

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI

ECCLESIASTICAL D. WASHINGTON)
(full name) (Register No.))
#990079 14-6118-CV-SJ-NKL-p)
Plaintiff(s).) Case No.)
v.) 54 page)
22- exb attachment)
LARRY DENNY ET AL)
(Full name)) Defendants are sued in their (check one):)
) ☒ Individual Capacity)
) ☒ Official Capacity)
) Both)
Defendant(s).

COMPLAINT UNDER THE CIVIL RIGHTS ACT OF 42 U.S.C. § 1983

- I. Place of present confinement of plaintiff(s): CROSSROADS CORRECTIONAL CENTER
1115 E. PENCE ROADS, CAMERON MO. 64429
- II. Parties to this civil action:
Please give your commitment name and any another name(s) you have used while incarcerated.
- A. Plaintiff ECCLESIASTICAL D. WASHINGTON Register No. # 990079
Address 1115 E. PENCE ROADS, CAMERON MO. 64429
- B. Defendant LARRY DENNY ET AL., 1115 E. PENCE ROADS
CAMERON MO. 64429
Is employed as WARDEN FOR ADMINISTRATION

For additional plaintiffs or defendants, provide above information in same format on a separate page.

SEE: ATTACHMENT

III. Do your claims involve medical treatment? Yes X No _____

IV. Do you request a jury trial? Yes X No _____

V. Do you request money damages? Yes X No _____

State the amount claimed? \$ 570 / 000 (actual/punitive)

VI. Are the wrongs alleged in your complaint continuing to occur? Yes X No _____

VII. Grievance procedures:

A. Does your institution have an administrative or grievance procedure?

Yes X No _____

B. Have the claims in this case been presented through an administrative or grievance procedure within the institution? Yes X No _____

C. If a grievance was filed, state the date your claims were presented, how they were presented, and the result of that procedure. (Attach a copy of the final result.)

IRR FILED ON 3/26/14 DENIED. CRCC-14-239
OFFENDER GRIEVANCE : 4/9/14 DENIED crcc-14-239
APPEAL RESPONSE : 5/23/14 DENIED SEE: ATTACH COPY crcc-14-239

D. If you have not filed a grievance, state the reasons.

N/A

VIII. Previous civil actions:

A. Have you begun other cases in state or federal courts dealing with the same facts involved in this case? Yes _____ No X

B. Have you begun other cases in state or federal courts relating to the conditions of or treatment while incarcerated? Yes _____ No X

C. If your answer is "Yes," to either of the above questions, provide the following information for each case.

(1) Style: N/A
(Plaintiff) N/A (Defendant)
(2) Date filed: _____

- (3) Court where filed: n/a
- (4) Case Number and citation: n/a
- (5) Basic claim made: n/a
- (6) Date of disposition: n/a
- (7) Disposition: n/a
(Pending) (on appeal) (resolved)
- (8) If resolved, state whether for: n/a
(Plaintiff or Defendant)

For additional cases, provide the above information in the same format on a separate page.

IX. Statement of claim:

- A. State here as briefly as possible the facts of your claim. Describe how each named defendant is involved. Include the names of other persons involved, dates and places. Describe specifically the injuries incurred. Do not give legal arguments or cite cases or statutes. You may do that in Item "B" below. If you allege related claims, number and set forth each claim in a separate paragraph. Use as much space as you need to state the facts. Attach extra sheets, if necessary. Unrelated separate claims should be raised in a separate civil action.

LARRY DENNY , ET AL. ,TERRY PAGE, DEPUTY WARDEN, CHRIS MCBEE
TODD WARREN, ASSISTANT WARDEN, , LAURETTA AITKENS,, CHIEF OF
CUSTODY, RONDA PASH, DEPTY WARDEN, KIMBERLY HERRING F.U.M.
CYNDI PRUDDEN , DEPUTY DIVISION DIRECTOR DIVISION OF ADULT
INSTITUTION , SHAWN HUFF, COIL # 23148, SHAWN PETTIGREW CCW
MRS. JUDY HUFF , MRS. PETTIGREW CCW, BRIAN MONTGEMERY, MR.
WHITE, MRS. RICHEY, MRS. SLIVER, COIL, MRS. MCDONNAL , MRS. HUFF
COL. MR. STEVEN NIBARGER , MRS. PARKHURST ,

- B. State briefly your legal theory or cite appropriate authority:

MR. ECCLESIASTICAL D. WASHINGTON SUED DEFENDANTS FOR ALLEGING VIOLATION
OF THE EIGHT AMENDMENT RIGHT PROHIBITION AGAINST CRUL AND UNUASL
BY EXPOSING MR. WASHINGTON TO (ETS) THAT CREAED A IMMENT DANGER OF
SERIVES PHYSICAL INJURY. HE WAS RELALIATED AGAINST AND EXCESIVE FORCE
WAS USED AGAINST HIM IN VIOLATED OF HIS U.S. CONST. AMEND VIII
RIGHT INJURY POSED UNREASONABLE RISK OF HARM ALLEGED LONG TREM
EXPOSURE TO THE SECONDHAND SMOKE IN SIDE HIS CELL.

SEE ATTACHMENT SHEETS

B. STATE BRIEFLY YOUR LEGAL THEORY OR CITE APPROPRIATE AUTHORITY:

REFRAIN FROM SELLING TOBACCO PRODUCTS IN ALL D.O.C. AND CRCC THAT THE HONORABLE JUDGE OF THE COURT TO ORDER TOBACCO PRODUCTS TAKE OUT OF CRCC AND OVER CORRECTION CENTER BECAUSE ALL THE OFFENDER AND PRISON AND MR. WASHINGTON FACES IMMEDIATE DANGERS OF SERIOUS PHYSICAL INJURY AND PLAINTIFF CONDITION AND EXPOSURE (ETS) THAT CREATES AS SUBSTANTIAL RISK OF INJURY BECAUSE OF HIS ASTHMATIC ATTACK AND MEDICAL CONDITION IS NOT THE SAME RISK POSED TO THE GENERAL POPULATION AND THE PLAINTIFF ALLEGING THAT HIS CONFINEMENT, CREATES SERIOUS (LONG TERM) HEALTH RISKS.

ATTACHMENT SHEETS PG. 3

X. Relief: State briefly exactly what you want the court to do for you. Make no legal arguments.

GIVE MR. WASHINGTON A JURY TRIAL AND REMOVES TOBACCO
AND TOP TOBACCO AND CIGARETTES OUT THE CRCCC AND
D.O.C. ET AL.

XI. Counsel:

A. If someone other than a lawyer is assisting you in preparing this case, state the person's name. n/a

B. Have you made any effort to contact a private lawyer to determine if he or she would represent you in this civil action? Yes No X

If your answer is "Yes," state the names(s) and address(es) of each lawyer contacted.

n/a

C. Have you previously had a lawyer representing you in a civil action in this court? Yes No X

If your answer is "Yes," state the name and address of the lawyer.

n/a

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

Executed (signed) this 15th day of 15th 2014

Signature(s) of Plaintiff(s)

Mr. Eckman / D. Washington

IN THE UNITED STATE DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION

ECCLESIASTICAL DENZEL WASHINGTON
REGISTER NO. 990079

PLAINTIFF,

V.

CASE NO. _____
JURY TRIAL DEMANDED

LARRY DENNY ET AL.,

DEFENDANTS,))

PLAINTIFF COMPLAINT UNDER THE CIVIL
RIGHT ACT OF 42 U.S.C. 1983

PLAINTIFF ECCLESIASTICAL DENZEL WASHINGTON , FOR HIS CAUSE OF ACTION AGAINST
DEFENDANTS STATES:

PARTIES

1. PLAINTIFF IS A CITIZEN OF MISSOURI WHO CURRENTLY RESIDES AT CROSSROADS
CORRECTIONAL CENTER ("CRCC") IN CAMERON MISSOURI.

2. DEFENDANTS ARE EMPLOYEES OR OFFICIALS OF THE DEPARTMENT OF CORRECTIONS
("DOC") AND /OR CRCC FOR THE STATE OF MISSOURI. AT ALL RELAVANT TIMES,
DEFENDANTS WERE ACTING UNDER THE COLOR OF STATE LAW.

PLAINTIFF ECCLESIASTICAL D. WASHINGTON SUED THE DEFENDANTS , LARRY DENNY
ET AL, TERRY PAGE, DEPUTY WARDEN, CHRIS MCBEE, DEPUTY WARDEN TODD WARREN
ASSISTANT WARDEN , LAURETTA AITKENS, CHIEF OF CUSTODY, RONDA PASH, DEPTY
WARDEN, KIMBERLY HERRING F.U.M , CYNDI PRUDDEN, DEPUTY DIVISION DIRECTOR
DIVISION OF ADULT INSTITUTION , SHAWN D HUFF, COII 23148, SHAWN PETTIGREW
CCW, MISS, JUDY HUFF, MRS. PETTIGREW CCW, BRIAN MONTOGEMERY , MR. WHITE
MRS. RICHEY , MRS. SLIVER COII, MRS. MCDONNAL , STEVEN NIBARGER , MRS.
PARKHURST ,FOR ALLEGING VIOLATED OF 8th EIGHT AMENDMENT RIGHT PROHIBITION
AGAINST CRUCL AND UNUASL PUNHMENT BY EXPOSING MR. WASHINGTON TO (ETS)
THAT CREAED A IMMENTDANGER OF SERIOUS PHYSICAL INJURY HE WAS RELATIATED
AGAINST. AND EXCESSIVE FORCE WAS USE AGAINST MR. WASHINGTON CAUSE SERIOUS
PHYSICAL INJURY TO MR. WASHINGTON, IN VIOLATED OF HIS U.S. CONST. AMEND.
VII, RIGHT . PLAINTIFF INJURY PSONED UNREASONABLE RISK OF HARM ALLEGES
LONG TERM EXPOSURE TO THE SECOND HAND SMOKE.

MR. WASHINGTON MEDICAL CONDITION THAT PUT MR. WASHINGTON AT A GREATER (RISK) THAN THE GENERAL POPULATION WHEN EXPOSED TO (ETS) MR. WASHINGTON EXPOSURE CREATES A SUBSTANTIAL (RISK) OF INJURY BECAUSE OF HIS MEDICAL CONDITION IS NOT THE SAME POSED TO THE GENERAL POPULATION, THE PLAINTIFF ALLEGED HE IS IN IMMEDIATE DANGER OF SERIOUS PHYSICAL INJURY ALLEGED LONG-TERM EXPOSURE TO THE SECONDHAND SMOKE.

JURISDICTION & VENUE

3. PLAINTIFF HAS FILED CAUSE OF ACTION FOR THE VIOLATION OF HIS CONSTITUTIONAL RIGHTS AS PROVIDED BY 42 U.S.C. 1983 AND 1985. AS SUCH, THIS COURT HAS SUBJECT MATTER JURISDICTION PURSUANT TO 28 U.S.C. 1331 AND 1343.

4. PURSUANT TO 28 U.S.C. 1391, VENUE IS PROPER IN THIS COURT.

STATEMENT OF CLAIM GENERAL ALLEGATIONS

PLAINTIFF INCORPORATES PARAGRAPHS 1-4 ABOVE AS THOUGH FULLY SET FORTH HEREIN.

5. PLAINTIFF SUFFERS FROM CHRONIC ASTHMA.

6. FOR SEVERAL YEARS. PLAINTIFF HAS BEEN CONFINED TO A CELL BLOCK AT CRCC.

7. PHYSICIANS ADVISED DEFENDANTS THAT, DUE TO PLAINTIFF MEDICAL CONDITION, PLAINTIFF REQUIRES AN INDIVIDUAL MANAGEMENT PLAN ("IMP").

8. SPECIFICALLY, PHYSICIANS ADVISED DEFENDANTS THAT THE IMP FOR PLAINTIFF MUST INCLUDE A SMOKE-FREE CELL BLOCK AND THAT PLAINTIFF MUST BE KEPT AWAY FROM ANY AND ALL SECONDHAND SMOKE.

9. PHYSICIANS ADVISED DEFENDANTS THAT, DUE TO PLAINTIFF'S MEDICAL CONDITION, SEVERE INJURY, INCLUDING DEATH, WAS POSSIBLE IF PLAINTIFF WAS EXPOSED TO SECONDHAND SMOKE.

THIS IS A CIVIL ACTION BROUGHT UNDER 42 U.S.C. 1983 BY A STATE PRISONER WHO IS CONFINED AT THE C.R.C.C. MR. WASHINGTON SUFFERS FROM CHRONIC ASTHMA AND BRONCHITIS AND HEART DISEASE AND SEVERE PULMONARY DIAGNOSIS AND LUNG CANCER DISEASE IS WORSENEED BY EXPOSURE TO (ETS) AND DEPARTMENT OF CORRECTION AND C.R.C.C. FAILED TO ACCOMMODATE MR. WASHINGTON REQUIRES AN INDIVIDUAL MANAGEMENT PLAN (IMP). WHO IS PRESENT BEING DENIED APPROPRIATE MEDICAL CARE. THE PLAINTIFF SEEKS A TEMPORARY RESTRAINING ORDER AND A PRELIMINARY INJUNCTION TO ENSURE THAT HE RECEIVE PROPER MEDICAL CARE.

