

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN

DENZEL BERRY

Case:5:17-cv-13845
Judge: Levy, Judith E.
MJ: Majzoub, Mona K.
Filed: 11-29-2017 At 02:49 PM
PR BERRY V. COOK ET AL (NA)

(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.)

v. "RN" MRS: COOK
"RN" MR: FINEGAN
" THE INMATE "WHO ASSAULTED ME"
" MDOC "

(to be filled in by the Clerk's Office)

Jury Trial: Yes No
(check one)

(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)

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.

In order for your complaint to be filed, it must be accompanied by the 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 DENCEL BERRY
All other names by which you have been known:

ID Number #923824 PRISON NUMBER
Current Institution BARAGA CORRECTIONAL FACILITY
Address 13924 WADAGA RD
BARAGA, ME 49908

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 DAVID A. FINEGAN
Job or Title "RN"
(if known)
Shield Number _____
Employer AT BARAGA CORRECTIONAL FACILITY
Address _____

Individual capacity Official capacity

Defendant No. 2

Name MRS. COOK
Job or Title "EN"
(if known)
Shield Number _____
Employer AT CHIPPEWA CORRECTIONAL FACILITY
Address _____

Individual capacity Official capacity

Defendant No. 3

Name NEVER KNEW THE GUY NAME OR ANYTHING
Job or Title IN MATE
(if known)
Shield Number _____
Employer _____
Address _____

Individual capacity Official capacity

Defendant No. 4

Name _____
Job or Title _____
(if known)
Shield Number _____
Employer _____
Address _____

Individual capacity Official capacity

II. Basis for Jurisdiction

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?

*THE RIGHTS TO RECEIVE PROPER MEDICAL
HEALTH CARE TREATMENT, WHILE INCARCERATED.*

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?

- 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.

I FILING 1983 SUIT, AGAINST "RN" MRS. COOK WAS THE NURSE AT CHIPPEWA CORRECTIONAL FACILITY THAT DENY ME PROPER MEDICAL CARE WHEN I WAS ASSAULTED BY A INMATE, NURSE COOK TOLD ME ~~EVERYTHING~~ I WROTE HER ABOUT MY BLURRY VISION, TWITCHING ON MY LEFT SIDE OF MY NECK, REALLY BAD HEADACHES & HARD SLEEPING AND SHE WILL PUT ME OUT MY CELL & CHARGE ME \$5 FOR SEEING MEDICAL JUST TO TELL ME TO EXERCISE MY NECK & IT'S NOTHING BUT A KNEED I'LL BE ALRITE, I'M A TUFF GUY AND I USE TO SAY TO HER TUFF HAVE NOTHING TO DO WITH IT WHEN I HAVEN'T RECEIVED A MRI OR CATSCAN FOR MY HEAD INJURY I WAS THROWN & THE TROLL ON INVOLUNTARY PIC WITH TAPE ON MY EYE WHILE I KEPT BLEEDING ON SO MANY DIFFERENT STATE BLUE'S, WHEN I KNOW I WAS SUPPOSE TO RECEIVE BETTER HEALTH CARE TREATMENTS.

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) _____

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.

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

WHERE → CHIPPEWA CORRECTIONAL FACILITY "URF"
WHEN → CHOWHALL AT "URF"

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

5-31-15, SUNDAY, BETWEEN 11:45 & NOON

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?)

ON 5-31-15 I WAS CURRENTLY AT CHIPPEWA CORRECTIONAL FACILITY,
I WAS AND THE CHOWHALL AROUND 11:45 & NOON WHEN I WAS
STRUCK & THE HEAD & FACE AREA 3 TO 4 TIMES WITH A ROCK & A SOCK.
I DON'T KNOW WHO THE INMATE WAS WHO DID THAT
TO ME ON THAT DAY & STILL DON'T, I'VE TRIED FINDING OUT WHO
THE GUY WAS THRU HEARING INVESTIGATOR'S & C/O'S, RUM & ARUS
BUT CAME UP SHORT EVEN WROTE "ORF" PLENTY OF TIMES
NOTHING.

THERE WAS KNOW ONE ELSE INVOLVED TO MY
KNOWLEDGE.

