

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

QUESTIONNAIRE FOR THE PRISONERS PROCEEDING
PRO SE UNDER 42 U.S.C. § 1983

RALPH HARRISON BENNING,
GDC0000427174-EF198322

(GIVE FULL NAME AND PRISON NUMBER OF PLAINTIFF)

Plaintiff

VS.

Commissioner Gregory C. Dozier in
his official capacity; and, Georgia
Department of Corrections Inmate
Email Censor individually and
officially.

Defendant(s)

Filed at 9:30 A M
March 9, 2018
Varene Saca
DEPUTY CLERK, U.S. DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA

CIVIL ACTION NO:

5:18-CV-87

I. GENERAL INFORMATION

1. Your full name and prison number Ralph Harrison Benning, GDC 427174
2. Name and location of prison where you are now confined Wilcox State Prison, Abbeville, GA
3. Sentence you are now serving (how long?) Life
 - (a) What were you convicted of? Murder
 - (b) Name and location of court which imposed sentence Fulton County Superior Court, Atlanta, Georgia
 - (c) When was sentence imposed? 1986
 - (d) Did you appeal your sentence and/or conviction? Yes ☐ No ☒
 - (e) What was the result of your appeal? No appeal

(f) Approximate date your sentence will be completed Upon my death

II. PREVIOUS LAWSUITS

NOTE: FAILURE TO DISCLOSE ALL PRIOR CIVIL CASES MAY RESULT IN THE DISMISSAL OF THIS CASE. IF YOU ARE UNSURE OF ANY PRIOR CASES YOU HAVE FILED, THAT FACT MUST BE DISCLOSED AS WELL.

4. Other than an appeal of your conviction or sentence, and other than any habeas action, have you filed a lawsuit dealing with the same or similar facts or issues that are involved in this action?

Yes ☐ No ☒

5. If your answer to question 4 is "Yes," list that lawsuit below, giving the following information:

(IF YOU HAVE FILED MORE THAN ONE LAWSUIT, LIST OTHER LAWSUITS ON A SEPARATE SHEET OF PAPER, GIVING THE SAME INFORMATION FOR EACH)

(a) Parties to the previous lawsuit INVOLVING SAME FACTS:

Plaintiff(s): _____

Defendant(s): _____

(b) Name of Court: _____

(c) Docket Number: _____ When did you file this lawsuit? _____

(d) Name of judge assigned to case: _____

(e) Is this case still pending? Yes ☐ No ☐

(f) If your answer to (e) is "No", when was it disposed of and what were the results?

(DID YOU WIN? WAS THE CASE DISMISSED? DID YOU APPEAL?)

6. Other than an appeal of your conviction or sentence, and other than any habeas action, have you ever filed any lawsuit while incarcerated or detained? Yes ☒ No ☐

7. If your answer to question 6 is "Yes," list that lawsuit below, giving the following information:

(IF YOU HAVE FILED MORE THAN ONE LAWSUIT, LIST OTHER LAWSUITS ON A SEPARATE SHEET OF PAPER, GIVING THE SAME INFORMATION FOR EACH)

(a) Parties to the previous lawsuit:

Plaintiff(s): Ralph Harrison Benning and Victor Dewayn Williams

Defendant(s): Jim Jester, Traci Durance (See: Attch. A)

(b) Name of Court: Southern District of Georgia

(c) Docket Number: CV 694 When did you file this lawsuit? Nov. 22, 1994

(d) Name of judge assigned to case: Honorable William T. Moore, Jr.

(e) Is this case still pending? Yes ☐ No ☒

(f) If your answer to (e) is "No", when was it disposed of and what were the results?
(DID YOU WIN? WAS THE CASE DISMISSED? DID YOU APPEAL?)