AS STATED IN THE DECLARATION SUBMITTED WITH THIS MOTION, THE PLAINTIFF WHO IS ASTHMATIC, ALLEGES THAT DEFENDANTS ARE DELIBERATELY INDIFFERENT INDIFFERENT TO HIS MEDICAL NEEDS BY FAILING TO HOUSING HIM IN A SMOKE FREE ENVIRONMENT. MR. WASHINGTON THAT BECAUSE OF HIS ASTHMA, HE IS AT HIGHTER RISK OF SERIOUS PHYSICAL INJURY FROM EXPOSURE TO ENVIRONMENTAL TOBACCO SMOKE THAN GENERAL POPULATION INMATES. HE ALLEGES THAT DEFENDANTS KNOW OF HIS ASTHMATIC CONDITION AND THE HEIGHTENED RISK TO MEDICAL PROBLEMS HE FACES WHEN HOUSED IN A SMOKE FILLED ENVIRONMENT. PLAINTIFF FURTHER ALLEGES THAT CERTAIN DEFENDANTS HAVE RETALIATED AGAINST HIM FOR FILING COMPLAINTS RELATED TO THE ENVIRONMENTAL SMOKE, REQUESTS MONETARY DAMAGE AND INJUNCTIVE RELIEF.

THIS CIVIL ACTION IS BEING BROUGHT AGAINST THE DEFENDANTS LARRY DENNY ET AL, TERRY PAGE, DEPUTY WARDEN, CHRIS MCBEE, DEPUTY WARDEN, TODD WARDEN ASSISTANT WARDEN, LAURETTA AITKENS, CHIEF OF CUSTODY, RONDA PASH, DEPUTY WARDEN, KIMBERLY HERRING F.U.M, CYNDI PRUDDEN, DEPUTY DIVISION DIRECTOR DIVISION OF ADULT INSTITUTION, SHAWN HUFF COIL 23148, SHAWN PETTIGREW CCW, MISS JUDY HUFF, MRS. PETTIGREW/CCW BRIAN MONTGOMERY, MR. WHITE, MRS. RICHEY, MRS. SLIVER COIL, MRS. MCDONNA STEVEN NIBARGER, MRS. PARKHURST, MRS. CHERLY RICHEY, CCA, AND THE STATES CORRECTIONAL OFFICIAL OF D.O.C. ALLEGING VIOLATION OF THE EIGHT, AMENDMENT DUE TO PLAINTIFF EXPOSURE TO ENVIRONMENTAL TOBACCO SMOKE (ETS) MR. WASHINGTON 8th AMENDMENT CLAIM IS UPON POSSIBLE FUTURE HARM TO HEALTH AND HIS ASTHMATIC ATTACK AS WELL AS PRESENT HARM ARISING OUT OF THE EXPOSURE TO (ETS). THE 1983 ACTION AGAINST WARDEN AND SUPERINTENDENT AND THE DEPARTMENT OF COERCION AT C.R.C.C. OFFICIAL PHYSICIANS ALLEGING THAT THEY VIOLATED HIS 8th EIGHT AMENDMENT RIGHT TO BE FREE CRUEL AND UNUSAL PUNISHMENTS. THE DEFENDANTS WERE DELIBERATELY INDIFFERENT TO PRISONER NEEDS TO BE PLACED IN SMOKE FREE ENVIRONMENT SUPPORTING PRISONER CRUEL AND UNUSAL PUNISHMENT, CLAIM WERE PRISONER HAS TWO INDIVIDUAL MANAGEMENTS PLANS (IMP).

WHICH REQUIRED THAT HE BE PLACED IN SMOKE FREE ENVIRONMENT, PRISONER CELL BLOCK AND HOUSING UNIT NON SMOKER REGULATION WERE CONSPICUOUSLY VIOLATED, AND SUPERINTENDENT WERE AWARE OF VIOLATED AND EVEN AFTER RECEIVING NOTHING THAT (IMP) WERE NOT BEING FOLLOWING, FOLLOWED CONTINUED TO DO NOTHING TO REMEDY SITUATION U.S.C.A. CONTINUED 8.

10. PHYSICIANS ADVISED DEFENDANTS THAT, DUE TO PLAINTIFF'S MEDICAL CONDITION, SEVERE INJURY, INCLUDING, WAS POSSIBLE IF PLAINTIFF WAS EXPOSURE TO SECONDHAND SMOKE. MR. WASHINGTON HAS SERIOUS MEDICAL NEED TO BE PLACED IN A SMOKE FREE, ENVIRONMENT SUPPORTING HIS CRUEL AND UNUSAL PUNISHMENT CLAIM AGAINST PRISONER WARDEN, WERE PRISONER WAS ASTHMATIC SYMPTOM WERE EXACERBATED BY ENVIRONMENTS TOBACCO SMOKER (ETS) SUPERINTENDENT HAVE FAILED TO TO SHOW THAT THEY TOOK REASONABLE MEASURE, TO ABATE THE RISK OF HARM TO PRISONER THE PRISONER IN ASK FOR.

WHILE THE PLAINTIFF SUFFERING FROM A SERIOUS MEDICAL AILMENT REQUESTED MEDICAL TREATMENT FROM FOR SAID AILMENT FROM DEFENDANTS MR. WASHINGTON NEEDS FOR CARE WERE IGNORED AND / OR REFUSED AND BY DEFENDANTS IN THE ABOVE, MR. WASHINGTON WAS DENIED TREATMENT AND / MEDICATION AND WAS TAUNTED BY SAID DEFENDANTS.

THE DEFENDANTS WITH KNOWLEDGE OF PLAINTIFF MEDICAL NEEDS AND / OR WITH DELIBERATE INDIFFERENCE TO SUCH NEEDS, HAVE ACTED OR FAILED TO ACT IN SUCH A WAY AS TO DEPRIVE MR. WASHINGTON OF NECESSARY AND ADEQUATE MEDICAL CARE THEREBY ENDANGERING, MR. WASHINGTON HEALTH AND SAFE WELL BEING SUCH ACTS OR OMISSIONS VIOLATION (VIOLATED). RIGHT SECURED TO MR. WASHINGTON UNDER THE FIFTH, EIGHT AND FOURTEEN AMEND. TO THE CONSTITUTION OF THE UNITED STATES.

11. CRCC HAS A NO- SMOKING POLICY FOR INDOOR AREAS, INCLUDING CELL BLOCKS.
12. DESPITE CRCC 'S NO SMOKING POLICY, DEFENDANTS ALLOW INMATE AT CRCC TO POSSESS CIGARETTES IN THEIR CELL BLOCKS.
13. DESPITE CRCC 'S SMOKING POLICY, DEFENDANTS ALLOW INMATE AT CRCC TO SMOKE CIGARETTES IN THEIR CELL BLOCKS.
14. DESPITE CRCC 'S NO-SMOKING POLICY, DEFENDANTS THEMSELVES SMOKED CIGARETTES INDOORS AT CRCC.
15. DESPITE THE WARNING PROVIDED TO DEFENDANTS BY PHYSICIANS AND DESPITE CRCC'S NO SMOKING POLICY, DEFENDANTS KNOWINGLY HOUSED MR. WASHINGTON THE PLAINTIFF WITH A CELL MATE THAT WAS A SMOKER.
16. PLAINTIFF 'S CELL MATE REGULARLY SMOKED INSIDE PLAINTIFF'S CELL BLOCK, 6/ UP TO SIX PACKS OF CIGARETTES PER DAY. CELL MATE (GREER JR. ROBERT). # 00029965 IS THE PLAINTIFF CELL MATE TO DAYS AND HAS BEEN AND STILL IS. AND++ MR. GREER, IS STILL SMOKING IN THE CELL CAUSE MR. WASHINGTON ASTHMATIC ATTACK IN THE CELL FROM THE (ETS).
17. PLAINTIFF REMINDED DEFENDANTS NUMEROUS TIMES THAT HIS PHYSICIANS' TREATMENT PLANS AND IMP REQUIRE PLAINTIFF TO HAVE A SMOKE -FREE CELL BLOCK AND TO AVOID ANY AND ALL SECONDHAND SMOKE.
18. PLAINTIFF REMINDED DEFENDANTS NUMEROUS TIMES THAT HIS CELL MATE AND OTHER INMATE REGULARLY SMOKED CIGARETTES INDOORS IN VIOLATION OF CRCC RULES.

THE DEFENDANTS ABOVE DESCRIBED ACTIONS HAVE CAUSE MR. WASHINGTON TO SUFFER DAMAGES. THAT CONDUCT OF DEFENDANTS WAS WILLFUL, WANTON AND MALICIOUS AND ONE WITH AN EVIL MOTIVE AND INTENT AND A RECKLESS DISREGARD FOR THE RIGHT AND SAFETY OF THE PLAINTIFF AND THEREFORE WARRANTS THE IMPOSITION OF EXEMPLARY AND PUNITIVE DAMAGES IN THE SUM OF \$ 700,000.00 SEVER HUNDER THOUSAND DOLLAR IN COMPENSATORY DAMAGES FOR THE PAIN AND SUFFERING AND MENTAL ANGUISH TO PLAINTIFF ASTHMATIC ATTACK WHO WAS DENIED A SMOKE FREE CELL AND SMOKE FREE CELL MATE AND THE DEFENDANTS WEREWCESS IN THAT THEIR DISGARD OF ASTHMATIC PRISONER RIGHT TOBE IN A SMOKE FREE ENVIORNMENT AND ASK FOR AWARD OF IN SUM OF \$ 250,000.000,00 MILLON DOLLAR AND NO CENTER AS TO EACH OF SAID DEFENDANTS , IN PUNTIVE DAMAGES.

IN HIS CRUEL AND UNUSUNAL PUNISHMENT ACTION BROUGH UNDER 1983 AGAINST THE WARDEN, SUPERINTEDENT TO DETER OTHER OFFICIAL IN LIKE POSITION OF IGNRING THEIR RESPONSIBILITY U.S.C.A. CONST AMEND AMEND, 8.42.U.S.C.A. 1983.

MR. WASHINGTON HAS A SERIOUS MEDICAL NEEDS "SERIOUS FOR MEDICAL INDIFFERENCE CLAIM 1983, IF IT IS ONE THAT HAS BEEN DIEGNSED BY A PHYSICAN AS REQUIRING TREATMNET OR ONE THAT IS SO OBVIOUS THAT EVEN A LAY PERSON WOULD EASILY RECONGIZE THE NECESSITY FOR A DOCTOR ATTENTION 42. U.S.C.A. 1983. the PLAINTIFF WAS DIAGOSED WITH REACTIONARY RESPIRATORY ALLMMENT DUE TO HIS EXPOSURE TO SECONDHANDS SMOKE (ETS). SEE: WASHINGTON exb; 1572 ,exb ;1573, exb ; 1574 AND SEE:

1575 see; attach copy

19 . THE PLAINTIFF MR. WASHINGTON HAVE BEEN DIAGONSED BY A PHYSICIAL AS REQUERING TREATMENT SUFFERS FROM CHRONIC ASTHMA , ASTRHMATIC ATTACKS DIFFICULTY BREATHING, WHEEZING, LUNG CANCER, HEART DISEASE, RESPERATORY, COUGHING, PHLEGM, CHEST PAIN, AND BREATHING TREATMENT (4) FOUR TIMES A DAYS A WEEKS WHICH CAUSED THE PLAINTIFF GREAT PAIN AND SUFFERING, THE EXPOSURE MR. WASHINGTON TO THE SECONDHAND SMOKE AND CIGAREETEE SMOKE THE PLAINTIFF MEDICAL CONDITION (WORSERED) TO A POINT THAT DR. BLAKEMAN, KAREN L. MD. HAS TO ISSUE MR. WASHINGTON ANTHET BREATHING INHALER TO ASSIST MR. WASHINGTON IN BEING ABLE TO PROERTY BREATH . AND SHE HAS TO ISSUED MR. WASHINGTON A MASK FOR ASSISTIVE DEVICE ISSUED FOR AVOID SMOKE DUE TO POOR LUNGS TO USE IN CELL. SEE EXB: 3xr-1 AND EXB: 3xr-2

see ;attach

WHEREFORE, MR. WASHINGTON PRAYS THAT THIS COURT ISSUED JUDGMENT^{copy} AGAINST DEFENDANTS.

1. AWARDING PLAINTIFF DAMAGERS IN A AMOUNT WHICH IS FAIR AND REASONABLE IN THE CIRCUMSTANCES:
2. AWARE PLAINTIFF EXEMPLARY AND PUNTIVE DAMAGES IN THE AMOUNT OF \$. 1.000.000.00 .
3. AWARED PLAINTIFF REASONABLE COSTS AND DAMGARS AND EXPENSES OF THIS ACTION INCLUDING ATTORNEY FREE.
4. ORDERING SUCH OTHER FURTHER RELIEF AS MAY BE JUST IN THE PREMISES.

PLAINTIFF HEREBY INCORPRATERES BY REFERNCE THERE TO PARAGAPHE I THOUGH VII OF THE PLAINTIFF COMPLAINT SET FORTH HEREIN.

THESE DEFENDANTS WAS SEND COPYS OF THE DEPARTMENT OF CORRECTION MEDICAL ACCOUNTABILITY RECORD SYSTEM LAY IN RESTRICTION, ON , BY, DR. DOCTOR: BLAKEMAN KAREN L. ON 7/11/ 2013, LAY IN RESTRICTION (NO SMOKING ROOMMATE , COMMENTS: BY DR. SEVERS LUNG DISEASE IS WORSENEND BY EXPOSURE TO SMOKE , SEE: EXB RR -77, AND SEE: EXB: RR-78

see; attach copy

SEE ATTACH COPY OF THE DOCTOR MRS. BLAKEMAN KAREN L. EXB: RR-79
DEPARTMENT OF. CORR. MEDICAL ACCOUNTABILITY RECORDS ON LAY IN -restric
tion, NO DUST OR CHEMICAL FUMES AND SEE: EXB: RR-80, doctor
SWARTZ PAMALA S. NO EXPOSURE TO ANY CHEMICALS OR SCENTS IN CELL DUE
TO SEVERE PULMONARY DIANOSIS .
AND DOCTOR , MATTHEWS JOHN A. NO SMOKING ROOMMATE , EXB : Rr- 81

THE DEFENDANTS AND THE CASE WORK AND THE CORRECTIONOFFICAL IN CRCC
AND THE FUM WAS AWARE OF THE FACTS THAT MR. WASHINGTON HAS CHRONIC
ASTHMA AND CHRONIC BRONCHITS AND BRONCHOS PASTIC AIR WAY AND CHRONIC
ASTHMATIC ATTACKS , BECAUSE MR. WASHINGTON HAS BEEN CARE HIS FUOR
FOUR (4) OF HIS ASTHMA INHALATION WITH HIM EVER DAYS .

