29, 2009, Internal Affairs Investigators Willard Plank, Dawn Buss, and Charles Whelan introduced themselves; advised that all three were digitally-recording the conversation; and informed Vermillion that they believed he was involved in said escape, and some trafficking related thereto.
4. At approximately **9:22 AM** on the same Wednesday, July 29, 2009, Willard Plank, Dawn Buss, and Charles Whelan informed Vermillion that for his alleged involvement in said offense(s), they were going to have criminal charges filed against him.
5. As such, at approximately **9:25 AM** on the same Wednesday, July 29, 2009, Vermillion then exercised his constitutionally protected right to terminate their questioning of him so that his answers to their questions could not thereafter be used to incriminate him in the criminal action they said they were going to file.

6. Immediately subsequent to his having engaged in the constitutionally protected activity of terminating the defendants' questioning of him, Vermillion was then punished – retaliated against – which said punishment/retaliation, from start to finish, spanned the course of the next fifty (50) months, (1,513 days), as follows:
7. At **9:33 AM** on the same Wednesday, July 29, 2009, Willard Plank, Dawn Buss, and Charles Whelan had Vermillion escorted from their office and placed in IDU, which is the facility's punitive segregation unit.
8. On July 31, 2009, despite there being absolutely no possibility of it being true, Internal Affairs Investigator Ralph Carrasco prepared a Conduct Report, thereby charging that Vermillion had engaged in the offense of "trafficking" with ISP Counselor "Don Bates" in "ICH"<sup>1</sup> at "**9:30 AM**" on "July 29, 2009."
9. On August 4, 2009, while "screening" him for said trafficking offense, ISP Screening Officer Dawn Walker advised Vermillion that statements from Willard Plank, Dawn Buss, Charles Whelan, Karen Sabinski and Kevin Springfield would enable him to substantiate his whereabouts at the time of the alleged misconduct, and further advised that she would assist him with the acquisition of the same.
10. On or about August 6, 2009, however, Ms. Walker sent Vermillion's proposed witnesses "blank" witness statement forms, and provided them with absolutely no indication of the testimony he expected of them.
11. On or about the same August 6, 2009, ISP DHB Chairman Bessie Leonard advised

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<sup>1</sup> ICH is the abbreviation for I-Cellhouse, which was the Honor Housing Unit in which Vermillion resided until **8:40AM** on Wednesday, July 29, 2009.

Vermillion that his hearing for said trafficking charge would not occur until approximately seven (7) days after the facility was no longer on lockdown.

12. On August 12, 2009, however, (with the facility still on lockdown), in proceedings in which he was denied sufficient written notice of the charge; denied the opportunity to call witnesses and present evidence; denied consideration of exculpatory evidence; denied the requisite indicia of reliability for the utilization of confidential sources; denied a decision properly supported by "some evidence;" and, despite the fact that he clearly *could not* have been trafficking with Mr. Bates in I-Cellhouse at *exactly* the same time he was being interrogated by Internal Affairs, ISP DHB Chairman Bessie Leonard found Vermillion guilty as charged.
13. On the same August 12, 2009, despite the fact that thirty (30) days was the maximum allowable sanction, Ms. Leonard sentenced Vermillion to one (1) year in disciplinary segregation; took thirty (30) days of his earned good time credit; and demoted him from Credit Earning Class I to Credit Earning Class II.
14. On the same August 12, 2009, within approximately one (1) hour of the above-stated pretextual guilty adjudication and sanctioning, and without any notice, reason, or opportunity for rebuttal, Vermillion was escorted to the ISP's North Gate, where the good majority of his personal effects and a running dark-blue Chrysler minivan were waiting to whisk him away to the WCU Super Max facility.
15. On or about the same August 12, 2009, WCU Case Counselor Sally Nowatzke and WCU Director of Operations Gary Brennan then falsified information and documentation to increase Vermillion's Security Classification Designation so that he

could be housed at said Super Max facility.

16. On the same August 12, 2009, Vermillion was then committed to the WCU Housing Unit, (*i.e.* C Pod, a.k.a. "The Loony Bin"), wherein all of the psychotic, out-of-control, and unmanageable worst-of-the-worst are kept in "cold-storage" to induce dormancy.
17. And, for the next **three and a half (3½) years**, Vermillion was then subjected to complete isolation in a solid concrete tomb with a solid steel door for 23-24 hours a day; no direct contact or interaction with others; extreme cold; constant strobe-lighting; cell-flooding; Mace fumes; people threatening to, and in fact actually committing suicide; no actual "recreation;" no telephone use (for 2½ years); no work, income, or educational opportunities; no religious services; no hot water; cold meals; regular cell ransacking; and humiliating strip-searches.
18. In the meantime, on September 15, 2009, despite his knowledge that the above-described "trafficking offense" of July 29, 2009, could not have occurred and that the disciplinary proceedings of August 12, 2009, were a sham and constitutionally infirm, Superintendent Mark Levenhagen, by affirming the same on appeal, effectively approved, condoned, and turned a blind eye to it.
19. On September 16, 2009, despite having been called upon to remedy Vermillion's illegal retaliatory segregation, WCU Classification Director Larry Warg instead approved, condoned, and turned a blind eye to it.
20. On October 8, 2009, despite his knowledge that the above-described disciplinary proceedings of August 12, 2009, were constitutionally infirm, IDOC Final Reviewing Authority Charles Penfold affirmed the same on appeal, thereby effectively

approving, condoning, and turning a blind eye to it.

21. On October 16, 2009, ISP Administrative Assistant Howard Morton intercepted Vermillion's "Certified Mail" containing proposed Affidavits for his witnesses, and thereafter advised: "...staff will not be signing any affidavits for you."
22. On October 22, 2009, without any notice, reason, or opportunity for rebuttal, IDOC Deputy Director of Operations Brett Mize relegated Vermillion to Department-Wide Administrative Segregation.
23. On the same October 22, 2009, WCU Property Officer Craig Travis confiscated all of Vermillion's "Personal Property Inventory Lists," and WCF Property Officers Ernestine Cole and Celia Bobson then "lost" approximately 99.9% of his personal belongings. (See Tort Notice WCC 2009-101, attached hereto, here incorporated by reference, and made a part hereof.)
24. On November 10, 2009, despite his knowledge of, and participation in Vermillion's retaliatory and constitutionally infirm classification and segregation, Superintendent Mark Levenhagen, by affirming the same on appeal, effectively approved, condoned, and turned a blind eye to it.
25. On four (4) different occasions between November 10, and December 17, 2009, despite his knowledge of, and participation in Vermillion's retaliatory segregation, IDOC Deputy Director of Operations Brett Mize refused to acknowledge and/or act on Vermillion's repeated requests for relief.
26. On January 20, 2010, in furtherance of their retaliatory aggression, WCU Director of Operations Gary Brennan ordered the confiscation and destruction of Vermillion's

television. (See Tort Notice WCC 16-2010, attached hereto, here incorporated by reference, and made a part hereof.)

