

***** PUBLIC DOCKET *****

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**U.S. District Court
Southern District of Indiana (Indianapolis)
CIVIL DOCKET FOR CASE #: 1:23-cv-02078-SEB-MKK**

MILLER v. CYBORSKI et al
Assigned to: Judge Sarah Evans Barker
Referred to: Magistrate Judge M. Kendra Klump
Demand: \$101,000
Cause: 42:1983 Prisoner Civil Rights

Date Filed: 11/16/2023
Jury Demand: Both
Nature of Suit: 555 Prisoner Petitions -
Prison Condition
Jurisdiction: Federal Question

Plaintiff**ARTHULA MILLER**

represented by **ARTHULA MILLER**
135730
NEW CASTLE - CF
NEW CASTLE CORRECTIONAL
FACILITY - Inmate Mail/Parcels
1000 Van Nuys Road
NEW CASTLE, IN 47362
PRO SE

V.

Defendant

D. CYBORSKI
Unit Team Staff Member

represented by **Joseph Thomas Lipps**
BBFCS ATTORNEYS
27 North 8th Street
Richmond, IN 47374
(765) 962-7527
Fax: (765) 966-4597
Email: jlipps@bbfcslaw.com
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
11/16/2023	3	COMPLAINT against D. CYBORSKI, GEO GROUP INC., filed by ARTHULA MILLER. (No fee paid with this filing) (Attachments: # 1 Envelope)(CCG) (Entered: 11/17/2023)
11/17/2023	1	MAGISTRATE JUDGE's NOTICE of Availability to Exercise Jurisdiction issued. (CCG) (Entered: 11/17/2023)
11/17/2023	2	Notice to File Rule 7.1 Disclosure Statement. (RAGS) (CCG) (Entered: 11/17/2023)
12/07/2023	4	NOTICE OF DEFICIENCY - Your civil rights complaint has been received. You shall have through January 2, 2024, in which to correct the deficiencies as follows: You must either pay the 402.00 filing fee for this action or demonstrate that you lack the financial ability to do so by filing a motion for leave to proceed without the prepayment of the filing

