

87BC, CLOSED, _BG

U.S. District Court
Western District of Oklahoma[LIVE] (Oklahoma City)
CIVIL DOCKET FOR CASE #: 5:06-cv-01193-F

Hamilton v. Jones et al
Assigned to: Honorable Stephen P. Friot
Case in other court: 06-06381
Cause: 42:1983 Prisoner Civil Rights

Date Filed: 10/27/2006
Date Terminated: 01/10/2007
Jury Demand: Both
Nature of Suit: 550 Prisoner: Civil Rights
Jurisdiction: Federal Question

Plaintiff**Corey Duane Hamilton**

represented by **Robert Nigh, Jr**
Brewster & DeAngelis
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Tulsa, OK 74114
918-742-2021
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ATTORNEY TO BE NOTICED

V.

Defendant**Justin Jones**
*Director Oklahoma Department of
Corrections*

represented by **Gregory T Metcalfe**
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ATTORNEY TO BE NOTICED

Defendant

Warden Marty Sirmons

represented by **Gregory T Metcalfe**
(See above for address)
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Richard N Mann
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ATTORNEY TO BE NOTICED

Defendant

W Mark Luttrull
Oklahoma Board of Corrections

represented by **Gregory T Metcalfe**
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ATTORNEY TO BE NOTICED

Richard N Mann
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ATTORNEY TO BE NOTICED

Defendant

Robert L Rainey
Oklahoma Board of Corrections

represented by **Gregory T Metcalfe**
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ATTORNEY TO BE NOTICED

Richard N Mann
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ATTORNEY TO BE NOTICED

Defendant

Earnest D Ware
Oklahoma Board of Corrections

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Richard N Mann
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ATTORNEY TO BE NOTICED

Defendant

David C Henneke
Oklahoma Board of Correctins

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Richard N Mann
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Defendant

Ted Logan
Oklahoma Board of Corrections

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ATTORNEY TO BE NOTICED

Richard N Mann

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ATTORNEY TO BE NOTICED**Defendant****Beverly Young***Oklahoma Board of Corrections*represented by **Gregory T Metcalfe**

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ATTORNEY TO BE NOTICED**Richard N Mann**

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ATTORNEY TO BE NOTICED**Defendant****Ernest Godlove***Oklahoma Board of Corrections*represented by **Gregory T Metcalfe**

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ATTORNEY TO BE NOTICED**Richard N Mann**

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ATTORNEY TO BE NOTICED**Defendant****John Doe***Unknown Executioners*

Date Filed	#	Docket Text
10/27/2006	<u>1</u>	COMPLAINT against Ted Logan, Beverly Young, Ernest Godlove, John Doe, Justin Jones, Marty Sirmons, W Mark Luttrull, Robert L Rainey, Earnest D Ware and David C Henneke, filed by Corey Duane Hamilton. (Attachments: # <u>1</u> Exhibit 1-Grievance Response# <u>2</u> Exhibit 2-Procedures# <u>3</u> Civil Cover Sheet)(nm,) (Entered: 10/27/2006)
10/27/2006	<u>2</u>	MOTION for Leave to Proceed in forma pauperis by Corey Duane Hamilton. (nm,) (Entered: 10/27/2006)
10/27/2006	<u>3</u>	ENTRY of Appearance by Robert Nigh, Jr on behalf of Corey Duane Hamilton (Nigh, Robert) (Entered: 10/27/2006)
10/27/2006	<u>4</u>	MOTION to Consolidate Cases by Corey Duane Hamilton. (Nigh, Robert) (Entered: 10/27/2006)
10/27/2006	<u>5</u>	MOTION for Order by Corey Duane Hamilton. (Nigh, Robert) (Entered: 10/27/2006)
10/27/2006	<u>6</u>	ENTER ORDER REASSIGNING CASE. Case reassigned to Judge Stephen P. Friot for all further proceedings. Judge Ralph G. Thompson no longer assigned to

