

CLOSED

**U.S. District Court
Eastern District of Virginia – (Richmond)
CIVIL DOCKET FOR CASE #: 3:10-cv-00070-REP**

Burnette et al v. Fahey et al
Assigned to: District Judge Robert E. Payne
Case in other court: 11-01324
Cause: 42:1983 Prisoner Civil Rights

Date Filed: 02/03/2010
Date Terminated: 10/25/2010
Jury Demand: None
Nature of Suit: 550 Prisoner: Civil Rights
Jurisdiction: Federal Question

Plaintiff

Sharon Burnette

represented by **Stephen Atherton Northup**
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Plaintiff

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Plaintiff

Frank Carter, Jr.

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Plaintiff

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Plaintiff

Donald W. Hoffman

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Plaintiff

Monty King
formerly known as
Imond Monty Hicks

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Plaintiff

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Plaintiff

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Plaintiff

Benjamin Perdue, Jr.

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Plaintiff

Henry Stump

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William Rowland Richardson , Jr.
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TERMINATED: 12/02/2010

Plaintiff

Barbara Tabor
*Suing on behalf of themselves and all
others similarly situated*

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William Rowland Richardson , Jr.
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TERMINATED: 12/02/2010

Defendant

Helen F. Fahey
*In her capacity as Chair of the Virginia
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Defendant

Carol Ann Sievers
*In her capacity as Vice-Chair of the
 Virginia Parole Board*

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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Jackie T. Stump
*In his capacity as a Member of the
 Virginia Parole Board*

represented by **Richard Carson Vorhis**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Michael M. Hawes
*In his capacity as a Member of the
 Virginia Parole Board*

represented by **Richard Carson Vorhis**
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Defendant

Rudolph C. McCollum, Jr.
*In his capacity as a Member of the
 Virginia Parole Board*

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LEAD ATTORNEY
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Movant

John R. Lay
TERMINATED: 10/25/2010
also known as
 John Robert Lay
TERMINATED: 10/25/2010

represented by **John R. Lay**
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 PRO SE

Movant

William L. A. Church

represented by **William L. A. Church**
 939047
 Oklahoma Department of Corrections
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 PRO SE

Date Filed	#	Docket Text
02/03/2010	<u>1</u>	COMPLAINT filed by Frank Carter, Jr, Edward Conquest, Sharon Burnette, Donald W. Hoffman, Monty King, Larry Macon, Marvin McClain, Benjamin Perdue, Jr., Henry Stump, Barbara Tabor, and Pamela K. Burroughs AGAINST all defendants. Filing Fee \$ 350; Receipt Number 34683006993.) (Attachments: # <u>1</u> Civil Cover Sheet, and # <u>2</u> Receipt)(lhin,) (Entered: 02/03/2010)
02/03/2010	<u>2</u>	Summons Issued as to Helen F. Fahey, Carol Ann Sievers, Jackie T. Stump, Michael M. Hawes, and Rudolph C. McCollum, Jr. (Counsel to pick up summons for service). (lhin,) (Entered: 02/03/2010)
02/04/2010		Remark - "Cause of Action" changed from 28:1391 Personal Injury to 42:1983 Prisoner Civil Rights. "Nature of Suit" changed from 440 Civil Rights: Other to 550