ALL THE INMATE'S ON MY ROCK & THE ROCK ABOVE ME SAW
WHAT HAPPEN, SUCH AS CHIPPEWA LEVEL 4 ROUND UNIT C-DWING
ALSO THE C/O'S THAT WERE & THE CHOWHALL & SGT, LT, CAP THAT
WERE & THERE AT THE TIME PLUS THE LEVEL 2 GUY'S WHO
SERVE US LEVEL 4 GUY'S FOOD & TRINITY FOOD SERVICE STAFF.

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.

A "KELOID" ON MY ABOVE RIGHT EYE, MEDICAL TREATMENT WAS I'LL BE OK, DO SOME NECK EXERCISES & TAKE TYLENOL THAT'S WHAT I WAS TOLD.

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.

SUING: "RN" MRS. COOK \$200,000 SUING: FROM CHIPPEWA CORRECTIONAL FACILITY FOR NOT FULLY HELPING ME, INSTEAD SHE KEPT SAYING I'M GO BE OK WHEN MY HEAD BEEN HURTING ME SINCE 5-31-15.

SUING: "RN" MR. FINEGAN \$150,000 SUING: FROM BARAGA CORRECTIONAL FACILITY FOR SENDING ME FALSE INFORMATION ABOUT ME BEING PLACED ON A COLLAR FOR MY HEAD TRAUMA. HEALTH CARE NEVER CAME & PUNED ME OUT AND I REPEATEDLY BEEN HAVING HARD TIMES SEEING VISION MISSING EYE.

SUING: "INMATE" \$200,000 FOR ASSAULTING ME & THINKING THAT'S OK TO DO TO OTHERS, & THE PAIN I'M SUFFERING FROM & THE KELOID I'VE TO LIVE WITH FOR THE REST OF MY LIFE.

SUING: "MDOC" \$150,000 FOR THE STAFF THEY'RE HIRING AS HEALTHCARE STAFF THAT FAIL TO THEY JOB WHEN A PERSON IS SERIOUSLY HURT. ALSO WENT TO BE SENT TO ANOTHER LEVELS ASAD DO TO LACK OF MEDICAL HELP AT BARAGA, STATE 5.

& I'M REQUESTING MDOC TO PAY FOR MY CIVIL SUIT FEES. I WANT MDOC TO PAY AMOUNT OF \$1,922 TOTAL TO GENESEE COUNTY FLETC, MI FOR MY CRIMINAL CASE THAT I OWE RESTITUTION FOR I OWE \$3,275 FOR CASE # 13-033830 FC-A Victim Restitution; COURT CASE # 12-031885 FC-A \$31.00 COURT ORDER CHARGES OBLIGATION FEES; COURT CASE # 13-033830 FC-A \$175.00 COURT ORDER CHARGES OBLIGATION FEE.

TOTAL \$1,922

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).

*CHIPPEWA CORRECTIONAL
FACILITY "ORF" PRISON*

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

Yes

No

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?

CHIPPEWA CORRECTIONAL FACILITY
&
BARAGA CORRECTIONAL FACILITY

2. What did you claim in your grievance?

AT CHIPPEWA CORRECTIONAL FACILITY, I CLAIM THAT "RN MRS. COOK" WASN'T HELPING ME WITH CONCERNS ABOUT MYSELF REAL BAD HEADACHES, BLURRY VISION, TWITCHING AND MY LEFT SIDE NECK, SHE JUST GAVE ME TYLENOL & SAID HAVE A NICE DAY YOU'LL BE OK.

AT BARAGA CORRECTIONAL FACILITY I'VE REQUESTED HEADACHE MED WHEN I CALLED HER 3-23-16 & HAVE TOLD THE NURSE'S, DOCTOR, HEALTHCARE SUPERVISOR & WASN'T TOLD ANYTHING BUT I NURSE LADY ASK DID I GO TO THE HOSPITAL & GET A CATSCAN AND I TOLD HER KNOW & SHE SAID 9 TIMES OUT OF 10 I'M SUFFERING BAD HEAD TRAUMA AND WALKED OFF. I HUNG UP AND A MEDICAL KITE & "RN MR. FINEGAN" TOLD ME I WAS PLACED ON A CALLOUT FOR 11-8-17 WHICH CAME & LEFT AND I HAVEN'T GOTTEN ANY WORD TO WHY I WASN'T SEEN OR IF THEY WERE BUSY THAT MY APPOINTMENT WILL BE RESCHEDULED AND "RN MR. FINEGAN" TOLD ME I TAKE OTC IBUPROFEN FOR HEADACHES LIKE THAT HELPS ME WITH MY PAIN.

