

APPEAL,CLOSED,PROSE

**U.S. District Court
District of South Dakota (Southern Division)
CIVIL DOCKET FOR CASE #: 4:20-cv-04059-KES**

Walker v. Barnett et al
Assigned to: U.S. District Judge Karen E. Schreier
Demand: \$1,044,000
Case in other court: 8th Circuit, 20-03199
Cause: 42:1983 Civil Rights Act – Civil Action for Deprivation
of Rights

Date Filed: 03/30/2020
Date Terminated: 09/22/2020
Jury Demand: Plaintiff
Nature of Suit: 441 Civil Rights: Voting
Jurisdiction: U.S. Government Defendant

Plaintiff

Clayton G. Walker

represented by **Clayton G. Walker**
1736 E. Tallent Street #4
Rapid City, SD 57703
PRO SE

V.

Defendant

Steve Barnett
Secretary of State

represented by **Ann F. Mines–Bailey**
Attorney General of South Dakota
1302 E. Highway 14
Suite 1
Pierre, SD 57501–8501
(605) 773–3215
Fax: (605) 399–6041
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Holly R. Farris
Attorney General of South Dakota
1302 E. Highway 14
Suite 1
Pierre, SD 57501–8501
(605) 773–3251
Fax: (605) 773–4106
Email: holly.farris@state.sd.us
TERMINATED: 07/23/2020

Defendant

Marcia Holtman
Department of Labor

represented by **Ann F. Mines–Bailey**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Holly R. Farris
(See above for address)
TERMINATED: 07/23/2020

Defendant

United States of America
TERMINATED: 05/19/2020

Defendant

Unknown Federal Employees
TERMINATED: 05/19/2020

Date Filed	#	Docket Text
03/30/2020	<u>1</u>	COMPLAINT with Jury Demand, filed by Clayton G. Walker. (Attachments: # <u>1</u> Exhibit 1 – Email, # <u>2</u> Cover letter) (CLR) (Entered: 03/30/2020)
03/30/2020	<u>2</u>	MOTION for Leave to Proceed in forma pauperis by Clayton G. Walker. (CLR) (Entered: 03/30/2020)
03/30/2020	<u>3</u>	MOTION for Summons by Clayton G. Walker. (CLR) (Entered: 03/30/2020)
04/09/2020	<u>4</u>	<p>NOTICE TO PLAINTIFF: The Clerks Office has received your Complaint together with an Application to Proceed without Prepaying Fees or Costs. A new case has been opened. Copy of docket sheet sent to plaintiff. CM/ECF Pro Se Litigant Application Form also sent to plaintiff.</p> <hr/> <p>Any further documents or correspondence you send to the Clerks Office concerning your case must include the case number. All documents submitted for filing must also contain an original signature. Submitted documents are electronically scanned for filing and they become the official court record. The quality of the official court record is determined by the quality of the original documents received for filing. Writing should only be on one side of the paper and writing must be dark enough for scanning. All documents must be on 8.5 x 11 inch paper. The plaintiff must keep the Court informed if the plaintiff's address changes. If the Court is not kept informed and multiple items are returned as undelivered, the plaintiff's case may be dismissed without prejudice for failure to prosecute. (CLR) (Entered: 04/09/2020)</p>
04/13/2020	<u>5</u>	MOTION for Declared Emergency by Clayton G. Walker. (Attachments: # <u>1</u> Letter) (CLR) (Entered: 04/13/2020)
04/13/2020	<u>6</u>	AFFIDAVIT in Support re <u>5</u> MOTION for Declared Emergency filed by Clayton G. Walker. (CLR) (Entered: 04/13/2020)
04/13/2020	<u>7</u>	MOTION for Oral Arguments by Clayton G. Walker. (CLR) (Main Document 7 replaced on 4/13/2020) (CLR). (Entered: 04/13/2020)
04/13/2020	<u>8</u>	MOTION for Legal Assistant by Clayton G. Walker. (CLR) (Entered: 04/13/2020)
05/04/2020	<u>9</u>	MOTION for PACER account or in the alternative to be allowed to submit documents for filing by email by Clayton G. Walker. (CLR) (Entered: 05/04/2020)
05/04/2020	<u>10</u>	MOTION to be allowed to submit documents for filing by email or in the alternative for a PACER account by Clayton G. Walker. (CLR) (Entered: 05/04/2020)
05/04/2020	<u>11</u>	NOTICE of Change of Address by Clayton G. Walker. (CLR) (Entered: 05/04/2020)
05/04/2020	<u>12</u>	SECOND MOTION for Declared Emergency by Clayton G. Walker. (CLR) (Entered: 05/04/2020)
05/05/2020	<u>13</u>	ORDER denying <u>9</u> Motion to be allowed to submit documents for filing by email. The Clerk of Courts sent Mr. Walker a CM/ECF Pro Se Litigant Application Form on April 9, 2020. This form sets forth rules and procedures for using the CM/ECF system. If Mr. Walker wants the court to consider his motion to be authorized to file documents using the CM/ECF system, he must complete this form and file it. The court will then consider his motion. The court has no other mechanism to authorize the filing of documents by email. Signed by U.S. District Judge Karen E. Schreier on May 5, 2020. (Schreier, Karen) Modified on 5/5/2020. Sent to Clayton G. Walker via USPS (SKK). (Entered: 05/05/2020)
05/05/2020	<u>14</u>	ORDER denying as moot <u>10</u> Motion to file documents by email. For the same reasons stated in docket 13, this motion is denied. Signed by U.S. District Judge Karen E. Schreier on May 5, 2020. (Schreier, Karen) Modified on 5/5/2020. Sent to Clayton G. Walker via USPS (SKK). (Entered: 05/05/2020)
05/06/2020	<u>15</u>	THIRD MOTION for Declared Emergency by Clayton G. Walker. (CLR) (Entered: 05/06/2020)