27. On January 30, 2010, in furtherance of their retaliatory aggression, WCU Director of Operations Gary Brennan ordered the ransacking of Vermillion's cell and destruction of his personal effects. (See Tort Notice WCC 18-2010, attached hereto, here incorporated by reference, and made a part hereof.)
28. On April 7, 2010, in an effort to obtain relief from Mr. Penfold's deliberately flawed final review decision of October 8, 2009, Vermillion filed his Petition for a Writ of Habeas Corpus under Cause No. 3:10-CV-119-PPS.
29. On August 31, 2010, however, despite his prior conclusion that there were no procedural defects or due process errors in the disciplinary proceedings of August 12, 2009, that would entitle Vermillion to relief, in his concerted efforts with attorney Linda Leonard, Mr. Penfold issued an unsolicited "second opinion" thereby vacating the disciplinary conviction of August 12, 2009, and remanded the matter to the WCU DHB with instructions to conduct a re-hearing.
30. On September 3, 2010, acting on Mr. Penfold's re-hearing instructions, WCU Screening Officer David Dombrowsky refused to document the names and proposed testimony of Vermillion's witnesses, and thereafter failed to apprise them of the testimony Vermillion expected of them.
31. On September 7, 2010, despite his knowledge of the above-stated acts of Mr. Dombrowsky and others, and despite Vermillion's repeated requests for his intervention, WCU Case Manager Doug Barnes instead effectively approved,



condoned, and turned a blind eye to it.

32. On the same September 7, 2010, in proceedings in which Vermillion was denied sufficient written notice of the charge; denied the opportunity to call witnesses and present evidence; denied consideration of exculpatory evidence; denied the requisite indicia of reliability for the utilization of confidential sources; denied a decision properly supported by "some evidence;" and, despite the fact that he clearly *could not* have been trafficking with Mr. Bates in I-Cellhouse at *exactly* the same time he was being interrogated by Internal Affairs, WCU DHB Chairman Robert Johnson again found Vermillion guilty as charged.
33. On the same September 7, 2010, despite the fact that thirty (30) days was the maximum allowable sanction, and despite the fact that he had already been segregated for fourteen (14) months, Mr. Johnson once again sentenced Vermillion to one (1) year of disciplinary segregation; took thirty (30) days of his earned good time credit; and demoted him from Credit Earning Class I to Credit Earning Class II.
34. On September 29, 2010, in her concerted efforts with Mr. Penfold, attorney Linda Leonard filed a Motion thereby causing Vermillion's habeas corpus action under Cause No. 3:10-CV-119-PPS to be dismissed.
35. On October 11, 2010, despite his knowledge of the above-stated acts of Mr. Johnson and others, and despite Vermillion's request for his intervention, WCU Assistant Director of Operations David Leonard instead effectively approved, condoned, and turned a blind eye to it.
36. On February 4, 2011 despite his knowledge that the alleged trafficking offense of July

29, 2009, could not have occurred and that the “second round” of disciplinary proceedings were also a sham and constitutionally infirm, Superintendent Mark Levenhagen, by again affirming the same on appeal, effectively approved, condoned, and turned a blind eye to it.

37. On February 23, 2011, despite his knowledge that the disciplinary proceedings of September 7, 2010, were also constitutionally infirm, IDOC Final Reviewing Authority Charles Penfold, by again affirming the same on appeal, again approved, condoned, and turned a blind eye to it.
38. On March 23, 2011, in an effort to obtain relief from Mr. Penfold’s deliberately flawed final review decision of February 23, 2011, Vermillion filed his Petition for a Writ of Habeas Corpus under Cause No. 3:11-CV-123-TLS.
39. On June 27, 2011, however, despite his prior conclusion that there were no procedural defects or due process errors in the disciplinary proceedings of September 7, 2010, that would entitle Vermillion to relief, in his concerted efforts with attorney Stephanie Rothenberg, Mr. Penfold issued another unsolicited “second opinion” thereby vacating the disciplinary conviction of September 7, 2010, and remanded the matter to the WCU DHB with instructions to conduct *another* re-hearing.
40. On July 5, 2011, acting on Mr. Penfold’s re-hearing instructions, WCU Screening Officer Ms. C. Reis failed to apprise Vermillion’s witnesses of what he expected of them, and thereafter failed to secure statements from them.
41. On July 12, 2011, in her concerted efforts with Mr. Penfold, attorney Stephanie Rothenberg filed another Motion thereby causing Vermillion’s habeas corpus action

under Cause No. 3:11-CV-123-TLS to be dismissed.

42. On July 27, 2011, in proceedings in which Vermillion was denied sufficient written notice of the charge; denied the opportunity to call witnesses and present evidence; denied consideration of exculpatory evidence; denied the requisite indicia of reliability for the utilization of confidential sources; denied a decision properly supported by "some evidence;" and, despite the fact that he clearly *could not* have been trafficking with Mr. Bates in I-Cellhouse at *exactly* the same time he was being interrogated by Internal Affairs, WCU DHB Chairpersons B. Spencer and Pamela Antisdell again found Vermillion guilty as charged.
43. On the same July 27, 2011, despite the fact that Vermillion had already been segregated for two (2) years, and despite the fact that thirty (30) days was the maximum amount of "good time" that could be taken, Pamela Antisdell took sixty (60) days of his earned good time credit and again demoted Vermillion from Credit Earning Class I to Credit Earning Class II.
44. On September 28, 2011, despite his knowledge that the alleged trafficking offense of July 29, 2009, did not, and could not have occurred, and that the "third round" of disciplinary proceedings were also a sham and constitutionally infirm, Superintendent Mark Levenhagen, by affirming the same on appeal, again effectively approved, condoned, and turned a blind eye to it.
45. On January 12, 2012, despite his knowledge that the disciplinary proceedings of July 27, 2011, were constitutionally infirm, IDOC Final Reviewing Authority Michael Barnes, by affirming the same on appeal, effectively approved, condoned, and turned

a blind eye to it.