ALL EXB : ARE ATTACH
TO THIS COMPLAINT
12 pg attach

- 1.) QVAR 80 mcy
- 2.) ALBUTER USP INHATION
- 3.) TEROSL 17g 200 meted inhalation
IPRATOROP IUM BROM ATROVENT HFA INHALATION
ERSOL 12,9. grams 200 meterec
- 4.) CICLESONIDE 6.1 gm 160 mcg inha

BY: DR . MATTHEWS JOHN A MD. AND ACTUATIONS , AND THE PRISON GIT
BREATHING TREATMENT 4 FOUR TIME A DAYS (7) TIME A WEEKS IT HAS CAUSE MR.
WASHINGTON GREAT PAIN AN SUFFERING AND INJURIES, THAT AS A DIRECT
AND PROXIMATE RESULT OF THE CONDUCT OF DEFENDANTS , MR. WASHINGTON
HAS SUFFERED MENTAL. PHYSICAL AND EMOTIONAL PAIN AND SUFFERING
THE CONDUCT OF THE DEFENDANTS CONSTITUTION CRUEL AND UNUSUAL PUNISHMENT
BY DEFENDANTS IN VIOLATION OF PLAINTIFF RIGHT SECURED BY EIGHT
AMENDMENT TO THE CONSTITUTION OF THE UNITED STATE AND 14th AMEND
RIGHT .

PLAINTIFF HEREBY INCORPORATES BY REFERENCE THERE TO PARAGRAPHS I
THOUGH 1-19 OF PLAINTIFF COMPLAINT SET FORTH HEREIN .

THAT AS A DIRECT AND PROXIMATE RESULT OF THE SAID WILLFUL, DELIBERATER
MALICIUOS AND GROSS NEGLIGENCE AND RECKLESS DISREGARD BY DEFENDANTS
IN THE ABOVE , PLAINTIFF HAS BEEN DAMAGED:

WHEREFORE, PLAINTIFF PRAYS THAT THIS COURT ENTER JUDGMENT AGAINST
DEFENDANTS IN THE ABOVE COMPLAINT .

1. AWARDING MR. WASHINGTON DAMAGES IN AN AMOUNT WHICH IS FAIR AND
REASONABLE IN THE CIRCUMSTANCES:

2. .AWAREDING PLAINTIFF REASONABLE COSTS AND EXPENSES OF THIS INCUDING
ATTORNEY FEES.

3. ordering such other and further relief as may be just in
the premisses.

THIS IS EVIDENCE IN THE ABOVE THAT PRISON OFFICIALS KNEW OF AND DISREGARDED AND EXCESSIVE RISK TO MR. WASHINGTON HEALTH AND SAFETY.

MR. WASHINGTON MEDICAL NEEDS AS SERIOUS, BECAUSE HE HAS BEEN DIAGNOSED BY A PHYSICIAN AS REQUIRING TREATMENT, AGGRAVATED HIS CHRONIC ASTHMA THERE ENDANGERING HIS EXISTING HEALTH, THAT CREATED A IMMEDIATE DANGER OF SERIOUS PHYSICAL INJURY POSING UNREASONABLE RISK OF HARM ALLEGES (LONG TERM EXPOSURE) TO THE SECONDHAND SMOKE, MR. WASHINGTON MEDICAL CONDITION THAT PUT HIM AT GREATER (RISK) THAN THE GENERAL POPULATION WHEN EXPOSED TO (ETS) THIS EXPOSURE CREATES A SUBSTANTIAL RISK OF INJURY BECAUSE OF HIS MEDICAL CONDITION CONTESTS IS NOT THE SAME POSED TO THE GENERAL POPULATION A CLAIM RECOGNIZED AS AN EIGHT AMENDMENT VIOLATION.

THAT HIS EXPOSURE TO SECONDHAND SMOKE CIGARETTE SMOKE WAS CRUEL AND UNUSUAL PUNISHMENT IN VIOLATION OF THE EIGHT AMENDMENT THAT PLAINTIFF WAS EXPOSED WITH DILIBERATE INDIFFERENCE TO CONSTANT CIGARETTE SMOKE IN HIS CELL FOR OVER 26 YEARS AND AS A RESULT SUFFERED NAUSEA INABILITY TO EAT SOME TIME NUMEROUS OF HEADACHES, CHEST PAINS, DIFFICULTY BREATHING, CHEST TEARING, BURNING OF THE NOSE AND THROAT COUGH AND HEAVY TEARING, COUGHING, CHEST TIGHTNESS, ASTHMATIC ATTACK'S NUMBERNESS IN HIS LIMBS, TEARY EYES, ITCHING BURNING SKIN, DIZZINESS SORE THROAT, COUGHING AND PRODUCTION OF SYMPTOM FROM EXPOSURE TO (ETS). CONSTITUTION AS SERIOUS MEDICAL NEEDS AND SYMPTOM INCLUDING WHEEZING DIFFICULTY SLEEPING RAPID HEART AND LUNG CANCER.

MR. WASHINGTON IS CONTINUE TO BE HOUSE IN A SMOKE FILLED CELL THAT WOULD INCREASE HIS RISK OF DEATH OR NON FATAL HEART ATTACK OR STRIKE OR / AND MR. WASHINGTON BEEN FORCED TO LIVE ENVIRONMENT, FILLED WITH TOBACCO SMOKE.

MR. WASHINGTON MEDICAL DOCTORS THE EMPLOYEE OF D.O.C. THAT MR. WASHINGTON CLAIM THAT PLAINTIFF ASTHMA REQUIRED THAT HE BE PLACED IN A HOUSE UNIT FREE OF ENVIRONMENTAL TOBACCO SMOKE (ETS) A REQUIREMENT KNOWN TO DEFENDANTS AND THEIR FAILURE TO DO SO VIOLATED HIS EIGHT AMENDMENT, RIGHT TO BE FREE FROM CRUEL AND UNUSUAL PUNISHMENT IN THE FROM THE EXPOSING THE PLAINTIFF TO UNREASONABLE RISK OF SERIOUS DAMAGE TO HIS HEALTH AS A CONSEQUENCE OF DEFENDANTS, DELIBERATE INDIFFERENCE TO THE SMOKE FREE HOUSING REQUIREMENT MR. WASHINGTON CLAIM DAMAGES AND INJUNCTIVE RELIEF TO REMOVE THE CIGARETTE TOBACCO IN THE CROCC AND THE DEPARTMENT, OF CORRECTION.

THAT DEFENDANTS WERE DELIBERATELY INDIFFERENCE TO PLAINTIFF SERIOUS MEDICAL NEED EXPOSED PLAINTIFF TO AN UNREASONABLE RISK OF SERIOUS DAMAGE TO PLAINTIFF HEALTH AND SAFETY, THE DEFENDANTS FAILURE TO PLACE MR. WASHINGTON IN A SMOKE FREE ENVIRONMENT NOTWITHSTANDING MR. WASHINGTON REPEATED REQUEST TO DO SO THE MEDICAL TREATMENT HE RECEIVE FOR HIS ASTHMA AND REPEATED CONTACTS WITH THE WARDEN LARRY DENNY TERRY PAGE (AW) RONDA PASH, AND DEPUTY WARDEN, CHRIS MCBEE, DEPUTY WARDEN TODD WARREN ASSISTANT WARDEN,

LAURETTA AITKENS, CHIEF OF CUSTODY, KIMBERLY HERRING, FUM, CYNDI PRUDDEN, DEPUTY DIVISION DIRECTOR DIVISION OF ADULT INSTITUTION SHAWN HUFF COIL 23148, SHAWN PETTIGREW CCW MISS JUDY HUFF MRS. PETTIGREW CCW, BRIAN MONTGOMERY, MR WHITE, MRS. RICHEY, AND MRS. SLIVER COIL, MRS, MCDONNAL, STEVEN NIBARGER, MRS. PARKHUST HIS REQUEST TO EACH OF THEM TO DO SOMETHING ABOUT HIS EXPOSURE TO (ETS) AND HIS PLACEMENT CONTRAY TO THE (IMPS).

MR. WASHINGTON HAS CHRONIC ASTHMA AND ASTHMATIC ATTACKS, ARE SENSITIVE TO (ETS) AND OVER THE YEAR THE MEDICAL WERE STEPPED UP THE MEDICAL RANGED FROM, QVAR 80 mcg 17 2000 metered inhalation, inhalation and BREATHING TREATMENT 4 FOUR TIME A DAYS 7 days SEVERAL TIMES A WEEKS, A DRUG FOR MILD EPISODIC ASTHMA TO AZMACER INHALED STATED MEDICATION GIVE TO PEOPLE WHO HAVE CONTINUE DISPLAYS OF ASTHMA SYMPTOMS WHICH SUGGEST A MORE SEVERE CASE OF ASTHMA SYMPTOMS WHICH SUGGEST A MORE SEVERE CASE OF ASTHMA, MODERATE ASTHMA IS CONSIDERED A SERIOUS MEDICAL CONDITION SEE EXB: 39b, THE PLAINTIFF IS ON MEDICATION CALL THEOPHILLINE 300 MG TB TWICE DAILY FOR HIS BREATHING PROBLEM, CAUSE BY THE SECONDHAND SMOKE EXPOSURE.

EXB: 39 MEDICAL EVIDENCE

1. SHORTNESS OF BREATH AND CHEST PAIN WHEEZING ASTHMATIC, ATTACK LUNG CANCER ET AL DIFFICULTY IN BREATHING REPRESENT A RISK OF SERIOUS DAMAGE TO MR. WASHINGTON HEALTH ESPECIALLY SINCE THE SYMPTOMS INCREASE IN SEVERITY OVERTIME PARTICIPATE WHEN EXPOSED TO (ETS).

THE EXPOSURE OF THE (ETS) CAUSE ASTHMATIC ATTACKS ALSO INCREASES THE RISK OF CARDIOVASCULAR DISEASE CANCER AND RESPIRATORY.

20. THE U.S. SURGEON GENERAL HAS MADE THE FOLLOWING SCIENTIFIC CONCLUSION REGARDING SECONDHAND SMOKE:

- (A) THERE IS NO RISK FREE LEVEL OF EXPOSURE TO SECONDHAND SMOKE:
- (B) "[B]REATHING EVEN A LITTLE SECONDHAND SMOKE POSES A RISK TO YOUR HEALTH":
- (C) SECONDHAND SMOKE CAUSE LUNG CANCER",
- (D) SECONDHAND SMOKE CAUSE HEART DISEASE
- (E) SECONDHAND SMOKE CAUSE ACUTE RESPIRATORY EFFECTS:
- (F) SECONDHAND SMOKE CONTAINS MANY CHEMICALS THAT CAN QUICKLY IRRITATE AND DAMAGE THE LINING OF THE AIRWAYS",
- (G) EVEN BRIEF EXPOSURE CAN TRIGGER RESPIRATORY SYMPTOMS INCLUDING COUGH, PHLEGM, WHEEZING AND BREATHLESSNESS",

(H) PERSON WHO ALREADY HAVE ASTHMA OR OTHER RESPIRATORY CONDITION ARE AT ESPECIALLY HIGH RISK FOR BEING AFFECTED BY SECONDHAND SMOKE, AND SHOULD TAKE SPECIAL PRECAUTIONS TO AVOID EVEN BRIEF EXPOSURE":.

(I) SEPARATING SMOKERS FROM NONSMOKERS, CLEANING THE AIR, AND VENTILATING BUILDING CANNOT ELIMINATE SECOND HAND SMOKE EXPOSURE:;

(J) VENTILATION TECHNOLOGY CANNOT BE RELIED UPON TO COMPLETELY CONTROL HEALTH RISKS FROM SECONDHAND SMOKE EXPOSURE";

(K) "CONVENTIONAL AIR CLEANING SYSTEMS CAN REMOVE LARGE PARTICLES , BUT NOT THE SMALLER PARTICLES OR THE GASES FOUND IN SECONDHAND SMOKE";

(L) "OPERATION OF A HEATING , VENTILATING , AND AIR CONDITIONING SYSTEM CAN DISTRIBUTE SECONDHAND SMOKE THROUGHOUT A BUILDING".

21. PHYSICIANS CONCLUDED THAT PLAINTIFF 'S EXPOSURE TO SECONDHAND AT CRCC HAS EXACERBATED PLAINTIFF 'S MEDICAL CONDITION.

22. AS A RESULT OF DEFENDANTS ACTIONS AND OMISSIONS DESCRIBED ABOVE, PLAINTIFF HAS SUFFERED AND CONTINUES TO SUFFER SEVERE PERSONAL INJURY AND HAS BEEN AND CONTINUES TO BE DENIED RIGHT AND PROTECTIONS GUARANTEED TO HIM BY THE U.S.. CONSTITUTION.

