

U.S. Department of Justice
United States Marshals Service

PROCESS RECEIPT AND RETURN
See "Instructions for Service of Process by U.S. Marshal"

J-1
BB

PLAINTIFF <i>JAMES Tinsley</i>	COURT CASE NUMBER 2:16-cv-00996-BHH-MGB
DEFENDANT <i>S.C. Dept. of Probation, et. al.</i>	TYPE OF PROCESS civil
NAME OF INDIVIDUAL, COMPANY, CORPORATION ETC TO SERVE OR DESCRIPTION OF PROPERTY TO SEIZE OR CONDEMN	
SERVE AT <i>Governor NIKKI HALEY</i>	ADDRESS (Street or RFD, Apartment No., City, State and ZIP Code) <i>1205 Pendleton Street, Columbia, S.C. 29201</i>

SEND NOTICE OF SERVICE COPY TO REQUESTER AT NAME AND ADDRESS BELOW	Number of process to be served with this Form 285 1
<div style="border: 1px solid black; padding: 5px;"> <i>JAMES Tinsley</i> <i>1004 South Welcome Road</i> <i>Greenville, S.C. 29611</i> </div>	Number of parties to be served in this case 7
	Check for service on U S A 2016 NOV 23 P11:43

SPECIAL INSTRUCTIONS OR OTHER INFORMATION THAT WILL ASSIST IN EXPEDITING SERVICE (Include Business and Alternate Addresses, All Telephone Numbers, and Estimated Times Available for Service):

Fold

Fold

James D. Tinsley
Signature of Attorney, other Originator requesting service on behalf of

PLAINTIFF
 DEFENDANT

TELEPHONE NUMBER
(864) 295-2918

DATE
7/8/16

SPACE BELOW FOR USE OF U.S. MARSHAL ONLY-- DO NOT WRITE BELOW THIS LINE

I acknowledge receipt for the total number of process indicated (Sign only for USM 285 if more than one USM 285 is submitted)	Total Process <i>1</i>	District of Origin No <i>71</i>	District to Serve No <i>71</i>	Signature of Authorized USMS Deputy or Clerk <i>BBrown</i>	Date <i>11-28-16</i>
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I hereby certify and return that I have personally served, have legal evidence of service, have executed as shown in "Remarks", the process described on the individual, company, corporation, etc., at the address shown above on the individual, company, corporation, etc. shown at the address inserted below

I hereby certify and return that I am unable to locate the individual, company, corporation, etc. named above (See remarks below)

Name and title of individual served (if not shown above)
Richard K. Taylor, Chief Legal Counsel

Address (complete only different than shown above)

A person of suitable age and discretion then residing in defendant's usual place of abode

Date _____ Time _____ am pm

Signature of U S Marshal or Deputy

Service Fee	Total Mileage Charges (including endeavors)	Forwarding Fee	Total Charges	Advance Deposits	Amount owed to U S Marshal* or (Amount of Refund*) \$0.00
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REMARKS *11-28-16 Fwd to usms Colo for P/S*

- PRINT 5 COPIES:**
- 1 CLERK OF THE COURT
 - 2 USMS RECORD
 - 3 NOTICE OF SERVICE
 - 4 BILLING STATEMENT* To be returned to the U S Marshal with payment, if any amount is owed Please remit promptly payable to U S Marshal.
 - 5 ACKNOWLEDGMENT OF RECEIPT

PRIOR EDITIONS MAY BE USED

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

James Tinsley,)	Case No. 2:16-cv-996-BHH-MGB
)	
Plaintiff,)	
)	ORDER
v.)	
)	
South Carolina Department of Probation, Parole, and Pardon Services, et al.,)	
)	
Defendants.)	
_____)	
_____)	

RECEIVED
 2016 NOV 28 PM 1:43
 U.S. MARSHALS
 DISTRICT OF SOUTH CAROLINA
 CHARLESTON, SC

This is a civil action filed by a *pro se* litigant, who is proceeding *in forma pauperis*. Plaintiff was a state prisoner at the time he filed this case, but has now been released from prison. Under Local Civil Rule 73.02(B)(2) of the United States District Court for the District of South Carolina, pretrial proceedings in this action have been referred to the assigned United States Magistrate Judge. By Order of July 7, 2016, Plaintiff was given a specific time frame in which to bring this case into proper form. Plaintiff has amended his Complaint twice and filed three changes of address after his release from prison. With respect to proposed service documents, Plaintiff has now substantially complied with the Court's Order, and this case is now substantially in proper form.¹