05/14/2020	<u>16</u>	REQUEST FOR ISSUANCE OF SUMMONS(ES) by Clayton G. Walker. (CLR) (Entered: 05/15/2020)
05/18/2020	<u>18</u>	MOTION for Judicial Notice by Clayton G. Walker. (CLR) (Entered: 05/18/2020)
05/19/2020	<u>19</u>	ORDER granting <u>2</u> Motion for Leave to Proceed in forma pauperis; denying as moot <u>3</u> Motion for Summons; denying <u>5</u> Motion for Declared Emergency; denying <u>7</u> Motion for Oral Arguments; denying <u>8</u> Motion for Legal Assistant; denying <u>12</u> Second Motion for Declared Emergency; and denying <u>15</u> Third Motion for Declared Emergency. Signed by U.S. District Judge Karen E. Schreier on 5/19/2020. (CLR) Modified on 5/19/2020 delivered to Clayton Walker with sample Summons and USM 285 form and blank Summons and USM 285 form via USPS (CLR). (Entered: 05/19/2020)
05/20/2020	<u>20</u>	MOTION for Judicial Notice on Haines vs. Kerner by Clayton G. Walker. (CLR) (Entered: 05/20/2020)
05/20/2020	<u>21</u>	MOTION for Judicial Notice on Ballot access by Clayton G. Walker. (CLR) (Entered: 05/20/2020)
05/20/2020	<u>22</u>	MOTION for Judicial Notice re 18-4015 by Clayton G. Walker. (CLR) (Entered: 05/20/2020)
05/20/2020	<u>23</u>	ORDER denying <u>18</u> Motion for Judicial Notice; denying <u>20</u> Motion for Judicial Notice on Haines vs. Kerner; denying <u>21</u> Motion for Judicial Notice on Ballot access; denying <u>22</u> Motion for Judicial Notice re 18-4015. Signed by U.S. District Judge Karen E. Schreier on 5/20/2020. (CLR) Modified on 5/20/2020 delivered to Plaintiff via USPS (CLR). (Entered: 05/20/2020)
05/22/2020	<u>24</u>	NOTICE of Change of Address by Clayton G. Walker. (CLR) (Entered: 05/22/2020)
05/22/2020	<u>25</u>	MOTION to be Heard by Clayton G. Walker. (CLR) (Entered: 05/22/2020)
05/22/2020	<u>26</u>	Summons Issued as to Steve Barnett, Marcia Holtman. (CLR) Modified on 5/22/2020 Summonses, USM 285 forms, <u>1</u> , and <u>19</u> emailed to USM for service (CLR). (Entered: 05/22/2020)
06/01/2020	<u>27</u>	OBJECTION by Plaintiff Clayton G. Walker re <u>19</u> Order. (CLR) (Entered: 06/01/2020)
06/02/2020	<u>28</u>	ORDER denying <u>25</u> Motion for Hearing. Mr. Walker argues that he is entitled to a hearing on his motions under the due process clause. In the event this matter goes to trial or a hearing on the merits, he will be afforded a hearing. But a litigant is not entitled to a hearing on every motion that is filed in a case. Most matters can be addressed based on the written motions and responses without a hearing. At docket 27, Mr. Walker objects to the court's prior screening order that dismissed the claims against the United States and the federal employees. He argues that the Tucker Act waives sovereign immunity. But that applies to contracts and takings claims—neither of which is alleged here. He also argues that Bivens would allow relief. The court already addressed in its screening order why Bivens does not apply here. Walker contends sovereign immunity is waived by the Federal Tort Claims Act. But the Federal Tort Claims Act requires a party to present a claim to the appropriate Federal Agency and the Agency must deny the claim before the Federal Court has jurisdiction over a federal tort claim. See 28 U.S.C. section 2675(a). Walker has not alleged that this claim was submitted to a federal agency and denied. As a result, the claims against the United States and the federal employees were dismissed as frivolous. Signed by U.S. District Judge Karen E. Schreier on June 2, 2020. (Schreier, Karen) Modified on 6/3/2020. Sent to Clayton G. Walker via USPS (SKK). (Entered: 06/02/2020)
06/04/2020	<u>29</u>	SUMMONS Returned Executed by Clayton G. Walker. Steve Barnett served on 5/26/2020, answer due 6/16/2020; Marcia Holtman served on 5/26/2020, answer due 6/16/2020. (DLC) (Entered: 06/04/2020)
06/17/2020	<u>30</u>	NOTICE of Appearance by Ann F. Mines-Bailey on behalf of Steve Barnett, Marcia Holtman. (Mines-Bailey, Ann) (Entered: 06/17/2020)
06/17/2020	<u>31</u>	MOTION to DISMISS by Steve Barnett, Marcia Holtman. (Mines-Bailey, Ann) Modified on 6/17/2020 (SLT). (Entered: 06/17/2020)