COUNT II

VIOLATION OF EIGHT AMENDMENT AND 42 U.S.C. 1983 (DENIAL OF MEDICAL TREATMENT)

23. PLAINTIFF INCORPATES PARAGRAPHS 1- 22 ABOVE AS THOUGH FULLY SET FORTH HEREIN

24. PHYSICIANS WARNED DEFENDANTS THAT PLAINTIFF'S MEDICAL TREATMENT PLAN REQUIRED DEFENDANT TO PROVIDE PLAINTIFF WITH A SMOKE FREE CELL BLOCK AND KEEP PLAINTIFF AWAY FROM AND ALL SECONDHAND SMOKE

25. DESPITE THE WARNING PROVIDED TO DEFENDANTS BY PHYSICIANS AND DESPITE CRCC NO - SMOKING POLICY, DEFENDANTS KNOWINGLY HOUSED PLAINTIFF WITH A CELL MATE THAT WAS A SMOKER.

26. DESPITE THE WARNING PROVIDED TO DEFENDANTS BY PHYSICIANS AND DESPITE CRCC'S NO-SMOKING POLICY , DEFENDANTS KNOWINGLY ALLOWED INMATES AT CRCC TO POSSESS CIGARETTES IN THEIR CELL BLOCKS.

27. DESPITE WARNING PROVIDED TO DEFENDANTS BY PHYSICIANS AND DESPITE CRCC NO -SMOKING POLICY, DEFENDANTS KNOWINGLY ALLOWED INMATES AT CRCC , INCLUDING PLAINTIFF 'S CELL MATE TO SMOKE CIGARETTE IN THEIR CELL BLOCKS.

28. DESPITE THE WARNING PROVIDED TO DEFENDANTS BY PHYSICIANS AND DESPITE CRCC NO SMOKEING DEFENDANTS THEMELVES SMOKE CIGARETTES INDOORS AT CRCCC.

29. DEFENDANTS 'S ACTIONS WERE DELIBERATELY INDIFFERENT PLAINTIFF'S MEDICAL CONDITION AND TO THE MEDICAL TREATMENT PLAN PRESCRIBED BY PLAINTIFF'S PHYSICIANS.

AS A DIRECT AND PROXIMATE RESULT OF DEFENDANTS ACTIONS , PLAINTIFF WAS DEPRIVED OF HIS CONSTITUTIONAL RIGHT TO MEDICAL TREATMENT . THIS DESPRIVATION CAUSE HIMM TO SUFFER SIGNIFICANT PHYSICAL , MENTAL, AND EMOTIONAL INJURIES.

31. DEFENDANTS' DELIBERATE INDIFFERENCE TO PLAINTIFF'S MEDICAL CONDITION AND CONSCIOUS DISREGARD OF THE TREATMENT PLAN PRESCRIBED BY PLAINTIFFS PHYSICIANS CONSTITUTES CRUEL AND UNUSUAL PUNISHMENT FORBIDDEN BY THE EIGHT AMENDMENT.

32. AT ALL RELEVANT TIMES, DEFENDANTS WERE ACTING UNDER THE COLOR OF STATE LAW.

33. DEFENDANTS ACTIONS WERE MALICIOUS AND RECKLESSLY INDIFFERENCE TO PLAINTIFF CONSTITUTIONAL RIGHT , JUSTIFYING THE IMPOSITION OF PUNITIVE DAMAGES.

34. PURSUANT TO 42 U.S.C. 1988, DEFENDANTS ARE LIABLE FOR PLAINTIFF REASONABLE ATTORNEY FEES AND COSTS INCURRED IN BRINGING THIS ACTION.

36. WHEREFORE , PLAINTIFF PRAYS FOR JUDGMENT AGAINST DEFENDANT FOR ACTUAL DAMAGES , FOR PUNITIVE DAMAGES SUFFICIENT AND NECESSARY NECESSARY TO PUNISH DEFENDANTS AND TO DETER OTHER FROM LIKE CONDUCT, FOR REASONABLE ATTORNEY FEES AND COSTS AS ALLOWED UNDER 42 U.S.C. 1983., AND FOR SUCH OTHER RELIEF THIS COURT DEEMS JUST AND PROPER.

PLAINTIFF INCORPORATES PARAGRAPHS !1- 36 ABOVE AS THOUGH FULLY SET FORTH FORTH HEREIN.

COUNT VI

VIOLATION OF 8th AND 14th AMENDMENT AND 42 U.S.C. 1983
(FAILURE TO PROTECT FROM KNOWN INHALATION HAZARD - AGAINST ALL DEFENDANTS)

40. PLAINTIFF INCORATES PARAGAPHS 1- 36 ABOVE AS THOUGH FULLY SET FORTH HEREIN

41. ALL DEFENDANTS HAD A DUTY TO PROTECT PLAINTIFF FROM KNOWN INHALATION HAZARDS.

42. ALL DEFENDANTS HAD ACTUAL ACTUAL KNOWLEDGE THAT SECONDHAND SMOKE IS AN INHALATION HAZARD TO HUMAN HEALTH, ESPECIALLY TO THOSE WITH ASTHMA OR THEIR RESPIRATORY PROBLEMS.

43. ALL DEFENDANTS KNEW THAT PLAINTIFF MR. WASHINGTON HAD AND/OR OTHER RESPIRATORY PROBLEMS.

44. ALL DEFENDANTS KNEW THAT PLAINTIFF WAS HOUSED WITH CELLMATE CELLMATES THAT WERE SMOKING AND SMOKERS AT CRCC.

45. ALL DEFENDANTS KNEW THAT INMATE REGULARLY SMOKED INDOORS AT CRCC DESPITE THE NO- SMOKING POLICY.....

47. ALL DEFENDANTS KNEW THAT PLAINTIFF WAS EXPOSURE TO SECONDHAND SMOKE INDOORS AT CRCC ON A DAILY BASIS.

48. DEFENDANTS LARRY DENNY , ET AL , TREY PAGE , DEPUTY WARDEN, CHRIS MCBEE, DEPUTY WARDEN TODD WARREN ASSISTANT WARDEN , LAURETTA AITKENS, CHIEF OF CUSTODY, RONDA PAEH DEPTY WARDEN , KIMBERLY HERRING F.U.M. CYNDI PRUDDEN, DEPUTY DIVISION DIRECTOR DIVISION OF ADULT INSTITUTION, SHAWN HUFF, COII 23148, SHAWN PETTIGREW, CCW, MISS JUDY HUFF , MRS ,PETTIGREW CCW , COI. HUFF, BRIAN MONTGEMERY , MR. WHITE , MRS, RICHEY, MRS.SLIVER COII., MRS MCDONNAL, STEVEN NIBARGER, MRS PARKHURST, FAILED TO PROTECT MR. WASHINGTON THE PLAINTIFF FROM A KNOWN INHALATION HAZARD BY INTENTIONALLY, UNREASONABLE, AND ROUTINELY:

(A) FAILING TO ENFORCE THE NO-SMOKING POLICY:

(B) SMOKING INDOORS AT CRCC

(C) DECIDING, AGREEING, RATIFYING AND /OR COMPLYING WITH THE DECISION TO HOUSE PLAINTIFF WITH CELLMATES THAT WERE SMOKERS:

(D) ALLOWING PLAINTIFF VARIOUS CELLMATES TO TO POSSESS CIGARETTES AND LIGHTERS INSIDE PLAINTIFF CELL:

(E) ALLOWING INMATES IN THE SAME HOUSING UNIT AS PLAINTIFF TO POSSESS CIGARETTES AND LIGHTERS INSIDE THEIR CELLS:

(F) FAILING TO PROVIDE PLAINTIFF WITH A SMOKE-FREE AND CIGARETTE FREE ENVIRONMENT : AND /OR

(G) CONSPIRING WITH OTHER DEFENDANTS TO PREVENT PLAINTIFF FROM OBTAINING A SMOKE FREE AND CIGARETTE -FREE ENVIRONMENT.

49. THE DEFENDANTS IN THE ABOVE WITH LARRY DENNY ETAL, FAILED TO PROTECT PLAINTIFF FROM A KNOWN INHALATION HAZARD BY COMMITTING, DIRECTING , RATIFYING, REWARDING , AND /OR FAILING TO RECTIFY THE WRONGFUL ACTS AND OMISSIONS BY THEIR SUBORDINATES SET FORTH IN PARAGRAPH 48 - 57 ABOVE. 49 ABOVE

50. DEFENDANTS ACTIONS WERE DELIBERATELY INDIFFERENT TO PLAINTIFF PHYSICAL AND MENTAL WELL BEING.

51. AS A DIRECT AND PROXIMATE RESULT OF DEFENDANTS , ACTIONS, PLAINTIFF WAS DEPRIVED OF HIS CONSTITUTIONAL RIGHT TO BE PROTECTED FROM KNOWN DANGERS, CAUSING HIM TO SUFFER SIGNIFICANT ,PHYSICAL, MENTAL, AND EMOTIONAL INJURIES.

52. DEFENDANTS DELIBERATE INDIFFERENCE TO PLAINTIFF PHYSICAL AND MENTAL WELL BEING AND CONSCIOUS DISREGARD OF THE KNOWN INHALATION HAZARDS THAT PLAINTIFF WAS EXPOSURE TO ON A DAILY BASIS AT CRCC SUBJECTED AND /OR CAUSED PLAINTIFF TO BE SUBJECTED TO CRUEL AND UNUSUAL PUNISHMENT FORBIDDEN BY THE 8th and 14 th AMENDMENT S.

53. DEFENDANTS ACTIONS WERE MALICIOUS AND RECKLESSLY INDIFFERENT TO PLAINTIFF'S CONSTITUTIONAL RIGHT , JUSTIFYING THE IMPOSITION OF PUNITIVE DAMAGES.

54. PURSUANT TO 42 U.S.C. 1983, DEFENDANTS ARE LIABLE FOR ACTUAL FOR PLAINTIFF REASONABLE ATTORNEY FEES AND COSTS INCURRED IN BRINGING THIS ACTION.

WHEREFORE, PLAINTIFF PRAYS FOR JUDGMENT AGAINST ALL DEFENDANTS FOR ACTUAL DAMAGES, FOR PUNITIVE DAMAGES SUFFICIENT AND NECESSARY TO PUNISH DEFENDANTS AND TO DETER OTHER FROM LIKE CONDUCT, FOR REASONABLE ATTORNEY FEES AND COSTS AS ALLOWED UNDER 42 U.S.C. 1988, AND FOR SUCH OTHER RELIEF THIS COURT DEEMS JUST AND PROPER.

THE EXPOSURE OF THE ETS CAUSE ASTHMATIC ATTACK ALSO INCREASE THE RISK OF CARDIOVASCULAR DISEASE CANCER AND RESPIRATORY, MR. WASHINGTON HAS PRESENT EVIDENCE OF HIS SERIOUS MEDICAL NEED TO BE PLACED IN NON-SMOKING UNIT AND ENVIRONMENTS, PLAINTIFF HAS PRESENT EVIDENCE THAT DEFENDANTS HAS KNOWLEDGE OF THE PLAINTIFF'S MEDICAL NEED BUT FAILED TO ACCOMMODATE MR. WASHINGTON IT AND THAT SUCH IN ACTION COULD ESTABLISH DEFENDANTS DELIBERATE INDIFFERENCE AND GROSS NEGLIGENCE RESULTED IN VIOLATION OF THE CIVIL RIGHT OF PLAINTIFF GUARANTEED BY FIFTH, EIGHT AND FOURTEENTH AMENDMENT TO CONSTITUTION OF THE UNITED STATE.

THERE WAS AND STILL A PROBLEM IN THE DEPARTMENT OF CORRECTION SYSTEM STATE WIDE PROBLEM TO ENFORCEMENT OF THE RULE AGAINST SMOKING IN THE C.R.C.C. AND OVER CORRECTIONAL CENTER, IN THE STATE OF MISSOURI OF WHICH GOVERNOR OF MISSOURI AND LARRY DENNY, TERRY PAGE, F.U.M, CHERLY RICHEY, MRS. PETTEGREW, MR. PETTEGREW, C.C.W JUDY HUFF, MR. HUFF, BRIAN MONTGOMERY, CHRIS MCBEE, DEPUTY WARDEN TODD WARREN ASSISTANT WARDEN LAURETTA AITKENS, CHIEF OF CUSTODY, RONDA PASH, DEPUTY WARDEN, AND KIMBERLY HERRING F.U.M. CYNDI PRUDDEN, DEPUTY DIVISION DIRECTOR DIVISION OF ADULT INSTITUTION, SHAWN HUFF COIL 23148, MRS. SLIVER COIL, MRS. McDONNALL STEVEN NIBARGER, MRS PARKHURST, MARTIN, GREEN DERON NEU, BRENT JESTES, J. KINCAIDS, RUSSELL, HAD KNOWLEDGE (ETS, WAS PRESENT 7% THROUGHOUT EVER HOUSING UNIT AT C.R.C.C. AND THE DEPARTMENT OF CORR.

DEFENDANTS FAILURE TO ACT WAS NOT ACCIDENT INADVERTENT OR NEGLIGENCE THE FAILURE TO ACT BY THE DEFENDANTS WAS DELIBERATE INDIFFERENCE AND GROSS NEGLIGENCE.

MR. WASHINGTON WAS EXPOSED TO AN UNREASONABLE RISK OF SERIOUS DAMAGE TO HIS HEALTH BY REASON OF THE INACTION, OF THE DEFENDANTS THE SUPERVISOR LEARNED OF THE VIOLATION OF MATTER AND FAILURE OR FAILED TO DO ANYTHING TO FIX SITUATION, THE SUPERVISORS, CREATED A POLICY AND CUSTOM ALLOWING AND ENCOURAGING THE ILLEGAL ACT THE SUPERVISOR AND WARDEN, AND STAFF MEMBER WAS GROSSLY AND NEGLIGENCE IN MANAGING THE PEOPLE HE /OR /SHE WAS SUPPOSED TO SUPERVISE, THIS POSED A CLEAR AND PRESENT DAMAGE TO THE SAFETY TO PLAINTIFF AND SAID DEFENDANTS, LARRY DENNY HAVING THE POWER TO CORRECT THESE POLICIES, PRACTICES AND PROCEDURES, WILLFULLY, DELIBERATELY, MALICIOUSLY, AND AND WITH GROSS NEGLIGENCE AND RECKLESS DISREGARD FAILED TO DO SO. THE FAILED (FAILURE, ON PART OF SAID DEFENDANTS LARRY DENNY, TO TAKE ANY ACTION TO PREVENT SUCH CONDUCT CONSTITUTED A PRACTICE, POLICY AND CUSTOM WHICH DEPRIVED PLAINTIFF OR RIGHT GUARANTEED BY THE FIFTH AND FOURTEENTH AMENDMENT TO THE CONSTITUTION OF THE UNITED STATE.