		fee (<i>in forma pauperis</i>). A form motion for leave to proceed without the prepayment of the filing fee is being provided for your use. NOTE TO PRISONER - If you seek leave to proceed without prepaying the filing fee, and you are a prisoner, your motion must be accompanied by a copy of the transactions associated with your institution trust account for the 6-month period preceding the filing of this action. Copy to plaintiff by U.S. Mail. (Attachments: # 1 Form Motion for IFP) (MEH) (Entered: 12/07/2023)
12/08/2023	5	NOTICE to Pro se Litigant - The following information is provided to pro se litigants to inform them about rules and procedures governing how they communicate with the Court. Copy to plaintiff by U.S. Mail. (MEH) (Entered: 12/08/2023)
01/02/2024	6	RECEIPT #8437 for Partial Filing fee in the amount of \$402.00, paid by ARTHULA MILLER. (CCG) (Entered: 01/02/2024)
02/22/2024	7	Correspondence REQUESTING COPY of Case Docket Sheet, filed by ARTHULA MILLER. Copy provided to Plaintiff via US Mail. (Attachments: # 1 Envelope, # 2 Public Docket Sheet) (JSR) (Entered: 02/26/2024)
04/04/2024	8	MOTION Requesting Copies, filed by Plaintiff ARTHULA MILLER. (Attachments: # 1 Envelope) (BAA) (Entered: 04/04/2024)
04/04/2024	9	MOTION for Screening Order, filed by Plaintiff ARTHULA MILLER. (Attachments: # 1 Envelope) (BAA) (Entered: 04/04/2024)
04/10/2024	10	ORDER ON MOTIONS FOR COPIES - The motions, dkts. 8 and 9 , are granted to the limited extent that the Court explains that it has not yet screened his complaint under 28 U.S.C. § 1915A. It will due so by separate entry in due course. Because the complaint has not yet been screened, there is no pretrial schedule in place. The clerk is directed to enclose a public docket sheet with Plaintiff's copy of this Order. Copy to Plaintiff via US Mail. Signed by Magistrate Judge M. Kendra Klump on 04/10/2024. (Attachments: # 1 Public Docket Sheet) (AAS) (Entered: 04/11/2024)
04/26/2024	11	Order Screening Complaint and Directing Further Proceedings - Because the plaintiff is a "prisoner," this Court has an obligation to screen the complaint before service on the defendants. This matter shall proceed with the following claim: First Amendment retaliation claim against D. Cyborski based on the allegation that fired him based on his litigation activity. This summary of claims includes all of the viable claims identified by the Court. All other claims have been dismissed. If the plaintiff believes that additional claims were alleged in the complaint, but not identified by the Court, he shall have through May 24, 2024, in which to identify those claims. The clerk is directed to terminate GEO Group, Inc. as a defendant on the docket. The clerk is directed pursuant to Fed. R. Civ. P. 4(c)(3) to issue process to defendant Sergeant D. Cyborski in the manner specified by Rule 4(d). Process shall consist of the complaint, applicable forms (Notice of Lawsuit and Request for Waiver of Service of Summons and Waiver of Service of Summons), and this Order. SEE ORDER. Signed by Judge Jane Magnus-Stinson on 04/26/2024. Copies distributed per distribution list.(AAT) (Entered: 04/26/2024)
04/26/2024	12	NOTICE of Lawsuit & Waiver Issued by Clerk upon 1) Sergeant D. Cyborski. (AAT) (Entered: 04/26/2024)
05/16/2024	13	MOTION for Temporary Restraining Order, filed by Plaintiff ARTHULA MILLER. (Attachments: # 1 Envelope)(SWM) (Entered: 05/17/2024)
05/16/2024	14	***PLEASE DISREGARD - STRICKEN AT 21 *** AMENDED COMPLAINT with Jury Demand against D. CYBORSKI, filed by ARTHULA MILLER. (Attachments: # 1 Envelope)(SWM) Modified on 8/2/2024 (RSF). (Entered: 05/17/2024)

