

**U.S. District Court**  
**Northern District of New York – Main Office (Syracuse) [LIVE – Version 3.2.2]**  
**(Prisoner)**  
**CIVIL DOCKET FOR CASE #: 9:02-cv-00468-TJM-DRH**

Fowlkes v. Adamec, et al  
Assigned to: Senior Judge Thomas J. McAvoy  
Referred to: Magistrate Judge David R. Homer  
Demand: \$800,000  
Cause: 42:1983 Prisoner Civil Rights

Date Filed: 04/01/2002  
Date Terminated: 05/18/2006  
Jury Demand: None  
Nature of Suit: 550 Prisoner: Civil Rights  
Jurisdiction: Federal Question

**Plaintiff****Felipe Oteze Fowlkes**

represented by **Felipe Oteze Fowlkes**  
W84202  
MCI PO Box 9106  
Concord, MA 01742-9106  
PRO SE

V.

**Defendant**

**John Adamec**  
*Counselor*

represented by **William H. Pease**  
Office of the United States Attorney –  
Syracuse  
P.O. Box 7198  
100 South Clinton Street  
Syracuse , NY 13261-7198  
315-448-0672  
Fax: 315-448-0646  
Email: [william.pease@usdoj.gov](mailto:william.pease@usdoj.gov)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Defendant**

**Paul Thomas**  
*District Manager*

represented by **William H. Pease**  
(See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Defendant**

**Joseph F. Gibbons**  
*Administrative Law Judge*  
**TERMINATED: 04/19/2002**

Date Filed	#	Docket Text
04/01/2002	<u>1</u>	COMPLAINT filed; ; (tlp) (Entered: 04/01/2002)
04/01/2002	<u>2</u>	In Forma Pauperis Application filed by Felipe Oteze Fowlkes (tlf) (Entered: 04/01/2002)
04/01/2002	<u>3</u>	Executed Inmate Authorization Form for In Forma Pauperis (Incremental filing fee payments) for – Felipe Oteze Fowlkes (tlf) (Entered: 04/01/2002)
04/19/2002	<u>4</u>	ORDER that Joseph F. Gibbons is dismissed as a party to this action; Ordered that plaintiff's in forma pauperis application is granted; Clerk shall issue summonses and forward them with the complaint to the U.S. Marshals for service; Ordered that the Clerk provide the Superintendent of plaintiff's current location facility with notice of instant action and the inmate authorization form with a copy of same to be provided to the Financial Deputy, Utica, NY. ( signed by Judge Thomas J. McAvoy ) Date Entered:

		4/19/02 (nas) (Entered: 04/19/2002)
04/19/2002		Provided courtesy copy of summons, complaint and order to the Attorney General's Office for the State of New York and to the U.S. Attorneys Office for the Northern District (nas) (Entered: 04/19/2002)
04/19/2002		SUMMONS(ES) issued for John Adamec, Paul Thomas (nas) (Entered: 04/19/2002)
04/19/2002		Provided Superintendent of Riverview Correctional Facility with notice of instant action and copy of inmate authorization form; same provided to Financial Deputy, Utica, NY (nas) (Entered: 04/19/2002)
04/22/2002	<u>5</u>	Change of Address received. Effective date: 4/22/02 from/for plaintiff Felipe Oteze Fowlkes New Address: Schenectady City Mission Old Address: Riverview Corr. Facility (tlf) (Entered: 04/22/2002)
04/25/2002	<u>6</u>	Mail returned undeliverable. Sent to plaintiff Felipe Oteze Fowlkes [4-1] order RE: Doc. #: [4-1] Address sent to: Riverview Corr. Facility (tlf) (Entered: 04/25/2002)
05/07/2002	<u>7</u>	NOTICE to pltf. from the USM. Pltf. failed to provide USM-285 forms. The USM enclosed forms w/ notice. (tlf) (Entered: 05/07/2002)
05/17/2002	<u>8</u>	Change of Address received. Effective date: 5/14/02 from/for plaintiff Felipe Oteze Fowlkes New Address: Governors Motor Inn Old Address: Schenectady City Mission (tlf) (Entered: 05/17/2002)
05/21/2002	<u>9</u>	ORDER REJECTING Pltf's Motion for preliminary injunction for failure to include a supporting memorandum of law. See Local Rule 7.1. (signed by Magistrate Judge Gustave J. DiBianco) Date Entered: 5/21/02 (tlf) (Entered: 05/21/2002)
05/28/2002	<u>10</u>	Change of Address received. Effective date: 5/28/02 from/for plaintiff Felipe Oteze Fowlkes New Address: General Delivery Post Office, Albany, NY 12201; Old Address: Governors Motor Inn #61, 2505 Western Ave, Guilderland, NY 12084. (fce) (Entered: 05/28/2002)
06/03/2002	<u>11</u>	Mail returned undeliverable. Sent to plaintiff Felipe Oteze Fowlkes [9-1] order RE: Doc. #: [9-1] Address sent to: Governors Motor Inn (tlf) (Entered: 06/03/2002)
06/21/2002	<u>12</u>	ANSWER to Complaint by John Adamec, Paul Thomas (Attorney William H. Pease), (tlf) (Entered: 06/21/2002)
06/21/2002	<u>13</u>	Administrative Transcript in support of Answer. (tlf) (Entered: 06/21/2002)
07/29/2002	<u>14</u>	MOTION w/ supporting memorandum of law by John Adamec, Paul Thomas to Dismiss captioned action and substitution of party defendant , Hearing set for 9/19/02 , Response Deadline 9/5/02 Motion returnable before Judge/Mag. Judge: Homer (tlf) (Entered: 07/29/2002)
08/22/2002		Motion(s) referred: [14-1] motion to Dismiss captioned action and substitution of party defendant referred to Magistrate Judge David R. Homer (tlf) (Entered: 08/22/2002)
09/19/2002	<u>15</u>	ORDER pltf. is granted until October 21, 2002 to file and serve any opposition to defts. motion. (signed by Magistrate Judge David R. Homer) Date Entered: 9/19/02 (tlf) (Entered: 09/19/2002)
09/19/2002		Deadline updated; Response to Motion reset to 10/21/02 for [14-1] motion to Dismiss captioned action and substitution of party defendant (tlf) (Entered: 09/19/2002)
10/23/2002	<u>16</u>	RESPONSE by Felipe Oteze Fowlkes to [14-1] motion to Dismiss captioned action and substitution of party defendant. (postmark was 10/21/02, the response deadline.) (tlf) (Entered: 10/23/2002)
03/05/2003	<u>17</u>	REPORT AND RECOMMENDATIONS of Magistrate Judge David R. Homer Service Date: 3/5/03 Recommended that [14-1] motion to Dismiss be granted as to defts. Adamec and Thomas; that Fowlkes complaint be converted to an appeal pursuant to 42:405(g); the Commissioner of Soc. Security be substituted as a party defendant; and that the decision of the Commissioner be reversed and remanded for recalculation of the benefits from 9/99 - 3/00. (Objection to R and R due by 3/25/03 for Joseph F. Gibbons, for Paul Thomas, for John Adamec, for Felipe Oteze Fowlkes ) ; Motion(s)

