

**U.S. District Court
Western District of Pennsylvania (Pittsburgh)
CIVIL DOCKET FOR CASE #: 2:04-cv-01365-JFC-RCM**

JACOBS v. BEARD, et al
Assigned to: Judge Joy Flowers Conti
Referred to: Robert C. Mitchell
Demand: \$0
Case in other court: 05-01455
Cause: 42:1983pr Prisoner Civil Rights

Date Filed: 09/09/2004
Date Terminated: 02/04/2005
Jury Demand: Plaintiff
Nature of Suit: 555 Prisoner Civil
Rights (Prison Condition)
Jurisdiction: Federal Question

Plaintiff

ANDRE JACOBS

represented by **ANDRE JACOBS**
DQ5437
Box A
Bellefonte, PA 16873
PRO SE

V.

Defendant

**PENNSYLVANIA
DEPARTMENT OF
CORRECTIONS, JEFFREY A.
BEARD**

represented by **Christian D. Bareford**
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Defendant

ROBERT FRANK

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Susan J. Forney
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LEAD ATTORNEY
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Defendant

JEFFREY FORTE

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Defendant

FRANK COLE

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Defendant

A. E. YUHOUSE

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Susan J. Forney

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Defendant

WINTERS

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Susan J. Forney
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LEAD ATTORNEY
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Defendant

GREGORY MOHRING

represented by **Christian D. Bareford**
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Susan J. Forney
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Date Filed	#	Docket Text
09/09/2004		PRELIMINARY STATEMENT received from ANDRE JACOBS. (jsp) (Entered: 09/09/2004)
09/09/2004		CASE REFERRED to Mag. Judge Robert C. Mitchell (jsp) (Entered: 09/09/2004)
09/10/2004	1	ORDER that papers are not being processed any further for failure to submit in forma pauperis affidavit, failure to include certificate of authorized officer as to amt. of money and securities on deposit in prison acct. or proper affidavit of non-compliance and advice that motion to proceed in forma pauperis and/or \$150.00 filing fee must accompany complaint when filed and if not received within 10 days, complaint will be dismissed. (signed by Mag. Judge Robert C. Mitchell on 9/10/04) CM all parties of record. (ces) (Entered: 09/13/2004)

09/13/2004	2	MOTION by ANDRE JACOBS to Proceed in Forma Pauperis with Proposed Order. (jsp) (Entered: 09/13/2004)
09/15/2004	3	ORDER granting [2-1] motion to Proceed in Forma Pauperis and the complaint is ordered filed, and since the pltf does not possess sufficient funds to pay this fee as well as the necessary service fees, and it appearing that the pltf has an inmate account balance of \$69.22 and that requiring him to pay an initial filing fee would be unreasonable at this time, the payment of 20% of the preceding month's income until he has paid the full filing fee; FURTHER ORDERED that if he desires to pursue this action, within 20 days the pltf complete the attached form authorizing the appropriate withdrawals from his inmate account; FURTHER ORDERED that the agency having custody of the pltf shall forward payment from the prisoner's account to the Clerk of Court each time the amount in the account exceed \$10 until the full filing fee is paid. (signed by Mag. Judge Robert C. Mitchell on 9/15/04) CM all parties of record. (plh) (Entered: 09/15/2004)
09/15/2004	4	COMPLAINT with jury demand (plh) (Entered: 09/15/2004)
09/20/2004	5	AUTHORIZATION by ANDRE JACOBS permitting withdraw of prison account funds to pay filing fee. (plh) (Entered: 09/20/2004)
09/21/2004	6	ORDER, that the U.S. Marshal is directed to mail a copy of the complaint, notice of lawsuit and request for waiver of service of summons, and waive, and this order to each deft as directed by pltf; costs shall be advanced by the United States; Parties have 10 days to file Appeal to District Judge. (signed by Mag. Judge Robert C. Mitchell on 9/21/04) CM all parties of record. (plh) (Entered: 09/21/2004)
09/21/2004		1 cc of Order, 7 - 285 forms, 7 Orders, 7 Notice and Request for Waiver of Service of Summons, 7 Preliminary Statements forward to the USMS (plh) (Entered: 09/21/2004)
09/30/2004	7	NOTICE to the Court by ANDRE JACOBS (plh) (Entered: 09/30/2004)
10/04/2004	8	SUPPLEMENT by ANDRE JACOBS to [7-1] notice by ANDRE JACOBS (jsp) (Entered: 10/04/2004)
10/20/2004	9	WAIVER OF SERVICE Returned Executed as to BEARD on 9/23/04 Answer due on 11/22/04 for BEARD (plh) (Entered: 10/20/2004)
10/20/2004	10	WAIVER OF SERVICE Returned Executed as to ROBERT