3. What was the result, if any?

AT CHIPPEWA CORRECTIONAL FACILITY THE RESULT WAS THAT I'LL BE OK, IT'S JUST A KETOID.

AT BARAGA CORRECTIONAL FACILITY THE RESULT WAS PRINTOUT PAPER'S ABOUT KETOIDS & I WAS TOLD I'LL HAVE A NURSE APPOINTMENT 11-8-17 THAT NEVER HAPPENED. WHY? I DON'T KNOW.

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.)

I FILE A STEP AT CHIPPEWA CORRECTIONAL FACILITY BUT RODE OUT & I WROTE "URF" ABOUT SENDING ME INFORMATION PERTAINING MY GRIEVANCE BECAUSE SOME OF MY LEGAL & GRIEVANCE PAPERS WERE MISSING BUT GOTTEN NO RESPONSE OUT OF THE 4 TIMES I WROTE SINCE I BEEN AT BARAGA, I CURRENTLY WROTE THEM TO CHIPPEWA ON 10-30-17 STILL NOTHING COME AGAIN. SO NO IT'S NOT COMPLETED WITH "URF" BUT THE 1 FROM BARAGA THEY NOT EVEN TRYING TO HERE ME ON MY STEP.

- F. If you did not file a grievance:

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

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:

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

① THE CHOW HALL TAPE AT "URF" WILL SHOW THE BEGINNING TO THE END OF ME GETTING ASSAULTED.

② THE NURSE STATION TAPE WILL SHOW WHAT WAS DONE AFTER I WAS ASSAULTED.

③ THE TAPES FROM STEAMBOAT HOLE AT "URF" MEDICAL ROOM WITH NURSE MRS. COOK HEARING NOTHING BUT SHAKING HER HEAD.

④ EVERYTHING I CURRENTLY WROTE UP WHILE I WAS THERE.

(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

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) _____

Defendant(s) _____

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

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

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?)*

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) _____

Defendant(s) _____

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

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

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?)

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: 11-20, 2017.

Signature of Plaintiff Denzel Berry

Printed Name of Plaintiff DENZEL BERRY

Prison Identification # #923824

Prison Address BARAGA MAX CORRECTIONAL FACILITY 13924 WADAGA RD

BARAGA MI 49908
City State Zip Code

Additional Information:

DEVEL BERRY #193387
BARAGA CORRECTIONAL FACILITY
13924 WADAGA RD
BARAGA, MI 49908



RECEIVED
NOV 21 2017
CLERK/CORRECTIONAL
DIVISION

100

UNITED STATES DISTRICT COURT
OFFICE OF THE CLERK
231 WEST LAFFETT BLVD
DETROIT, MI 48226

11/21/17

CIVIL COVER SHEET FOR PRISONER CASES

Case No. <u>17-13845</u>		Judge: <u>Judith E. Levy</u>		Magistrate Judge: <u>Mona K. Maizoub</u>	
Name of 1st Listed Plaintiff/Petitioner: DENZEL BERRY			Name of 1st Listed Defendant/Respondent: RN MRS. COOK ET AL		
Inmate Number: 923827			Additional Information:		
Plaintiff/Petitioner's Attorney and Address Information:					
Correctional Facility: Baraga Maximum Correctional Facility 301 Wadaga Road Baraga, MI 49908 BARAGA COUNTY					

BASIS OF JURISDICTION

- 2 U.S. Government Defendant
 3 Federal Question

ORIGIN

- 1 Original Proceeding
 5 Transferred from Another District Court
 Other:

NATURE OF SUIT *

- 530 Habeas Corpus
 540 Mandamus
 550 Civil Rights
 555 Prison Conditions

FEE STATUS

- IFP *In Forma Pauperis*
 PD Paid

PURSUANT TO LOCAL RULE 83.11

1. Is this a case that has been previously dismissed?

- Yes No

➤ If yes, give the following information:

Court: _____

Case No: _____

Judge: _____

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

- Yes No

➤ If yes, give the following information:

Court: _____

Case No: _____

Judge: _____