		Prisoner: Civil Rights (tdai,) (Entered: 02/04/2010)
03/01/2010	<u>3</u>	MOTION to Dismiss by Helen F. Fahey, Carol Ann Sievers, Jackie T. Stump, Michael M. Hawes, Rudolph C. McCollum, Jr. (Vorhis, Richard) (Entered: 03/01/2010)
03/01/2010	<u>4</u>	Memorandum in Support re <u>3</u> MOTION to Dismiss filed by Helen F. Fahey, Carol Ann Sievers, Jackie T. Stump, Michael M. Hawes, Rudolph C. McCollum, Jr. (Vorhis, Richard) (Entered: 03/01/2010)
03/15/2010	<u>5</u>	Memorandum in Opposition re <u>3</u> MOTION to Dismiss filed by Sharon Burnette, Pamela K. Burroughs, Frank Carter, Jr, Edward Conquest, Donald W. Hoffman, Monty King, Larry Macon, Marvin McClain, Benjamin Perdue, Jr, Henry Stump, Barbara Tabor. (Northup, Stephen) (Entered: 03/15/2010)
03/18/2010	<u>6</u>	Response to <u>5</u> Memorandum in Opposition, filed by Helen F. Fahey, Michael M. Hawes, Rudolph C. McCollum, Jr, Carol Ann Sievers, Jackie T. Stump. (Attachments: # <u>1</u> Unpublished Opinion – Patterson v. Kaine, # <u>2</u> Unpublished Opinion – Bowling v. Johnson, # <u>3</u> Unpublished Opinion – Williams v. Johnson, # <u>4</u> Unpublished Opinion – Lyons v. U.S. Parole Comm.)(Vorhis, Richard) (Entered: 03/18/2010)
03/23/2010	<u>7</u>	MOTION for Leave to File <i>Surreply Memorandum in Opposition to Motion to Dismiss</i> by Sharon Burnette, Pamela K. Burroughs, Frank Carter, Jr, Edward Conquest, Donald W. Hoffman, Monty King, Larry Macon, Marvin McClain, Benjamin Perdue, Jr, Henry Stump, Barbara Tabor. (Attachments: # <u>1</u> Exhibit)(Northup, Stephen) (Entered: 03/23/2010)
03/26/2010	<u>8</u>	MOTION for Joinder by John R. Lay. (Attachments: # <u>1</u> Cover Letter, # <u>2</u> Envelope)(tdai,) (Entered: 03/26/2010)
03/29/2010	<u>9</u>	ORDER GRANTING Plaintiffs' <u>7</u> Motion for Leave to File Surreply Memorandum in Opposition to Motion to Dismiss; It is further Ordered that the plaintiffs shall file their surreply forthwith. Signed by District Judge Robert E. Payne on 3/29/2010. (lhin,) (Entered: 03/29/2010)
03/30/2010	<u>10</u>	Response <i>Surreply Memorandum in Opposition to Motion to Dismiss</i> filed by Sharon Burnette, Pamela K. Burroughs, Frank Carter, Jr, Edward Conquest, Donald W. Hoffman, Monty King, Larry Macon, Marvin McClain, Benjamin Perdue, Jr, Henry Stump, Barbara Tabor. (Northup, Stephen) (Entered: 03/30/2010)
04/20/2010		Set/Reset Hearings: Motion Hearing set for 5/11/2010 at 10:00 AM before District Judge Robert E. Payne. (sneal,) (Entered: 04/20/2010)
04/26/2010	<u>11</u>	Notice of Hearing Date set for 05/11/2010 re <u>3</u> MOTION to Dismiss (Vorhis, Richard) (Entered: 04/26/2010)
04/27/2010	<u>12</u>	CERTIFICATE of Service (<i>Amended</i>) re <u>11</u> Notice of Hearing Date by Richard Carson Vorhis on behalf of Helen F. Fahey, Michael M. Hawes, Rudolph C. McCollum, Jr, Carol Ann Sievers, Jackie T. Stump (Vorhis, Richard) (Entered: 04/27/2010)
05/06/2010	<u>13</u>	ORDER re hearing on <u>3</u> MOTION to Dismiss scheduled for May 11, 2010 at 10:00 a.m. is RESCHEDULED to May 11, 2010 at 11:00 a.m. Signed by District Judge Robert E. Payne on 5/6/2010. (lhin,) (Entered: 05/06/2010)
05/11/2010	<u>14</u>	Minute Entry for proceedings held before District Judge Robert E. Payne: Motion Hearing held on 5/11/2010 re <u>3</u> MOTION to Dismiss filed by Carol Ann Sievers, Rudolph C. McCollum, Jr., Jackie T. Stump, Michael M. Hawes, Helen F. Fahey; matter submitted to court; opinion to enter (Court Reporter Peppy Strahan, OCR.) (wtuc) (Entered: 05/11/2010)
05/26/2010	<u>15</u>	MOTION for Leave to File <i>Limited Discovery</i> by Sharon Burnette, Pamela K. Burroughs, Frank Carter, Jr, Edward Conquest, Donald W. Hoffman, Monty King, Larry Macon, Marvin McClain, Benjamin Perdue, Jr, Henry Stump, Barbara Tabor. (Northup, Stephen) (Entered: 05/26/2010)
05/26/2010	<u>16</u>	Memorandum in Support re <u>15</u> MOTION for Leave to File <i>Limited Discovery Prior to a Rule 26(f) Conference</i> filed by Sharon Burnette, Pamela K. Burroughs, Frank Carter, Jr, Edward Conquest, Donald W. Hoffman, Monty King, Larry Macon, Marvin McClain, Benjamin Perdue, Jr, Henry Stump, Barbara Tabor. (Attachments: # <u>1</u>