		case. Signed by MBailey at the direction of Judge Ralph G. Thompson on 10/27/2006. (mb,) (Entered: 10/27/2006)
10/27/2006		Docket Annotation: At docket entry no. 5, counsel for plaintiff has filed what has been docketed as a "Motion for Order." However, the attached pdf file is plaintiff's proposed order relating to docket entry no. 4. Proposed orders are not to be filed with the court. They are to be submitted via email in conformance with this court's ECF Policies & Procedures Manual. Docket entry no. 5 is STRICKEN. Counsel for plaintiff is directed to submit his proposed order in conformance with the ECF Policies & Procedures Manual. (llg) (Entered: 10/27/2006)
11/06/2006	7	PRAECIPE for 9 by Corey Duane Hamilton. (Nigh, Robert) (Entered: 11/06/2006)
11/06/2006	8	SUPPLEMENTAL MOTION for Leave to Appeal in forma pauperis by Corey Duane Hamilton. (Nigh, Robert) (Entered: 11/06/2006)
11/07/2006		Docket Annotation: At docket entry no. 8, plaintiff has filed a "Supplement to Application to Proceed In Forma Pauperis." However, the document has been incorrectly docketed as a "Supplemental Motion for Leave to Appeal In Forma Pauperis." The court hereby deems docket entry no. 8 to be a "Supplement" to the Motion for Leave Proceed In Forma Pauperis filed at docket entry no. 2, and terms docket entry no. 8 as a motion. (llg) (Entered: 11/07/2006)
11/07/2006	9	SUPPLEMENTAL MOTION for Leave to Proceed in forma pauperis by Corey Duane Hamilton. (Nigh, Robert) (Entered: 11/07/2006)
11/07/2006		Docket Annotation: At docket entry no. 9, plaintiff has filed a "Second Supplement to Application to Proceed In Forma Pauperis." However, the document has been incorrectly docketed as a "Supplemental Motion for Leave to Proceed In Forma Pauperis." The court hereby deems docket entry no. 9 to be a "Supplement" to the Motion for Leave Proceed In Forma Pauperis filed at docket entry no. 2, and terms docket entry no. 9 as a motion. (llg) (Entered: 11/07/2006)
11/08/2006	10	ORDER granting 2 Motion for Leave to Proceed in forma pauperis, AS MORE FULLY SET OUT. Signed by Judge Stephen P. Friot on 11/8/06. (llg) Modified on 11/8/2006 (llg). (Entered: 11/08/2006)
11/08/2006	11	AMENDED ORDER granting 2 MOTION for Leave to Proceed in forma pauperis filed by Corey Duane Hamilton, AS MORE FULLY SET OUT. Signed by Judge Stephen P. Friot on 11/8/06. (llg) (Entered: 11/08/2006)
11/08/2006		Summons Issued as to Ted Logan, Beverly Young, Ernest Godlove, Justin Jones, Marty Sirmons, W Mark Luttrull, Robert L Rainey, Earnest D Ware, David C Henneke. Summons returned to Robert Nigh, Jr. via mail. (kw,) (Entered: 11/08/2006)
11/08/2006	12	ENTER ORDER striking 4 plf's Motion for Consolidation of Cases, without prejudice to re-urging after all dfts which plf intends to serve have been served. Entered at the direction of Judge Stephen P. Friot on 11/8/06. (llg) (Entered: 11/08/2006)