05/24/2024	15	NOTICE of Appearance by Joseph Thomas Lipps on behalf of Defendant D. CYBORSKI. (Lipps, Joseph) (Entered: 05/24/2024)
05/24/2024	16	WAIVER OF SERVICE Returned Executed, filed by D. CYBORSKI. D. CYBORSKI waiver sent on 4/26/2024. (Lipps, Joseph) (Entered: 05/24/2024)
06/06/2024	17	ORDER DENYING MOTION FOR INJUNCTIVE RELIEF: Presently pending is plaintiff Arthula Miller's motion for a temporary restraining order. Dkt. 13. Mr. Miller's motion states that the defendant "is now in charge of the conduct adjustment board" and "could quite possibl[y] have Plaintiff harassed by staff or write [a] bogus conduct report on Plaintiff." Id. at 2. Given the substance of the relief sought, the motion for a temporary restraining order is better understood as a motion for preliminary injunction. This is because "[a] temporary restraining order may not exceed 14 days without good cause." Decker v. Lammer, 2022 WL 135429, *2 (7th Cir. Jan. 14, 2022) (citing Fed. R. Civ. P. 65(b)(2)). For the reasons below, Mr. Miller's motion, dkt. 13 , is DENIED. See Order. Signed by Judge Jane Magnus-Stinson on 6/6/2024.(Copy mailed to Plaintiff.) (LF) (Entered: 06/06/2024)
06/20/2024	18	MOTION for Leave to File Amended Complaint, filed by Plaintiff ARTHULA MILLER. (Attachments: # 1 Envelope)(LF) (Entered: 06/24/2024)
06/25/2024	19	ANSWER to 3 Complaint , filed by D. CYBORSKI.(Lipps, Joseph) (Entered: 06/25/2024)
07/08/2024	20	MOTION for Pretrial Schedule, filed by Plaintiff ARTHULA MILLER. (Attachments: # 1 Envelope)(JRB) (Entered: 07/12/2024)
08/02/2024	21	ORDER - denying 18 Motion for Leave to File and Striking Amended Complaint. The clerk is directed to strike the amended complaint filed at Docket No. 14 . Mr. Miller's complaint at Docket No. 1 remains the operative complaint in this matter. Defendant D. Cyborski has filed an answer to Mr. Miller's complaint. See dkt. 19 . A scheduling order will be issued separately governing how this case shall proceed. (See Order.) Copy to plaintiff via US Mail. Signed by Senior District Judge Jane E Magnus-Stinson on 8/2/24. (RSF) (Entered: 08/02/2024)
08/07/2024	22	ENTRY Directing Development of Exhaustion Defense and Issuing Partial Stay - The exhaustion defense will be resolved pursuant to the following schedule. The defendant shall have through September 12, 2024, in which to either: (SEE ORDER). The failure to pursue any of these options by the above deadline constitutes an abandonment of the exhaustion defense. The plaintiff's "Motion for Pretrial Schedule" at Docket No. 20 is granted. (SEE ORDER.) Copy sent to plaintiff via US mail. Signed by Magistrate Judge M. Kendra Klump on 8/5/2024. (TPS) (Entered: 08/07/2024)
09/11/2024	23	***WITHDRAWN BY 30 *** MOTION for Summary Judgment (<i>Exhaustion of Administrative Remedies</i>) , filed by Defendant D. CYBORSKI. (Attachments: # 1 Text of Proposed Order)(Lipps, Joseph) Modified on 10/18/2024 (JRB). (Entered: 09/11/2024)
09/11/2024	24	BRIEF/MEMORANDUM in Support re 23 MOTION for Summary Judgment (<i>Exhaustion of Administrative Remedies</i>) , filed by Defendant D. CYBORSKI. (Lipps, Joseph) (Entered: 09/11/2024)
09/11/2024	25	Designation of Evidence re 24 Brief/Memorandum in Support, 23 MOTION for Summary Judgment (<i>Exhaustion of Administrative Remedies</i>) , filed by Defendant D. CYBORSKI. (Attachments: # 1 Exhibit A- Affidavit of Melissa Rutledge, # 2 Exhibit B- Offender Grievance Process, State of Indiana, Indiana Department of Correction, Policy and Administrative Procedure No. 00-02-301, # 3 Exhibit C- Grievance History for Offender, Arthula Miller)(Lipps, Joseph) (Entered: 09/11/2024)