		Exhibit)(Northup, Stephen) (Entered: 05/26/2010)
06/09/2010	<u>17</u>	Opposition to <u>15</u> MOTION for Leave to File <i>Limited Discovery</i> filed by Helen F. Fahey, Michael M. Hawes, Rudolph C. McCollum, Jr, Carol Ann Sievers, Jackie T. Stump. (Vorhis, Richard) Modified filer text from Henry Stump to Jackie T. Stump on 6/9/2010 (tdai,). (Entered: 06/09/2010)
06/09/2010	<u>18</u>	Memorandum in Support re <u>15</u> MOTION for Leave to File <i>Limited Discovery</i> filed by Helen F. Fahey, Michael M. Hawes, Rudolph C. McCollum, Jr, Carol Ann Sievers, Jackie T. Stump. (Vorhis, Richard) (Entered: 06/09/2010)
06/09/2010		Notice of Correction re <u>17</u> Opposition. Henry Stump removed and replaced by Jackie T. Stump as part filer to <u>17</u> Opposition. The docket has been corrected. No further action is required. (tdai,) (Entered: 06/09/2010)
06/28/2010	<u>19</u>	LETTER from chambers dated June 25, 2010 re Letter RECEIVED from Elvira M. Grasty. (lhin,) (Entered: 06/28/2010)
10/25/2010	<u>20</u>	*** AMENDED IN PART. SEE <u>22</u> ORDER *** MEMORANDUM OPINION. Signed by District Judge Robert E. Payne on 10/25/2010. (lhin,) Modified text on 11/18/2010 (tdai,). (Entered: 10/25/2010)
10/25/2010	<u>21</u>	*** AMENDED IN PART. SEE <u>23</u> ORDER *** ORDER DENYING <u>3</u> Motion to Dismiss; DENYING John R. Lay's <u>8</u> Motion for Joinder as Party Petitioner/Plaintiff; DENYING Plaintiff's <u>15</u> Motion for Leave to Conduct Limited Discovery Prior to a Rule 26(f) Conference; and the action is DISMISSED WITH PREJUDICE. Signed by District Judge Robert E. Payne on 10/25/2010. Copies sent to John R. Jay as directed. (lhin,) Modified text on 11/18/2010 (tdai,). (Entered: 10/25/2010)
10/25/2010		Case Dismissed Per Order dated 10/25/2010. (lhin,) (Entered: 11/12/2010)
10/28/2010	<u>22</u>	ORDER that the <u>20</u> Memorandum Opinion is AMENDED to correct the second sentence in the first full paragraph on page 28 to read: "Therefore, the MOTION TO DISMISS (Docket No. 3) will be GRANTED." Signed by District Judge Robert E. Payne on 10/27/2010. Copies mailed. (lhin,) (Entered: 10/28/2010)
10/28/2010	<u>23</u>	ORDER: It is hereby ORDERED that the Order (Docket No. 21) is AMENDED to correct paragraph (1) to read: "The MOTION TO DISMISS (Docket No. 3) is GRANTED." Signed by District Judge Robert E. Payne on 10/27/2010. Copies mailed. (lhin,) (Entered: 10/28/2010)
11/12/2010	<u>24</u>	MOTION to Withdraw as Attorney by Sharon Burnette, Pamela K. Burroughs, Frank Carter, Jr, Edward Conquest, Donald W. Hoffman, Monty King, Larry Macon, Marvin McClain, Benjamin Perdue, Jr, Henry Stump, Barbara Tabor. (Richardson, William) (Entered: 11/12/2010)
11/22/2010	<u>25</u>	MOTION to Alter Judgment by Sharon Burnette, Pamela K. Burroughs, Frank Carter, Jr, Edward Conquest, Donald W. Hoffman, Monty King, Larry Macon, Marvin McClain, Benjamin Perdue, Jr, Henry Stump, Barbara Tabor. (Northup, Stephen) (Entered: 11/22/2010)
11/22/2010	<u>26</u>	Memorandum in Support re <u>25</u> MOTION to Alter Judgment <i>Pursuant to Rule 59(E)</i> filed by Sharon Burnette, Pamela K. Burroughs, Frank Carter, Jr, Edward Conquest, Donald W. Hoffman, Monty King, Larry Macon, Marvin McClain, Benjamin Perdue, Jr, Henry Stump, Barbara Tabor. (Northup, Stephen) (Entered: 11/22/2010)
12/02/2010	<u>27</u>	ORDER GRANTING <u>24</u> MOTION to Withdraw William R. Richardson, Esquire as counsel for the plaintiffs. Signed by District Judge Robert E. Payne on 12/1/2010. (lhin,) (Entered: 12/02/2010)
12/07/2010	<u>28</u>	(FILED IN ERROR) Opposition <i>To Plaintiff's Motion To Alter Or Amend Judgment Pursuant to Rule 59(e)</i> filed by Helen F. Fahey, Michael M. Hawes, Rudolph C. McCollum, Jr, Carol Ann Sievers, Jackie T. Stump. (Vorhis, Richard) Modified on 12/7/2010 (lhin,). (Entered: 12/07/2010)
12/07/2010	<u>29</u>	MOTION <i>In Opposition To Plaintiff's Motion To Alter Or Amend Judgment Pursuant To Rule 59(e)</i> by Helen F. Fahey, Michael M. Hawes, Rudolph C. McCollum, Jr, Carol Ann Sievers, Jackie T. Stump. (Vorhis, Richard) (Entered: 12/07/2010)