		FRANK on 9/23/04 Answer due on 11/22/04 for ROBERT FRANK (plh) (Entered: 10/20/2004)
10/20/2004	11	WAIVER OF SERVICE Returned Executed as to JEFFREY FORTE on 9/23/04 Answer due on 11/22/04 for JEFFREY FORTE (plh) (Entered: 10/20/2004)
10/20/2004	12	WAIVER OF SERVICE Returned Executed as to FRANK COLE on 9/23/04 Answer due on 11/22/04 for FRANK COLE (plh) (Entered: 10/20/2004)
10/20/2004	13	WAIVER OF SERVICE Returned Executed as to GREGORY MOHRING on 9/23/04 Answer due on 11/22/04 for GREGORY MOHRING (plh) (Entered: 10/20/2004)
10/20/2004	14	WAIVER OF SERVICE Returned Executed as to WINTERS on 9/23/04 Answer due on 11/22/04 for WINTERS (plh) (Entered: 10/20/2004)
10/20/2004	15	WAIVER OF SERVICE Returned Executed as to A. E. YUHOUSE on 9/23/04 Answer due on 11/22/04 for A. E. YUHOUSE (plh) (Entered: 10/20/2004)
11/22/2004	16	MOTION by BEARD, ROBERT FRANK, JEFFREY FORTE, FRANK COLE, A. E. YUHOUSE, WINTERS, GREGORY MOHRING to Extend Time with Proposed Order. (plh) (Entered: 11/22/2004)
11/24/2004	17	MOTION by BEARD, ROBERT FRANK, JEFFREY FORTE, FRANK COLE, A. E. YUHOUSE, WINTERS, GREGORY MOHRING to Dismiss with Proposed Order. (plh) (Entered: 11/24/2004)
11/24/2004	18	BRIEF by BEARD, ROBERT FRANK, JEFFREY FORTE, FRANK COLE, A. E. YUHOUSE, WINTERS, GREGORY MOHRING in support of [17-1] motion to Dismiss by GREGORY MOHRING, WINTERS, A. E. YUHOUSE, FRANK COLE, JEFFREY FORTE, ROBERT FRANK, BEARD (plh) (Entered: 11/24/2004)
12/01/2004		ORDER upon motion granting [16-1] motion to Extend Time, reset Answer deadline to 12/3/04 for GREGORY MOHRING, for WINTERS, for A. E. YUHOUSE, for FRANK COLE, for JEFFREY FORTE, for ROBERT FRANK, for BEARD . (signed by Mag. Judge Robert C. Mitchell on 12/1/04) CM all parties of record. (plh) (Entered: 12/02/2004)
12/01/2004	19	ORDER, Response to Motion set to 12/21/04 for [17-1] motion to Dismiss as stated more fully in order. (signed by Mag. Judge