TO THE CLERK OF COURT:

The Clerk of Court is directed to issue the summons and to forward copies of this Order, the summons, the Second Amended Complaint (DE# 11) with attached exhibits, to the United States Marshal for service of process. The Clerk of Court shall calculate the 90-day period for service of process under Rule 4(m) of the Federal Rules of Civil Procedure ("Fed. R. Civ. P.") from the date on which the summons is issued. *Robinson v. Clipse*, 602 F.3d 605, 608-09 (4th Cir. 2010) (tolling during initial review).

The Clerk of Court shall not enter any change of address submitted by Plaintiff which directs that mail be sent to a person other than Plaintiff unless that person is an attorney admitted to practice before this Court who has entered a formal appearance.

¹ Despite the instructions in the proper form order, Plaintiff has still not provided proposed service documents for the defendant "John Doe."

A copy of this Order must be provided to the United States Marshal.

TO THE UNITED STATES MARSHAL:

The United States Marshal shall serve a copy of the Second Amended Complaint DE# 11), with attached exhibits, upon the Defendants. The time limit to accomplish service is governed by Fed. R. Civ. P. 4(m). The 90-day limit established by Rule 4(m) will not run during the initial review of this case; therefore, the 90 days begins on the date on which the summons is issued.

The United States Marshals Service is advised that it must expend a reasonable investigative effort to locate a defendant once a defendant is properly identified. *See Greene v. Holloway*, No. 99-7380, 2000 WL 296314, at *1 (4th Cir. 2000) (citing with approval *Graham v. Satkoski*, 51 F.3d 710 (7th Cir. 1995)). If the information provided by Plaintiff on the Form USM-285 is not sufficient for the Marshal to effect service of process, after reasonable investigative efforts have been made to locate a properly identified Defendant, the Marshal should so note in the "Remarks" section at the bottom of the Form USM-285.

TO DEFENDANT:

The Defendants are directed to file an answer to the Complaint or otherwise plead. Defendants and Defendants' attorney(s) are, hereby, notified that all dispositive motions from a Defendant must be filed no later than forty-five (45) days after the answer on behalf of that Defendant has been filed. Hence, with respect to the filing of dispositive motions by Defendant, this Order is also a scheduling order.

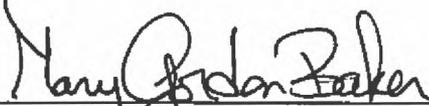
TO PLAINTIFF:

Plaintiff **must** provide, and is responsible for, information sufficient to identify each Defendant on the Forms USM-285. The United States Marshal cannot serve an inadequately identified defendant. **A Defendant may be dismissed as a party to this case if not served within the time limit governed by Rule 4(m) and this Order.**

Pursuant to Fed. R. Civ. P. 5, **any documents filed subsequent to the initial pleading must be served on parties.** Unless otherwise ordered, service of subsequently filed documents on a defendant represented by an attorney is made on the attorney. Service on attorneys who have made an appearance in this Court is effected by the Court's Electronic Case Filing system through a computer generated notice of electronic filing. However, prior to Defendants' attorney(s) making an appearance in this Court, Plaintiff must serve the Defendants with any documents Plaintiff files subsequent to the initial

pleading and file a certificate of service that states who was served, what document was served, and how the document was served.

IT IS SO ORDERED.



MARY GORDON BAKER
UNITED STATES MAGISTRATE JUDGE

November 17, 2016
Charleston, South Carolina

AO 440 (Rev 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT
for the
District of South Carolina

JAMES Tinsley
Plaintiff(s)

v.

S.C. Dept. of Probation, et al.
Defendant(s)

Civil Action No. 2:16-cv-00996-BHH-MGB

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address)

Governor Nikki Haley
1205 Pendleton Street
Columbia, S.C. 29201

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

JAMES Tinsley
1004 South Welcome Road
Greenville, S.C. 29611

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.



