

Attorneys for Defendants County
of Ventura and Ventura County
Sheriff Bill Ayub

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

PATRICK ALLEN CANNAVAN,
etc.

Plaintiffs,

VS.

COUNTY OF VENTURA,
VENTURA COUNTY SHERIFF
BILL AYUB, and DOES 1-10,
inclusive,

Defendants.

No. 2:20 cv-10012 FMO (PVCx)

**DEFENDANTS' AMENDED
ANSWER TO PLAINTIFF'S
VERIFIED CLASS ACTION
COMPLAINT FOR INJUNCTIVE
AND DECLARATORY RELIEF**

Judge: Hon. Fernando M. Olguin
Trial: Not Set

Complaint Filed: October 30, 2020

Defendants County of Ventura and Ventura County Sheriff Bill Ayub (“Defendants”) respond to the complaint (“complaint”) of plaintiff Patrick Cannavan, on behalf of himself and all others similarly situated (“Plaintiff”) filed on October 3, 2020, as follows:

RESPONSES TO ALLEGATIONS OF COMPLAINT

1. There are no factual allegations to admit or deny in this paragraph as this paragraph only states the legal grounds on which Plaintiff bases his complaint. Defendants deny that any eligible inmates were denied their right to vote.

1 2. There are no factual allegations to admit or deny in this paragraph as this
2 paragraph only states the legal grounds on which Plaintiff bases his complaint.
3 Defendants deny that any eligible inmates were denied their right to vote.

4 3. Defendants admit that during the relevant time period, Plaintiff was an
5 inmate housed at the Todd Road Jail facility near Santa Paula, California.
6 Defendants admit that Plaintiff requested a ballot to vote in the November 3, 2020,
7 election. Defendants admit that Plaintiff was eligible and registered to vote in the
8 November 3, 2020, election. Except as expressly admitted, Defendants deny each
9 and every allegation in this paragraph.

10 4. Defendants admit that they house inmates at the Todd Road Jail facility
11 and the Pre-Trial Detention Facility (also referred to as the Main Jail) who are
12 eligible to vote. Except as expressly admitted, Defendants deny each and every
13 allegation in this paragraph.

14 5. There are no factual allegations to admit or deny in this paragraph as this
15 paragraph only states the legal grounds on which Plaintiff's complaint is based.
16 Defendants deny that Plaintiff's rights were violated.

17 6. Defendants admit that the court has subject matter jurisdiction over this
18 action.

19 7. Defendants admit venue is proper.

20 8. There are no factual allegations to admit or deny in this paragraph.
21 Defendants deny Plaintiff is entitled to declaratory relief.

22 9. Defendants admit that, during the relevant time period, Plaintiff was an
23 inmate housed at the Todd Road Jail. Defendants are informed and believe that
24 Plaintiff is a 56-year old male. Defendants deny that Plaintiff has been denied his
25 constitutional right to vote.

26 10. Defendants admit that the County of Ventura is a public entity and the
27 Ventura County Sheriff's Office is a constituent agency of the County of Ventura.

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1 Defendants admit that Bill Ayub is the elected Sheriff in Ventura County.
2 Defendants admit that the Sheriff's Office operates the following detention
3 facilities in Ventura County: the Pre-Trial Detention Facility; Todd Road Jail; and
4 East County Jail. Defendants admit that during the relevant time periods Plaintiff
5 was an inmate at the Todd Road Jail. Except as expressly admitted, Defendants
6 deny each and every allegation in this paragraph.

7 11. Defendants admit that Bill Ayub is the elected Sheriff in Ventura
8 County. Defendants admit that the Sheriff's Office operates the following
9 detention facilities in Ventura County: the Pre-Trial Detention Facility; Todd
10 Road Jail; and East County Jail. Defendants admit that during the relevant time
11 periods Plaintiff was an inmate at the Todd Road Jail. Except as expressly
12 admitted, Defendants deny each and every allegation in this paragraph.

13 12. Defendants admit that there was an election on November 3, 2020, with
14 a variety of matters on which to vote. Defendants lack sufficient knowledge or
15 information to form a belief as to the truth of the remaining allegations in this
16 paragraph and on that basis deny the allegations.

17 13. Defendants deny each and every factual allegation in this paragraph.

18 14. Defendants admit that during the relevant time period, Plaintiff was an
19 inmate housed at the Todd Road Jail. Defendants also admit that Plaintiff is
20 awaiting trial on felony charges and has been in Sheriff's Office custody since July
21 18, 2018.