46. On March 29, 2012, in an effort to obtain relief from Michael Barnes' deliberately flawed final review decision of January 12, 2012, Vermillion filed his Petition for a Writ of Habeas Corpus under Cause No. 3:12-CV-150-PPS.
47. On November 14, 2013, however, despite Michael Barnes' previous conclusion that there were no procedural defects or due process errors in the disciplinary proceedings of July 27, 2011, that would entitle Vermillion to relief, in his concerted efforts with attorney Stephanie Rothenberg, Executive Director of IDOC Legal Services Robert Bugher issued another unsolicited "second opinion" thereby vacating the disciplinary conviction of July 27, 2011, and remanded the matter to the ISR DHB with instructions to conduct yet *another* re-hearing.
48. On the same November 14, 2013, in her concerted efforts with Mr. Bugher, attorney Stephanie Rothenberg filed yet another Motion thereby causing Vermillion's habeas corpus action under Cause No. 3:12-CV-150-PPS to be dismissed.
49. On February 13, 2014, however, instead of conducting the instructed **third** rehearing of this same, at the time, four and a half (4½) year old charge, IDOC authorities, with the assistance of Indiana State Reformatory officials, dismissed said pretextual trafficking charge of July 29, 2009, altogether, and ordered the entire matter expunged from Vermillion's record.
50. And finally, because most of the above-stated 1,513 days of retaliatory segregation were spent lying on an ergonomically incorrect mat, painfully cold, and without access to a chair, Vermillion now suffers potentially permanent spinal problems.

**B. CLAIMS:**

1. The actions of defendants Plank, Buss, Whelan, Carrasco, Levenhagen, Mize, Morton, Nowatzke, and Brennan, in retaliating against Vermillion for his having engaged in the constitutionally protected activity of terminating their July 29, 2009, questioning of him, were done in violation of the prohibitions against retaliation for the exercise of his privilege against self-incrimination as guaranteed by the Fifth Amendment to the United States Constitution.
2. The actions of defendants Plank, Buss, Whelan, Carrasco, Levenhagen, Mize, Morton, Nowatzke, and Brennan, were the product of a group plan to commit the unlawful act of retaliating against Vermillion for his having engaged in the constitutionally protected activity of terminating their July 29, 2009, questioning of him, and thus constitutes a conspiracy to violate the prohibitions against retaliation for the exercise of his privilege against self-incrimination as guaranteed by the Fifth Amendment to the United States Constitution.
3. The actions of defendants Plank, Buss, Whelan, Carrasco, Levenhagen, Mize, Morton, Nowatzke, and Brennan, in having Vermillion committed to the WCU Super Max Facility, and then leaving him in solitary confinement/retaliatory segregation for fifteen-hundred and thirteen, (1,513) days, constitutes cruel and unusual punishment and were done in violation of the Eighth Amendment to the United States Constitution.
4. The actions of defendants Plank, Buss, Whelan, Carrasco, Levenhagen, and Mize, in transferring Vermillion to the WCU Super Max facility without notice, reason, or

opportunity for rebuttal, and then relegating him to Department-Wide Administrative Segregation without notice, reason, or opportunity for rebuttal, denied Vermillion due process of law in violation of the Fourteenth Amendment to the United States Constitution.

5. The actions of defendants Nowatzke and Brennan, in falsifying information and documentation to increase Vermillion's Security Classification Designation, denied him due process of law in violation of the Fourteenth Amendment to the United States Constitution.
6. The actions of defendant Howard Morton, in confiscating Vermillion's Certified Legal correspondence to prevent him from using the same to obtain the relief and the due process to which he was entitled, denied Vermillion due process of law and the right to correspond, in violation of the First and Fourteenth Amendments to the United States Constitution.
7. The actions of the IDOC, through its employees Craig Travis, Ernestine Cole, and Celia Bobson, in confiscating all of Vermillion's Personal Property Inventory Lists, and then "losing" all of his personal property as described in Tort Notice WCC 2009-101, were done in violation of the Indiana Tort Claims Act.
8. The actions of the IDOC, through its employee Gary Brennan, in ordering the confiscation and destruction of Vermillion's television, and then ordering the ransacking of his cell and the destruction of his personal effects as described in Tort Notices WCC 16-2010, and WCC 18-2010, were done in violation of the Indiana Tort Claims Act.

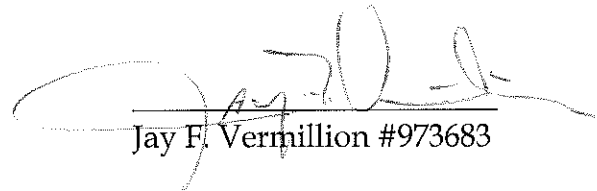
**SECTION IV. PREVIOUS LAWSUITS**

- A. Other than the Habeas Corpus actions as described herein, the claims as set forth in the instant Complaint have not been the subject of any prior lawsuit.

**SECTION V. RELIEF**

- A. Award compensatory damages jointly and/or severally against all of the defendants for their having violated Vermillion's constitutionally protected rights.
- B. Award punitive damages for the intentional and conspiratorial conduct of all of the defendants.
- C. Assess damages against the IDOC for the acts and/or omissions of their employees resulting in tort.
- D. Grant all other just and proper relief to which Vermillion is entitled.

Respectfully submitted,



Jay F. Vermillion #973683

WCC 2009-101

## Notice of Loss of Property - Tort Claim

Pursuant to the requirements of the Indiana Tort Claim Act AND Indiana Code 34-13-3-1 et seq., the below-named Claimant hereby gives notice that he has a claim against the below-named Governmental Entities, and in support of said claim would offer and show the following:

1. The Claimant's name is Jay F. Vermillion, and his D.O.C. Number is 973683.
2. The Claimant's current address is 5501 South 1100 West Westville, IN 46391.
3. The Claimant's place of residence at the time of his loss is/was: the Westville Control Unit, 5501 South 1100 West, Westville, IN 46391, and the Indiana State Prison, One Park Row, Michigan City, IN 46360.
4. The names of persons involved in this claim or having knowledge of the circumstances are:
  - a. Ofc. Cole, WCF Property Room,
  - b. Ofc. Boxum, WCF Property Room,
  - c. Ofc. TRAVIS, WCU Property Room,
  - d. Thomas Patterson, WCU Unit Counselor,



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- e. Sgt. ~~OWENS~~, C-Pod, WCU, (OWENS)
- f. Ofc. Collier, C-Pod, WCU,
- g. Ofc. Delaney, C-Pod, WCU,
- h. Timothy Bean, Executive Assistant, WCF-WCU
- i. C. Estes, Administrative Assistant, WCF
- j. William Wilson, Superintendent, WCF
- k. ISP Property Room Staff, (NAMES UNKNOWN)
- l. ISP I-Cellhouse Staff, (NAMES UNKNOWN)
- m. Ray Peterson, ISP Law Library Supervisor, and
- n. others, whose names are currently unknown.

