

**\*\*\* PUBLIC DOCKET \*\*\***

PROSE

**U.S. District Court  
Southern District of Indiana (New Albany)  
CIVIL DOCKET FOR CASE #: 4:14-cv-00061-TWP-WGH**

PREWITT v. RODDEN et al  
Assigned to: Judge Tanya Walton Pratt  
Referred to: Magistrate Judge William G. Hussmann, Jr  
Cause: 42:1983 Prisoner Civil Rights

Date Filed: 07/07/2014  
Jury Demand: Both  
Nature of Suit: 555 Prisoner Petitions -  
Prison Condition  
Jurisdiction: Federal Question

**Plaintiff****RUSSELL L. PREWITT**

represented by **RUSSELL L. PREWITT**  
#864386  
PLAINFIELD CORRECTIONAL  
FACILITY  
Inmate Mail/Parcels  
727 MOON ROAD  
PLAINFIELD, IN 46168  
PRO SE

V.

**Defendant**

**T. HARBIN**  
*Classifications*

represented by **R. Jeffrey Lowe**  
KIGHTLINGER & GRAY, LLP-New  
Albany  
Bonterra Building  
3620 Blackiston Boulevard, Suite 200  
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*ATTORNEY TO BE NOTICED*

Date Filed	#	Docket Text
07/07/2014	<a href="#">1</a>	COMPLAINT against KEVIN BRANHAM, DENISE BROOKS, RICK ELLIOTT, MIKE HAMMOND, T. HARBIN, HOWARD, DANIEL RODDEN, L. STEPHENS, filed by RUSSELL L. PREWITT. (No fee paid with this filing) (Attachments: # <a href="#">1</a> Envelope)(LBT) (Entered: 07/07/2014)
07/07/2014	<a href="#">2</a>	MOTION for Leave to Proceed in forma pauperis, filed by Plaintiff RUSSELL L. PREWITT. (Attachments: # <a href="#">1</a> Envelope)(LBT) (Entered: 07/07/2014)

		07/07/2014)
07/07/2014	<u>3</u>	MAGISTRATE JUDGE's NOTICE of Availability to Exercise Jurisdiction issued. (LBT) (Entered: 07/07/2014)
07/07/2014	<u>4</u>	MAGISTRATE JUDGE's NOTICE of Availability to Exercise Jurisdiction issued. (LBT) (Entered: 07/07/2014)
07/09/2014	<u>5</u>	ENTRY - <u>2</u> Motion for Leave to Proceed in forma pauperis is DENIED without prejudice because he failed to submit a certified copy of his trust fund account statement for the 6-month period immediately preceding the filing of his complaint on 7/7/2014, as required by 28 U.S.C. 1915(a)(2). He shall have through 8/15/2014 in which to pay the \$400.00 filing fee or renew his request for in forma pauperis status with the required information. Signed by Judge Tanya Walton Pratt on 7/9/2014 (copy mailed to plaintiff). (LBT) (Entered: 07/10/2014)
07/23/2014	<u>6</u>	CONSENT to Jurisdiction of US Magistrate Judge by RUSSELL L. PREWITT. (Attachments: # <u>1</u> Envelope)(LBT) (Entered: 07/23/2014)
07/30/2014	<u>7</u>	MOTION for Leave to Proceed in forma pauperis, filed by Plaintiff RUSSELL L. PREWITT. (Attachments: # <u>1</u> Certificate, # <u>2</u> Inmate Trust Account Stmt, # <u>3</u> Envelope)(LBT) (Entered: 07/30/2014)
08/01/2014	<u>8</u>	ENTRY - <u>7</u> Motion for Leave to Proceed in forma pauperis is GRANTED. The plaintiff is assessed an initial partial filing fee of \$14.49. He shall have through 8/29/2014 in which to pay this sum to the clerk of the district court. Signed by Judge Tanya Walton Pratt on 8/1/2014 (copy mailed to plaintiff). (LBT) (Entered: 08/01/2014)
08/25/2014	<u>9</u>	RECEIPT #NA002965 for partial filing fee in the amount of \$14.49, paid by Russell Prewitt. (JLM) (Entered: 08/25/2014)
09/25/2014	<u>10</u>	ENTRY on Complaint, Dismissing Insufficient Claims, and Directing Further Proceedings - Claims against Officer Howard, Kevin Branham, Denise Brooks, Sheriff Rodden, Rick Elliott, Mr. Hammond and L. Stephens are DISMISSED for failure to state a claim upon which relief can be granted. The claim of retaliation and placing Mr. Prewitt at a substantial risk of harm asserted against Sgt. T. Harbin shall proceed. No partial final judgment shall issue at this time as to the claims that are dismissed in this Entry. The Clerk shall issue and serve process on defendant Sgt. T. Harbin. Process shall consist of the Complaint filed on 7/7/2014, applicable forms, and this Entry. Copy sent to Russell Prewitt and Sgt Harbin via US Mail. **RICK ELLIOTT (Director of Corrections), MIKE HAMMOND (Nurse), HOWARD (Officer, 1st Shift Supervisor (Food Services)), DANIEL RODDEN (Sheriff), L. STEPHENS (witness), KEVIN BRANHAM (2nd Shift Supervisor (food service)) and DENISE BROOKS (Nurse Practitioner) terminated.** Signed by Judge Tanya Walton Pratt on 9/25/2014.(JLM) (Entered: 09/26/2014)
09/26/2014	<u>11</u>	NOTICE of Lawsuit & Waiver Issued by Clerk to Sgt. T. Harbin. (JLM) (Entered: 09/26/2014)