DEFENDANTS, LARRY DENNY AS SUPERINTENDENT OF C.R.C.C. IS THE ULTIMATE C/ AUTHORITY RESPONSIBLE FOR MAKING OFFICIAL POLICY FOR AND CONDUCTING OPERATIONS AND MANAGEMENT OF C.R.C.C.. AND HAS CUSTODY OF ALL PERSON DETAINED OR INCARCERATED AT C.R.C.C.

DEFENDANTS LARRY DENNY , NEGLIGENTLY OPERATED SUPERVISED AND MANAGED C.R.C.C. BY:

A). FAILING TO ADOPT, INCORPORATE AND ENFORCE SUCH RULES , REGULATION AND POLICIES AND PROCEDURE FOR THE OPERATION, SUPERVISION, AND MANAGEMENT OF C.R.C.C. AS WOULD REASONABLY PROTECT PLAINTIFF FROM [SET] FORTH HEREIN :

B). FAILING TO PROPERLY SUPERVISE AND REVIEW THE OPERATION, MANAGEMENT ACTIVITIES AND WORK PERFORMANCE OF CORR , OFFICERS AT C.R.C.C.

AS A DIRECT AND PROXIMATE RESULT OF SAID DEFENDANTS NEGLIGENCE MR. WASHINGTON WAS EXPOSED TO THE ENVIRONMENTAL TOBACCO SMOKE (ETS) DEADLY TOXIC SUBSTANCE IN THE PLAINTIFF CELL FOR THE PLAINTIFF, CELLMATE , THE PLAINTIFF CELL IS BEEN COME INTO AN UNEXCAP-ABLE POISONOUS GAS CHAMBER CAUSE SERIOUS ASTHMATIC ATTACKS AND HEALTH PROBLEM IN THE D.O.C. AND SUSTAINED THE AFORESAID INJURIES AND DAMAGES AND THAT THEREBY DEPRIVED PLAINTIFF OF RIGHT , PRIVILEGES AND IMMUNITIES SECURED TO HIM BY THE FIFTH AND FOURTEENTH AMENDMENT OF THE CONSTITUTION OF THE UNITED STATE.

WHEREFORE: PLAINTIFF PRAY THAT THIS COURT ENTER JUDGMENT AGAINST, DEFENDANTS LARRY DENNY , AND TERRY PAGE . ROADA PASH CHERLY RICHEY., MRS. PETTIGREW, JUDY HUFF, , BRIAN MONTGOMERY , MR., WHITE , MRS. SILVER MRS. McDONNALL, CONNIE DELE , DENISE BROWN, SLOAN, FRABARYE , MARTIN , GREE DERON NEU, BRENT JESTES , J, KINCAIDS, RUSSELL , RAMSEL , SHAWN D. HUFF STEVEN NIBARGER , SHAUN OWEN , ANTHONY BRINTON , CHRIS MCBEE, TODD WARREN, ASSISTANT WARDEN , LAURETTA AITKENS,, KIMBERLY HERRING, .

- 1). AWARDING PLAINTIFF MR. WASHINGTON DAMAGES IN THE AN AMOUNT WHICH IS FAIR AND REASONABLE IN THE CIRCUMSTANCES:
- 2). AWARDING PLAINTIFF REASONABLE COSTS AND EXPENSES OF THIS ACTION INCLUDING ATTORNEY FEES.
- 3). ORDERING SUCH OTHER AND FURTHER RELIEF AS MAY BE JUST IN THE PREMISES.
- 4).
- 4). AWARDING PLAINTIFF EXEMPLARY AND PUNITIVE DAMAGES IN THE AMOUNT \$ 1,000,000.00, 00

INMATE ARE ALLOWED TO SMOKE CIGARETTES IN THEIR CELL 24 HOURS A DAYS SEVEN (7) DAYS A WEEKS THE ETS THE SECONDHAND SMOKE THICK AND CONCENTRATED SECONDHAND SMOKE FEELS THE ENTER SCALE OF THE HOUSE UNITS THE STAFF AND THE DEFENDANTS REFUSE TO ENFORCE THE STATE AND FEDERAL NO SMOKING LAW PLAINTIFF HAS ASTHMA AND ASTHMATIC ATTACKS FROM THE SECONDHAND SMOKE AND THE THICK SMOKE IS NOT SLEEPING IN TO THE PLAINTIFF CELL , THREW THE JAW IT IS HERALLY, BEING RECYCLED IN TO THE IN COMING AIR VENTS TO MAKE , MATTER WORSE THE FANS THAT ARE SUPPOSE TO PULL OUT THE SMOKE ALL ARE TURNED DOWN SO LOW TO SAVE MONEY THEY ARE INEFFECTIVE THUS TRUNING THE PLAINMTIFF HOUSING UNIT AND PLAINTIFF CELL INTO AN EXCABLE POISONOUS GAS CHAMBERS.

THE CAUSE MR. WASHINGTON SERIOUS HEALTH PROBLEM AND INCREASES THE RISK OF MORE ASTHMATIC ATTACKS , THERE ARE 4, 500 INMATES ARE ALLOWED TO SMOKED / SMOKING CIGARETTES IN THERE CELL 24 HOURS A DAYS (7) DAYS A WEEKS THIS ENVIRONMENTAL TOBACCO SMOKE IS COMING THREW THE AIR VENTS IN TO THE CELL MY. CELLPARTTEN WHO IS STILL SMOKING SIX (6) PACKES OF CIGARETTES A DAYS EXPOSE MR. WASHINGTON TO THE ENVIRONMENTS TOBACCO SMOKE (ETS) , THAT PRESENTED A SERIOUS RISK TO HEALTH AND TO BE REMOVED FROM PLACES WHERE SMOKE HOVERED: THAT PRISONER SUFFERED FROM A SERIOUS MEDICAL CONDITION THAT WAS EXACERBATED BY EXPOSURE TO SECONDHAND SMOKE. AND THAT THE DEFENDANTS DELIBERATELY FAILED TO RESPOND TO REPEATED , RECOMMENDATIONS BY MEDICAL PERSONNEL THAT HE BE REMOVED TO A SMOKE FREE ENVIRONMENT IN ORDER TO AVOID FURTHER DETERIMENT TO HIS HEALTH.

THOSE 4,500 INMATE ARE IN THE HOUSEING UNITS IN THE C.R.C.C., THE C.C.W. AND C.C.A..., F.U.M. AND WARDEN ARE STILL PUT THOSE INMATE IN MR. WASHINGTON CELL THAT SMOKEING CIGERTTES 7 DAYS A WEEKS. ALL THE NAME OF THE DEFENDANTS HAVE BEEN NOTFIEF BY MAIL AND I HAVE TALK TO THEM NUMERIOUS OF TIME IN PRESON ABZOUT THIS PROBLEM ABOUT THE ENVIRONMENTAL SMOKE THAT PRESENTED A SERIOUS RISK TO THE MR. WASHINGTON HEALTH AND SAFED.

COMPLAINTS AND INTERNAL GREVANCES

MR. WASHINGTON PURSUED HIS COMPLAINTS ABOUT THE ENVIRONMENT TOBACCO SMOKE THOUGH THE CRCC INTERNAL GRIVANCE PROCEDURES AT CRCC . THE OFFICIAL DENIED AN INTERNAL RESOLUTION REQUEST (IRR) SEEKING RELIEF FROM EXPOSURE TO (ETS) THAT CAUSE AND TRIGGER AN ASTMA ATTACK , AND HIS ABILITY TO BREATHE AND SLEEPING , AN INABILITY TO EAT , HEADACTES CHEST PAINS DIFFICULTY BREATHING , TEARY EYES , ITCHING , BURNING SKIN , DIZZINESS , WHEEZING , SORE THROAL, WHICH AGGRATED BY ENVIROMENTAL TOBACCO SMOKE CRCCC OFFICALS ALSO DENIED AN OFFENDER GREVANCE AND MR. WASHINGTON GREVANCE APPEAL FROM THE DENIAL OF THAT GREVANCE.

VIOLATION OF THE STATE AND FEDERAL LAW

THE DEFENDANTS AT CRCCC LARRY DENNY ET AL, TREEY PAGE DEPUTY WARDEN WARDEN ,CHRIS MCBEE, DEPUTY WARRDEN TODD WARREN ASSISTANT WARDEN, LAURETTA AITKENS, CHIEF OF CUSTODT, RONDA PASH, DEPTY WARDEN/KIMBERLY KIMBERLY HERRING F.U.M. CYNDI PRUDDEN, DEPUTY DIVISION DIRECTOR DIVISION OF ADULT INSTITUTION , SHAWN HUFF COII 23148 , SHAWN PETTGREW CCW AND MISS JUDY HUFF , MRS . PETTIGREW CCA OR CCW, BRIAN MONTGEMERY , MR. WHITE , MRS, RICHEY , MRS. SLIVER COII, MRS. MCDOWNAL, STEVEN NIBARGER , MRS . PARKHUST JOHN BASTON , THEY ACTELLY ENCONURAGE IN HOUSING SMOKING BY ALLOWING INMATE TO PURCHASE A CRIMINAL AMOUNT OF 12 TO 24 BOX A PACKER OF TOBACCO TO CIGARETTE PER WEEKS KNOWING THE VERY LINTED TIME INMATE HAVE OUT THERE THIER CELL PER DAYS.

THAT THE PRISONER SUFFERED FROM A SERIOUS MEDICAL ILL CONDITION [THAT WAS EXACERBATED BY EXPOSURE TO SECONDHAND SMOKE , IN FACT BECOME SERIOUS SERIOUSLY ILL . BECAUSE OF SUCH EXPOSURE AT THE CRCCC SOME OFFENDER ARE WHAT YOU CALL CHAIN SMOKES AND THEY SMOKE ONE CIGERTTES AFTHET ANOTHER WITHOUT REGARDS TO THE OTHER PERSON CELL WITH THEM , THE DEPARTMENT OF CORRECTION AND THE D.O.C. AND CRCCC HAS A SERIOUS PROBLEM WITH THE EXPOSED TO ENVIRIRONMENT AL SMOKE THAT PRESENTED A SERIOUS RISK TO HEALTH . THE LEADING SUPREME COURT AND THE SIXTH CIRCUIT DECISION AT THE TIME OF RELLY'S INCARSERATION HELLING V. MCKINNEY 509 u.s. 25, 113, s.ct 2475 , LED 2d 22 (1993) AND HUNT V. REYNOLDS 974 . f. 2d, 735 (6th cir 1992) INVOLVE A PERSONER RIGHT NOT BE HOUSED WITH A SMOKER , THE LANGUAGE OF THE OPINIONS IS BROADER THAN FACTS WOULD INDICATE , REPEATEDLY EMPHASIZING THE RIGHT TO BE FREE FROM EXPOSURE TO SECONDHAND SMOKE , AS THE COURT SAID IN HUNT PRISONERS HAVE A RIGHT NOT TO BE ENVIRONMENT SMOKE THAT PRESENTS A SERIOUS RISK TO HEALTH AND TOO BE REMOVED FROM PLACES WHERE SMOKE HOVERS. (QUOTING STEADING V. THOMPSON 914 f. 2d. 498 , 500 & th cir 1991) . THE DISTRICT COURT'S RELIANCE ON THOSSE CASE WAS NOT MISPLACED MOROVER THE COURT FIND NO CLEAR ERROR IN CONNECTION WITH THE COURT FINDING THAT RELLY SUFFERED FROM A SERIOUS MEDICAL CONDITION THAT WAS EXACERBATED BY EXPOSURE TO SECONDHAND SMOKE AND MOREOVER , THAT THEE DEFENDANTS DELIBERATELY FAILED TO RESPOND TO THE REPEATED RECOMMENDATIONS BY MEDICAL PERSONNAL THAT HE BE REMOVED TO SMOKE FREE ENVIRONMENT IN ORDER TO AVIOD FURTHER DETRIMENT TO HIS HEALTH AND SAFET.

IN SUMMARY, SECOND IS A SERIOUS PROBLEM AT CRCCC OFFEDERS WITH ANXIETY ASTHMATIC ATTACKS AND OTHER SERIOUS MEDICAL PROBLEM ARE IN BIG TROBLE AT CRCCC BECAUSE THE ENVIRNMENT SMOKE THAT PRESENTED THOUGH OUT HOUSING UNITS REACHES TO ALLL LEVEL OF EVER HOUSING UNIT IN CRCCC THE SECONDHAND SMOKE , AND THE SECONDHAND SMOKE CAUSE THE MR. WASHINGTON TO WAKE UP IN SLEEP THROWING UP IN SLEEP THROWING UP CAUSE BREATHING PROBLEM ASTHMATIC ATTACKS CAUSE HIM RESPIRATORY CONDITIONN TO THE PLAINTIFF . THE CRCCC AND DEFENDANTS AND D.O.C. IS TOLALLY INDIFFERENT TO THE HEALTH PROBLEM AND KEEPS SELLING SUCH ITEM WITHOUT ANY CONSIDEEATION RULES ABOUT NOT SMOKING IN THE CELL ARE A JOKE THE INMATE STATED THE CRCC AND D.O.C. C AND DEFENDANTS BY THERE ACTION BY EXPOSURE THE PLAITIFF TO ENVIRONMENT TOBACCO SMOKE (ETS) AND THE DEADLY TOXIEC SUBSTANCE IN THE PLAINTIFF CELL IS BEEN COME INTO AN UNEXCAPABLE POISONUS GAS CHABER CAUSE SERIOUS HEALTH PROBLEM.