09/11/2024	26	NOTICE <i>Regarding Right to Respond to and Submit Evidence in Opposition to Motion for Summary Judgment</i> , filed by Defendant D. CYBORSKI, re 24 Brief/Memorandum in Support, 25 Designation of Evidence, 23 MOTION for Summary Judgment (<i>Exhaustion of Administrative Remedies</i>) . (Lipps, Joseph) (Entered: 09/11/2024)
09/26/2024	28	Response to 23 MOTION for Summary Judgment (<i>Exhaustion of Administrative Remedies</i>) , filed by Plaintiff ARTHULA MILLER. (Attachments: # 1 Envelope) (BAA) (Additional attachment(s) added on 10/1/2024: # 2 Exhibit) (BAA). (Entered: 10/01/2024)
09/26/2024	29	BRIEF/MEMORANDUM in Support to Motion re 23 MOTION for Summary Judgment (<i>Exhaustion of Administrative Remedies</i>) , filed by Plaintiff ARTHULA MILLER. (Attachments: # 1 Envelope) (BAA) (Entered: 10/01/2024)
09/27/2024	27	NOTICE OF WITHDRAWAL OF AFFIRMATIVE DEFENSE OF FAILURE TO EXHAUST ADMINISTRATIVE REMEDIES PRIOR TO FILING LAWSUIT, filed by Defendant D. CYBORSKI, re 22 Order on Motion. (Lipps, Joseph) (Entered: 09/27/2024)
10/17/2024	30	ENTRY ADDRESSING WITHDRAWAL OF EXHAUSTION DEFENSE, LIFTING PARTIAL STAY, AND DIRECTING FURTHER PROCEEDINGS - Defendant D. Cyborski has withdrawn the affirmative defense of failure to exhaust administrative remedies. (See Dkt. 27). Accordingly, the partial stay issued at Docket No. 22 is LIFTED. The Court will issue a separate pretrial scheduling order governing how this action shall proceed. The Clerk is directed to terminate Defendants' Motion for Summary Judgment on the Issue of Exhaustion, Dkt. 23 , as withdrawn. Copy sent to Plaintiff via US Mail. Signed by Magistrate Judge M. Kendra Klump on 10/17/2024. (JRB) (Entered: 10/18/2024)
10/17/2024	31	ORDER SETTING PRETRIAL SCHEDULE AND DISCUSSING DISCOVERY IN PRISONER LITIGATION: This Order sets the schedule for how this action shall proceed. Part I sets forth the pretrial deadlines. Part II discusses various aspects of discovery. Facilitating the discovery process can be difficult, and this Order is issued in an effort to help explain and streamline the process for the parties. The parties should carefully read this Order. *SEE ORDER FOR ADDITIONAL INFORMATION*. Dispositive Motions due by 5/15/2025. Discovery due by 4/15/2025. Copy sent to Plaintiff via US Mail. Signed by Magistrate Judge M. Kendra Klump on 10/17/2024.(JRB) (Entered: 10/18/2024)
10/21/2024	32	ORDER SETTING TELEPHONIC INITIAL PRETRIAL CONFERENCE - This case is set for a telephonic initial pretrial conference on 12/19/2024 at 10:30 AM (Eastern Time) before Magistrate Judge M. Kendra Klump. The Court will contact counsel by separate email through the Court's electronic filing system with the call-in information to be used to participate in the conference. The Court will contact staff at the New Castle Correctional Facility by separate email with the call-in information to be used to connect Mr. Miller to the conference. Signed by Magistrate Judge M. Kendra Klump on 10/21/2024. (Copy to plaintiff via US Mail.) (KAA) (Entered: 10/22/2024)
10/21/2024	33	ORDER to Make Inmate Available - via Telephone. Warden of New Castle Correctional Facility ordered to make Arthula Miller (135730) Available - via Telephone for court proceeding on 12/19/2024 at 10:30 a.m. (Eastern). The Court will contact New Castle Correctional Facility staff by separate email with the information to be used to connect Mr. Miller to the conference. Signed by Magistrate Judge M. Kendra Klump on 10/21/2024. (Copy to plaintiff via US Mail.)(KAA) (Entered: 10/22/2024)
11/06/2024	34	MOTION Requesting Copies, filed by Plaintiff ARTHULA MILLER. (Attachments: # 1 Envelope)(JRB) (Entered: 11/06/2024)
11/18/2024	36	ORDER - Plaintiff's Motion for Copies, Dkt. 34 , is GRANTED. The Clerk is directed to enclose copies of the following with Plaintiff's copy of this Order: (1) public docket sheet; and (2) scheduling order (Dkt. 31). Signed by Magistrate Judge M. Kendra Klump on