5. The date of the Claimant's loss is sometime between July 29, 2009 and December 17, 2009.

6. The extent of the Claimant's loss is immeasurable. However, it CAN be said that approximately 99% of the personal and legal effects that the Claimant had accumulated over the course of the last fourteen and a half (14 1/2) years has been lost, and it was the acts and/or omissions of certain employees of the Indiana Department of Correction that are responsible for said loss.

7A. The circumstances giving rise to the Claimant's losses/claim are as follows:

While confined in the Vigo County Jail from

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May 21, 1995 to April 11, 1997, I received approximately four (4) photographs and twelve (12) letters from my only child each and every month for that entire twenty-three (23) month period. During that same twenty-three (23) month period, I was also engaged in three (3) separate judicial proceedings. One (1) criminal felony trial, which generated over three-thousand (3,000) pages of documentation. One (1) State Habeas Corpus action, which generated approximately two-hundred (200) pages of documentation. And, one (1) Original Action to the Supreme Court of Indiana, thus generating another eight-hundred (800) pages of documentation.

Also during said period, I purchased one (1) Prisoner's Self-Help Litigation Manual; one (1) Black's Law Dictionary; one (1) Webster's Dictionary; one (1) Merriam Webster's Medical Dictionary; one (1) "Lifebook"; one (1) Jailhouse Lawyer's Manual; one (1) Indiana Court Rules; one (1) Federal Rules of Civil Procedure; and three or four other legal treatises whose titles I cannot currently recall.

As a result of the above-stated litigation, I also possessed one (1) V.C.S.D. "Crime scene" video on VHS cassette; one (1) VHS video from W-TWO TV; and, one (1) VHS video of an interview with my former court-appointed attorney that was aired by W-THI TV; and approximately four-hundred (400) photographs taken by the Vigo Co. Sheriff's Dept., the Terre Haute

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City Police Dept., AND the Vigo Co. Coroner's Office, of various investigative efforts, including the autopsy of the victim of my convicted offenses. And, when I was transported to R.D.C. (April 1997) and thereafter to the Indiana State Prison, (May 1997), all of the above-stated personal and legal effects accompanied me.

Thereafter, during my confinement at the Indiana State Prison from May 1997 to August 12, 2009, I was engaged in five (5) more separate judicial proceedings. One (1) direct criminal appeal to the Supreme Court of Indiana, which generated approximately twenty-four (2400) pages of documentation. One (1) Federal Habeas Corpus action, (AND AN appeal therefrom), thereby generating over four-hundred (400) pages of documentation. One (1) Certiorari action to the Supreme Court of the United States, (AND petition for rehearing) thus generating another two-hundred (200) pages of documentation. And, one (1) State Court Post-Conviction action, which, while still pending, has generated yet another three to five hundred (300-500) pages of documentation.

Also during these twelve and a half (12 1/2) years at the Indiana State Prison, I continued to receive dozens of cards, letters, and pictures of and from my now twenty-four (24) year old daughter; dozens of cards, letters, and pictures from one of my very few and favorite living relatives; I possessed a painstakingly assembled compilation of my family's genealogical

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progression from as far back as the early 18<sup>th</sup> century; and, I possessed forty to fifty (40-50) photographs of myself in the company of the love of my life, (the deceased), and it was all of the above-stated effects, immeasurable in value, that I held dearly as my life's treasures.

In addition to the above-stated personal and legal effects, when I was "displaced" from my ISP cell, (I-123A) at 8:45 AM on the morning of Wednesday, July 29, 2009, I also possessed the following:

- Tb. 1. (1) 26 month old diluted calico cat - female, "Schmookums"
2. (1) 10lb. bag of her food, (Science Diet)
3. (8) packages of "Cat Treats" (Whisker Lickins)
4. her perch/bed
5. her scratching post
6. her litter box
7. (1) box of "clumping litter"
8. her toys, (mice, birds, balls, etc.)
9. Cell "cat-proofing", (36 3/8" x 36" dowel rods)
10. (2) Wahl Performers, (battery operated clippers)
11. (1) Remington electric razor
12. (2) Almont "Key-locks", (#2747, and #3003)
13. (1) Master combination lock, (24-15-2)
14. (1) Alvin Drafting Set w/canvas portfolio & shoulder strap
15. (2) Perspective Drawing books
16. (2) 6" Alvin bow compasses

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- 7b. 17. (4) 1/4" scale architect's templates
18. (1) "Brush-stroke" pen set
19. (1) Sessel
20. (1) 24" x 40" Caroline Blish painting
21. (2) scissors
22. (2) Exacto knives
23. (10) Exacto blades
24. (1) Needle-nose pliers
25. (1) plastic box containing approximately 50 pens, markers, etc.
26. (1) 18" x 24" "Biggie" sketch pad
27. (1) 11" x 14" "Biggie" sketch pad
28. (1) Smith-Corona Personal Word Processor
29. (4) Smith-Corona print ribbons
30. (8) Smith-Corona erase ribbons
31. (1) Zenith 13" color TV
32. (4) TV cables + splitters
33. (1) Takamine Acoustic Guitar
34. (1) SKB Hard-shell Guitar case
35. (1) Planet Waves Chordmaster/tuner
36. (2) Fender guitar straps
37. (1) guitar "strap-lock" set
38. (12) Fender guitar picks
39. (2) sets nylon guitar strings
40. (1) Neil Young's Greatest Hits song book
41. (1) Uncle Tim's Beginner's Guitar Manual
42. (2) Video game-controllers
43. (2) Koss "Max-S" headphones

