

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

THEODORE MESSIAH SAVAGE, )  
 )  
 Plaintiff, )  
 )  
 v )  
 )  
 WILLIAM STICKMAN, Deputy Sec- )  
 retary; MARK A. KRYSEVIG, )  
 Supt., SCI-Cresson; DAVID L. )  
 ROBERTS, Deputy Superintendent; )  
 Lt. D.E. WILT, Security Dept., )  
 SCI-Cresson; Correction Officer OSWALT; )  
 TIMOTHY SMITH, Unit Manager, )  
 SCI-Cresson; BRIAN CLAWSON, )  
 Unit Manager, SCI-Cresson; and )  
 R. REED, Hearing Examiner, SCI-Cresson, )  
 )  
 Defendants )

Civil Action No. 06-269J  
 Judge Kim R. Gibson/  
 Magistrate Judge Amy Reynolds Hay

**MEMORANDUM ORDER**

The above-captioned prisoner civil rights complaint and request to proceed in forma pauperis (“IFP”) were received by the Clerk of Court on December 26, 2006, and were referred to United States Magistrate Judge Amy Reynolds Hay for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges.

The Magistrate Judge's Report and Recommendation (“R&R”)(Doc. No. 2), filed on January 5, 2007, recommended that the motion to proceed IFP be denied because Plaintiff had accumulated “three strikes” pursuant to 28 U.S.C. § 1915(g) of the Prison Litigation Reform Act (“PLRA”). The R&R listed those “three strikes” to include the following, all from the Middle District of Pennsylvania: (1) Savage v. Sincavage, No. 89-CV-1244; (2) Savage v. Slavinski, No. 89-CV-1391; and (3) Savage v. Sokolowski, No. 90-CV-1825. As well, the Magistrate Judge noted a fourth strike: Savage v. Delong, No. 94-CV-249 (M.D.Pa. 1994).

Plaintiff has filed Objections (Doc. 3) to the R&R in the form of a so-called affidavit. In this “affidavit,” Plaintiff claims that the Savage involved in the aforementioned Middle District cases is his father, Theodore B. Savage, DOB 3-7-1940, and not himself.<sup>1</sup> The Court finds Plaintiff’s so-called affidavit to be insufficient because at the end of it Plaintiff merely states, “I declare that the foregoing is true and correct” without stating, as required, “under penalty of perjury.” See, e.g., Walton v. Wheatly Co., 986 F.2d 1423 (Table), 1993 WL 43934, at \*2-\*3 (6th Cir. 1993)(finding inadequate the affidavit by Joyce Walton because it was not acknowledged under the penalty of perjury); United States v. Branella, 972 F.Supp. 294, 299-300 (D.N.J. 1997) (Certifications containing statements, "I hereby certify that all of the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are wilfully false, I am subject to punishment[.]" were fatally inadequate; the court holding that “[t]he failure to acknowledge the penalty of perjury prevents the court from considering the affidavits' contents”).

In addition, on January 23, 2007, Plaintiff filed another document (doc. 4) which purports to contain an affidavit made by Plaintiff’s father, who states he was the plaintiff in the three suits cited by the Magistrate Judge. While this affidavit does not suffer from the flaws of the first affidavit, the Court will give it only what weight the Court deems appropriate.

Thereafter, in an effort to ascertain the truth, this Court ordered case files from the Middle District of Pennsylvania. Following a thorough review of those files, the Court has no hesitancy in finding as a fact that the Plaintiff in this case, Theodore Messiah Savage, and not his father, filed the cases identified by the Magistrate Judge by which he has accumulated at least three strikes.

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<sup>1</sup> Plaintiff has many aliases including “Ted Katona”, “Joseph Savage,” “Theodore Bernard Savage, Jr.,” “Theodore King Savage, J.D.,” and “Theodore Mortagobi Savage.” See the Department of Corrections (“DOC”) website listing Plaintiff’s aliases:

<http://www.cor.state.pa.us/inmatelocatorweb/>

According to the Department of Corrections, Plaintiff’s true name is “Theodore Savage Jr.” Id.