September 18, 1997, Judgment for Defendants, aff'd Eleventh
Circuit

(Cont. Attach. A)

8. AS TO ANY LAWSUIT FILED IN ANY FEDERAL COURT in which you were permitted to proceed *in forma pauperis*, was any suit dismissed on the ground that it was frivolous, malicious, or failed to state a claim? Yes ☐ No ☒

If your answer is Yes, state the name of the court and docket number as to each case:

_____	_____
_____	_____
_____	_____
_____	_____

III. PLACE OF INCIDENT COMPLAINED ABOUT

9. Where did the matters you complain about in this lawsuit take place? Georgia Department
of Corrections, Central Office, Forsyth, Georgia, Monroe, County

(a) Does this institution have a grievance procedure? Yes ☒ No ☐

(b) If your answer to question 9(a) is "Yes", answer the following:

(1) Did you present your complaint(s) herein to the institution as a grievance?

Yes ☒ No ☐

(2) If Yes, what was the result? Filed Grievance Number 254560
which was denied.

(3) If No, explain why not: _____

(c) What, if anything else, did you do or attempt to do to bring your complaint(s) to the attention of prison officials? Give dates and places and the names of persons talked to.

(d) Did you appeal any denial of your grievance to the highest level possible in the prison system? Yes ☒ No ☐

(1) If Yes, to whom did you appeal and what was the result? Appealed to Georgia Department of Corrections Central Office which appeal was denied

(2) If No, explain why you did not appeal: _____

10. In what other institutions have been confined? Give dates of entry and exit.

Georgia Diagnostic and Classification Center, circa 1986; Coastal Correctional Institution, circa 1987 - 1989; Valdosta Correctional Institution, circa 1989 - 1990; Ware Correctional Institution, circa 1990 - 1992; Georgia State Prison, circa 1992 - 1997; Macon State Prison, circa 1997 - 1997; Georgia State Prison, circa 1997 - 2003 (cont. Attach. B)

IV. PARTIES TO THIS LAWSUIT

11. List your CURRENT place of incarceration/mailling address.

Ralph H. Benning, 427174, Wilcox State Prison, P.O. Box 397, Abbeville, Georgia, 31001 - 0397

12. List the full name, the official position, and the place of employment of each defendant in this lawsuit. (ATTACH ADDITIONAL PAGES IF NECESSARY)

Commissioner G. Dozier

Inmate Email Censor

Georgia Dept. of Corrections

Georgia Dept. of Corrections

300 Patrol Rd.

300 Patrol Rd.

Forsyth, GA 31029

Forsyth, GA 31029

V. STATEMENT OF CLAIM

13. In the space hereafter provided, and on separate sheets of paper if necessary, set forth your claims and contentions against the defendant(s) you have named herein. Tell the court WHAT you contend happened to you, WHEN the incident(s) you complain about occurred, WHERE the incident(s) took place, HOW your constitutional rights were violated, and WHO violated them? Describe how each defendant was involved, including the names of other persons who were also involved. If you have more than one claim, number and set forth each claim SEPARATELY.

DO NOT GIVE ANY LEGAL ARGUMENT OR CIT ANY CASES OR STATUTES AT THIS TIME; if such is needed at a later time, the court will advise you of this and will afford you sufficient time to make such arguments. KEEP IN MIND THAT RULES 8 OF THE FEDERAL RULES OF CIVIL PROCEDURE REQUIRES THAT PLEADINGS BE SIMPLE, CONCISE, and DIRECT! If the court needs additional information from you, you will be notified.

WHERE did the incident you are complaining about occur? That is, at what institution or institutions? Georgia Dept. of Corrections, Forsyth, Georgia

WHEN do you allege this incident took place? Circa Sept. 24 and Oct. 9, 2017

WHAT happened? 1. On September 24, 2017 Plaintiff used the inmate email service to send email correspondence to Ms. Elizabeth B. Knott.

2. On October 9, 2017 Plaintiff used the inmate email service to send email correspondence to Ms. Elizabeth B. Knott.

3. On or about October 12, 2017 Plaintiff learned that the email of September 24, 2017 had not been delivered.

4. On or about October 12, 2017 Plaintiff learned that two (2) of the October 9, 2017 email correspondences had not been delivered.