[WITH NO OPEN WINDONS IN THE PLAINTIF CELL]

the plaintiff is in a unsafe life

theratening condition consant

with asthmatic attacks

the plaintiff has

pulmonary

disease

and

[lung cancer from the secondhand smoke]

[SEE EXB 40]

THERE IS NO OPEN WINDONS IN THE PLAINTIFF CELL IN THE CRCC AND IN NO WINDON IN ANY OF THE THE CELL AT CRCC THAT OPEN IN CRCC TO DRAW IN FREST AIR BECAUSE EACH OF THE TWO MAN HOUSING CELL AT CRCC ARE APPROXIMATELY 8 & 11 FEETS OF ELIVING SPACE WITH A SOLID STEEL DOOR A SEALED WINDONS THE CELL HAS THE EFFECT OF A NICTINE GAS CHANMER WHEN INMATE SMOKING IN SIDE THE CELL , MR. WASHINGTON SUFFEREED ON A DAILY BASIS BECAUSE I DOES NOT SMOKE AND THE VENTATION SYSTEM IS BRING THE CEGREETES SMOKE IN THE PLAINTIFF CELL THERE IN NO OPEN WINDON IN MR. WASHINGTON CELL AND THAT SECONDHAND SMOKE IS MAKE THE PLAINTIFF SO SICK FROM THE IN DOOR SMOKE IN THE CLOSED AREA.

THAT AS A DIRECT AND PROIMATE RESULT OF THE CONDUCT OF DEFENDANTS MR. WASHINGTON HAS SUFFERED MENTAL , PHYSICAL AND EMOTIIOL PAIN AND SUFFERING ,. THAT THOSE DEFENDANMTS IN THE ABOVE VIOLATION OF STATE AND FERREAL LAW , THAT THE CONDUCT OF DEFENDANTS CONSTITUTIONAL CONSTUTED CRUEL AND UNUSUAL PUNISHMENT BY DEFENDANTS IN VIOLATION OF PLAINTIFF RIGHNT SECURED BY THE EIGHT AMEND MENT TO THE CONSTITUTION OF THE UNITED STATE .

THAT THE CONDUCT OF DEFENDANTS DEPRIVED THE PLAINTIFF OF HIS RIGHT PRIVILEGES AND IMMUNITIES SECURED TO HIM BY THE FIFTH AND FOURTEE-NTH AMENDMENT TO THE CONSTITUTION OF THE UNITED STATE , THE DEFEN-dants abOVE DESCRIBED ACTIONS HAVE CAUSE MR. WASHINGTON TO SUFFER DAMAGES

COUNT III

VIOLATION OF EIGHT AMENDMENT AND 42 U.S.C. 1983
(INJUNCTIVE RELIEF)

PLAINTIFF INCORPORATE PARAGRAPHS 1- 36 ABOVE AS THOUGH FULLY SET FORTH
HEREIN .

37. PLAINTIFF HAS CHRONIC ASTHMA, AND ASTHMATIC ATTACKS

38. PLAINTIFF'S MEDICAL CONDITION HAS BEEN EXACERBATED DUE TO EXPOSURE TO
SECONDHAND SMOKE AT CRCC.

DEFENDANTS ADMIT THAT THEY CANNOT PERFECTLY (ENFORCE) THE NO -! SMOKING
POLICY AT CRCC.

40. DESPITE DEFENDANTS 'S ADMISSION THAT THEY CANNOT PERFECTLY ENFORCE
THE NO-SMOKING POLICY AT CRCC , DEFENDANTS ALLOW INMATE TO POSSESS
CIGARETTE IN THEIR CELL BLOCKS.

41. BECAUSE DEFENDANTS ADMIT THAT THEY CANNOT PERFECTLY ENFORCE THE
NO - SMOKING POLICY AT CRCC , AND BECAUSE INMATE ARE ALLOWED TO POSSESS
CIGARETTE IN THEIR CELL BLOCKS IT IS INEVITABLE PLAINTIFF WILL CONTINUE
TO BE EXPOSED TO SECONDHAND SMOKE AT CRCC.

42. ANY EXPOSURE TO SECONDHAND SMOKE PRESENT THE THREAT OF IMMEDIATE,
SEVERE , AND IRREPARABLE DAMAGE TO HUMAN, ESPECIALLY TO THOSE WHO
SUFFER FROM ASTMA.

43. the u.s. surgeon general has made the following scientific conclusion:
regarding secondhand smoke;

- (A) " THERE IS NO RISK-FREE LEVEL OF EXPOSURE TO SECONDHAND
SMOKE";
- (B) "[B]REATHING EVEN A LITTLE SECONDHAND SMOKE POSES A
RISK TO YOUR HEALTH:"
- (C) : " SECONDHAND SMOKE CAUSE LUNG CANCER":
- (D) " SECONDHAND SMOKE CAUSE HEART DISEASE":
- (E) " SECONDHAND SMOKE CAUSE ACUTE RESPIRATORY EFFECTS":
- (F) " SECONDHAND SMOKE CONTAIN MANY CHEMICALS THAT CAN
QUICKLY IRRITATE AND DAMAGE THE LINING OF THE AIRWAYS":
- (G) " EVEN BRIEF EXPOSURE CAN TRIGGER RESPIRATORY
SYMPTOMS, INCLUDING COUGH PHLEGM, WHEEZING, AND BREATHLESS-
NESS":
- (H) " PERSONS WHO ALREADY HAVE ASTHMA OR THOSE WHO

OTHER RESPIRATORY CONDITION ARE AT ESPECIALLY HIGH RISK FOR BEING AFFECTED BY SECONDAHND SMOKE, AND SHOULD TAKE SPECIAL PREAUTIONS TO AVIOD EVEN BRIEF EXPOSURE":.

(I) " SEPARATING SMOKERS FROM NON SMOKERS , CLEANNING THE AIR , AND VENTILATING BUILDINGS CANNOT ELIINATE SECONDHAND SMOKE EXPOSURE":

(J) "VENTILATION TECHNOLOGY CANNOT BE RELIED UPON TO COMPLETLY CONTROL HEALTH RISKS FROM SECONDHAND SMOKE EXPOSURE

(K) " CONVENTIONAL AIR CLEANNING SYSTEMS CAN REMOVE LARGE PARTICLE,BUT NOT THE SMALLER PARTICLESS OR THE GASES FOUND IN SECONDHAND SMOKE,":

(L) " OPERATION OF A HEATING , VENTILATING, AND AIR CONDITIONING SYSTEM CAN DISTRIBUTE SECONDHANS SMOKE THROUGHOUT A BUILDING":

44. TO MINIMIZE PLAINTIFF'S FUTURE RISK OF INJURY FROM SEONDHAND SMOKE AT CRCC, PLAINTIFF REQUESTS THIS COURT TO ENJOIN DEFENDANTS FROM ALLOWING INMATE TO POSSESS CIGARTTES IN THEIR CELL BLOCKS.

45. NO ONLY DOSE DEFENDANTS POLICY OF ALLOWING INMATE TO POSSESS CIGARTTES IN THEIR CELL BLOCKS INCREASE PLAINTIFF'S RISK OF EXPOSURE TO SECONDHANS SMOKE AT CRCC , IT ALSO INCREASES THE RISK OF FIRE TO ALL INMATE AND OTHER PERSONNEL AT CRCC.

46. IF INJUNCTIVE RELIEF IS GRANTED, DEFENDANTS WILL SUSTAIN NO DAMAGES BECAUSE THEY ARE ALREADY SUPPOSED TO BE ENFORCING THE NO-SMOKEING POLICY AT CRCC.

47. ENJOINING DEFENDANTS FROM ALLOWING INMATE TO POSSESS CIGARETTES IN THEIR CELL BLOCKS AT CRCC IS IN THE PUBLIC INTERST BECAUSE IT.:

(A) IS CONSISTENT WITH AND FURTHERS THE NO-SMOKING POLICY ALREADY IN EFFECT AT CRCC.

(B) REDUCES THE RSIKS OF SECONDHAND EXPOSURE TO ALL INMATE AND EMPOLYEEES AT CRCC

(C) REDUCES INMATS'OPPORTUNITIES TO SMOKE CIGARE TTES:

(D) REDUCES HEALTHCARE COSTS FOR TREATING INMATE WITH SMOKING RELATED DISEAS:

(E) REDUCE THE RISK OF FIRE AT CRCCC.

CONSTITUTION AND APPLICATION OF RESTRICTIONS
ON USE OR POSSESSION OF TOBACCO PRODUCTS
IN CORRECTIONALLY FACILITIES

I. CONSTITUTIONALLY OF SMOKING RESTRICTIONS

THE COURT IN THE FOLLOWING CASES GENERAL ALL RECOGNIZING THAT SMOKING IS NOT A RIGHT PROTECTED AGAINST DEPRIVATION UNDER THE FEDERAL CONSTITUTIONAL EIGHT AMENDMENT HELD THAT REGULATION EIGHT AMEND. HELD THAT REGULATIONS RESTRICTING OR PROHIBITING SMOKING IN CORRECTIONAL FACILITIES DID NOT CONSTITUTE CRUEL AND UNUSUAL PUNISHMENT.

THE COURT IN REYNOLDS V. BUCKS 833 F. SUPP 518 (E.D. PA. 1993). GRANTED SUMMARY JUDGMENT AGAINST INMATE WHO BROUGHT AN ACTION ALLEGING THAT A SMOKING BAN INSTITUTED BY PRISON OFFICIALS VIOLATED THEIR RIGHT UNDER THE FEDERAL CONSTITUTIONS U.S.C.A. AMEND 8, CRUEL AND UNUSUAL PUNISHMENT, THE COURT SET FORTH A THREE PRONG TEST FOR SUCCESSFULLY MOUNTING SUCH A CHALLENGE INMATE MUST PROVE THAT (1) THE BAN ON TOBACCO USE IMPLEMENTED WITH AN INTENT TO PUNISH (2) THE BAN IS NOT REASONABLY RELATED TO A LEGITIMATE GOVERNMENTAL OBJECTIVE AND (3) THE BAN VIOLATES THE EVOLVING STANDARDS OF DECENCY THAT MARK THE PROGRESS OF A MATURING SOCIETY OR THAT THE BAN INVOLVES THE UNNECESSARY AND WANTON INFLICTION OF PAIN. IN APPLYING THIS TEST THE COURT INITIALLY NOTED THAT THERE ARE KNOWN HEALTH RISKS ASSOCIATED WITH SMOKING AND CONCLUDED, THEREFORE THAT THE BAN DID NOT VIOLATE SOCIETY STANDARDS OF DECENCY, THE COURT FURTHER DETERMINED THAT THE PAIN EXPERIENCED BY INMATE AS A RESULT OF NICOTINE WITHDRAWAL THAT THE PAIN EXPERIENCED BY NON SMOKERS.

THE COURT SHOULD GRANT THE INJUNCTIVE RELIEF AND DECIDED TO ELIMINATE SMOKING AND TOBACCO USE IN ALL FACILITIES TO (REDUCE THE MEDICAL COSTS) ASSOCIATED WITH EXPOSURE TO TOBACCO AND ELIMINATE SECONDHAND SMOKING AND SMOKERS EXPOSURE TO NON SMOKERS.

THE STATE MISSOURI STATE PENITENTIARY VIOLATES THE PROVISIONS OF THE MISSOURI SMOKE FREE AIR ACT PROHIBITING SMOKING THROUGHTOUT THE INSTITUTION DEPARTMENT IS REQUIRED BY STATUTE TO (ENFORCE A NON AND NO SMOKING BAN ALL CORRECTION FACILITIES TO ENACT A TOTAL BAN ON SMOKING PRIOR TO THE DATE MANDATE BY STATUTE .

(1) U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES REDUCING THE HEALTH CONSEQUENCE OF SMOKING 25 YEARS OF PROGRESS REPORT OF THE SURGEON GENERAL 1989. SMOKING ACCOUNTS FOR OVER ONE SIXTH OF THE DEATH IN THE UNITED STATE AND IS THE SINGLE MOST IMPORTANT PREVENTABLE CAUSE OF DEATH SMOKING IS RESPONSIBLE FOR INCREASES IN LUNG CANCER OF THE LARYNX CHRONIC BRONCHITIS, CORONARY ARTERY DISEASE AND PEPTIC ULCER ENVIRONMENTAL TOBACCO SMOKE ALSO PRESENTS A SERIOUS RISK TO THE HEALTH NON SMOKER IT IS CLEAR THAT PASSIVE SMOKE EXPOSURE TO NON [SMOKERS] PRESENTS A WIDE RANGE OF HEALTH PROBLEM, THE NATIONAL 2490 TO 5160 NON SMOKERS MAY HAVE DIED OF LUNG CANCER BECAUSE OF ENVIRONMENTAL TOBACCO SMOKE EVIDENCE PRESENTED IN THIS CASE INDICATES RESTRICTIONS ON INMATE SMOKING CAN REDUCE THE THREAT TO NON SMOKERS IT IS QUITE CLEAR THAT EXPOSURE TO TOBACCO SMOKE AMONG NON SMOKERS IN VARIOUS SITUATIONS.