12/07/2010	<u>30</u>	Memorandum in Support re <u>29</u> MOTION <i>In Opposition To Plaintiff's Motion To Alter Or Amend Judgment Pursuant To Rule 59(e)</i> filed by Helen F. Fahey, Michael M. Hawes, Rudolph C. McCollum, Jr, Carol Ann Sievers, Jackie T. Stump. (Vorhis, Richard) (Entered: 12/07/2010)
12/13/2010	<u>31</u>	RESPONSE in Support re <u>25</u> MOTION to Alter Judgment <i>Pursuant to Rule 59(E)</i> filed by Sharon Burnette, Pamela K. Burroughs, Frank Carter, Jr, Helen F. Fahey, Donald W. Hoffman, Monty King, Larry Macon, Marvin McClain, Benjamin Perdue, Jr, Henry Stump, Barbara Tabor. (Northup, Stephen) (Entered: 12/13/2010)
01/26/2011	<u>32</u>	MOTION for Joinder "to be added to this class action" by William L. A. Church. (Attachments: # <u>1</u> Cover Letter, # <u>2</u> Envelope)(tdai,) (Entered: 01/27/2011)
01/26/2011	<u>33</u>	MOTION for permission to file for injunctive relief for an identification hearing among other injunctive relief by William L. A. Church. (Attachments: # <u>1</u> Cover Letter, # <u>2</u> Envelope)(tdai,) (Entered: 01/27/2011)
03/01/2011	<u>34</u>	MEMORANDUM OPINION. Signed by District Judge Robert E. Payne on 3/1/2011. (lhin,) (Entered: 03/01/2011)
03/01/2011	<u>35</u>	ORDER DENYING <u>25</u> Plaintiff's Motion to Alter Judgment; GRANTING <u>29</u> defendant's Motion in opposition to the Motion to Alter Judgment; DENYING <u>32</u> William Church's Motion to be Added to this Class Action; DENYING <u>33</u> Motion for Permission to File for Injunctive Relief; plaintiff may file a written notice of appeal within thirty (30) days of the date hereof. Signed by District Judge Robert E. Payne on 3/1/2011. Copies sent to counsel of record as directed. (lhin,) (Entered: 03/01/2011)
03/30/2011	<u>36</u>	NOTICE OF APPEAL as to <u>35</u> Order on Motion to Alter Judgment, Order on Motion for Miscellaneous Relief, Order on Motion for Joinder, <u>21</u> Order, <u>23</u> Order by Sharon Burnette, Pamela K. Burroughs, Frank Carter, Jr, Edward Conquest, Donald W. Hoffman, Monty King, Larry Macon, Marvin McClain, Benjamin Perdue, Jr, Henry Stump, Barbara Tabor. (Luck, Robert) Modified docket text on 3/30/2011 (jtho,). (Entered: 03/30/2011)
04/01/2011	<u>37</u>	Transmission of Notice of Appeal to US Court of Appeals re <u>36</u> Notice of Appeal, (All case opening forms, plus the transcript guidelines, may be obtained from the Fourth Circuit's website at www.ca4.uscourts.gov) (jgra,) (Main Document 37 replaced on 4/4/2011) (jgra,). (Entered: 04/01/2011)