In Savage v. Delong, attached hereto as Exhibit 1, Plaintiff identifies himself as “Theodore Savage, Jr.,” assigned the Pennsylvania Department of Corrections (“DOC”) Number CB-2674. In the instant case, the Plaintiff uses the same DOC Number, even though he attempted to avoid this inconvenient truth, as noted by Magistrate Judge Hay’s Report, by at times changing one of the letters in the identification number and by using the last name of “Stavage.” Doc. 2, p. 2 n.1. The Court notes that the DOC identification numbers are prisoner specific and no two prisoners can have the same identification number. In other words, the DOC Number “CB-2674” identifies Plaintiff and only Plaintiff. Hence, Plaintiff has at least one strike. Furthermore, in the complaint filed in Savage v. Delong, Plaintiff stated that he was transported to the Carbon County Prison on February 3, 1994 to be sentenced in Case No. 364 CR 1992.<sup>2</sup> The Court takes judicial notice of the dockets of the Carbon County Court of Common Pleas<sup>3</sup> and notes that the criminal docket found at 364 CR 1992 is Commonwealth v. Theodore Savage Jr., and that docket lists the date of birth for Theodore Savage Jr. as February 16, 1968, the very same birth date Plaintiff acknowledges in this case is his.<sup>4</sup> Additionally, Plaintiff attached a letter to his Objections to the Magistrate Judge’s Report and Recommendation in the Delong case, wherein he listed his return address as Luzerne County Prison,

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<sup>2</sup> See Exhibit 1, attached to this Order, at ¶ II.2.

<sup>3</sup> The complete Carbon County Common Pleas Court Docket Number for Commonwealth v. Theodore Savage Jr., is No. CP-13-CR-0000364-1992. That docket is available at:

<http://ujportal.pacourts.us/PublicReporting/PublicReporting.aspx?rt=1&&ct=4&dk=56785654&arch=1&ST=2/5/2007%203:35:16%20PM>

That docket demonstrates that on February 2, 1994, the Carbon County Court of Common Pleas ordered Plaintiff to be transported to the Court for sentencing and that he was sentenced on February 4, 1994, which confirms what Plaintiff had stated in the complaint filed in Savage v. Delong, attached hereto as Exhibit 1, ¶ II.2.

<sup>4</sup> See Doc. 3-1 at 2, ¶ 3.

99 Water Street, Wilkes-Barre, PA 18702, which is located within the Middle District of Pennsylvania. See Exhibit 2 attached hereto.

In the case of Savage v. Sincavage, No. 89-1244 (M.D. Pa.), noted as one of the three strikes by Magistrate Judge Hay, the plaintiff is listed as “Theodore Savage Jr.” whose address is 99 Water Street, Wilkes-Barre, PA. 18702, i.e., the same address used in the Delong case. See Exhibit 3 attached to this Memorandum Order. The Court finds that the Plaintiff herein was the plaintiff in Savage v. Sincavage. Hence, Plaintiff has two strikes.

In the next case, Savage v. Sokolowski, No. 90-1825 (M.D. Pa.), the plaintiff listed himself as “Theodore Savage Jr.” with the same Luzerne County Prison address of 99 Water Street, Wilkes-Barre, PA. found in the Delong and Sincavage cases. See Exhibit 4 attached hereto. In addition, the plaintiff stated in his case against Sokolowski that he had filed another civil action in the Middle District, referring to No. 90-CV-1336, which is captioned Theodore Savage, Jr. v. Handley, (M.D. Pa.). Again, the Court finds as a fact that Plaintiff herein was the plaintiff in Savage v. Sokolowski, No. 90-1825 (M.D. Pa.). Hence, Plaintiff has at least three strikes.

In addition, the Court notes that in an order dated January 19, 2006, in the case of Abraham and Savage v. DiGuglielmo, No. 06-58 (M.D. Pa. Doc. 4)(attached hereto as Exhibit 5), Plaintiff was denied Plaintiff IFP status because of the very same three strikes cited above plus a fourth. Moreover, in an apparent attempt to mislead the Middle District Court, Plaintiff filed a motion to reconsider (attached hereto as Exhibit 6) the court’s order denying Plaintiff IFP status, wherein he provided the court with personal information purported to be his own, but which turned out to be his father’s social security number and his father’s date of birth. As well, in that same motion, Plaintiff stated that he “has never filed any civil actions in the Middle District Court.” Id. However, notably, he did not claim that it was his father who had filed the cases. The motion for reconsideration was denied, the court refusing to credit Plaintiff’s contentions in the face of docket evidence to the

contrary. See Exhibit 7, attached hereto. Plaintiff filed an appeal from that order to the Court of Appeals. In that appeal, the Court of Appeals denied Plaintiff leave to proceed IFP on appeal. Abraham and Savage v. Diguglielmo, No. 06-2344 (3d Cir. Order dated 10/24/06)(wherein the Court noted that “Appellant does not dispute that he has brought at least three other cases in federal court that have been dismissed as lacking legal merit.” (citing both Savage v. DeLong, and Savage v. Sokolowski))(available on PACER).

In the face of the foregoing, the court cannot and does not credit the purported affidavit of Plaintiff’s father. Furthermore, lest there be any confusion as to the fact that Plaintiff is the “junior” as in “Theodore Savage, Jr.”, the Court takes judicial notice of the fact that Plaintiff’s father refers to himself as “Theodore Savage Sr.” See, e.g., Theodore B. Savage v. Blaine, No. 01-476 (M.D. Pa. Habeas case filed by Plaintiff, Doc. 1 at 31 wherein the father filed an affidavit identifying himself at “Theodore Savage, Sr.”)(available on PACER).