11/15/2006	13	SUMMONS Returned Executed by Corey Duane Hamilton. Beverly Young served on 11/13/2006. (Nigh, Robert) (Entered: 11/15/2006)
11/15/2006	14	SUMMONS Returned Executed by Corey Duane Hamilton. Earnest D Ware served on 11/13/2006. (Nigh, Robert) (Entered: 11/15/2006)
11/15/2006	15	SUMMONS Returned Executed by Corey Duane Hamilton. Justin Jones served on 11/13/2006. (Nigh, Robert) (Entered: 11/15/2006)
11/17/2006	16	SUMMONS Returned Executed by Corey Duane Hamilton. Ernest Godlove served on 11/15/2006. (Nigh, Robert) (Entered: 11/17/2006)
11/17/2006	17	SUMMONS Returned Executed by Corey Duane Hamilton. W Mark Luttrull served on 11/15/2006. (Nigh, Robert) (Entered: 11/17/2006)
11/17/2006	18	SUMMONS Returned Executed by Corey Duane Hamilton. Marty Sirmons served on 11/14/2006. (Nigh, Robert) (Entered: 11/17/2006)
11/20/2006	19	SUMMONS Returned Executed by Corey Duane Hamilton. David C Henneke served on 11/15/2006. (Nigh, Robert) (Entered: 11/20/2006)
11/20/2006	20	PRAECIPE for 1 by Corey Duane Hamilton. (Nigh, Robert) (Entered: 11/20/2006)
11/20/2006		ALIAS Summons Issued as to Robert L Rainey. (lb) (Entered: 11/20/2006)
11/27/2006	21	Receipt for Money Received from Brewster & De Angelis PLLC in the amount of \$350.00, Receipt #119375. (lb) (Entered: 11/27/2006)
11/27/2006	22	SUMMONS Returned Executed by Corey Duane Hamilton. Robert L Rainey served on 11/22/2006. (Nigh, Robert) (Entered: 11/27/2006)
11/29/2006	23	SUMMONS Returned Executed by Corey Duane Hamilton. Ted Logan served on 11/27/2006. (Nigh, Robert) (Entered: 11/29/2006)
12/04/2006	24	ENTRY of Appearance by Richard N Mann on behalf of Ted Logan, Beverly Young, Ernest Godlove, Justin Jones, Marty Sirmons, W Mark Luttrull, Robert L Rainey, Earnest D Ware, David C Henneke (Mann, Richard) (Entered: 12/04/2006)
12/04/2006	25	ANSWER to Complaint with Jury Demand by Ted Logan, Beverly Young, Ernest Godlove, Justin Jones, Marty Sirmons, W Mark Luttrull, Robert L Rainey, Earnest D Ware, David C Henneke.(Mann, Richard) (Entered: 12/04/2006)
12/05/2006	26	ENTER ORDER. Status Report due by 1/2/2007. Scheduling Conference set for 1/4/2007 10:45 AM in Chambers before Honorable Stephen P. Friot. Entered at the direction of Judge Stephen P. Friot on 12/5/06. (llg) (Entered: 12/05/2006)
12/14/2006	27	MOTION to Expedite <i>Discovery and Production of Documents</i> by Corey Duane Hamilton. (Attachments: # 1 Exhibit Plaintiff's Request for Production of Documents to Defendants, Justin Jones and Marty Sirmons)(Nigh, Robert) (Entered: 12/14/2006)
12/14/2006	28	NOTICE to Take Deposition of Justin Jones and Marty Sirmons by Corey Duane Hamilton. (Nigh, Robert) (Entered: 12/14/2006)