Robin L. Blume,
CLERK OF COURT

Date: 11/17/2016

s/S. Samsa

Signature of Clerk or Deputy Clerk

UNITED STATES DISTRICT COURT

DISTRICT OF SOUTH CAROLINA

RECEIVED
JUDGE, CLERK GREENVILLE,
2016 JUN 24 AM 11:12

James Tinsley, #171943,)	
Plaintiff,)	C/A No. 2:16-CV-996-DHM-MGB
)	
vs.)	
)	
SOUTH CAROLINA DEPARTMENT OF PROBATION,)	<u>PLAINTIFFS SECOND AMENDED COMPLAINT</u>
PAROLE AND PARDON SERVICES; GOVERNOR)	<u>FOR DAMAGES - CIVIL RIGHTS VIOLATIONS</u>
NIKKI HALEY; LARRY RAY PATTON, JR.;)	
DAVID BAXTER; MARVIN STEVENSON; HENRY)	
ELDRIDGE; THOMAS HALLAM and JOHN OGE,)	
Defendants.)	Trial By Jury Demanded Herein

INTRODUCTION

This is a Title 42 U.S.C. § 1983 action filed by an ex-prisoner against the South Carolina Department of Probation, Parole and Pardon Services, its agents and the Governor of South Carolina for maintaining and utilizing false and expunged records against Plaintiff to a significant Constitutional degree.

STATEMENT OF FACTS

(1) Each of the defendants are being sued in their "official" capacities for declaratory and injunctive relief and in their "individual" capacities for monetary damages. At all times relevant to the complaint all of the defendants were acting under color or law and violated clearly established law.

(2) In 1992 Plaintiff was tricked by his court appointed counsel into pleading guilty to several check related offenses. Even though Plaintiff maintained his innocence, he agreed to plead to charges he did not commit because he was told they were misdemeanors. Plaintiff later discovered that they were felonies. Plaintiff was sentenced under the Youthful Offender Act and placed on supervision under agent Cavita Lineahan. At the time Plaintiff was a CNC machinist during the day and a part-time male stripper at night. Ms. Lineahan commented numerous times concerning Plaintiff's physical appearance and suggested that she and Plaintiff start a sexual relationship.

(3) Plaintiff declined these advances and this seemed to anger Ms. Lineahan. Ms. Lineahan began taking out her anger on Plaintiff's family member and Plaintiff became concerned that Ms. Lineahan might try to retaliate against him. Plaintiff began having his Grandparents or other witnesses accompany him to his supervision meetings. This only further angered Ms. Lineahan and she set out to have Plaintiff's supervision revoked in retaliation for Plaintiff having rejected her advances.

(4) Plaintiff thought that if Ms. Lineahan understood that Plaintiff had a girlfriend, she might relax her hostile attitude. On one occasion Plaintiff took his then girlfriend with him to his supervision meeting. Plaintiff's intention was to let Ms. Lineahan meet his girlfriend and to ask for permission to move in with his girlfriend a couple of miles from his current residence. Ms. Lineahan was out on vacation and another agent assumed her caseload. Plaintiff informed the agent of his intention to move at the end of the month and provided a map to the new location. The agent placed the map and his own notations in Plaintiff's file.

(5) When Ms. Lineahan returned from her vacation and learned that Plaintiff was planning on moving in with his girlfriend, she set out to have Plaintiff's supervision revoked by claiming that Plaintiff had moved without permission and had committed a burglary.

(6) Based on the false claims made by Ms. Lineahan, Plaintiff's supervision was revoked. Plaintiff was denied access to his files which contained exculpatory evidence and the map which would have proven Plaintiff's innocence, because agents claimed those records were private. Someone else eventually confessed to the burglary and that offense was ultimately dismissed and expunged from Plaintiff's records.

(7) Eventually Plaintiff was given a post-conviction relief hearing. Plaintiff was able to prove his actual innocence on the original charges that lead to his Y.O.A. supervision and the PCR Judge forced an agent Fowler to produce Plaintiff's supervision files. When the file was opened, therein was found the map Plaintiff had previously provided when he requested to move. The PCR court determined that Ms. Lineahan had provided misleading information to the revocation Judge concerning his moving without permission and that Plaintiff should never have had his supervision revoked. Because the Judge was overturning the original convictions that lead to the Y.O.A. supervision, the court

found that Plaintiff should never have been under supervision and that the subsequent revocation was a nullity.