22 15. Defendants admit that Plaintiff was eligible and registered to vote for
23 the November 3, 2020, election. Defendants admit Plaintiff requested a ballot to
24 vote in the November 3, 2020, election. Defendants admit that Sheriff's Office
25 employees informed Plaintiff they would help him get a ballot for the November 3,
26 2020, election. Except as expressly admitted, Defendants deny each and every
27 remaining factual allegation in this paragraph.

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1 16. Defendants deny each and every factual allegation in this paragraph.

2 17. There are no factual allegations to admit or deny in this paragraph as
3 this paragraph only states the legal grounds on which Plaintiff bases his complaint.
4 Defendants deny that a class action is appropriate and deny that Plaintiff is entitled
5 to any of the remedies he seeks.

6 18. Defendants deny each and every factual allegation in this paragraph.

7 19. Defendants deny each and every factual allegation in this paragraph.

8 20. There are no factual allegations to admit or deny in this paragraph.
9 Defendants deny that a class action is appropriate.

10 21. There are no factual allegations to admit or deny in this paragraph.
11 Defendants deny that a class action is appropriate.

12 22. There are no factual allegations to admit or deny in this paragraph.
13 Defendants deny that a class action is appropriate.

14 23. Defendants deny each and every factual allegation in this paragraph.

15 24. There are no factual allegations to admit or deny in this paragraph.
16 Defendants deny that a class action is appropriate.

17 25. There are no factual allegations to admit or deny in this paragraph.
18 Defendants deny that a class action is appropriate and deny that Plaintiff's or any
19 other inmate's right to vote was violated.

20 26. Defendants deny each and every factual allegation in this paragraph.

21 27. Defendants deny each and every factual allegation in this paragraph.

22 28. Defendants lack sufficient knowledge or information to form a belief as
23 to the truth of the allegations in this paragraph and on that basis deny the
24 allegations.

25 29. There are no factual allegations to admit or deny in this paragraph.
26 Defendants deny that a class action is appropriate and deny that Plaintiff's or any
27 other inmate's right to vote was violated.

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1 30. There are no factual allegations to admit or deny in this paragraph.
2 Defendants deny that a class action is appropriate and deny that Plaintiff's or any
3 other inmate's right to vote was violated.

4 31. Defendants incorporate by reference their responses to paragraphs 1
5 through 30, herein.

6 32. There are no factual allegations to admit or deny in this paragraph.

7 33. There are no factual allegations to admit or deny in this paragraph.

8 34. There are no factual allegations to admit or deny in this paragraph.

9 35. Defendants deny they failed to provide ballots to inmates who were
10 registered to vote and who requested ballots. Defendants further deny that
11 Plaintiff's or any other inmate's right to vote was violated.

12 36. Defendants deny each and every factual allegation in this paragraph.

13 37. Defendants deny each and every factual allegation in this paragraph.

14 38. Defendants incorporate by reference their responses to paragraphs 1
15 through 37 herein.

16 39. There are no factual allegations to admit or deny in this paragraph.

17 40. There are no factual allegations to admit or deny in this paragraph.

18 41. There are no factual allegations to admit or deny in this paragraph.

19 42. Defendants deny each and every factual allegation in this paragraph.

20 43. Defendants deny each and every factual allegation in this paragraph.

21 44. Defendants incorporate by reference their responses to paragraphs 1
22 through 43 herein.

23 45. There are no factual allegations to admit or deny in this paragraph.

24 46. Defendants deny each and every factual allegation in this paragraph.

25 47. Defendants deny each and every factual allegation in this paragraph.

26 48. Defendants incorporate by reference their responses to paragraphs 1
27 through 47 herein.

28 49. Defendants deny each and every factual allegation in this paragraph.

1 50. Defendants deny Plaintiff is entitled to declaratory relief.

2 51. Defendants incorporate by reference their responses to paragraphs 1
3 through 50 herein.

4 52. Defendants deny each and every factual allegation in this paragraph.

5 53. Defendants deny Plaintiff is entitled to declaratory relief.

6 **PRAYER FOR RELIEF**

7 54. Defendants deny Plaintiff is entitled to the relief he seeks, including
8 attorney fees. Defendants further deny that Plaintiff is entitled to declaratory relief
9 or class certification.

10 **AFFIRMATIVE DEFENSES**

11 Defendants' investigation into this case is ongoing. Defendants assert the
12 following affirmative defenses based upon facts presently known, but reserve the
13 right to supplement these defenses should they learn of additional facts giving rise
14 to an affirmative defense not stated below.