12/14/2006	29	MOTION for Preliminary Injunction <i>with Brief in Support</i> by Corey Duane Hamilton. (Nigh, Robert) (Entered: 12/14/2006)
12/14/2006	30	ORDER re 27 Plaintiff's MOTION to Expedite <i>Discovery and Production of Documents</i> : Any objection by dfts due by 12/15/2006 03:30 PM. If no objection filed, mtn will be deemed automatically granted. If objection is filed, this matter will be heard 12/18/2006 08:30 AM in Courtroom #305 before Honorable Stephen P. Friot. Signed by Judge Stephen P. Friot on 12/14/06. (llg) (Entered: 12/14/2006)
12/15/2006	31	ORDER Setting Hearing on 29 MOTION for Preliminary Injunction <i>with Brief in Support</i> : Motion Hearing set for 12/27/2006 09:30 AM in Courtroom #305 before Honorable Stephen P. Friot. Signed by Judge Stephen P. Friot on 12/15/06. (llg) (Entered: 12/15/2006)
12/15/2006	32	SUPPLEMENT re 29 MOTION for Preliminary Injunction <i>with Brief in Support</i> by Corey Duane Hamilton. (Attachments: # 1 Exhibit Tulsa World Article 12/15/06 re: Diaz execution# 2 Exhibit USA Today 12/14/06 re: Diaz execution# 3 Exhibit Declaration of David Lubarsky, M.D.# 4 Exhibit Lancet Medical Journal April 2005 re: lethal injection executions)(Nigh, Robert) (Entered: 12/15/2006)
12/15/2006	33	RESPONSE to Motion re 27 MOTION to Expedite <i>Discovery and Production of Documents</i> filed by Beverly Young, Ernest Godlove, Justin Jones, Marty Sirmons, W Mark Luttrull, Robert L Rainey, Earnest D Ware, David C Henneke. (Mann, Richard) (Entered: 12/15/2006)
12/18/2006	34	Minute Order. Proceedings held before Judge Stephen P. Friot. Motion Hearing held on 12/18/2006. 27 MOTION to Expedite <i>Discovery and Production of Documents</i> filed by Corey Duane Hamilton is GRANTED, as set forth. Plf's mtn for examination & photographing of execution chamber is GRANTED. Counsel for plf shall be allowed to examine & photograph the execution chamber by 12/22/06. Production of docs & photographing of execution chamber shall take place pursuant to a protective order, which shall be reduced to writing & shall prohibit the use of the docs for any purpose other than the merits of this case. Production of docs shall take place by 12/22/06. If it is not possible to produce all docs by 12/22/06, the remaining discovery matters will be addressed at an on-the-record conf w/ct at 4:00 PM on 12/22/06. Hrg re 29 Plaintiff's MOTION for Preliminary Injunction is reset for 12/28/2006 09:30 AM in Courtroom #305 before Honorable Stephen P. Friot. (Court Reporter Tracy Washbourne.) (llg) (Entered: 12/18/2006)
12/19/2006	35	ENTRY of Appearance by Gregory T Metcalfe on behalf of Ted Logan, Beverly Young, Ernest Godlove, Justin Jones, Marty Sirmons, W Mark Luttrull, Robert L Rainey, Earnest D Ware, David C Henneke (Metcalf, Gregory) (Entered: 12/19/2006)
12/20/2006	36	Minute Entry for proceedings held before Judge Stephen P. Friot: Telephone Conference re discovery question held on 12/20/2006. Rob Nigh appears by phone on behalf of plf; Greg Metcalfe appears by phone on behalf of dfts. Re proposed protective order, counsel for plf requests that he be allowed to show certain discovery to plf, namely the field memorandum describing the protocol for execution and photos of the execution chamber. Ct hears arguments of counsel.

		Pursuant to Rule 26(b)(2), ct DENIES the request of plf's counsel. The protective order will provide that such materials will not be shared with or shown to plf. Ct advises counsel that, if it is necessary to have a discovery conf on 12/22/06, said discovery conf can be moved to a time earlier than 4:00 PM. (llg) (Entered: 12/20/2006)
12/21/2006	37	JOINT MOTION for Protective Order by Ted Logan, Beverly Young, Ernest Godlove, Justin Jones, Marty Sirmons, W Mark Luttrull, Robert L Rainey, Earnest D Ware, David C Henneke. (Metcalf, Gregory) (Entered: 12/21/2006)
12/22/2006	38	PROTECTIVE ORDER. Signed by Judge Stephen P. Friot on 12/22/06. (llg) (Entered: 12/22/2006)
12/27/2006	39	SUPPLEMENT re 29 MOTION for Preliminary Injunction <i>with Brief in Support (Second)</i> by Corey Duane Hamilton. (Attachments: # 1 Exhibit Affidavit by Neal Dupree# 2 Exhibit Florida Execution by Lethal Injection Procedures# 3 Exhibit Associated Press Article dated 12/15/06# 4 Exhibit Florida Executive Order 06-260# 5 Exhibit Morales v. Tilton case)(Nigh, Robert) (Entered: 12/27/2006)
12/27/2006	40	ENTER ORDER striking 1/4/07 status/scheduling conference, striking 1/2/07 deadline for filing of joint status report. Entered at the direction of Judge Stephen P. Friot on 12/27/06. (llg) (Entered: 12/27/2006)
12/27/2006	41	RESPONSE in Opposition re 29 MOTION for Preliminary Injunction <i>with Brief in Support</i> filed by Ted Logan, Beverly Young, Ernest Godlove, Justin Jones, Marty Sirmons, W Mark Luttrull, Robert L Rainey, Earnest D Ware, David C Henneke. (Attachments: # 1 Exhibit 1 Boltz Case Law# 2 Exhibit 2 Patton Case Law# 3 Exhibit 3 Patton Transcript Prelim. Injunction# 4 Exhibit 4 Hamilton Transcript# 5 Exhibit 5 Request to Staff April 10, 2006# 6 Exhibit 6 Grievance Report May 12, 2006# 7 Exhibit 7 Morton Letter# 8 Exhibit 8 OSP 040301-01)(Metcalf, Gregory) (Entered: 12/27/2006)
12/27/2006	42	MOTION to Strike <i>or, Alternatively Limit Evidence to be Offered by Plaintiff</i> by Ted Logan, Beverly Young, Ernest Godlove, Justin Jones, Marty Sirmons, W Mark Luttrull, Robert L Rainey, Earnest D Ware, David C Henneke. (Mann, Richard) (Entered: 12/27/2006)
12/28/2006	43	Minute Entry for proceedings held before Judge Stephen P. Friot: Preliminary Injunction Hearing held on 12/28/2006. 42 Dfts' MOTION to Strike <i>or, Alternatively Limit Evidence to be Offered by Plaintiff</i> is DENIED. Ct hears evidence & arguments of counsel. Plf's Exs. 1-61 admitted. Dfts' Exs. 3-5 admitted. 29 Plf's MOTION for Preliminary Injunction is DENIED. Ct orders exhibits withdrawn, to be retained by counsel. (Court Reporter Tracy Washbourne.) (llg) (Entered: 12/28/2006)
12/28/2006	44	ORDER DENYING 29 MOTION for Preliminary Injunction filed by Corey Duane Hamilton. Signed by Judge Stephen P. Friot on 12/28/06. (llg) (Entered: 12/28/2006)
12/29/2006	45	NOTICE OF APPEAL as to 44 Order by Corey Duane Hamilton. (Nigh, Robert) (Entered: 12/29/2006)
12/29/2006	46	MOTION for Order <i>Application for Payment for Transcript by United States</i> by Corey Duane Hamilton. (Nigh, Robert) (Entered: 12/29/2006)