		11/18/2024. Copies to Plaintiff via US mail. (Attachments: # 1 Public Docket Sheet, # 2 Scheduling Order - Dkt. 31) (JSR) (Entered: 11/19/2024)
11/21/2024	37	DEPOSITIONS by Written Questions fir Terry Terrell, filed by Plaintiff ARTHULA MILLER. (Attachments: # 1 Envelope) (JSR) (Entered: 11/21/2024)
11/21/2024	38	Subpoena for Depositions by Written Questions for Terry Terrell, filed by Plaintiff ARTHULA MILLER. (Attachments: # 1 Envelope) (JSR) (Entered: 11/21/2024)
11/21/2024	39	First Set of Interrogatories to Defendant Cyborski, filed by Plaintiff ARTHULA MILLER. (Attachments: # 1 Envelope) (JSR) (Entered: 11/21/2024)
11/21/2024	40	First REQUEST for Production of Documents, filed by Plaintiff ARTHULA MILLER. (Attachments: # 1 Envelope) (JSR) (Entered: 11/21/2024)
11/21/2024	41	DISCOVERY Documents to Defendant Cyborski, filed by Plaintiff ARTHULA MILLER. (Attachments: # 1 Envelope) (JSR) (Entered: 11/21/2024)
12/16/2024	42	NOTICE of Service of Initial Disclosures , filed by Defendant D. CYBORSKI. (Lipps, Joseph) (Entered: 12/16/2024)
12/19/2024	43	MINUTE ORDER for Telephonic Initial Pretrial Conference held before Magistrate Judge M. Kendra Klump on 12/19/2024. See Minute Order for further information. Signed by Magistrate Judge M. Kendra Klump. Copy sent to Plaintiff via U.S. mail. (BAS) (Main Document 43 replaced on 12/20/2024) (BAS). (Entered: 12/20/2024)
01/02/2025	44	MOTION for Subpoena for Attendance at Hearing and Trial, filed by Plaintiff ARTHULA MILLER. (AAS) (Entered: 01/03/2025)
01/31/2025	45	Submission of Discovery Requests, filed by Plaintiff ARTHULA MILLER.(TPS) (Entered: 02/03/2025)
02/10/2025	46	ORDER - Before the Court is Plaintiff's Motion for Subpoena for Attendance at Hearing and Trial, Dkt. 44 . Plaintiff's Motion is GRANTED. The Clerk is directed to enclose one endorsed, but otherwise blank, document subpoena with Plaintiff's copy of this Order. Plaintiff is responsible for completing and serving the subpoenas and for complying with Federal Rule of Civil Procedure 45. Signed by Magistrate Judge M. Kendra Klump on 02/10/2025. Copy to Plaintiff via US Mail. (Attachments: # 1 Endorsed Subpoena) (AAS) (Entered: 02/10/2025)
03/17/2025	47	NOTICE <i>Regarding Settlement Conference</i> , filed by Defendant D. CYBORSKI, re 31 Order Setting Pretrial Schedule and Discussing Discovery in Prisoner Litigation. (Lipps, Joseph) (Entered: 03/17/2025)
05/01/2025	48	Witness List, filed by Plaintiff ARTHULA MILLER. (BAA) (Entered: 05/02/2025)
05/15/2025	49	MOTION for Summary Judgment , filed by Defendant D. CYBORSKI. (Attachments: # 1 Text of Proposed Order)(Lipps, Joseph) (Entered: 05/15/2025)
05/15/2025	50	BRIEF/MEMORANDUM in Support re 49 MOTION for Summary Judgment , filed by Defendant D. CYBORSKI. (Lipps, Joseph) (Entered: 05/15/2025)
05/15/2025	51	Designation of Evidence re 49 MOTION for Summary Judgment , 50 Brief/Memorandum in Support , filed by Defendant D. CYBORSKI. (Attachments: # 1 Exhibit A- Summons in 1:22-cv-01240 to Makenzie Hacker, # 2 Exhibit B- Affidavit of David Cyborski, # 3 Exhibit C-Affidavit of Michael Krul, # 4 Exhibit D-Affidavit of Makenzie Hacker, # 5 Exhibit E-Policy 02-01-106)(Lipps, Joseph) (Entered: 05/15/2025)
05/15/2025	52	NOTICE <i>Regarding Right to Respond to and Submit Evidence in Opposition to Motion for Summary Judgment</i> , filed by Defendant D. CYBORSKI, re 51 Designation of Evidence,