(8) Back at that time Plaintiff filed suit against Ms. Lineahan and law enforcement. Since that time numerous law enforcement agencies and the probation agency have taken every opportunity available to retaliate against Plaintiff for his prior legal activities.

(9) All of the charges, convictions and revocations were overturned, dismissed and then expunged from Plaintiffs records. All other law enforcement agencies, S.C.D.C. and S.L.E.D. have corrected their records. The Solicitors Office sent the defendants a copy of the expungment orders but they have refused to correct their records or stop relying upon the false information contained in their records.

(10) In 2008 an acquaintance of Plaintiff's named Hugh Justice was involved in illegal activities. Law enforcement were still angry at Plaintiff for the above legal activities and other lawsuits filed by Plaintiff against them in 2008. Law enforcement approached Mr. Justice and offered him probation in exchange for his testimony implicating Plaintiff in the crimes Mr. Justice had committed. Mr. Justice was facing one-hundred and fifty years in prison and accepted the deal. As a result of this conspiracy and Justices' testimony, Plaintiff was convicted. Plaintiff is not challenging the actions of prosecutors or law enforcement in the past criminal convictions from 2008 and 2010. Plaintiff recognizes that such claims would be premature as Plaintiffs convictions on those offenses have yet to be invalidated and a favorable decision on their behavior would invalidate those convictions. Plaintiff is only challenging the fairness of the parole procedures and use of false information which deprives Plaintiff of a State Statutory Created Right to be parole eligible that is sufficient to trigger a liberty interest protected by due process of law. A favorable decision will not cause Plaintiff's immediate release because he has already been released and it will not affect his sentence or conviction.

(11) Under South Carolina Code of Laws, Sections 24-21-14 and 24-21-220, the Director of Parole Board Services, Defendant Larry Ray Patton, Jr., is statutorily obligated to conduct an investigation and ensure that accurate records are provided to the parole board when it meets to consider paroling a prisoner.

(12) While there is no Federal right to parole, a protected liberty interest may be created by State Statutes or regulations. The South Carolina Supreme Court has held that there is no right to parole, but that there is a Statutory Right to be Parole eligible and that any abrogation of that right is sufficient to trigger due process requirements.

(13) On April 9, 2014, Plaintiff went up for parole for the first time and was denied. The board gave a single justification for the denial contending that Plaintiff had failed to successfully complete a prior supervision program. The board did not support their findings with any underlying facts as required by law and so it was unclear what the board relied upon for their belief that Plaintiff had failed to successfully complete a prior supervision program. This fact alone violated Plaintiff's rights because it resulted in a temporary denial of parole eligibility because the board did not follow appropriate criteria which requires them to explain the underlying facts supporting their decision sufficiently enough to allow for review.

(14) Plaintiff notified defendants Patton, Baxter, Stevenson, Eldridge and Hallam that if they were relying upon the above convictions and revocation, that those had been reversed, dismissed and expunged and should not be relied upon as a justification for denying parole. Plaintiff for a second time provided the court orders, expungement orders and recent criminal records from S.L.E.D. and requested that they expunge the false information and provide Plaintiff with a new hearing without the use of the false and expunged information. The defendants refused.

(15) On May 27, 2015, Plaintiff went up for parole a second time. During the hearing, Defendant Patton or a John Doe working for Patton, told the board that Plaintiff had 47 prior convictions. When the board heard that they immediately voted to deny parole on the ground that Plaintiff's prior record indicates poor community adjustment. Again, Plaintiff notified the defendants and informed them that because all of the prior convictions had been overturned, dismissed and expunged, and because he had ultimately been found to have been innocent, he had no prior felony convictions that could indicate a poor community adjustment.