		no longer referred (fce) (Entered: 03/05/2003)
03/05/2003		Motion(s) no longer referred: [14-1] motion to Dismiss captioned action and substitution of party defendant (fce) (Entered: 03/05/2003)
03/12/2003	<u>18</u>	OBJECTION by Felipe Oteze Fowlkes to [17-1] report and recommendations (tlp) (Entered: 03/12/2003)
03/20/2003	<u>19</u>	ORDER REJECTING pltf's change of address for failure to follow Local Rule 10.1(a). **address changed in system** Pursuant to Local Rule 10.1(a) all pleadings, motions and other documents presented for filing should be on 8 1/2 X 11 inch paper of good quality. (signed by Magistrate Judge Gustave J. DiBianco) Date Entered: 3/20/03 (tlp) (Entered: 03/20/2003)
03/31/2003	<u>20</u>	DECISION AND ORDER; the Court adopts Mag/Judge Homer's Report Recommendation; Ordered that Defts [14-1] motion to Dismiss the action is GRANTED. The action is dismissed and the Clerk of the Court shall close the file. ( signed by Judge Thomas J. McAvoy ) Date Entered: 3/31/03 (pta) (Entered: 03/31/2003)
03/31/2003	<u>21</u>	JUDGMENT adopting Mag/Judge Homer's Report Recommendation. It is Ordered that Defts Motion to Dismiss is granted and the file is closed. Date Served: 3/31/03 Date Entered: 3/31/03 (pta) (Entered: 03/31/2003)
03/31/2003		Case closed (pta) (Entered: 03/31/2003)
04/16/2003	<u>22</u>	Change of Address received. Effective date: 4/14/03 from/for plaintiff Felipe Oteze Fowlkes New Address: Arthur Kill Corr. Facility Old Address: Downstate Corr. Facility (tlp) (Entered: 04/16/2003)
04/16/2003	<u>23</u>	NOTICE OF APPEAL by Felipe Oteze Fowlkes appealing [20-1] Order entered on 3/31/03. (IFP granted - dkt. #4) Appeal record due on 5/16/03 (dmf) (Entered: 04/29/2003)
04/29/2003		Notice of appeal and certified copy of docket to USCA re: [23-1] appeal by Felipe Oteze Fowlkes (parties noticed). (dmf) (Entered: 04/29/2003)
04/29/2003		Certified and transmitted index to the record on appeal to U.S. Court of Appeals: [23-1] appeal by Felipe Oteze Fowlkes (note: sent electronically) (dmf) (Entered: 04/29/2003)
05/23/2003	<u>24</u>	ORDER REJECTING pltf's letter explaining that he filed an appeal in this case. Plaintiff is advised that he filed an appeal in this case on 4/16/03. Therefore, the Second Circuit Court of Appeals has jurisdiction over this action. (signed by Magistrate Judge Gustave J. DiBianco) Date Entered: 5/23/03 (tlp) (Entered: 05/23/2003)
06/02/2003	<u>25</u>	Mail returned undeliverable. Sent to plaintiff Felipe Oteze Fowlkes [24-1] order RE: Doc. #: [24-1] Address sent to: Arthur Kill Corr. Facility (tlp) Additional attachment(s) added on 12/5/2007 (rjb, ). (Entered: 06/02/2003)
07/26/2004		USCA Case Number 03-6095-cv for <u>23</u> Notice of Appeal filed by Felipe Oteze Fowlkes. (cbm, ) Modified on 7/27/2004 to add "cv" designation (cbm, ). (Entered: 07/26/2004)
09/21/2004		Certified and Transmitted Index to Record on Appeal to US Court of Appeals re <u>23</u> Notice of Appeal, Attn: Erin, USCA Agency Team (dmf) (Entered: 09/21/2004)
10/25/2004	<u>26</u>	NOTICE of Docketing Record on Appeal from USCA re <u>23</u> Notice of Appeal filed by Felipe Oteze Fowlkes. USCA Case Number 03-6095-cv (dmf) (Entered: 10/26/2004)
05/08/2006	<u>27</u>	MANDATE of USCA as to <u>23</u> Notice of Appeal filed by Felipe Oteze Fowlkes, (Affirmed in part and Remanded in part) (tab) (Entered: 05/09/2006)
05/18/2006	<u>28</u>	ORDER Pltf's <u>1</u> complaint is to be treated as a petition for review of SS and is REMANDED to Commissioner of SS. Signed by Judge Thomas J. McAvoy on 5/18/06. (sfp, ) (Entered: 05/18/2006)

05/18/2006	<u>29</u>	JUDGMENT remanding action to Commissioner of Social Security. (sfp, ) (Entered: 05/18/2006)
05/18/2006		Clerk traditionally served <u>28</u> & <u>29</u> Orders upon non ecf parties. (sfp, ) (Entered: 05/18/2006)