MR. WASHINGTON ALLEGE THAT THE OFFICIAL VIOLATED A CLEARLY ESTABLISHED RIGHT THE CONTOURS OF WHICH ARE SUFFICIENTLY CLEARLY ESTABLISHED RIGHT THE CONTOURS OF WHICH ARE SUFFICIENTLY CLEAR THAT A REASONABLE OFFICIAL WOULD UNDERSTAND THAT WHAT HE DOING VIOLATED THE PLAINTIFF RIGHT. THE DEFENDANTS BEARS THE BURDEN OF PROOF WITH RESPECT TO ALL OTHER ELEMENTS OF THE DEFENSE INCLUDING WHETHER THERE WERE EXTRAORDINARY, CIRCUMSTANCES AND WHETHER HE KNEW OR SHOULD HAVE KNOWN OF THE RELEVANT LEGAL STANDARD.

THE LAW PROHIBITED SMOKING IN ALL STATE OWNED LEASED OR OCCUPIED BUILDING IN ORDER TO PROVIDE A HEALTHFUL COMFORTABLE AND PRODUCTIVE WORK ENVIRONMENT FOR ALL STATE EMPLOYEES AS A RESULT THE DEPARTMENT HAD PROMULGATED NEW REGULATIONS BUT IS NOT FOUND IT FOR ALL ITS FACILITIES INCLUDING A REGULATION PROHIBITING SMOKING OR POSSESSION OF TOBACCO PRODUCTS INSIDE ANY INSTITUTIONS BY EITHER INMATE OR EMPLOYEES THE POLICY MEMORANDUM STATED STAFF ARE REMINDED THAT SMOKING OR TOBACCO POSSESSION IS PROHIBITED AT ANY INSTITUTION FACILITY THAT HOUSE OR DETAINS INMATE STAFF POSSESSION OR USE OF SMOKING OR TOBACCO PRODUCT SHALL BE SUBJECT TO THE PROGRESSIVE DISCIPLINARY ACTION PROCESS THE DEPARTMENT OPERATION MANUAL THAT THE STATE IS NOT GOING BY THE POLICY IN THE DEPARTMENT OF CORRECTION, ALSO PRESCRIBED THAT ALL DISCIPLINARY ACTIONS SHALL BE IMPOSED IN A FAIR OBJECTIVE AND IMPARTIAL MANNER AND THE DEPARTMENT SHALL CONSISTENTLY APPLY ACCEPTED PRINCIPLES OF DUE PROCESS AND PROGRESSIVE DISCIPLINE WHEN CORRECTIVE OR ADVERSE ACTION IS IMPOSED.

MR. WASHINGTON RIGHT TO INJUNCTIVE RELIEF PREVENTING INMATE FROM EXPOSURE AND EXPOSING INMATE AND OTHER AND EMPLOYEE TO TOBACCO SMOKE IN THE HOUSING UNIT AND THE CELL AND WORK PLACE.

THIS IS A PROBLEM AN AREA OF LITIGATION WHICH HAS APPEARED IN RECENT YEARS CONCERNS THE RIGHT OF A NON SMOKER TO BE FREE FROM EXPOSURE TO THE TOBACCO SMOKE OF INMATE AND CORRECTION OFFICE ALTHOUGH, TO DATE ONLY TWO CASES HAVE BEEN FOUND WHICH DEAL WITH THIS ISSUE BOTH HAVE RECOGNIZED THAT AT LEAST FOR SOME PEOPLE EXPOSURE TO TOBACCO SMOKE IS A HEALTH HAZARD TO WHICH AN INMATE SHOULD NOT BE ALLOWED TO SUBJECT ITS INMATE. POINTING OUT THAT AN EMPLOYER HAS A (DUTY TO PROVIDE ITS INMATE AND EMPLOYEES WITH A SAFE INSTITUTION AND A SAFE HOUSING UNIT AND A SAFE CELL AND A SAFE NON SMOKER CELL MATE AND A SAFE PLACE TO WORK, BOTH OF THE ABOVE COURT GRANTED THE INJUNCTION WHICH HAD SOUGHT BY THE EMPLOYEE AND ORDERED THE EMPLOYEE TO NON WORK AREAS.

THE WARDEN LARRY DENNY AND THE TREY PAGE, AND DEPUTY WARDEN CHRIS MCBEE, AND DEPUTY WARDEN TODD WAREEN SAID THAT THE POLICY IS DESIGNED TO PROMOTE THE HEALTH AND SAFETY OF THOSE INDIVIDUALS LIVING AND WORKING AT C.R.C.C. AND IS BASED ON A DETERMINATION THAT SMOKING AND OTHER FORMS OF TOBACCO USE POSE A SIGNIFICANT RISK TO BOTH THE USER'S AND NON USER'S HEALTH IT DAMAGES SENSITIVE EQUIPMENT AND PRESENTS SAFETY AND SANITATION HAZARDS. PLAINTIFF MR. WASHINGTON CONTENT THAT THE BAN DID NOT VIOLATE THE EVOLVING STANDARDS OF DECENCY THAT MARK THE PROGRESS OF A MATURING SOCIETY AND THE COURT SHOULD GIVE A COURT ORDER TO BAN THE TOBACCO IN THE C.R.C.C. AND D.O.C.

THE COURT HELD THAT CONFISCATING TOBACCO PRODUCTS FROM COUNTY JAIL PRISONERS AS CONTRABAND PURSUANT TO A LOCAL ORDINANCE PROHIBITING SMOKING IN ALL PUBLIC BUILDING THE JAIL DIDNOT DEPRIVE THE PRISOER OF THEIR PROPERTY WITHOUT COMPERSATION IN VIOLATION OF THE FEDERAL CONSTITUTION ,FIFTH AMEND . THE COURT EXPLANING THAT BUILDING ARE PUBLIC WHEN USED PRIMERILY FOR GOVEMMENTAL PURPOSEES , THE COURT FURTHER STATE THAT IF THE (BAN) COULD BE ENFORCE AGAINST ANY COUNTY JAIL OWNED BUILDING IT COULD BE ENFORCED AGAINST THE DEPARTMENT OF CORRECTION AND THE CRCC CROSSROADS CORRECTIONAL CENTER.

THE COURT NOTED THAT SINCE THIS WAS INCORPORUTED AS A HOME RULE MUNICIPATITY IT COULD ENFORE ORDINENCE TO PRETECT HEALTH LIFE AND PROPERTY OBSERVING THAT THE COUNTIES ARE GENERALLY NOT IMMUNE FROM CITY ORDINGANCE THE COURT DETERMINED THAT THE MUNICIPAL NO SMOKING ORDINANCE THEREFORE APPLIED TO THE COUNTY FAICITSE AND THE CITY OF CAMERON MISSOURI THE COUNTY FACILITIES AT CROSSROADS CORRECTIONAL CENTER CAMERON MO, THE COURT ALSO EXPLAINED THAT UNDER MISSOURI LAW A CITY WAS PREDEDUED FROM LEGISLATING IN A FILD ONLY IF THE STATE STATUES INDICATED THAT THE LEGISTATURE INTENDED STATE STATUES INDICATED THAT THE LEGISTATURE INTENDED STATE LAW TO OCCUPY EXCLUSIVE- LY, THE FILED THE COURT CONCLUDED THAT BECAUSE THE STATE LEGISTATURE HAD ADOPTED NOTHING SHOWING AN INTENT TO OCCUPY THE FELD OF SMOKING IN PUBLIC BUILDING THE CITY ORDINANCE BANNING SMOKING WAS ENFORCEABLE AGAINST COUNTY FACILITIES INCLUDING THE JAIL AND DEPARTMENT OF CORR. FACILITES.

IN THE FOLLOWING CASE THE COURT HEID THAT AN AN EMPOLYER WHICH HAD ALLOWED ITS EMPOLYEEES TO BE EXPOSED IN THE WORKPLACE TO THE TOBACCO SMOKE OF CO -WORKERDS SHOULD BE ENJOIEND FROM ALLOWING SUCH A CONDITION SUCH A CONDITION TO CONTINUE AN EMPOLYER WHICH FAILED TO ELIMINATE THE HAZADOUS CONDITITION CAUSE BY TOBACCO SMOKE HAD (BREACHED ITS DUTY TO PROVIDE A REASONABLE SAFE WORKPLACE AND SHOULD BE ENJOINED FROM ALLOWING SUCH A CONDITION TO CONTINUE HELD ,THE COURT IN SMITH V. WESTERN ELECTRIC CO. 1982 mo app 643 s.w. 2d 10 1 37, ALR 4th 473 1 SHIMP V. NEW JERSEY BELL TELCO , 1976, 145 n. j. super 516 1 368 a. 2d. 408 .

THE CASE IS IMPORTION TO THE HEALTH AND SAFETY AND OF THE PUBLIC INTEREST THAT THIS APPLICATION AND A INJECTION SHOULD BE ISSUED IN ALONG TERM CONTRACT INVOLVING THE DESIGN OF A PROGRAM FOR PUBLIC INTERSET A AND SAFETH ARE OF PARAMOUNT IMPORTANCE IT IS WITH SUCH POTENTIAL HAZARDS THAT ALL PROCUREMENT DECISION BE HANDLE THROUGHLY AND TO THE LETTER OF THE LAW . THE ACT WHICH GOVERNS HERE SSUPPORTS

SUCH AN APPORACH ^{SUCH A} [DESCRIBE] THE PUBLIC WOULD NOT BE WELL SERVED IF THE DEPARTMENT OF CORRCETION WERE PERMITTED TO REDUCE HEALTH COSTS FOR THREATING INMATE SMOKING RELATED DISEASE AND REDUCES THE FIEE AT C.R.C.C. AND CAUSE THE STATE TAX PAYS MILLON OF DOLLAR EVER YEAR WITH INMATE WITH CANCER , IN C.R.C.C. IN DOC. THAT THE PUBILC INTERSET WOULD BE FURTHERED BY THE INJECTION AND THAT MOVING PARTY WOULD SUFFER IRREPARABLE INJURY IF INJECTION WERE NOT GRANTED THE HARM TO MR. WASHINGTON IF AN INJECTION IS NOT GRANTED OUTWEIGHTS THE HARM TO GOVERMENT.

THE DEPARTMENT OF CORRECTION AND THE
INMATE HAD NO CONSTITUTIONAL RIGHT
TO USE TOBACCO IN PRISON

II. NO CONSTITUTION RIGHT TO SMOKER OR SMOKING IN THE CRCC.
AND IN THE DEPARTMENT OF CORRECTION

MR. WASHINGTON ARGUES THAT THERE IS NO CONSTITUTIONAL RIGHT TO USE TOBACCO IN PRISON AND THAT BECAUSE THE REGULATION CHALLENGED IS RELATED TO LEGITIMATE GOVERNMENTAL INTEREST THIS COURT SUSTAIN IT, MR. WASHINGTON ARGUE FURTHER THAT THE REGULATIONS ARE SUSTAINABLE AS REASONABLE REASONABLY RELATED TO THE LEGITIMATE GOVERNMENTAL INTEREST OF PROTECTING INMATE HEALTH AND WELFARE PROTECTING THE FACILITIES AND THE EQUIPMENT IN THEM FROM DAMAGE OR DETERIORATION AND PROVIDING ADEQUATE SANITATION, IN THE PRISON, MR. WASHINGTON ALSO ARGUE THAT THE STANDARD COMMISSION WAS NOT REQUIRED TO SEEK A LESS RESTRICTIVE ALTERNATIVE TO THE REGULATIONS BECAUSE THE ALTERNATIVE ARE IMPRACTICAL OR IMPRACTICEA OR EXPENSIVE AND THE PRISON ADMINISTRATORS **MUST** BE GIVEN GREAT DEFERENCE ON SUCH OPERATIONAL AND SECURITY ISSUES AS A BAN ON SMOKING SEE. STATE EX REL WITE V. PARSONS 199 W.VA. 1, 483, S.E. 2d 1, W.VA 1996.

MR. WASHINGTON ARGUE THAT THE POLICY IS MORE RESTRICTIVE IN THE JAIL SETTLING THAN IT IS IN OTHER INSTITUTE FACILITIES AND THEY ARE THEREFORE DENIED THE EQUAL PROTECTION OF THE LAW AT THE CRCC.

(1) THERE IS NO CONSTITUTIONAL RIGHT TO SMOKING IN A PRISON OR JAIL DEPRIVATION OF SMOKING PRIVILEGED MUST BE EXAMINED ACCORDING TO THE LAW IN. SEE BELL V. WOLFISH 441 U.S. 520, 557, N 38, 99 Sct 1861, 1884 N. 38, 60 LED 2d 447 (1979) THE RESTRICTION PROTECTS THE RIGHT AND HEALTH OF NON SMOKING GUARDS AND INMATES ELIMINATES POTENTIAL FIRE HAZARDS PROVIDES FOR A CLEAN LIVING ENVIRONMENT AND IS THERE FOR REASONABLE RELATED TO THE COUNTYS GOALS.