Accordingly, the court finds, as a fact, based on the evidence before it, that Plaintiff herein has at least three strikes and, therefore, he must be denied IFP status and the case dismissed without prejudice to refiling.

In the alternative, the court finds that the final judgment in Abraham and Savage v. Diguglielmo, No. 06-58 (M.D. Pa.), which found that Plaintiff had at least three strikes, collaterally estops him from contesting those strikes in this case. See Jason Alexander Cosmetics, Inc. v. L’Oreal USA, Inc., 458 F.3d 244, 249 (3d Cir. 2006), *petition for cert. filed*, (U.S. Jan. 16, 2007)(No. 06-1001)(setting forth the requirements for collateral estoppel: (1) the identical issue was actually litigated and previously adjudicated; (2) the previous determination was necessary to the decision; and (3) the party now being precluded from relitigating the issue had a full and fair opportunity to litigate the issue previously). Here, the only requirement that arguably could be in dispute is whether Savage had a full and fair opportunity to litigate the issue; the other requirements are manifestly met.

It appears clear that Savage had a full and fair opportunity to litigate the issue in the case of Abraham and Savage v. Diguglielmo, 06-58 (E.D. Pa.), because he received notice of which cases were counted as strikes, and he had an opportunity to be heard in that he contested the strikes before the Middle District Court, which, in a valid and final judgment, found against him. See, e.g., Kremer v. Chemical Const. Corp., 456 U.S. 461, 483 n.24 (1982)(noting that “what a full and fair opportunity to litigate entails is the procedural requirements of due process” i.e., notice and an opportunity to be heard); Hofmann v. Pressman Toy Corp., 193 Fed.Appx. 121, 123 (3d Cir. 2006) (applying collateral estoppel and/or res judicata doctrines to pro se plaintiff, and declaring that “As Hofmann had a ‘**full and fair opportunity**’ to litigate this issue in her earlier case [even though she was pro se in the earlier case], the District Court correctly precluded her from raising it again.”)(emphasis added). Consequently, the fact that Plaintiff was pro se in the Abraham and Savage v. Diguglielmo, No. 06-58, case does not mean that he was denied a full and fair opportunity to be heard. Accordingly, either because the court finds, as a fact, based on the evidence before it, that Plaintiff herein has three strikes or because Plaintiff is collaterally estopped from denying such, he must be denied IFP status and the case dismissed without prejudice to refile. Hence, the following order is entered.

AND NOW, this 15<sup>th</sup> day of February, 2007,

**IT IS HEREBY ORDERED** that the Plaintiff’s motion for leave to proceed in forma pauperis is **DENIED** and the case is **DISMISSED** albeit without prejudice to being refiled upon payment of the entire filing fee, so long as the payment of the filing fee occurs within the applicable statute of limitations. In other words, any re-filed case will not relate back to the current complaint.

**IT IS FURTHER ORDERED** that the Report and Recommendation (Doc. No. 2), filed on January 5, 2007 by Magistrate Judge Hay, is adopted as the opinion of the court, as supplemented by this memorandum order.

Lastly, I hereby certify pursuant to 28 U.S.C. § 1915(a)(3) and Rule 24 of the Federal Rules of Appellate Procedure, that any appeal from this action would not be taken in good faith for all of the reasons recounted above.

A handwritten signature in black ink that reads "Kim R. Gibson". The signature is written in a cursive style with a horizontal line underneath the name.

The Honorable Kim R. Gibson  
United States District Court Judge

Dated:

cc: Hon. Amy Reynolds Hay  
United States Magistrate Judge

Theodore Messiah Savage  
CB-2674  
SCI Cresson  
P.O. Box A  
Cresson, PA 16699

# **EXHIBIT 1**

①  
doe

THEODORE SAVAGE, JR.  
Plaintiff,

-VS-

DEAN D. W. DELONG  
TOM C. GERHARD  
JOHN D. MOGILSKI  
WILLIAM F. JURACKA  
Individually and respectively in  
their official Capacities  
DEFENDANT'S

\*  
\*  
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\*  
\*  
\*

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNA.