06/17/2020	<u>32</u>	MEMORANDUM in Support re <u>31</u> <MOTION to DISMISS filed by Steve Barnett, Marcia Holtman. (Mines–Bailey, Ann) (Entered: 06/17/2020)
06/17/2020	<u>33</u>	CERTIFICATE of Service by Steve Barnett, Marcia Holtman (Mines–Bailey, Ann) (Entered: 06/17/2020)
06/17/2020	<u>34</u>	NOTICE of Appearance by Holly R. Farris on behalf of Steve Barnett, Marcia Holtman. (Farris, Holly) (Entered: 06/17/2020)
06/26/2020	<u>35</u>	MOTION for Form 95 Reconsideration by Clayton G. Walker. (Attachments: # <u>1</u> Exhibit D–1) (CLR) (Entered: 06/26/2020)
06/26/2020	<u>36</u>	AFFIDAVIT of Clayton Walker re <u>35</u> MOTION for Form 95 Reconsideration. (CLR) (Entered: 06/26/2020)
06/26/2020	<u>37</u>	MOTION for Clerks Entry of Default by Clayton G. Walker. (CLR) (Entered: 06/26/2020)
06/26/2020	<u>38</u>	AFFIDAVIT of Clayton Walker re <u>37</u> MOTION for Clerks Entry of Default. (CLR) (Entered: 06/26/2020)
06/26/2020	<u>39</u>	BRIEF in Opposition of <u>31</u> MOTION to DISMISS by Plaintiff Clayton G. Walker. (Attachments: # <u>1</u> Exhibits D–1 thru D–6) (CLR) (Entered: 06/26/2020)
06/26/2020	<u>40</u>	CERTIFICATE OF SERVICE by Clayton G. Walker re <u>35</u> MOTION for Form 95 Reconsideration, <u>36</u> Affidavit of Clayton Walker, <u>37</u> MOTION for Clerks Entry of Default, <u>38</u> Affidavit of Clayton Walker, and <u>39</u> Brief in Opposition. (CLR) (Entered: 06/26/2020)
06/29/2020	<u>41</u>	Defendants' Motion for Enlargement of Time and RESPONSE to Motion re <u>37</u> MOTION for Entry of Default filed by All Defendants. (Attachments: # <u>1</u> Certificate of Service) (Mines–Bailey, Ann) Modified on 6/30/2020 to change to motion to extend (SKK). (Entered: 06/29/2020)
07/06/2020	<u>42</u>	NOTICE by Clayton G. Walker. (SLT) (Entered: 07/06/2020)
07/06/2020	<u>43</u>	AFFIDAVIT. (Attachments: # <u>1</u> Exhibit B 1) (SLT) (Entered: 07/06/2020)
07/10/2020	<u>44</u>	REPLY in Support of <u>31</u> Motion to Dismiss filed by Steve Barnett, Marcia Holtman. (Farris, Holly) Modified Docket Text on 7/13/2020 (DLC). (Entered: 07/10/2020)
07/15/2020	<u>45</u>	MOTION for Entry of Default by Clayton G. Walker. (CLR) (Entered: 07/15/2020)
07/15/2020	<u>46</u>	AFFIDAVIT in Support re <u>45</u> MOTION for Entry of Default filed by Clayton G. Walker. (CLR) (Entered: 07/15/2020)
07/20/2020	<u>47</u>	MOTION for Entry of Default by Clayton G. Walker. (CLR) (Entered: 07/20/2020)
07/20/2020	<u>48</u>	AFFIDAVIT in Support re <u>47</u> MOTION for Entry of Default filed by Clayton G. Walker. (CLR) (Entered: 07/20/2020)
07/21/2020	<u>49</u>	BRIEF by Defendants Steve Barnett, Marcia Holtman re <u>45</u> MOTION for Default Judgment, <u>47</u> MOTION for Default Judgment (Mines–Bailey, Ann) (Entered: 07/21/2020)
07/23/2020	<u>50</u>	Notice of Withdrawal of Attorney by All Defendants. Attorney Holly R. Farris terminated. (Farris, Holly) (Entered: 07/23/2020)
08/17/2020	<u>51</u>	PETITION for Declared Emergency by Plaintiff Clayton G. Walker. (CLR) (Entered: 08/17/2020)
08/17/2020	<u>52</u>	MOTION for liberally construed by Clayton G. Walker. (CLR) (Entered: 08/17/2020)
08/17/2020	<u>53</u>	AFFIDAVIT in Support re <u>52</u> MOTION for liberally construed filed by Clayton G. Walker. (CLR) (Entered: 08/17/2020)
08/17/2020	<u>54</u>	REQUEST for Evidence to be Placed in the Record by Plaintiff Clayton G. Walker (SLT) (Entered: 08/17/2020)
08/31/2020	<u>55</u>	NOTICE re Petition for Emergency Writ of Mandamus by Clayton G. Walker. (CLR) (Entered: 08/31/2020)