5. On October 13, 2017 Plaintiff sent an email to the email service provider asking why the email correspondence of September 24, 2017 and October 9, 2017 had not been delivered.

6. On October 21, 2017 the email service provider notified Plaintiff that the emails had been censored by the Georgia Department of Corrections. (cont. Attch. C)

14. List the name and address of every person you believe was a WITNESS to the incident(s) you complain about, BRIEFLY stating what you believe each person knows from having seen or heard what happened. (USE ADDITIONAL SHEETS, IF NECESSARY)

Georgia Department of Corrections inmate email censor; Wilcox
State Prison Operations Analyst Ms. Harrell.

15. BRIEFLY state exactly what you want the court to do for you. That is, what kind of relief are you seeking in this lawsuit? Do not make any legal arguments and do not cite any cases or statutes! (USE ADDITIONAL SHEETS, IF NECESSARY)

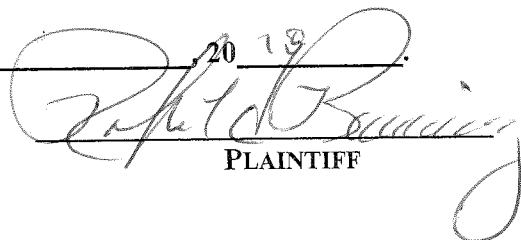
1. Declare that inmate email correspondence is to be considered
the same as written/paper correspondence.
2. Declare that Plaintiff has a right to be notified when email
correspondence is censored.
3. Declare that Plaintiff has a right to respond to any decision
to censor email correspondence.
4. Declare that Plaintiff has a right to written reason(s) for
any decision to censor email correspondence. (cont. Attch. D)

16. You may attach additional pages if you wish to make any legal argument. However, legal arguments are NOT required in order for you to obtain relief under §1983. If the court desires legal argument from you, it will request it. If any defendant presents a legal argument, you will be afforded an opportunity to respond thereto.

17. KEEP IN MIND THAT ONCE YOUR LAWSUIT IS FILED, THE COURT WILL REQUIRE YOU TO DILIGENTLY PROSECUTE IT. That means that you will be required to go forward with your case without delay. Thus, if you fail to adequately prepare your case before you file it, you may find your lawsuit dismissed for failure to prosecute if you take no action once it is filed. YOU WILL RECEIVE NO FURTHER INSTRUCTIONS FROM THE COURT TELLING YOU WHAT TO DO OR HOW TO DO IT! IT IS YOUR RESPONSIBILITY AND YOURS ALONE TO PROSECUTE YOUR OWN CASE! If you fail to prosecute your case, it will be dismissed under Rule 41 of the Federal Rules of Civil Procedure.