		Robert C. Mitchell on 12/1/04) CM all parties of record. (plh) (Entered: 12/02/2004)
12/08/2004	20	MOTION by ANDRE JACOBS for Reconsideration of [19-1] order Response to Motion set to 12/21/04 for [17-1] motion to Dismiss with Proposed Order. (jsp) (Entered: 12/08/2004)
12/09/2004		ORDER upon motion denying [20-1] motion for Reconsideration of [19-1] order Response to Motion set to 12/21/04 for [17-1] motion to Dismiss. (signed by Mag. Judge Robert C. Mitchell on 12/9/04) CM all parties of record. (plh) (Entered: 12/09/2004)
12/22/2004	21	REPORT AND RECOMMENDATION of Mag. Judge Robert C. Mitchell signed on 12/22/04 Recommending that [17-1] motion to Dismiss be granted for failure to state a claim upon which relief may be granted; The parties have 10 days from the date of service to file objections to this Report and Recommendation. (plh) (Entered: 12/22/2004)
12/22/2004	22	MOTION by ANDRE JACOBS to Extend Time to Respond to Defendants' Motion to Dismiss . (jsp) (Entered: 12/27/2004)
01/06/2005	23	OBJECTION by ANDRE JACOBS to [21-1] report and recommendations (jsp) (Entered: 01/06/2005)
01/06/2005		ORDER upon motion dismissing [22-1] motion to Extend Time to Respond to Defendants' Motion to Dismiss as moot. (signed by Mag. Judge Robert C. Mitchell on 1/6/05) CM all parties of record. (plh) (Entered: 01/07/2005)
01/10/2005	24	AMENDED OBJECTIONS by ANDRE JACOBS to [21-1] report and recommendations (jsp) (Entered: 01/10/2005)
02/04/2005	25	ORDER granting [17-1] motion to Dismiss; FURTHER ORDERED that pursuant to Rule 4 (a)(1) of the FRAP if the pltf desires to appeal from this Order, he must do so within 30 days by filing a notice of appeal as provided by Rule 3 FRAP; adopting [21-1] report and recommendations . (signed by Judge Joy F. Conti on 2/4/05) CM all parties of record. (plh) (Entered: 02/04/2005)
02/04/2005		Case closed (plh) (Entered: 02/04/2005)
02/10/2005	26	NOTICE OF APPEAL by ANDRE JACOBS from [25-1] order FURTHER ORDERED that pursuant to Rule 4 (a)(1) of the FRAP if the pltf desires to appeal from this Order, he must do so within 30 days by filing a notice of appeal as provided by Rule 3 FRAP; adopting [21-1] report and recommendations dated

		2/4/05 (lck) Modified on 02/10/2005 (Entered: 02/10/2005)
02/10/2005		Certified copy of Notice of Appeal [26-1] appeal by ANDRE JACOBS , certified copy of docket, certified copy of order dated 2/4/05 and certified copy of report and recommendation dated 12/22/04 mailed to USCA; copy of Notice of Appeal and information sheet to BEARD, ROBERT FRANK, JEFFREY FORTE, FRANK COLE, A. E. YUHOUSE, WINTERS, GREGORY MOHRING and judge. Copy of information sheet to appellant. (lck) (Entered: 02/10/2005)
02/10/2005		Certified and transmitted Record on Appeal to U.S. Court of Appeals: [26-1] appeal by ANDRE JACOBS (lck) (Entered: 02/10/2005)
02/18/2005		USCA Case Number Re: [26-1] appeal by ANDRE JACOBS USCA NUMBER: 05-1455 (plh) (Entered: 02/18/2005)
02/18/2005		RECEIPT from USCA of receiving actual record on 2/15/05. (plh) (Entered: 02/18/2005)
04/08/2005	27	CERTIFIED COPY OF ORDER dated 4/5/06 from U.S. Court of Appeals for the Third Circuit directing that the motion to proceed in forma pauperis is granted; the Court directs the warden or his designee to assess an initial filing fee of 20% of the greater; the warden shall forward to the U.S. District Court for the W/D of PA; when the amount exceeds \$10.00 the warden shall forward the payments to the U.S. District Court for the W/D of PA as stated more fully in order. (plh) Modified on 04/14/2005 (Entered: 04/08/2005)
09/06/2005	28	JUDGMENT OF USCA (certified copy) as to 26 Notice of Appeal, filed by ANDRE JACOBS, (tw3,)the appeal is dismissed under 28 U.S.C. section 1915(e)(2)(B). (Entered: 09/08/2005)
10/28/2005	29	MANDATE of USCA as to 26 Notice of Appeal, filed by ANDRE JACOBS, (Attachments: # 1 opinion) (tmk3,) (Entered: 10/28/2005)
11/02/2005		Appeal Record Returned from USCA: 26 Notice of Appeal, (plh) (Entered: 11/02/2005)