09/22/2020	<u>56</u>	ORDER denying <u>35</u> Motion for Reconsideration; denying <u>37</u> Motion for Entry of Default; denying as moot <u>41</u> Motion to Extend; denying <u>45</u> Motion for Default Judgment; denying <u>47</u> Motion for Default Judgment; denying <u>52</u> Motion for Liberal Construction; and granting <u>31</u> Motion to Dismiss. Signed by U.S. District Judge Karen E. Schreier on 9/22/2020. (CLR) (Entered: 09/22/2020)
09/22/2020	<u>57</u>	JUDGMENT in favor of Marcia Holtman, Steve Barnett and against Clayton G. Walker. Signed by U.S. District Judge Karen E. Schreier on 9/22/2020. (CLR) Modified on 9/22/2020 delivered to Clayton G. Walker with copy of <u>56</u> and non prisoner appeal packet via USPS (CLR). (Entered: 09/22/2020)
10/13/2020	<u>58</u>	NOTICE OF APPEAL as to <u>56</u> Order on Motion for Reconsideration, Order on Motion for Entry of Default, Order on Motion to Extend, Orders on Motion for Default Judgment, Order on Motion for Liberal Construction, and Order on Motion to Dismiss by Clayton G. Walker. (Attachments: # <u>1</u> Letter from 8th Circuit Court of Appeals). (CLR) (Entered: 10/20/2020)
10/20/2020	<u>59</u>	TRANSMITTAL of Notice of Appeal to 8th Circuit Court of Appeals re <u>58</u> Notice of Appeal. (CLR) (Entered: 10/20/2020)
10/20/2020	<u>60</u>	NOTICE OF APPEAL as to <u>57</u> Judgment by Clayton G. Walker.. (CLR) (Entered: 10/20/2020)
10/20/2020	<u>61</u>	TRANSMITTAL of Notice of Appeal to 8th Circuit Court of Appeals re <u>60</u> Notice of Appeal. (CLR) (Entered: 10/20/2020)
10/20/2020	<u>62</u>	USCA Case Number and Appeal Briefing Schedule Order for <u>58</u> Notice of Appeal, filed by Clayton G. Walker, <u>60</u> Notice of Appeal filed by Clayton G. Walker. USCA Case Number: 20-3199 (Attachments: # <u>1</u> briefing schedule). (TAL) (Entered: 10/20/2020)