10/22/2014	<a href="#">12</a>	NOTICE of Appearance by Dustin L. Howard on behalf of Defendant T. HARBIN. (Howard, Dustin) (Entered: 10/22/2014)
10/22/2014	<a href="#">13</a>	WAIVER OF SERVICE Returned Executed, filed by T. HARBIN. T. HARBIN waiver sent on 9/26/2014. (Howard, Dustin) (Entered: 10/22/2014)
11/25/2014	<a href="#">14</a>	ANSWER to <a href="#">1</a> Complaint , filed by T. HARBIN.(Howard, Dustin) (Entered: 11/25/2014)
12/03/2014	<a href="#">15</a>	ENTRY Directing Development of Exhaustion Defense and Issuance of Partial Stay -Defendant shall have through 2/2/2015, in which to either 1) file a dispositive motion in support of the affirmative defense that the plaintiff failed to exhaust his administrative remedies prior to filing this lawsuit, 2) notify the Court that this affirmative defense is not amenable to resolution through a dispositive motion, or 3) notify the Court that the defendant will not pursue the affirmative defense of failure to exhaust. If a dispositive motion is filed, Plaintiff shall have 28 days in which to respond. Thereafter, Defendant shall then have 14 days in which to reply. Except for activities associated with the development and resolution of the Defendant's affirmative defense that Plaintiff failed to exhaust his administrative remedies prior to filing this action, or any other matter directed by the Court and any other activities or deadlines in the action are STAYED. Signed by Judge Tanya Walton Pratt on 12/3/2014 (copy mailed to plaintiff).(LBT) (Entered: 12/03/2014)
02/06/2015	<a href="#">16</a>	NOTICE <i>re: failure to exhaust defense</i> , filed by Defendant T. HARBIN (Howard, Dustin) (Entered: 02/06/2015)
02/10/2015	<a href="#">17</a>	ENTRY SETTING PRETRIAL SCHEDULE: Dispositive Motions due by 9/11/2015. Discovery due by 8/11/2015. See Entry for additional deadlines. Signed by Judge Tanya Walton Pratt on 2/10/2015 (copy mailed to plaintiff). (LBT) (Entered: 02/11/2015)
03/06/2015	<a href="#">18</a>	MOTION to Amend and Add Witnesses, filed by Plaintiff RUSSELL L. PREWITT. (Attachments: # <a href="#">1</a> Witnesses, # <a href="#">2</a> Envelope)(JLM) (Entered: 03/06/2015)
03/06/2015	<a href="#">19</a>	MOTION to Appoint Counsel, filed by Plaintiff RUSSELL L. PREWITT. (Attachments: # <a href="#">1</a> Letter to Bart Betteau, # <a href="#">2</a> Letter to Clerk, # <a href="#">3</a> Envelope)(JLM) (Entered: 03/06/2015)
03/17/2015	<a href="#">20</a>	ENTRY - Plaintiff's Motion to Amend and Add Witnesses <a href="#">18</a> is DENIED as unnecessary. In accordance with the pretrial schedule issued on 12/3/2014, the parties have through 3/30/2015, in which to serve on the other parties a list of every witness who has knowledge that could help prove that party's claims or defenses. For the present, the plaintiff's motion for appointment of counsel <a href="#">19</a> is denied. Copy sent to pltf via US Mail. Signed by Judge Tanya Walton Pratt on 3/17/2015. (JLM) (Entered: 03/17/2015)
03/30/2015	<a href="#">21</a>	**PLEASE DISREGARD. WRONG DOCUMENT ATTACHED. SEE NO. 23 FOR CORRECTED MOTION.** MOTION to Substitute Attorney , filed by Defendant T. HARBIN. (Attachments: # (1) Text of Proposed Order) (English, William) Modified on 3/30/2015 (LBT). Modified on 3/30/2015