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- 7b. 44. (1) 12' headphone extension cable  
 45. (1) Sony Walkman radio, (Digital)  
 46. (1) Sony Walkman radio, (Analog)  
 47. (1) 5lb. can Whey Protein, (Caramel)  
 48. (1) Clip-on light, (110 volt)  
 49. (1) Clip-on light, (AA battery operated)  
 50. (2) Timex "IRONMAN" watches  
 51. (1) NEC Computer speaker  
 52. (1) Judicial Bias Treatise, (Richard E. Flamm)  
 53. (1) 1981 PDR  
 54. (1) Reader's Digest Cookbook  
 55. (1) Digital Thermo-hydrometer  
 56. (1) blue blanket  
 57. (2) beige bath towels, (27" x 50")  
 58. (2) Reebok shower shoes  
 59. (1) Dr. Scholl's Insoles  
 60. (24) pair Hanes socks  
 61. (15) pair Hanes Briefs  
 62. (15) pair Hanes Boxer Briefs  
 63. (2) pair Grey mesh Gym shorts  
 64. (1) black Gym shorts  
 65. (2) Hanes 2X Sweat shirts, (grey)  
 66. (1) Hanes XL Sweat pants, (grey)  
 67. (1) ball cap, (green)  
 68. (1) pair Nike basketball shoes  
 69. (10) plastic mirrors  
 70. (1) 24 pak Pepsi, (12oz cans)

- 76. 71. (4) 3qt. plastic jakes
- 77. (5) 1.5qt. Rubbermaid bowls
- 78. (3) cereal bowls
- 79. (5) plastic dinner plates
- 80. (1) leather weight-lifting belt: "VERMILLION"
- 81. (a) pair weight-lifting gloves
- 82. (1) Associates Degree, (Ball State)
- 83. (1) 280 page "Medical Packet"
- 84. (8) spices, (Italian, Creole, etc)
- 85. (1) 1908 nickel
- 86. (1) \$178<sup>00</sup> VEC purchase, (outstanding)
- 87. (1) 10 pack Bix disposable razors
- 88. (a) Nail clippers
- 89. (1) freezers
- 90. (a) boxes Band-Aids
- 91. (a) Colgate toothbrushes, (Med.)
- 92. (a) SPT 30 sublock
- 93. (60) First Class postage stamps
- 94. (1) Sewing kit w/scissors
- 95. (a) decks playing cards
- 96. (a) 4 pack AA batteries
- 97. (1) 4 pack AAA batteries
- 98. (1) solar calculator
- 99. (a) Dove soaps
- 100. (3) Ivory soaps
- 101. (a) Aqua-Sport Gel Speed Shirts
- 102. (a) Close-up toothpaste

- 76. 98. (1) Depilatory Shave Cream
- 99. (1) Baby Powder
- 100. (1) Shower to Shower Powder
- 101. (1) Soft I Soap
- 102. (3) Anti-Jungal Cream
- 103. (3) Betamethazone Cream
- 104. (1) Triple Antibiotic Ointment
- 105. (2) Hydrocortisone Cream
- 106. (1) Milk of Magnesia
- 107. (1) Pepto (Stress Liquid)
- 108. (2) IAPAK ALKA-Seltzer Plus
- 109. (1) Honey-Lemon Cough Drops
- 110. (1) 500mg Vitamin D Tablets (100ct)
- 111. (1) 30mg Lidio Vapors (30ct)
- 112. (2) 3000mg Omega-3 Softgels (100ct)
- 113. (1) Adams Multi-Vitamin Tablets (60ct)
- 114. (3) Natural fiber powder
- 115. (1) Pair sunglasses
- 116. (1) Pair prescription glasses w/hardcase "Lepsi"
- 117. (3) "Kool Operator" Fans
- 118. (2) Wall clocks, (battery operated)
- 119. (1) Hot pot
- 120. (2) garage fans
- 121. (1) stapler
- 122. (1) fan opener
- 123. (1) Scotch tape dispenser w/tape
- 124. (1) fly swatter



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76. 125. (1) Whisk broom  
 126. (1) dust pan  
 127. (2) Clip boards  
 128. (1) box CRAYONS (24 ct.)  
 129. "State Issue" (pants, shirts, boxers, t-shirts, bed-clothes, etc.)  
 130. (1) BROWN coat, (State issue)  
 131. (1) Green Stocking cap, (State issue)  
 132. (2) glue sticks  
 133. (1) Liquid paper  
 134. (3) Vinyl accordion folders w/legal pleadings  
 135. (6) Dey's Blue bottled water (16.9oz)  
 136. (6) Orange Juice, (10oz)  
 137. (6) Grapefruit Juice, (10oz)  
 138. (3) boxes of sugar  
 139. (25) Ramen soups  
 140. (10) 4.23oz tuna  
 141. (3) Tuna Helper dinners  
 142. (4) Hungry Jack instant mashed potatoes  
 143. (7) Tilapia Filets  
 144. (15) 78oz fully-cooked bacon  
 145. (8) Macaroni & Cheese dinners  
 146. (2) Peanut butter  
 147. (6) brown rice  
 148. (2) Garlic sticks  
 149. (2) Appriots  
 150. (7) Pepperoni, (3.5oz)  
 151. (7) 10oz. CORN

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- 7b. 152. (6) 10oz Roast Beef + Gravy  
 153. (4) Dirty Moore Beef Stew  
 154. (3) Bushy Creek Beef Stew  
 155. (2) Spam  
 156. (2) Pretzels  
 157. (4) BBQ potato chips  
 158. (2) Saltine crackers  
 159. (2) Tea drink mix  
 160. (2) Pineapple rings  
 161. (5) Chicken Pouch  
 162. (8) Chef Boy-ar-dee Pizza Kits  
 163. (2) Strawberry preserves  
 164. (4) Beef Summer Sausages  
 165. (2) Ground Beef  
 166. (4) Chili w/beans (hot)  
 167. (2) Barcelona Mixed Nuts  
 168. (2) Columbian Coffee  
 169. (2) Vanilla Cappuccino  
 170. (4) Microwave Popcorn  
 171. (2) 1doz Honey  
 172. (2) 1doz BBQ SAUCE

However, 10:00AM on that same Wednesday, July 29, 2009, I was placed in ISP Cell # IDU E-220, and the only personal effects that eventually accompanied me were: (1) fan, (1) Koss Max5 headphones, (1) Sony Walkman radio, (analog), (2) pairs of socks,

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(2) t-shirts, (2) pair boxer shorts, my "bed-roll." And, I was allowed to keep the clothes I had on, including my Nike basketball shoes and one (1) of my Timex "IRONMAN" watches.