04/04/2011	<u>38</u>	USCA Appeal Fees received \$ 455, receipt number 34683012309, re <u>36</u> Notice of Appeal, filed by Barbara Tabor, Frank Carter, Jr., Edward Conquest, Henry Stump, Sharon Burnette, Marvin McClain, Larry Macon, Pamela K. Burroughs, Monty King, Benjamin Perdue, Jr., Donald W. Hoffman. (cmcc,) (Entered: 04/04/2011)
04/12/2011		USCA Case Number 11-1324, Cyndi Halupa, case manager for <u>36</u> Notice of Appeal, filed by Barbara Tabor, Frank Carter, Jr., Edward Conquest, Henry Stump, Sharon Burnette, Marvin McClain, Larry Macon, Pamela K. Burroughs, Monty King, Benjamin Perdue, Jr., Donald W. Hoffman. (jgra,) (Entered: 04/12/2011)
04/12/2011	<u>39</u>	TRANSCRIPT of proceedings for dates of May 11, 2010, before Judge Robert E. Payne, re <u>36</u> Notice of Appeal, Court Reporter Peppy Peterson, Telephone number 804-916-2267. Transcript may be viewed at the court public terminal or purchased through the Court Reporter before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER Redaction Request due 5/12/2011. Redacted Transcript Deadline set for 6/13/2011. Release of Transcript Restriction set for 7/11/2011.(peterson, peppy) Modified on 5/3/2011 to edit. (cmcc,). (Entered: 04/12/2011)
04/13/2011	<u>40</u>	Notice of Filing of Official Transcript filed on 4/12/2011 (Document # <u>39</u>). (lhin,) (Entered: 04/13/2011)
07/10/2012	<u>41</u>	Opinion of USCA, AFFIRMED the District Court ruling re <u>36</u> Notice of Appeal, attached copy of judgment will not take effect until issuance of the mandate. (jgra,) (Entered: 07/10/2012)
07/10/2012	<u>42</u>	USCA JUDGMENT, AFFIRMED the judgment of the District Court as to <u>36</u> Notice of Appeal, filed by Barbara Tabor, Frank Carter, Jr., Edward Conquest, Henry Stump, Sharon Burnette, Marvin McClain, Larry Macon, Pamela K. Burroughs, Monty King,

		Benjamin Perdue, Jr., Donald W. Hoffman (jgra,) (Entered: 07/10/2012)
07/24/2012	<u>43</u>	USCA Stay of Mandate, mandate stayed under Fed. R. App. P. 41 (d)(1) until disposition of the petition or motion re <u>36</u> Notice of Appeal, (jgra,) (Entered: 07/24/2012)
11/15/2012	<u>44</u>	Published ORDER of USCA as to <u>36</u> Notice of Appeal, filed by Barbara Tabor, Frank Carter, Jr., Edward Conquest, Henry Stump, Sharon Burnette, Marvin McClain, Larry Macon, Pamela K. Burroughs, Monty King, Benjamin Perdue, Jr., Donald W. Hoffman : The petition for rehearing is denied, and, because the poll on rehearing en banc failed to produce a majority of judges in active service in favor of rehearing en banc, the petition for rehearing en banc is also denied. (lbre,) (Entered: 11/19/2012)
11/26/2012	<u>45</u>	USCA Mandate, judgment of this court, entered 07/09/12, takes effect 11/26/12 re <u>36</u> Notice of Appeal, (jgra,) (Entered: 11/26/2012)