(16) Plaintiff has appealed the parole boards use of the false information and two courts have ruled that the defendants are in violation of Plaintiff's right to have the board adhere to statutory

requirements, which are meant to result in a fair procedure. The Administrative Law Court found that by failing to provide the underlying facts to support the boards findings, they had failed to comply with statutory requirements and Plaintiff notes that this lack of specificity leaves the door open for arbitrary and capricious treatment. The South Carolina Court of Appeals found that if the board were using false information against Plaintiff, it would amount to a temporary denial of parole eligibility that would be sufficient to trigger a liberty interest and due process violation. Instead of immediately correcting the errors, the defendants have been deliberately indifferent toward Plaintiffs rights and have been defiant by failing to follow the courts instructions. Instead, the defendants have appealed the decisions and raised arguments that are largely irrelevant to the facts of this case.

(17) Recently, Plaintiff was given a post-conviction hearing in both his current convictions from Oconee and Spartanburg Counties. Plaintiff was able to show that Mr. Justice had plead guilty to the theft of the camper subject to plaintiffs' receiving stolen goods charge and that this information was withheld from the defense and would have proven Plaintiff's innocence because the State's Star witness testified that two different men had stolen the camper for Plaintiff. Mr. Justice also testified in the Oconee PCR hearing that he had lied about there not being a deal to probation in exchange for his testimony implicating Plaintiff, and that Plaintiff was actually innocent of the charge for which he has been incarcerated. At the time of filing this action, there has not been a final order filed in the PCR's, but Plaintiff fully expects to have all convictions overturned. Those PCR's are largely irrelevant to this case because the defendants did not rely upon them as justification for denying parole. Plaintiff is not attacking those convictions in this action but mentions those events for informational purposes.

(18) Plaintiff maintains that the relevant information being used against him is in his files, has been expunged, or applies to some other James Tinsley and that the underlying historical events have previously been determined to have been false. Plaintiff maintains that he notified Defendants Haley, Patton, Baxter, Stevenson, Eldridge and Hallam and provided proof of their findings falsity; that the offenses had been expunged and overturned and that the underlying historical events which resulted in the revocation of parole turned out to be false. Plaintiff requested that the false and

misleading information be removed from his files. The defendants have refused to remove the false and expunged information and continue to use the false and damaging information to a significant constitutional degree; inasmuch, as other potential parolees are not considered for parole based on false information or historical records that have turned out to be untrue. Plaintiff contends that these actions by the defendants constitute a flagrant and unauthorized abuse of authority and an arbitrary and capricious deprivation of Plaintiff's Constitutional Rights to due process and equal protection of the law.

(19) Plaintiff wishes to make clear that he is not challenging the defendants decision to deny parole, but rather, is only challenging the fairness of the decision process or fairness of the parole procedures which are allowing the defendants to maintain and use false, outdated, or expunged records in violation of the Fourteenth Amendment. A favorable decision in this case will require the expungement of the false information and monetary damages, but will not invalidate Plaintiff's convictions nor require his release from prison because he has subsequently been released from prison.

(20) The Defendant South Carolina Department of Probation, Parole and Pardon Services, has a policy, custom or practice of maintaining and utilizing false information against potential parolees. This practice exists because the parole board has no real oversight and they are not gathering their information from appropriate channels. At the time an inmate is being considered for parole, the board is not reviewing the files for possible errors, nor making corrections when given proof that the information is false, expunged or no longer reliable.

(21) Defendant Governor Nikki Haley is the highest ranking policy maker for the parole board and is the only oversight available for correcting unconstitutional behavior because the parole board serves at the Governor's pleasure. Defendant Haley's refusal to correct this problem constitutes a tacit authorization or ratification of the parole boards use of false information and amounts to the creation of an official policy. Haley is not being sued under a respondeat superior theory.

(22) All of the defendants, Haley, Patton, Baxter, Stevenson, Eldridge, Hallam and John Doe, have acted in concert and continue to conspire together to arbitrarily and capriciously deprive Plaintiff of his Federal Constitutional Rights and are likely violating Federal Criminal Conspiracy

offenses to deprive a person of their constitutional rights.

(23) The defendants were deliberate indifferent toward Plaintiffs constitutional rights and willfully, maliciously, intentionally, and continually violated Plaintiffs State-created due process right to be considered parole eligible and his right to equal protection of the law.