Thereafter, on Wednesday, August 12, 2009, me and my above-stated belongings, (MINUS the guitar & accessories, the Word Processor, AND my legal effects), were packed into a dark blue Chrysler Mini Van AND transported to the Westville Correctional Facility. Upon arrival at said Facility, my television, my easel, my Caroline Blish painting, my mesh laundry bag containing the items I possessed while on "IDU", my 36" x 24" x 18" foot-locker, AND the eleven (11) 16" x 13" x 11" boxes, (presumably containing all of the heretofore-listed items of personal property), were "dropped-off" at the WCF Property Room, AND I was delivered to the Westville Control Unit.

Five (5) days later, on Monday, August 17, 2009, WCU Property Room Ofc. Cowgill delivered to me, (C3-105), the items of personal property as follows:

- 7c. 1. (5) pair Flaves socks
2. (3) t-shirts
3. (3) boxer shorts
4. (1) Sweat Shirt (grey)
5. (1) Sweat Pants (grey)
6. (2) plastic mirrors
7. (1) solar calculator

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74. 8. (1) bottle CoQ10 capsules
9. (2) bottles Omega-3 softgels
10. (1) bottle Adams Multi-vitamins
11. (1) Webster's Dictionary
12. (1) Webster's Medical Dictionary
13. (1) Neil Young Song book
14. (1) Uncle Tim's guitar manual
15. (2) Aqua-Sport Gel Speed Sticks
16. (1) bottle Jooang Ibuprofen
17. (2) bars Dove Soap
18. (1) anti-dungal cream
19. (1) betamethozone cream
20. (1) triple antibiotic ointment
21. (1) black Gym shorts
22. (2) decks playing cards
23. (2) TV Cables
24. (1) Zenith 13" color TV
25. (1) Perspective Drawing book
26. (1) envelope containing DHS documents (ISP09-08-0006)
27. (10) pieces of Mail (randomly selected from above-stated)
28. (24) photographs (randomly selected from above-stated)
29. (60) First Class postage stamps
30. (1) pair Reebok shoes
31. (2) Address books \*
32. (1) soft glasses case \*
33. (1) volume of "Our Daily Bread" (Sept-Nov. 2009) \*
34. \* indicates items overlooked during the previous account.

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During the above-stated August 17, 2009, "delivery", I then requested that Ofc. Cowgill retrieve one of my Sony Walkman radios and Mad 5 headphones from the WCF Property Room and deliver the same to me. However, Ofc. Cowgill's employment was subsequently terminated, and my repeated requests for said items were then directed to WCF Ofc. Cole and WCU Ofc. Travis. However, because Officers Cole and Travis failed to acknowledge or respond to any of my requests, I then followed the advice of Unit Counselor Patterson, and filed a grievance. Finally after two (2) months of pleading, and at the direction of Executive Assistant Timothy Bean, on or about October 2, 2009, Ofc. Travis retrieved my Sony Walkman (analog) and my Sony earbuds from the WCF Property Room and delivered them to me.

Thereafter, on or about the second week of October, 2009, ISP Law Library Supervisor Ray Peterson, shipped three (3) more boxes to the WCF Property Room, containing the above-described fourteen and a half (14½) years worth of my personal "legal" effects.

In the meantime, on October 8, 2009, in response to my appeal to the "Final Reviewing Authority", the one (1) year D/S sanction imposed by the ISP DAB was reduced to thirty (30) days, and thus my D/S status was immediately improved to A/S. As such, the very next day, I submitted to the WCF

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Property Room, a request to have all of my personal belongings, including my legal effects, delivered to me. On October 22, 2009, however, Ofc. Travis came to my cell and advised that they could not locate their copy of my "Property Inventory Lists" and asked to "borrow" mine. He then stated: "We're in the process of getting all of your "stuff" together so that we can bring it all to you." On October 27, 2009, however, Ofc. Travis returned to my cell and stated: "Sorry Chief, we can't find any of your "stuff." Thereafter, again following the advice of Unit Counselor Patterson, I filed a grievance with Executive Assistant Bean. (See Exhibit #1) Shortly thereafter, Ofc. Travis returned to my cell and stated: "We're trying to locate your "things", but, it doesn't look good. That Property Room is a mess." Thereafter, because Mr. Bean did not acknowledge having received my grievance, on November 6, 2009, I sent Mr. Bean a "Request", wherein I inquired as to whether he had received said grievance, and asking that he please confirm or deny receipt? To which, Mr. Bean responded in the negative. (See Exhibit #2) As such, on November 10, 2009, I sent Mr. Bean another "inquiry" concerning his failure to acknowledge having received my grievance. (See Exhibit #3) Having received no response to said "inquiry", on November 16, 2009, I completed another grievance form, (See Exhibit #4), and I drafted an accompanying letter, (See Exhibit #5), and I sent

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them both to Mr. Bean. On the same November 16, 2009, however, my first grievance was returned to me with an attached explanation, (See Exhibit #6), and two (2) days later, my second grievance was returned to me, also with an attached explanation, (See Exhibit #7). On that same November 18, 2009, my letter of November 16, 2009, was returned to me, bearing the hand-written response of Mr. Bean to the effect that I should file a Tort Claim. (See Exhibit #5)

Thereafter, on November 23, 2009, I sent a three (3) page letter to WCF Superintendent William Wilson, in which I detailed my situation and requested his intervention and assistance. (See Exhibit #8) Having received no response to said letter, on December 9, 2009, I sent a "Request" to Mr. Wilson, in which I inquired as to whether he had received my letter, and I questioned his plans to respond? To which, Administrative Assistant C. Estes responded inaccurately, (as I have to date received no such response), and recommended that I proceed with a Tort Claim. (See Exhibit #9)

Since my unanswered letter to the Superintendent, I have asked Mr. Patterson and every Commanding Officer on the "C-Pod" day shift, at least three (3) times a week, to call Ofc. Travis and inquire as to when I can expect to receive my property, or at least urge him to respond to my numerous written

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requests. Those efforts, however, have also been UNAVAILING.

Most recently, on December 17, 2009, while he was delivering property to another "C-Pod" resident, I flagged Ofc. TRAVIS down and asked him if he could give me something in writing? Ofc. Travis then stated: "Your stuff is officially lost. However, in order for me to give you something in writing, you need to file a tort claim. Get the tort claim started. That's what I do. You guys file tort claims and I answer them. That's when you'll get something in writing." I then inquired of Ofc. TRAVIS what value does he recommend a person assign to the documentation that was going to be used to prove entitlement to a new trial? And Mr. TRAVIS stated: "I would put a big number on it."