Signed this 6th day of March

20 18


 PLAINTIFF

ATTACHMENT A

7. I. (a) Parties to the previous lawsuit:
 Plaintiffs: Ralph Harrison Benning and Victor Dewayn Williams
 Defendants: Jim Jester, Traci Durance, Eric Hemphill, Hal O. Ray,
 Gwen Strickland, Albert G. Thomas, Kenneth Woodruff,
 Preston Woods
- (b) Name of Court: Southern District of Georgia
- (c) Docket Number: CV 694-180
 When was lawsuit filed?: November 22, 1994
- (d) Assigned Judge: Honorable William T. Moore, Jr.
- (e) Is case still pending? No
- (f) Disposition: September 18, 1997, Judgment for Defendants,
 aff'd Eleventh Circuit
7. II. (a) Parties to the previous lawsuit:
 Plaintiff: Ralph Harrison Benning
 Defendants: J. Wayne Garner, Albert G. Thomas, Jim Wetherington,
 James Doctor
- (b) Name of Court: Northern District of Georgia
- (c) Docket Number: 1:98-cv-3690-ODE
 When was lawsuit filed: December 28, 1998
- (d) Assigned Judge: Honorable Orinda D. Evans
 Honorable Christopher Hagy
- (e) Is case still pending? No
- (f) Disposition: December 28, 2001, Judgment for Defendants
 aff'd Eleventh Circuit
7. III. (a) Parties to the previous lawsuit:
 Plaintiff: Ralph Harrison Benning
 Defendant: John Brady
- (b) Name of Court: Southern District of Georgia
- (c) Docket Number: CV 600-027
 When was lawsuit filed? July 14, 2000
- (d) Assigned Judge: Honorable B. Avant Edenfield
 Honorable James E. Graham
- (e) Is case still pending? No
- (f) Disposition: Defendant's Verdict
7. IV. (a) Parties to the previous lawsuit:
 Plaintiff: Ralph H. Benning
 Defendants: Hilton Hall, Hugh Smith, James L. Thrift, Rhonda S.
 McCabe, James Doctor, Scott Stallings, Amette Spikes
- (b) Name of Court: Southern District of Georgia
- (c) Docket Number: CV 601-031
 When was lawsuit filed? February 28, 2001
- (d) Assigned Judge: Honorable B. Avant Edenfield
 Honorable W. Leon Barfield
- (e) Is case still pending? No
- (f) Disposition: Policy changed, Judgment for Defendants
7. V. (a) Parties to the previous lawsuit:
 Plaintiff: Ralph Harrison Benning
 Defendants: State of Georgia, Georgia Department of Corrections,
 James E. Donald
- (b) Name of Court: Southern District of Georgia

- (c) Docket Number: 02-cv-139
When was lawsuit filed? December 18, 2002
- (d) Assigned Judge: Honorable B. Avant Edenfield
Honorable James E. Graham
- (e) Is case still pending? No
- (f) Disposition: Voluntary dismissal w/o prejudice pursuant to private settlement agreement to provide a kosher diet. see: Benning v. State, 864 F.Supp. 2d. 1358, 1362 (M.D. Ga. 2012).
Benning v. Georgia, 391 F.3d. 1299 (11th Cir. 2004)

7. VI. (a) Parties to the previous lawsuit:
Plaintiff: Ralph H. Benning
Defendants: State of Georgia, Georgia Board of Corrections,
Georgia Department of Corrections, James E.
Donald, Brian Owens.
- (b) Name of Court: Middle District of Georgia
 - (c) Docket Number: 5:08-cv-435
When was lawsuit filed? December 11, 2008
 - (d) Assigned Judge: Honorable Hugh Lawson
Honorable Marc Thomas Treadwell
Honorable Claude W. Hicks, Jr.
 - (e) Is case still pending? No
 - (f) Disposition: Plaintiff's Verdict
see: Benning v. State, 2010 U.S. Dist. LEXIS 11702, January 14, 2010
Benning v. State, 2010 U.S. Dist. LEXIS 11717, February 10, 2010
Benning v. State, 2010 U.S. Dist. LEXIS 108474, June 23, 2010
Benning v. State, 2010 U.S. Dist. LEXIS 108478, October 12, 2010
Benning v. State, 2012 U.S. Dist. LEXIS 1444, January 6, 2012
Benning v. State, 845 F.Supp. 2d. 1372 (M.D. Ga. 2012)
Benning v. State, 2012 U.S. Dist. LEXIS 15388, February 8, 2012
Benning v. State, 864 F.Supp. 2d. 1358, (M.D. Ga. 2012)

7. VII. (a) Parties to the previous lawsuit:
Plaintiff: Ralph Harrison Benning
Defendants: Georgia Department of Corrections, Commissioner
Brian Owens, State of Georgia, Chaplain Douglas Simmons
- (b) Name of Court: Middle District of Georgia
 - (c) Docket Number: 5:14-cv-389 (LJA)
When was lawsuit filed? Do not know
 - (d) Assigned Judge: Honorable Leslie J. Abrams
 - (e) Is case still pending? No
 - (f) Disposition: Voluntary dismissal w/o prejudice pursuant to private settlement agreement to allow the use of a sukkah (tent) for religious observance.