(24) The defendants knew or should have known that their actions would deprive Plaintiff of a fair hearing and trigger his liberty interests and right to be considered parole eligible in violation of clearly established law.

(25) On May 25, 2016, Plaintiff appeared before the board for the third time. This time the board did not consider the false and expunged information and because there never were any other justifications for denying Plaintiff parole, the board did grant Plaintiff parole. This decision from the board is prima facie evidence that the information previously used against Plaintiff was false. Since the board could not identify any other grounds for denying parole, the boards decision is proof that Plaintiff would have been given parole two years earlier had the board not been relying upon false information.

(26) Plaintiff earns \$ 50,000.00 per year as a CNC programmer and was deprived not only of his freedom from imprisonment for two years, but was likewise denied the ability to earn an income during that two year period depriving Plaintiff of \$ 100,000.00 in potential income due to the boards use of false information .

FEDERAL CAUSES OF ACTION

(27) FIRST CAUSE. Plaintiff contends that the defendants actions towards Plaintiff are in retaliation for his previous suits against Probation and Parole agents and violate his rights because they were motivated by a spiteful effort to get Plaintiff back for reasons wholly unrelated to any legitimate State objective.

(28) SECOND CAUSE. Plaintiff contends that his due process liberty interests in being parole eligible were denied him because the defendants use of false information denied him a fair procedure for parole consideration, amounted to a failure to follow the appropriate criteria and resulted in Plaintiff being temporarily declared parole ineligible. The use of false information constitutes an

arbitrary abuse of authority regardless of how fair the procedures are that are used in making their decision.

(29) THIRD CAUSE. Plaintiff contends that his rights to equal protection were denied him when false information was used against him to a constitutionally significant degree, but are not used against other similarly situated prisoners and there is no rational basis for the different treatment.

RELIEF

Plaintiff demands judgment jointly and severally, as follows:

(A) A declaratory judgment that the use of false information or expunged information constitutes an unauthorized abuse of authority and amounts to an arbitrary and capricious denial of due process of law and equal protection of the law;

(B) Injunctive relief that SCOPPPS be instructed to remove all false information including all false historical claims from Plaintiff's files and cease any future use or dissemination of the false information;

(C) Compensatory damages in the amount of \$ 150,000.00 for Plaintiffs inability to earn an income for two years, his continued incarceration for two years, and for the constitutional violations themselves, plus \$ 10,000.00 for each additional year that the false information remains in Plaintiffs files or is used in any manner;

(D) Punitive damages in the amount of \$ 1,000,000.00 because even after defendants were all placed on notice of the false information and the constitutional significance of the defendants use of such false information, by both Plaintiff and two separate State courts; the defendants were deliberately indifferent to Plaintiff's constitutional rights and their duty to treat all potential parolees equally;

(E) The costs and disbursements of this action;

(F) All attorney fees incurred in prosecuting this action;

(G) Any other relief this court deems fair and just;

(H) Plaintiff reserves the right to amend this complaint as needed;

(I) That if appropriate, that Federal Criminal Charges be brought against the defendants for

conspiracy to deprive Plaintiff of his Constitutional Rights.

TRIAL BY JURY HEREBY DEMANDED.

Plaintiff James Tinsley, being duly sworn, states that the above facts are truly stated to the best of his knowledge and belief, so help me God.

s/ James Tinsley
James Tinsley
1804 South Welcome Road
Greenville, South Carolina 29611
(864) 269-2890

SWORN AND SUBSCRIBED TO BEFORE ME

THIS 23 DAY OF June, 2016

Tito I. Ortiz
NOTARY PUBLIC FOR SOUTH CAROLINA

MY COMMISSION EXPIRES:

TITO I ORTIZ
NOTARY PUBLIC
SOUTH CAROLINA
MY COMMISSION EXPIRES 10-16-22



RECEIVED
2016 JUL 11 PM 12:32
CLERK'S OFFICE

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

JAMES Tinsley

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-against-

S.C. Dept. of Probation, Parole and Pardon Services, et al
(see attached complaint)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

Complaint for Violation of Civil Rights
(Prisoner Complaint)

Case No. 2:16-cv-00996-BHH-MGB
(to be filled in by the Clerk's Office)

Jury Trial: Yes No
(check one)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

When submitted for filing, your complaint should be accompanied by the full filing fee or an application to proceed in *forma pauperis*.