Accordingly, because everyone involved appears to prefer a tort claim over simply producing my property? A tort claim it shall be. As such, AS A RESULT OF THE ACTS AND/OR OMISSIONS OF I.D.O.C. employees AS DESCRIBED HEREIN, I HAVE SUSTAINED THE FOLLOWING INJURIES:

7d. 1. Because the last fourteen and a half (14½) years of my relationship with my only child have been ERASED, AND BECAUSE I WILL NOW BE REQUIRED TO ENDURE THE NEXT TWENTY-EIGHT (28) YEARS



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of confinement with such an agonizing void, I estimate those forty-two and a half (42½) years to be worth one million (1,000,000) dollars each, thus making this a forty-two and a half million dollar injury, (\$42,500,000.00)

7d. 2. I cannot find the words to describe the significance of those photographs of myself in the company of the deceased, and the next twenty-eight (28) years of being confined without them is going to be unbearable. As such, I estimate this to be a twenty-eight million dollar injury, (\$28,000,000.00)

7d. 3. Because the last several years of my relationship with one of my very few and favorite living relatives has been erased, and because I will now be required to endure the next twenty-eight (28) years of being confined with such an agonizing void, I estimate this to be a twenty-eight million dollar injury, (\$28,000,000.00)

7d. 4. I cannot find the words to describe the significance of the relationship I had with the only living creature that ever loved me back, and I cannot begin to describe how agonizing the next twenty-eight (28) years

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Are going to be without her. As such, I estimate the loss of my little "Schwookoms" to be another twenty-eight million dollar injury, (\$28,000,000.00)

7d. 5. Because all of the painstakingly gathered material that I was going to use to carry my burden of proof and thus establish my entitlement to post-conviction relief and a new trial has been lost, and because I will therefore very likely spend the next twenty-eight (28) years in prison, I estimate this to be another twenty-eight million dollar injury, (\$28,000,000.00)

7d. 6. I estimate the loss of my "Genealogical compilation" to be a twenty-five thousand dollar injury, (\$25,000.00)

7d. 7. I estimate the cost of replacing my Court Records and Transcripts to be a seven-thousand seven-hundred dollar injury, (\$7,700.00)

7d. 8. I estimate the cost of replacing my books and Associate's Degree to be a five-hundred and fifty dollar injury, (\$500.00)

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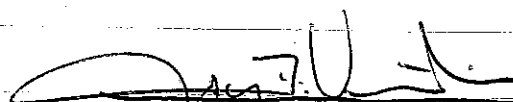
7d. 9. I estimate the cost of replacing my three (3) video cassettes to be a three-thousand dollar injury, (\$ 3,000.00) And,

7d. 10. I estimate the cost of replacing all of my other items of personal property as specified in paragraph 7b. of this document to be a thirty-four hundred dollar injury, (\$ 3,400.00)

As such, I estimate that the monetary total of the injuries I have sustained as a result of the acts and/or omissions of employees of the Indiana Dept. of Correction is One-hundred fifty-four million, five-hundred thirty-nine thousand, six-hundred dollars, (\$ 154,539,600.00) However, because of the limitations as imposed by Indiana Code 34-13-3-4 (a)(1)(A), said damages cannot be recovered.

8. Accordingly, the total amount of compensation sought by the Claimant is seven-hundred thousand dollars, (\$ 700,000.00)

Respectfully Submitted,

  
Jay F. Vermillion #973683


2009-101

Certificate of Service

The undersigned hereby certifies that copies of the above and foregoing Notice of Loss of Property - Tort Claim have been served upon:

1. The Indiana Department of Corrections, E334 I.G.C.S. 302 W. Washington St., Indianapolis, IN 46204.
2. William Wilson, Superintendent, Westville Correctional Facility, 5501 South 1100 West, Westville, IN 46391.
3. Mark Levenhagen, Superintendent, Indiana State Prison, One Park Row, Michigan City, IN 46360, and
4. The Office of the Indiana Attorney General, Tort Claims Division, 219 State House, 200 W. Washington St., Indianapolis, IN 46204-2794.

The undersigned further certifies that service on the above-stated was done by the United States Postal Service, Certified Mail, return receipt requested, on this 13<sup>th</sup> day of January, 2010.

  
 Jay F. Vermillion #973683  
 Westville Control Unit  
 5501 South 1100 West  
 Westville, IN 46391

VCL-16-0010

## Notice of Loss of Property - Tort Claim

PURSUANT to the requirements of the Indiana Tort Claims Act and Indiana Code 34-13-3-1 et seq. the below-named Claimant hereby gives notice that he has a claim against the below-named Governmental Entity, and in support of said claim would offer and show the following:

1. The Claimant's name is Jay F. Vermillion, and his D.O.C. Number is 973687.
2. The Claimant's current address is 5501 South 1100 West, Westville, IN 46391
3. The Claimant's place of residence at the time of his loss is the Westville Control Unit, 5501 South 1100 West, Westville, IN 46391.
4. The names of persons involved in this claim or having knowledge of the circumstances are:
  - A. Sgt. Golden, WCU, A-Pod
  - b. Sgt. Backow, C-Pod, WCU
  - c. Ofc. Medina, C-Pod, WCU
  - d. Ofc. Smith, C-Pod, WCU
  - e. Timothy Bean, Executive Assistant, WCU-WCF
  - f. Ofc. Brown, 01-30-10 Snake-down Crew
  - g. Ofc. Taylor, 01-30-10 Snake-down Crew

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5. The date of Claimant's loss is January 30, 2010.

6. The extent of the Claimant's loss is immeasurable. However, it can be said that the acts of certain employees of the Indiana Dept. of Corrections was traumatizing, outrageous, and destructive.

7A. The circumstances giving rise to the Claimant's losses/claim are as follows:

At approximately 1:00 PM on the afternoon of Saturday, January 30, 2010, I was handcuffed, shackled, and escorted from my perfectly organized and immaculate cell (C3-105)

When I was returned to my cell, however, the place was a disaster! Everything I owned was strewn about like confetti! All of my neatly organized legal effects from five (5) separate legal actions were blended together in a pile on one end of my cell, and their respective envelopes were in a pile at the other end of my cell. All of my other personal correspondence were removed from their envelopes and thrown in other piles separate from their respective envelopes. Photographs of my family were thrown on the floor like trash, and one of my daughter's photos had an enormous

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boot-print on her face! An unopened bag of pretzels was busted open and scattered all over the floor. An open bag of coffee was thrown so that it landed upside down and spilled out onto the floor. An unopened box of Swiss Rolls was torn open and the contents poured-out on the floor and then stamped on. Two (2) unopened jars of peanut butter were opened, seals removed, and it appears as though someone has shoved three (3) fingers into the contents of said jars! I found some of my Omega 3 gummies and Adam's multi-vitamin tablets on the floor under my bed. And, a brand new #2 pencil is missing.