		49 MOTION for Summary Judgment , 50 Brief/Memorandum in Support. (Lipps, Joseph) (Entered: 05/15/2025)
05/27/2025	53	Correspondence REQUESTING COPY of Case Docket Sheet, filed by Arthula Miller. Copy/Copies provided via US Mail. (Attachments: # 1 Public Docket Sheet) (LBT) (Entered: 05/28/2025)
06/20/2025	54	RESPONSE in Opposition re 49 MOTION for Summary Judgment , filed by Plaintiff ARTHULA MILLER. (AAS) (Entered: 06/23/2025)
06/20/2025	55	MOTION for Summary Judgment, filed by Plaintiff ARTHULA MILLER. (AAS) (Entered: 06/23/2025)
08/18/2025	56	NOTICE of Reassignment of Case to Judge Sarah Evans Barker. Judge Jane Magnus-Stinson is no longer assigned to this case. Please include the new case number, 1:23-cv-02078-SEB-MKK , on all future filings in this matter. (Morrison, Griffen) (Entered: 08/18/2025)
10/02/2025	57	MOTION for Ruling on 55 Motion for Summary Judgment, filed by Plaintiff ARTHULA MILLER. (SAM) (Entered: 10/03/2025)
01/16/2026	58	Correspondence REQUESTING COPY of Case Docket Sheet, filed by ARTHULA MILLER. Copy/Copies provided via US Mail. (Attachments: # 1 Public Docket Sheet) (SAM) (Entered: 01/21/2026)
03/02/2026	59	ORDER Denying Cross Motions for Summary Judgment and Granting Other Motion - Sgt. Cyborski and Mr. Miller's motions for summary judgment are denied. Dkts. 49 and 55 . Mr. Miller's motion for ruling on his motion for summary judgment is granted to the extent the Court now informs him of its ruling. Dkt. 57 . The Court prefers that Mr. Miller be represented by counsel for the remainder of this action. The clerk is directed to send Mr. Miller a motion for assistance recruiting counsel with his copy of this Order. Mr. Miller has 28 days in which to file a motion for counsel using this form motion or to inform the Court that he wishes to proceed pro se. Once the motion has been ruled on and counsel has been recruited, the magistrate judge is asked to schedule a telephonic status conference to discuss further proceedings. (SEE ORDER.) Copy sent to plaintiff via US mail. Signed by Judge Sarah Evans Barker on 3/2/2026. (Attachments: # 1 Blank Motion for Assistance Recruiting Counsel Form) (TPS) (Entered: 03/02/2026)
03/03/2026	60	ORDER SETTING TELEPHONIC STATUS CONFERENCE - This case is set for a telephonic status conference on May 21, 2026, at 10:00 a.m. (Eastern), with Magistrate M. Kendra Klump. The Court will contact counsel by separate email through the Court's electronic filing system with the call-in information to be used to participate in the conference. The Court will contact staff at the New Castle Correctional Facility by separate email with the call-in information to be used to connect Mr. Miller to the conference. Copy to Plaintiff via US mail. Signed by Magistrate Judge M. Kendra Klump on 03/03/2026. (AJG) (Entered: 03/03/2026)

03/03/2026	61	ORDER TO MAKE INMATE AVAILABLE - You or your designee(s) are ORDERED to make Arthula Miller (135730) available to participate by telephone in a telephonic status conference at the time and date specified in this Order. The Court will contact New Castle Correctional Facility staff by separate email with the information to be used to connect Mr. Miller to the conference. Inmate: Arthula Miller (135730) Date: May 21, 2026 Time: 10:00 a.m. (Eastern) Expected Duration of Court Proceeding: 30 minutes Any questions or information concerning this Order or information concerning compliance with this order should be brought to the attention of Judge Klump's Chambers at 317-229-3972. Copies distributed per distribution list. Signed by Magistrate Judge M. Kendra Klump on 03/03/2026. (AJG) (Main Document 61 replaced on 3/4/2026) (BAS). Emailed to New Castle on 3/4/2026. (Entered: 03/03/2026)
03/16/2026	63	MOTION to Appoint Counsel, filed by Plaintiff ARTHULA MILLER. (SAM) (Entered: 03/17/2026)
04/13/2026	64	ORDER - The plaintiff's motion to appoint counsel, dkt. 63 , is granted. The Court will attempt to recruit counsel to represent the plaintiff for the remainder of this case. Signed by Judge Sarah Evans Barker on 4/13/2026. Copy mailed to Plaintiff. (BAA) (Entered: 04/14/2026)

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