

FORM TO BE USED BY A PRISONER IN FILING A CIVIL RIGHTS COMPLAINT

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

(1) Jose Montanez kw8233
(Name of Plaintiff) (Inmate Number)

SCI-Huntingdon
(Address)

(2) _____
(Name of Plaintiff) (Inmate Number)

(Address)

(Each named party must be numbered,
and all names must be printed or typed)

vs.

(1) Paula Price, Dr. Mahli, Ms. Nalley,

(2) Nurse Mel, SCI-Huntingdon's supervisor,

(3) tendent, Dr. Preston, Mr. Eilers
(Names of Defendants)

(Each named party must be numbered,
and all names must be printed or typed)

3:22-cv-1267
(Case Number)

CIVIL COMPLAINT

FILED
SCRANTON

AUG 12 2022

PER [Signature]
DEPUTY CLERK

TO BE FILED UNDER: 42 U.S.C. § 1983 - STATE OFFICIALS
 28 U.S.C. § 1331 - FEDERAL OFFICIALS

I. PREVIOUS LAWSUITS

A. If you have filed any other lawsuits in federal court while a prisoner, please list the caption and case number including year, as well as the name of the judicial officer to whom it was assigned:

Jose Montanez v. Lynch, No. 3:20-cv-97 (2019)
Judge Mariani.

II. EXHAUSTION OF ADMINISTRATIVE REMEDIES

In order to proceed in federal court, you must fully exhaust any available administrative remedies as to each ground on which you request action.

- A. Is there a prisoner grievance procedure available at your present institution? Yes No
- B. Have you fully exhausted your available administrative remedies regarding each of your present claims? Yes No

C. If your answer to "B" is Yes:

- 1. What steps did you take? I used the Grievance process from beginning to end in a timely manner.
- 2. What was the result? My Grievances were denied at every level.

D. If your answer to "B" is No, explain why not: _____

III. DEFENDANTS

(1) Name of first defendant: Paula Price

Employed as Health Care Administrator at SCI - Huntingdon
Mailing address: SCI - Huntingdon

(2) Name of second defendant: Dr. Mahli

Employed as Doctor at SCI - Huntingdon
Mailing address: SCI - Huntingdon

(3) Name of third defendant: Gabriele Nalley

Employed as Physicians Assistant at SCI - Huntingdon
Mailing address: SCI - Huntingdon

(List any additional defendants, their employment, and addresses on extra sheets if necessary)

IV. STATEMENT OF CLAIM

(State here as briefly as possible the facts of your case. Describe how each defendant is involved, including dates and places. Do not give any legal arguments or cite any cases or statutes. Attach no more than three extra sheets if necessary.)

- 1. On Saturday August 28, 2021 at or around 1:00 PM I got out of my bunk and stood up in an attempt to use the bathroom, however, when I stood up my legs

Additional Defendants

- (4) Name of fourth defendant: Nurse Mel
Employed as Nurse at SCI-Huntingdon
Mailing address: SCI-Huntingdon
- (5) Name of fifth defendant: Dr. Preston
Employed as Doctor at SCI-Rockview
Mailing address: SCI-Rockview
- (6) Name of sixth defendant: R. Eilers
Employed as Healthcare Administrator at SCI-Rockview
Mailing address: SCI-Rockview
- (7) Name of seventh defendant: Dr. Edwards
Employed as Doctor at SCI-smithfield
Mailing address: SCI-smithfield
- (8) Name of eighth defendant: Mary Patton
Employed as: Unknown at SCI-smithfield
Mailing address: SCI-smithfield
- (9) Name of ninth defendant: C. Wakefield
Employed as: superintendent at SCI-smithfield
Mailing address: SCI-smithfield

Additional Defendants #2

(10) Name of Tenth Defendant: N. Davis

Employed as Registered Nursing Supervisor at SCF-Huntingdon

Mailing Address: SCF-Huntingdon

- gave out on me and I stumbled to the ground. I tried
2. to stand again with the same results. Panicking, I
felt my legs and other parts of my body and realized my
body was numb from my chest down to feet. Just then
a correctional officer was walking down my cell and I
 3. alerted him as to my medical emergency. He came back
with Sergeant Bullock and they both helped me walk
from my cell on the third (3rd) tier and down the stairs
to the first floor where Nurse Mel, who I am suing

V. RELIEF

(State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.)

1. I request for a permanent double mattress status and bottom
bunk status, I request to continue Physical Therapy from
SCF-Huntingdon and not another prison where I will be
without my property and locked down 24/7.
2. I would like a medicated type pillow for my neck
due to the pain I am still experiencing, I request to
be moved to a different prison closer to my home.
I request \$1.5 million dollars in compensation for
3. pain and suffering, Mental and Emotional anguish, deliberate
indifference to the obvious needs that even a lay person
would know to give in my condition.