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name JAMES Douglas Tinsley, II
All other names by which you have been known:

ID Number _____

Current Institution _____

Address 1004 South Welcome Road
Greenville, S.C. 29611

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name South Carolina Department of
Job or Title Probation Parole & Pardon Services
(if known)

Shield Number _____

Employer _____

Address _____

Individual capacity Official capacity

Defendant No. 2

Name Nikki Haley

Job or Title Governor
 (if known)
 Shield Number _____
 Employer _____
 Address _____
 Individual capacity Official capacity

Defendant No. 3

Name Larry Ray Patton, Jr
 Job or Title Director of Parole Board Services
 (if known)
 Shield Number _____
 Employer _____
 Address _____
 Individual capacity Official capacity

Defendant No. 4

Name David Baxter
 Job or Title Parole Board Member
 (if known)
 Shield Number _____
 Employer _____
 Address _____
 Individual capacity Official capacity

II. Basis for Jurisdiction *SEE ATTACHED COMPLAINT FOR REMAINING DEFENDANTS*

Under 42 U.S.C. § 1983, you may sue state or local officials for the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

- Federal officials (a *Bivens* claim)
- State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

Due Process / Search Protection Clause

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

N/A

D. Section 1983 allows defendants to be found liable only when they have acted “under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia.” 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

all defendants were acting in their official capacities when the violations occurred

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (check all that apply):

- Pretrial detainee
- Civilly committed detainee
- Immigration detainee

- Convicted and sentenced state prisoner
- Convicted and sentenced federal prisoner
- Other (explain) WAS CONVICTED AND SENTENCED AS STATE PRISONER AT FINE VIOLATIONS OCCURRED.

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

SEE COMPLAINT

B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

SEE COMPLAINT

C. What date and approximate time did the events giving rise to your claim(s) occur?

SEE COMPLAINT

D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

SEE COMPLAINT

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

SEE COMPLAINT

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

SEE COMPLAINT

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

- Yes
- No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

Trenton Correctional Institution, Livesay
Correctional Institution

B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

- Yes
- No (NOT FOR challenging Parole Board activities which are not internal prison actions)
- Do not know

C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

- Yes
- No
- Do not know

If yes, which claim(s)?

D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

- Yes
- No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

Yes

No

E. If you did file a grievance:

1. Where did you file the grievance?

N/A

2. What did you claim in your grievance?

N/A

3. What was the result, if any?

N/A

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. *(Describe all efforts to appeal to the highest level of the grievance process.)*

N/A

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

Not Grievable.

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

Appealed to S.C. Administrative Law Court
and to S.C. COURT OF Appeals. Also sent
legal notices to each of the defendants

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

N/A

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VIII. Previous Lawsuits

The “three strikes rule” bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has “on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this “three strikes rule”?

- Yes
- No

If so, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes

No (but did file appeals to state courts who are unable to provide damages)

B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s) N/A

Defendant(s) _____

2. Court (if federal court, name the district; if state court, name the county and State)

N/A

3. Docket or index number

N/A

4. Name of Judge assigned to your case

N/A

5. Approximate date of filing lawsuit

N/A

6. Is the case still pending?

Yes

No

If no, give the approximate date of disposition. N/A

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

N/A

C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

- Yes
- No

D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s) N/A
Defendant(s)

2. Court (if federal court, name the district; if state court, name the county and State)

N/A

3. Docket or index number

N/A

4. Name of Judge assigned to your case

N/A

5. Approximate date of filing lawsuit

N/A

6. Is the case still pending?

- Yes
- No

If no, give the approximate date of disposition. _____

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

N/A

IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: July 8th 2016

Signature of Plaintiff James Douglas Tinsley II

Printed Name of Plaintiff JAMES DOUGLAS TINSLEY II

Prison Identification # _____

Prison Address 1004 South WELCOME Road

Greenville SC 29611
City State Zip Code

B. For Attorneys

Date of signing: _____, 20__

Signature of Attorney N/A

Printed Name of Attorney _____

Bar Number _____

Name of Law Firm _____

Address

Telephone Number

E-mail Address