7. VIII. (a) Parties to the previous lawsuit:
Plaintiff: Ralph Harrison Benning
Defendants: Governor Nathan Deal, Commissioner Homer Bryson,
Carlton Powell, J. Tyson Stephens, Stacy Jarrard, Roger Garrison,
Cullen Talton, Commissioner Gregory C. Dozier, Asst. Commissioner
Timothy Ward, Johnny Sikes, Ricky Myrick, Jennifer Ammons,
Joseph Drolet, Angelique McClendon, Warden Edward Philbin,
Deputy Warden Jerry Jefferson, L. Cox, Unit Manager Roger Hodge,
Latitia Bell, Mail Room Supervisor Greene, Stephanie Crimley,

Hank Autry, Sergeant Wilbur Hope, Counselor Johnson,
Disciplinary Investigator Nixon, Javanta McLean, Officer
T. Roberts, Officer Shakema Anderson.

(b) Name of Court: Middle District of Georgia

(c) Docket Number: 1:17-cv-00152-LJA-TOL

When was lawsuit filed? August 10, 2017

(d) Assigned Judge: Honorable Leslie J. Abrams

Honorable Thomas Q. Langstaff

(e) Is case still pending? Yes

(f) Disposition: Pending

10. (cont.) Itancok State Prison, circa 2003-2005; Itays State Prison, circa 2005-2006; Macon State Prison, circa 2006-2009; Telfair State Prison, circa 2009-2011; Aultry State Prison, circa 2011-2016; Wilcox State Prison, December 20, 2016

7. Wilcox State Prison, Operations Analyst Ms. Harrell informed Plaintiff that email censorship of inmate emails is done at the Georgia Department of Corrections Central Office in Forsyth.

8. On October 24, 2017 Plaintiff sent an email to the email service provider asking for a list of all emails on Plaintiff's account which had been censored by the Georgia Department of Corrections.

9. On November 5, 2017 the email service provider notified Plaintiff that the outgoing email correspondence sent by Plaintiff on September 24, 2017 and that two (2) of the outgoing email correspondences sent by Plaintiff on October 9, 2017 had been censored by the Georgia Department of Corrections Central Unit responsible for screening mail.

10. Plaintiff was not given any notice that his outgoing email correspondences had been censored by the Georgia Department of Corrections email censor at the time of the censorship by the email censor.

11. Plaintiff was not given an opportunity to respond to or challenge the censorship of his outgoing email correspondence by the Georgia Department of Corrections email censor at the time of the censorship.

12. Plaintiff has never been provided with the reason for the censorship of his outgoing email correspondence.

13. Georgia Department of Corrections Commissioner Dozier has not established and promulgated a policy controlling the handling of inmate emails.

14. Inmate email correspondence should be handled in the same manner and with the same standards used for written/paper correspondence.

15. It costs Plaintiff 0.35¢ to send an email.

ATTACHMENT D

5. Order Defendant Commissioner Dozier to establish and promulgate a policy controlling the handling and procedure to be used regarding Inmate email correspondence.

6. Order Defendant Inmate Email Censor to pay Plaintiff compensatory damages of \$1.05.

7. Order Defendant Inmate Email Censor to pay Plaintiff nominal damages of \$10.00

8. Order Defendant Inmate Email Censor to pay Plaintiff punitive damages of \$1,000.00

9. Order Defendant Inmate Email Censor to pay Plaintiff's costs in bringing this action.

10. Order Defendant Inmate Email Censor to pay Plaintiff all monies and funds, of any type, Plaintiff has expended in prosecuting this action.

11. Any such other relief as this Honorable Court deems equitable and just.