#3

in her official and individual capacity, wheeled me down to the medical department. After my vitals ~~was~~ were checked and Nurse Mel felt around my legs, she went into their office and called Doctor Malhi, who I am suing in his official and individual capacity, and when she came back out she told me that I would be moved down to the first floor. I argued that this was a medical emergency and that I needed to be taken to a hospital. She said, "well, you're not going to a hospital". When we arrived back on my housing unit, A-Block, I told sergeant Bullick that I wanted a Grievance form. He asked me why I wanted a Grievance, but before I could reply Nurse Mel answered for me, saying, "because he wants to go to the hospital", and then she laughed. She wheeled me down to cell 1027 and was made to get out of the wheel chair and go into the cell without any help. "Stop faking it!" Nurse Mel yelled at me as I painfully struggled out of the chair and into the cell. I was forced to lean against the filthy wall and table until I got to the bed. This caused so much back and neck pain. From August 28, 2021 until August 31, 2021 I stayed in that cell

#4

urinating on myself over and over again. I had to climb an already pissed on toilet to reach the sink to wash my clothes I urinated on. I had to hold on to the sink for dear life so that I didn't fall down and the pain I had to endure on my neck and back was unbearable. The next day, Sunday August 29, 2021, Dr. Malhi came to my cell but did not have the cell opened nor did he come in the cell to examine me. He just asked me to walk for him. I tried to and set back down. I explained to him that I was urinating on myself and falling all over the place hurting myself. He did nothing to help me. Tuesday, August 31, 2021, I was taken to UPMC Altoona hospital where an MRI showed I had spinal stenosis. I had surgery on September 10, 2021 and was transferred over to Encompass Health for Physical Therapy on September 15, 2021. I was allowed to stay at this center from 9/15/21 until 10/1/21 when I was transferred over to SCI-Rockview's Infirmary. I was seen by Doctor Preston, who I am suing in his official and individual capacity, and I asked him why I was taken out of Physical Therapy. He told me that "the higher ups at your jail said no more physical therapy." Dr. Preston refused to give me stronger

5

pain medication than extra strength tylenol and despite the fact that I was still in a wheel chair, Dr. Preston told me that I would have to workout on my own if I wanted to walk again. On October 20, 2021, I got up to use the restroom and my left hip gave out on me as I tried to use the walker and I fell causing a herniated disk and even more pain to my upper back. The next day, 10/21/21, I was seen by Dr. Preston and made him aware of my fall and even though he again denied me stronger pain medication, he told me he would put me in for an X-ray. This X-ray was still ~~to~~ not done over a week later and I was forced to file a Grievance. This Grievance got the X-ray done but the Healthcare Administrator Mr. Eilers, who being ~~to~~ sued in both capacities of official and individual, lied in his Initial Review Response saying that nothing was wrong in my back. However, when my spinal surgeon looked at the X-ray he determined that I had a herniated disk. I was sent back to SCT-Huntingdon on November 12, 2021 where I filed another Grievance to be sent back to Physical Therapy, but Healthcare Administrator Paula Price, who I am suing in her official and individual capacity, ultimately denied my request for further treatment.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 9th day of August, 2022.

Jose Montez
(Signature of Plaintiff)

FORMS TO BE COMPLETED BY PRISONERS FILING A CIVIL RIGHTS COMPLAINT UNDER 42 U.S.C. § 1983 or 28 U.S.C. § 1331

COVER SHEET

THIS COVER SHEET CONTAINS IMPORTANT INFORMATION ABOUT FILING A COMPLAINT AND YOUR OBLIGATIONS IF YOU DO FILE A COMPLAINT. READ AND COMPLETE THE COVER SHEET BEFORE YOU PROCEED FURTHER.

The cost for filing a civil rights complaint is \$350.00.

If you do not have sufficient funds to pay the full filing fee of \$350.00 you need permission to proceed in forma pauperis. However, the court will assess and, when funds exist, immediately collect an initial partial filing fee of 20 percent of the greater of:

- 1) the average monthly deposits to your prison account for the past six months; or
- 2) the average monthly balance in your prison account for the past six months.

Thereafter, the institution in which you are incarcerated will be required to make monthly payments of 20% of the preceding month's deposits credited to your account until the entire filing fee is paid.

CAUTION: YOUR OBLIGATION TO PAY THE FULL FILING FEE WILL CONTINUE REGARDLESS OF THE OUTCOME OF YOUR CASE, EVEN IF YOUR COMPLAINT IS DISMISSED BEFORE THE DEFENDANTS ARE SERVED.

1. You shall file a complaint by completing and signing the attached complaint form and mailing it to the Clerk of Court along with the full filing fee of \$350.00. (In the event attachments are needed to complete the allegations in the complaint, no more than three (3) pages of attachments will be allowed.) If you submit the full filing fee along with the complaint, you DO NOT have to complete the rest of the forms in this packet. **Check here if you are submitting the filing fee with the complaint form.** _____

2. If you cannot afford to pay the fee, you may file a complaint under 28 U.S.C. § 1915 without paying the full filing fee at this time by completing the following: (1) Complaint Form; (2) Application To Proceed In Forma Pauperis; and (3) Authorization Form. You must properly complete, sign and submit all three standard forms or your complaint may be returned to you by the Clerk of Court. **Check here if you are filing your complaint under 28 U.S.C. § 1915 without full prepayment of fees.**

Please Note: If your case is allowed to proceed and you are awarded compensatory damages against a correctional facility or an official or agent of a correctional facility, the damage award will first be used to satisfy any outstanding restitution orders pending. Before payment of any compensatory damages, reasonable attempts will be made to notify the victims of the crime for which you were convicted concerning payment of such damages. The restitution orders must be fully paid before any part of the award goes to you.

DO NOT DETACH THE COVER SHEET FROM THE REST OF THE FORMS

Jose Montanez
#KW8233
SCI-Huntingdon
1100 Pike Street
Huntingdon, PA 16654

INMATE MAIL
PA DEPARTMENT
OF CORRECTIONS



Office of The Clerk
United States District Court
Middle District of Pennsylvania
235 N. Washington Ave.
P.O. Box 1148
Scranton, PA 18501-1148

RECEIVED
SCRANTON

AUG 12 2022

PER AMM
DEPUTY CLERK