(2) IN DEED THE DEFENDANTS FACE PRTELIAL LIABILITY TO NON SMOKERING SMOKING INMATE IF THE RISK TO HEALTH CAUSE BY (CIGARETTE SMOKING) WAS NOT REMOVE SEE: FRANKIN V. OREGON 662 F. 2d, 1337, 9th cir 1981 BEESON V. JOHNSON 668 F. supp, 498 ed n.c. 1987) AND MURPHY V. WHEATON 381 F. supp 1252 (N.D. ILL 1974) IN AVERY V. POWELL 695 F. supp 632 (D, N. H. 1988) THE COURT CONSIDERED THE CLAIM OF A NON SMOKING PRISONER TO THE EFFECT THAT HE WAS BEING FORCED TO CREATHE ENVIRONMENT TOBACCO SMOKE ANF THAT THIS CONSTITUTED CRUEL AND UNUSUAL PUNISHMENT THE COURT HELD THAT IF THE THE WEIGHT OF SCIENTIFIC AUTHORITY INDICTEIS THAT THERE ARE SIGNIFICANT HEALTH ENVIRONMENTAL TOBACCO SMOKE MAY BE CRUEL AND UNUSUAL PUNISHMENT 695 f. supp at 637, SHERIFFED JORDAN TESTIFIED THAT HE RECOMMENDED THAT THE COUNTY NO SMOKING POLICY SHOULD NOT SPECIFICALL EXEMPT THE JAIL BECAUSE TO DO SO WOULD EXPOSE THE COXUNTY TO LIABILITY TO NON SMOKING PRISONER. LIEUTENAHT PEGGY JOHNSON ASSISTANT JAIL ADMINISTRATOR FOR THE WELD COUNTY JAIL AND A DEPUTY SHERIFF TESTIFIED THAT TWO INMATE INFOMED HER THAT THEY WOULD BRING SUIT IF SMOKING WERE RETURNED TO THE JAIL SEE: DOUGHTY V. BOAED OF COUNTY COMMISS-IONERS 731 f. supp 423 D. COL 1989.

THAT THERE NO CONSTITUTION RIGHT TO SMOKING IN A PRISON OR JAIL EVEN OUTSIDE THE CONFINES OF A JAIL OR (PRISON) SMOKING IS BECOMEING AN INCREASINGLY RESRAINED PRIVILIEGE SCIENTIFIC AUTHORITY INDICTE THERE ARE HEALTH HAZARDS NO SMOKER BUT TO THESE AROUND HIM IN ADDITION THE FIRE HAZARDS WITHIN THE CONFINES OF A PRISON OR OR JAIL ARE APPARENT.

THE NO SMOKING POLICY IS ALSO REASONABLE DESIGNED TO PREVENT DAMAGE TO BEDDING MATTRESSES , DOORS AND WINDOWIS FROM SMOKING ELIMINATING CIGARRETTE SMOKE ALSO ENABLE GUARDS TO SMELL OTHER TYPES OF CONTRAB- AND THE SMOKING BAN PROTECTS THE HEALTH OF THE SMOKING AND THE INMATE THAT HAD ASTHMATIC ATTACK ASTHMA CONDITION IN THE DEPARTMENT OF CORRECTION AND OTHER HEALTH PROBLEM IN TRHE C.R.C.CC. AND ELIMINTE SIGNIFICAL COSTS RELATED TO SMOKING ALL OF THESE ARE LEGITIMATE, GOVERMENTAL OBJECTIVES TO WHICH THE NON SMOKING POLICY IS REASONABLY RELATED.

THESE CONDITITION JEOPARDIZED MR. WASHINGTON CURRENT AND FUTURE AND HEALTH MR. WASHINGTON CLAIM OF SUFFER WORSENING HIS CHRONIE, FROM ASTHMATIC ATTACKS ,DIFFIULTY BREATHING , CONGESTION, DIZZNESS , WHEEZING BLACKOUT , WATERY EYES , AND OTHER RESPIRATORY PROBLEM AS A RESULT OF HIS EXPOSURE TO SECONDHAND SMOKE , THE DEFENDANTS ACTUL WITH DELIBERATE INDIFFERENCE TO HIS RIGHT AS A NON SMOKER BECAUSE THEY FAILED TO IMPLEMENT POLICIES TO PROTECT NON SMOKERS HEALTH AND FAILER TO [TRAIN AND SUPERVISERS] REGERDING THE RIGHT OF NON SMOKING INMATE AND FAILED TO REMEDY THE PROBLE AFTER IT WAS BROUGH TO THEIR ATTENTION SMOKING POLICY, THE PROBLEM REMAMED ON ONGOING , THE MR. WASHINGTON ASSERTED THAT THE NEW POLICY WAS NOT BEING ENFORED AND THAT BOTH PRISONERS AND GUARDS CONTINUED TO SMOKE INSIDE THE INSTATED..

THE D.O.C. IS AWARE OF MR. WASHINGTON MEDICAL CONDITION HAS TAKEN NO STEPS TO REMEDY THEM IN FACT HAS TAKEN STEPS TO WORSEN HIS CONDITION FOR WHICH MR. WASHINGTON HAS FILED (MUTTEPLE GRIEVANCE CONCERNING THE VENLUATION PROBLEM AND ABOUT THE SMOKER INMATE IN THE CELL SMOKING IN THE CELL AND ABOUT MR. WASHINGTON HAVE ASTHMATIC ATTACK IN CELL FROM THE SECONDHAND SMOKE INSIDE HIS CELL. MR. WASHINGTON ARGUES THAT GREATER INJURY WILL RESULT FROM REFUSSING THE INJUCTION THAN FROM GRANTING IT BECAUSE THE PUBLIC HAD AN INTEREST IN ENSURING THAT THE PRISONER HEALTH WAS MAINTAINED DURING THE PENDENCY OF A CIVL RIGHT ACTION UNDER THE 8th AMENDMENT ALLEGING DELBERUTE INDIFFENCE TO SERSURE MEDICAL NEEDS SUPPORTION THE ENTRY OF OF A PUELIMINARY INJUCTION GIVEN THAT THE PRISONER DID SHOW A FAIR LIKETHOOD OF SECCESS SEE: FARMANS V. WALKER 952 f. supp 2d, 1000 c.d. ILL 2009 . AND THE PREEMINARY INJUCTION IN THIS CHALLENGING THE CONSTITUTIONALLY ON MISSOURI STATULES TO BANNING THE SALE OF REPUTREALED TOBACCO PRODUCTS NOT IN THE PUBLIC INTERET.

THE SMOKING BAN ALL SMOKING NOT JUST CIGAREETEE SMOKING & SMOKING MEANS THE BURNING OF A LIGHTED CIGRETTER CIGAR PIPE OR ANY OTHER MATTER OR DUBSTANCE THAT CONTAINS TOBACCO [TOBACCO ALSO INCLUDES CLOVES AND ANY OTHER PLANT MATTER OR PRODUCT THAT IS PACKAGED FOR SMOKING

III VIOLATION OF SMOKING BANS CRCC

OVER THE PAST SEVERAL DECADES THERE HAS BEEN INCREASING EVIDENCE OF DANGERS OF CIGARETTE SMOKING AND THE SECONDHANS SMOKE SEE: APPENDIX CERTIFICATION 6p2ah, (DISCUSSION OF RESEARCH DETADING THE HARMFUL EFFECT OF SMOKING AND SUBSEQUENT REGULATION THE LEGISLATURE CREATED THE SMOKING BAN TO PROTECT NON SMOKING FROM INVOLUNTARY EXPOSURE TO ENVIRNMENTAL TOBACCO SMOKE IN THE HOUSING UNIT AND IN THE CELL.

CIGARETTE SMOKE IS UNIVERSULLY UNDERSTOOD TO BE A TOXIC AND CERCINOGENIC SUBSTANCE AND THEREFORE HIS ALLEGATION THAT HE HAS BEEN EXPOSED TO SECONDHAND SMOKE DESCRIBE A LEGALLY COGNIZABLE INJURY SUFFICIENT TO WITHSTAND A MOTION TO DISMISS. MR. WASHINGTON REQUESTS A PRELIMINARY INJUNCTION ENJUNING THE DEPARTMENT OF CORRECTION FROM HOUSING HIM HOUSING UNIT WITH INMATE THAT SMOKER FROM HOUSING HIM IN A CELL NOT ADEQUITELY VENTILATED INACCORD WITH THE APPLICABLE STANDARD OF THE AMERICAN CORRECTION ASSOCIATION.

EXHIBITS

MR. WASHINGTON HAS PRODUCE EXB: EVIDENCE OF A SERIOUS SIGNIFCANT INJURY RESULTING FROM HIS EXPOSURE TO SECONDHAND SMOKE THAT THE PLAINTIFF HAS PRESENTED EVIDENCE THAT PRISON OFFICIALS KNEW OF MR. WASHINGTON MEDICAL CONDITION, SUCH AS HIS ASTH, AND THE PLAINTIFF WAS DIAGNOSED WITH ASTH AND BRONCHITIS AND THE PLAINTIFF HAS SUBMITTED EVIDENCE TO THE COURT THAT PRISON PRISON OFFICIALS KNEW OF AND DISREGARDED DISREGARDED AN EXCESSIVE RISK TO INMATE HEALTH OR SAFETY THE PLAINTIFF MEDICAL RECORDS SHOW THAT SECONDHANDSMOKE EXPOSURE CAUSED HIM TO SUFFER SERIOUS ADVERSE HEALTH CONSEQUENCES, SMOKED IN FRONT OF THE ENTANCES AND EXITS AND HE WOULD WALK THROUGH THEIR SMOKE AT LEAST THREE TIMES A DAYS DEFENDANTS KNEW OF HIS CONCERNS FOR HIS HEALTH AS A RESULT EXPOSURE TO ETS AND THAT THEY WERE VIOLATING FEDERAL LAW.

MR. WASHINGTON IS CONSTANTLY EXPOSED TO HIGH LEVELS OF ENVIRNMENTAL TOBACCO SMOKE AND THAT THIS EXPOSURE POSED A SERIOUS RISK TO HIS GHEA HEALTH AND SAFE HIS EIGHT AMENDMENT RIGHT ARE BEING VIOLATED BECAUSE THE DEFENDANTS WILL NOT ENFORCE THE PRISON NO SMOKING LAW AND NO SMOKING POLICY OR PROVIDE HIM PROPER MEDICAL CARE FOR HIS ALLERGIC REACTIONS TO (ETS) THAT THIS IS A THREATENED INJURY TO MR. WASHINGTON THIS PRESENT SUFFERING OF MR. WASHINGTON AND HIS POTENTIAL SUFFERING IF HIS CONDITION WORSEN TO THE POINT WHERE HE IS NOT ABLE TO BREATHE ON HIS (ON) OR DEATH ARE ENOROUS.

MR. WASHINGTON SEEKING DELARATORY AND INJUCTIVE RELIEF UNDER FIRST AMENDMENT OF THE U.S. CONSTITUTION AND ARTICLE II SECTION 6 OF THE MISSOURI CONSTITUTION APPELLANT ALSO RAISED DUE PROCESS AND EQUAL PROTECTION CLAIM PURSUANT TO THE FOURTEENTH AMENDMENT OF THE U.S CONSTITUTION AND ARTICLE II SECTIONS 4 AND 13 OF THE MISSOURI CONSTITUTION.

MR. WASHINGTON ALLEGES THAT HE HAD BEEN DENIED CARE FOR A SERIOUS MEDICAL NEED CONTRARY TO A PHYSICIAIAN INSTRUCTION SUCH CONDUCT BY PRISON OFFICIALS IS A CLEAR VIOLATION OF THE EIGHT AMENDMENT SEE: ESTELLS V. GAMBLE 429 u.s. 97, 105, 97, s.ct 285 (1976) NOTHING THAT INTENTIONAL INTERFERING WITH THE TREATMENT PRESCRIBED IS A FROM OF UNLAFUL DELIBERATE INDIFFERENCE .

THE SMOKE INSIDE THE PRISON WHICH WAS DRAW INTO MY BREATHEING MACHINE , MR. WASHINGTON THAT THE DETERIORATED CONDITION OF THE MACHINE RESULTED IN A SERIOUS MEDICAL NEED MANDATING TREATMENT MR. WASHINGTON MEDICAL NEED HAD BEEN DIAGONSED BY A PHYSICIAN, AS MANDATING TREATMENT BECAUSE HE WAS DIAGNOSED WITH BRONCHIAL ASTHMA BY A SPECIALIST LONG TERM EXPOSURE TO (ETS) AND MR. WASHINGTON HAD LUNG DISEASE AND CONCLUDED THAT HIS CHRONIC ASTHMA CONDITION AGGRAVATED BY THE (ETS).

WHEREFORE, PLAINTIFF PRAYS FOR AN INJUNCTION AGAINST DEFENDANTS, AS WELL AS THOSE ACTING IN CONCERT WITH THAN AND HAVING ACTUAL NOTICE OF THE INJUNCTION, ENJOINING THEM FROM ALLOWING INMATE AT CRCC TO POSSESS CIGARETTES IN THEIR CELL BLOCKS..

DEMAND
FOR JURY TRIAL OF ALL ISSUES

PLAINTIFF DEMANDS A TRIAL BY JURY OF ALL ISSUES IN THIS CASE

RESPECTFULLY SUBMITTED,

/S/ MR. ECCLESICATICAL D. WASHINGTON

Mr. Ecclesiastical D. Washington

MR. ECCLESIASTICAL D. WASHINGTON
CROSSROADS CORRECTIONAL CENTER
1115 E. PENCE ROAD
CAMERON MISSOURI 64429

Valerie S. Ring
VALERIE S RING
Notary Public - Notary Seal
STATE OF MISSOURI
Andrew County
My Commission Expires: 1-22-2016
Commission # 12295142

RESPECTFULLY SUBMITTED

Mr. Ecclesiastical D. Washington
W. D. Washington

SWORN TO ME THIS DAYS OF _____ 2014

10/15/14

NOTARY: _____

I MR. ECCLESIASTICAL D. WASHINGTON DO HEREBY SWEAR THAT A TRUE
AND CORRECT COPY OF THIS DOCUMENT WAS MAIL POSTAGE PREPAID TO
THE OFFICE OF THE GENERAL ATTORNEY AND WAS MAIL POSTAGE TO THE
ATTORNEY GENERAL AT P.O. BOX 899 JEFFERSON CITY MISSOURI 65102
THIS DAYS OF Oct 15 2014,

Ecclesiastical D. Washington