As Officers Brown and Taylor were responsible for removing and returning me to my cell, they were the first to witness the above-stated devastation. Later that evening, Sgt. Golden witnessed the same and advised that Col. Payne was coming in on his day off to investigate the matter. Instead, however, Sgt. Barkow advised that he would provide an Incident Report and instructed me to pursue a Grievance and Tort Claim.

Accordingly, because of the above-stated acts of certain employees of the I. D. O. C., I have sustained the following injuries:

7b.1. For the emotional trauma sustained by having

16-2010

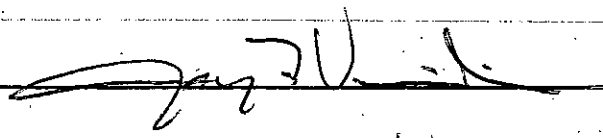
returned to my cell and discovering the above-stated devastation, I estimate this to be an eight million dollar injury. (\$8,000,000.00)

7b.d. For the loss of my personal property as described herein, I estimate this to be an eleven dollar injury. (\$11.00)

As such, I estimate that the monetary total for the injuries I sustained as a result of the acts and/or omissions of the employees of the Ind. Dept. of Corrections, as described herein, to be eight million and eleven dollars. (\$8,000,011.00)

8. However, because of the limitations imposed by I.C. 34-13-3-4(a)(1)(A), the total amount of compensation sought is seven hundred thousand dollars. (\$700,000.00)

Respectfully submitted,



Jay F. Vermillion #973683



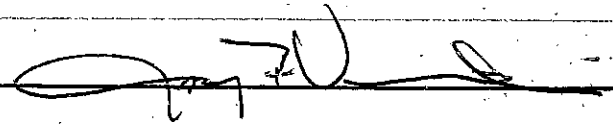
16-2010

### Certificate of Service

The undersigned hereby certifies that copies of the above and foregoing Notice of Property Loss - Tort Claim have been served upon:

1. The Ind. Dept. of Corrections, I. G. S. E 334  
302 W. Washington St., Indianapolis, IN 46204
2. Mark Leventhagen, Superintendent, Westville  
Correctional Unit, 5501 South 1100 West, Westville,  
IN 46391. And,
3. The Office of the Indiana Attorney General,  
Tort Claims Division, 219 State House, 200 W.  
Washington St., Indianapolis, IN 46204-2794.

The undersigned further certifies that service on the above-stated was done by the United States Postal Service, Certified Mail, return receipt requested, on this 29<sup>th</sup> day of June, 2010.



Jay F. Veumillan #973683  
Westville Correctional Unit  
5501 South 1100 West  
Westville, IN 46391

VLL 18-2010

**NOTICE OF TORT CLAIM**

Pursuant to the requirements of the Indiana Tort Claim Act, Ind.Code §§ 34-13-3-1 *et seq.*,

Jay F. Vermillion gives notice that he has a claim against the State of Indiana and the Indiana Department of Correction. The Claimant would provide the following information concerning his claim:

1. The Claimant's name and D.O.C. number: Jay F. Vermillion # 973683

2. The Claimant's Current Residence: Westville Correctional Unit  
5501 South 1100 West, Westville, IN 46391

3. The Claimant's residence at the time of his loss or injury: Westville Correctional Unit  
5501 South 1100 West, Westville, IN 46391

4. The names of ALL persons involved in this claim or having knowledge of the circumstances are: Off. Parker, Off. Padges, Off. Travis,  
Unit Counselor Patterson, and Executive Assistant Timothy Beal.

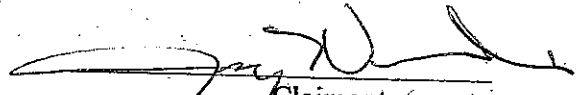
5. The date of the loss or injury, the extent of the loss or injury, and the circumstances which brought about this claim are as follows: On January 20, 2010, WCU  
staff confiscated my television for the stated reason that  
it was "black". I was immediately advised that it was  
stated to be destroyed on March 20, 2010.

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6. The amount of damages sought by Claimant is as follows: \_\_\_\_\_

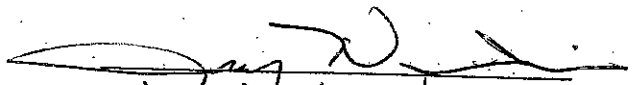
I paid \$219.00 for it. As such, I am asking for \$219.00 in damages.

Dated: July 14 2010  
(Month) (Day) (Year)

  
Claimant


**CERTIFICATE OF SERVICE**

Claimant hereby swears, under penalties for perjury, that a true and correct copy of the foregoing notice has been served upon the Attorney General of Indiana and the Commissioner of the Indiana Department of Correction, as required by Ind.Code §§ 34-13-3-6 and 34-13-3-12 on this 14th day of July, 2010. (and the WCU Superintendent) via Certified Mail.

  
J. F. Vermillion  
Claimant pro se  
DOC# 0172683

**VERIFICATION**

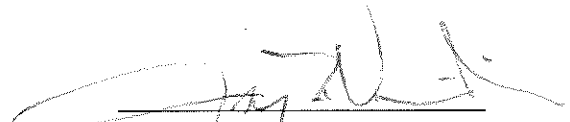
The undersigned hereby declares under the penalties for perjury that the above and foregoing representations are true and correct.



Jay F. Vermillion #973683

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that the above and forgoing Plaintiff's Third Amended Prisoner's Civil Rights Complaint Under Title 42 U.S.C. § 1983, (with three (3) incorporated and attached Torts Claim Notices), has been served upon Laura A. Briggs, Clerk of this United States District Court, Southern District of Indiana, Indianapolis Division, via the court's ECF filing system, and counsel for the defendants, Kristin Garn, Deputy Indiana Attorney General, I.G.C.S. Fifth Floor, 302 W. Washington St., Indianapolis, IN 46204, by depositing the same in the United States Mail for delivery First Class, postage prepaid, on this 7<sup>th</sup> day of May, 2015.



Jay F. Vermillion #973683  
Indiana State Reformatory  
4490 W. Reformatory Rd.  
Pendleton, IN 46064