15 **FIRST AFFIRMATIVE DEFENSE**

16 Plaintiff's claims are barred, in whole or in part, because Defendants are
17 entitled to absolute and/or qualified immunity for their alleged actions and/or
18 omissions, including to the extent that any defendant is a state actor immune from
19 claims asserted under 42 United States Code section 1983.

20 **SECOND AFFIRMATIVE DEFENSE**

21 Certain of Plaintiff's claims are barred, in whole or in part, because Plaintiff
22 failed to timely present a claim to the County of Ventura as required by
23 Government Code section 900 et seq.

24 **THIRD AFFIRMATIVE DEFENSE**

25 Plaintiff's claims are barred, in whole or in part, because and to the extent
26 that the complaint fails to state required elements of each cause of action alleged or
27 otherwise fails to adequately establish a prima facie case against Defendants.

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1 **FOURTH AFFIRMATIVE DEFENSE**

2 Plaintiff's claims are barred, in whole or in part, by the applicable statute of
3 limitations.

4 **FIFTH AFFIRMATIVE DEFENSE**

5 Defendants are not liable for the acts or omissions of their employees which
6 occurred outside the scope of those employees' employment with the County of
7 Ventura and/or the Ventura County Sheriff's Office.

8 **SIXTH AFFIRMATIVE DEFENSE**

9 Certain of Plaintiff's claims are barred because there is no municipal policy,
10 practice or custom that resulted in a constitutional deprivation.

11 **SEVENTH AFFIRMATIVE DEFENSE**

12 Certain of Plaintiff's claims are barred because Defendants' policy was in
13 furtherance of a compelling government interest and the regulation was the least
14 restrictive means to further that interest.

15 **EIGHTH AFFIRMATIVE DEFENSE**

16 Certain of Plaintiff's claims are barred because Defendants' policy was not a
17 substantial burden on Plaintiff's right to vote.

18 **NINTH AFFIRMATIVE DEFENSE**

19 Plaintiff's claims are barred, in whole or in part, because such claims are
20 moot.

21 **TENTH AFFIRMATIVE DEFENSE**

22 Plaintiff's claims are barred, in whole or in part, because and to the extent
23 that Plaintiff's own conduct, acts, omissions and/or negligence caused or
24 contributed to any damages he claims to have suffered.

25 **ELEVENTH AFFIRMATIVE DEFENSE**

26 Plaintiff's claims are barred, in whole or in part, because Defendants acted in
27 good faith and without malicious intent in connection with the conduct alleged in
28 the complaint.

TWELFTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred, in whole or in part, based on the doctrines of waiver and estoppel in that the conduct, actions and inactions of Plaintiff amount to and constitute a waiver of any right Plaintiff may have had in reference to the matters alleged in the complaint.

THIRTEENTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred, in whole or in part, because and to the extent that Plaintiff assumed risks that caused or contributed to the harm he claims to have suffered.

FOURTEENTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred, in whole or in part, because and to the extent that Plaintiff has unclean hands.

FIFTEENTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred, in whole or in part, due to lack of proper or effective service.

SIXTEENTH AFFIRMATIVE DEFENSE

Plaintiff's claims are barred, in whole or in part, because even if Plaintiff suffered any actual damages, Plaintiff failed to mitigate such damages.

SEVENTEENTH AFFIRMATIVE DEFENSE

Certain of Plaintiff's claims are barred for the failure to fully exhaust Ventura County Sheriff Office administrative remedies pursuant to the Prison Litigation Reform Act. (42 U.S.C. § 1997e, subds. (a), (h).)

EIGHTEENTH AFFIRMATIVE DEFENSE

As prison officials charged with executing facially valid court orders in this action, Defendants enjoy absolute immunity from section 1983 liability for the conduct prescribed by those court orders. (*Engbretson v. Mahoney* (9th Cir. 2013) 724 F.3d 1034.)

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PRAYER

WHEREFORE, Defendants pray as follows:

1. That Plaintiff take nothing by reason of the complaint and that judgment be rendered in favor of Defendants;
2. That Defendants be awarded costs of suit incurred in defense of this action; and
3. For such other relief as the court deems proper.

JURY DEMAND

In the event that the action reaches trial and without prejudice to their right to make trial dismissal motions, Defendants demand that trial be to a jury, in accordance with Federal Rule of Civil Procedure 38(b)(1).

MICHAEL G. WALKER
County Counsel, County of Ventura

Dated: February 3, 2021

By _____/s/

MARINA PORCHE
Assistant County Counsel

Attorneys for Defendants County of
Ventura and Ventura County Sheriff Bill
Ayub