		(LBT). (Entered: 03/30/2015)
03/30/2015	<a href="#">22</a>	**PLEASE DISREGARD. WRONG DOCUMENT ATTACHED. SEE NO. 23 FOR CORRECTED DOCUMENT.** MOTION to Substitute Attorney , filed by Defendant T. HARBIN. (Attachments: # (1) Text of Proposed Order)(English, William) Modified on 3/30/2015 (LBT). (Entered: 03/30/2015)
03/30/2015	<a href="#">23</a>	MOTION to Substitute Attorney , filed by Defendant T. HARBIN. (Attachments: # <a href="#">1</a> Text of Proposed Order)(English, William) (Entered: 03/30/2015)
03/30/2015	<a href="#">24</a>	NOTICE of Appearance by R. Jeffrey Lowe on behalf of Defendant T. HARBIN. (Lowe, R.) (Entered: 03/30/2015)
03/31/2015	<a href="#">25</a>	Witness List , filed by Defendant T. HARBIN. (English, William) (Entered: 03/31/2015)
04/02/2015	<a href="#">26</a>	ORDER granting <a href="#">23</a> Motion to Substitute William F. English as attorney of record for Defendant Sgt. T. Harbin. Attorney Dustin L. Howard withdrawn. Copy sent to pltf via US Mail. Signed by Judge Tanya Walton Pratt on 4/2/2015. (JLM) (Entered: 04/02/2015)
04/10/2015	<a href="#">27</a>	SCHEDULING ORDER: Status Conference set for 6/2/2015 at 10:30 AM, New Albany time (EST) Telephonic before Magistrate Judge William G. Hussmann Jr. Signed by Magistrate Judge William G. Hussmann, Jr on 4/8/2015.(TMB) (copy mailed to plaintiff) Modified on 5/21/2015 (TMB). (Entered: 04/10/2015)
05/21/2015	<a href="#">29</a>	MOTION to Substitute Attorney <i>R. Jeffrey Lowe for William F. English</i> , filed by Defendant T. HARBIN. (Attachments: # <a href="#">1</a> Text of Proposed Order) (Lowe, R.) (Entered: 05/21/2015)
05/26/2015	<a href="#">30</a>	ORDER granting <a href="#">29</a> Motion to Substitute Attorney. Attorney William F. English withdrawn. Signed by Judge Tanya Walton Pratt on 5/26/2015. (LBT) (Entered: 05/26/2015)
06/05/2015	<a href="#">31</a>	MINUTE ORDER for proceedings held before Magistrate Judge William G. Hussmann, Jr: Telephonic Status Conference held on 6/2/2015. Telephonic Status Conference set for 8/5/2015 at 02:00 PM, New Albany time (EST) before Magistrate Judge William G. Hussmann Jr. The current pretrial schedule (Dkt. 17) remains in effect in that discovery is to be completed by August 11, 2015, and any dispositive motions are to be filed on or before September 11, 2015. Defendant's counsel is DIRECTED to confirm the telephone arrangements for this conference with the Plaintiff's facility and make plans to connect Plaintiff into the call, if necessary. At this conference, the parties should be prepared to discuss settlement possibilities and a trial date will be set. Signed by Magistrate Judge William G. Hussmann, Jr. (cm) (TMB) Modified on 6/5/2015 (TMB). (Entered: 06/05/2015)
07/20/2015	 <a href="#">33</a>	MOTION to Appoint Counsel, filed by Plaintiff RUSSELL L. PREWITT. (Attachments: # <a href="#">1</a> Requests for Counsel, # <a href="#">2</a> Letter to Clerk, # <a href="#">3</a> Envelope) (LBT) (Entered: 07/20/2015)

07/22/2015	<a href="#">34</a>	ENTRY Directing Further Action on Plaintiff's Second Request to Appoint Counsel - If Mr. Prewitt wishes to pursue his request for the appointment of counsel, he should provide the following: 1) his educational background (how far he went in school); 2) whether he has any difficulty reading or writing English and, if so, what those difficulties are; 3) whether in filing this action he has received assistance and how much from any others, including fellow inmates; 4) whether he has filed any other pro se cases and, if so, where and what kind; and 5) whether he has any physical or mental disabilities. Upon receipt of this information the Court will be able to determine whether Plaintiff's second motion for the appointment of counsel should be granted or denied. The discovery deadline in this matter is 8/11/2015 and deadline for filing dispositive motions is 9/11/2015. Plaintiff has until 8/5/2015 to provide the requested information. See Entry for details. Signed by Judge Tanya Walton Pratt on 7/22/2015 (copy mailed to plaintiff).(LBT) (Entered: 07/22/2015)
08/10/2015	<a href="#">35</a>	RESPONSE re <a href="#">34</a> Entry, filed by Plaintiff RUSSELL L. PREWITT. (Attachments: # <a href="#">1</a> Envelope)(MAG) (Entered: 08/10/2015)
08/18/2015	<a href="#">36</a>	Minute Entry for proceedings held before Magistrate Judge William G. Hussmann, Jr: Status Conference held on 8/5/2015. The Magistrate Judge deems it prudent for the Court to seek to obtain pro bono counsel and directs the Clerk of Court to post this case on the Court Communication Website seeking pro bono counsel. Mr. Prewitt was advised that if a lawyer does not agree to represent him within thirty (30) days of the date of the posting, no counsel will be appointed. Status Conference set for 1/13/2016 at 09:30 AM Telephonic before Magistrate Judge William G. Hussmann, Jr. Defendant's counsel is DIRECTED to confirm the telephone arrangements for this conference with the Plaintiff's facility and make plans to connect Plaintiff into the call, if necessary. See Entry for other orders entered. (cm) (NRN) (Entered: 08/18/2015)

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