12/29/2006	47	Transmission of Notice of Appeal and Docket Sheet to US Court of Appeals re 45 Notice of Appeal (dl,) (Entered: 12/29/2006)
12/29/2006	48	TRANSCRIPT Order Form by Corey Duane Hamilton re 45 Notice of Appeal that transcripts are necessary. See order form for dates and proceedings. Estimated completion date January 1, 2007. (dl,) (Entered: 12/29/2006)
12/29/2006	49	ORDER granting 46 Plaintiff's Application for Payment for Transcript by United States. Signed by Judge Stephen P. Friot on 12/29/06. (llg) (Entered: 12/29/2006)
01/02/2007	50	DESIGNATION of Record on Appeal by Corey Duane Hamilton re 45 Notice of Appeal (Attachments: # 1 Attachment Civil Docket Sheet)(Nigh, Robert) (Entered: 01/02/2007)
01/03/2007		TRANSCRIPT of Proceedings held on December 28, 2006 before Judge Friot. Court Reporter: Tracy Washbourne. re 45 Notice of Appeal filed by Corey Duane Hamilton Transcript of: Hearing (dl,) (Entered: 01/03/2007)
01/08/2007	51	USCA Case Number 06-6381 for 45 Notice of Appeal filed by Corey Duane Hamilton. (dl,) (Entered: 01/08/2007)
01/08/2007	52	PETITION FOR WRIT OF CERTIORARI was DENIED by Order of the Supreme Court on January 8, 2007 (dl,) (Entered: 01/09/2007)
01/10/2007	53	ADMINISTRATIVE CLOSING ORDER: This action is administratively terminated without prejudice to the rights of the parties to reopen for entry of any stipulation or order. If not reopened within 30 days to obtain final determination, action is deemed dismissed with prejudice. Signed by Judge Stephen P. Friot on 1/10/07. (llg) (Entered: 01/10/2007)
01/22/2007	54	CJA 24: Authorization to Pay T Washbourne Voucher # 070119000043. Signed by Judge Stephen P. Friot on 1/9/07. (dm) (Entered: 01/22/2007)
01/29/2007	55	MANDATE From USCA - The judgment of the district court is AFFIRMED 45 Notice of Appeal filed by Corey Duane Hamilton (dl,) (Entered: 01/29/2007)

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