1:06-cv-00269-0249

NO. OF 19

JURY TRIAL DEMANDED

FEB 18 94

COMPLAINT PURSUANT TO 42 U.S.C. §1983

I. PARTIES:

a. Plaintiff Theodore Savage, Jr. is an adult individual confined in the State Correctional Institute at Frackville, Pennsylvania 18931, DOC # CB-2674.

b. Defendant Dean D. W. Delong is an adult individual employed by the County of Carbon as a Chairman of the Carbon County Prison Board, Carbon County Courthouse Annex, Jim Thorpe, Pennsylvania 18229.

c. Defendant Tom C. Gerhard is an adult individual employed by the County of Carbon as Vice-Chairman of the Carbon County Prison Board, Carbon County Courthouse Annex, Jim Thorpe, Pennsylvania 18229.

d. Defendant John D. Mogilski is an adult individual employed by the County of Carbon as a Commissioner, and Prison Board Member, Carbon County Courthouse Annex, Jim Thorpe, Pennsylvania 18229.

e. Defendant William F. Juracka is an adult individual employed by the County of Carbon as Warden of the Carbon County Prison, 128 W. Broadway, Jim Thorpe, Pennsylvania 18229.

II. STATEMENT OF CLAIM:

1. The plaintiff is a State Prisoner confined at the State Corr.

Institute at Frackville, Pennsylvania where he is serving a 3 to 10 year prison term imposed by the Court of Common Pleas of Luzerne County.

2. That on February 3, 1994, the plaintiff was transported from the State Correctional Institute at Frackville, and taken to the Carbon County Prison for sentencing under criminal information # 364 CR 1992.

3. That the plaintiff remained at the Carbon County Prison until February 7, 1994, at which time the Carbon County Sheriffs transported him back to S.C.I. at Frackville.

4. That at the Carbon County Prison, plaintiff was placed in cell number 16, which is located on the lower tier of the block.

5. The cell in question was very cold because there is no heating of any type on the lower tier, all cells on the lower tier are freezing cold at all time.

6. That none of the cells in the Carbon County Prison have any tpe of running "HOT" water.

7. That at the Carbon County Prison, the Law Library is not updated, nor is it sufficient to research or prepare legal documents. The only law books in the Law Library are "Vale Pennsylvania Digest" and "American Jurisprudence," it does not have any purdons titles 18, 42, 60, or 61, further it does not have the books manditory pursuant to 37 Pa. Code, namely the books stated above.

8. That the shower room ceiling is falling apart, paint falls all over prisoners as they shower, and plaintiff was hit in the head by various small pieces of paint and concrete.

9. That the Carbon County Prison is infested with verman, such as water bugs, mice and cock roaches.

10. That as a result of the freezing cold cell the plaintiff has

gotten a very bad cold which he is being treated for by medical personnel at the S.C.I. at Frackville.

11. That all defendant's to this action are in charge of the operation of and conditions of the Carbon County Prison, further, they are aware of these conditions and refuse to do anything to upgrade these poor, unsanitary, and cruel and unusual conditions.

12. That the conditions of the Carbon County Prison are unfit for human life, and they violated the plaintiffs right to be free from cruel and unusual punishment which is prohibited by the United States Const. Const. Amend. # 8.

13. That the law library is insufficient to protect the prisoners rights to adequate access to the Courts, which violate the plaintiffs rights under the United States Constitution, Const. Amend. # 1.

14. That the conditions of the Carbon County Prison have not only violated the plaintiffs rights, but they continue to violate all present and future prisoners confined in the Carbon County Prison.

15. That the Carbon County Prison has been condemned atleast on (2) two occasions, and the defendant's refuse to upgrade these conditions stated herein.

III. RELIEF:

WHEREFORE, THE PLAINTIFF THEODORE SAVAGE, JR., REQUESTS THAT THE COURT GRANT HIM THE FOLLOWING RELIEF:

a. Declaratory judgment that the conditions of the Carbon County Prison violated the plaintiffs rights under the United States Constitution;

b. Issue an injunction upon the defendants directing them to upgrade the conditions of the Carbon County Prison by having them have heaters placed on the lower tier of the block, that directs them to have hot running water put in all cells, and that directs the defendants to have all law books placed in the prison law library that is required pursuant to 37 Pa. Code.

- c. Punative damages from each defendant to the plaintiff in the amount of ten thousand dallars;  
d. Compasatory damages from each defendant to the plaintiff in the amount of ten thousand dollars;  
e. Trial by jury on all issues triable by jury;  
f. Any other such relief as the Court deems proper and just in this matter.

And the plaintiff will forever pray, etc.

Respectfully submitted,

BY: Theodore Savage, Jr.  
Theodore Savage, Jr., Paralegal  
DOC # CE-2674  
1111 Altamont Blvd.  
Frackville, PA 17931

DATED: February 8, 1994.

A-F-F-I-D-A-V-I-T

I, THEODORE SAVAGE, JR., Plaintiff in the foregoing complaint, and I hereby declare under the penalties of perjury that the facts in the complaint are true and correct to the best of my personal knowledge, information and belief.

BY: Theodore Savage Jr.  
THEODORE SAVAGE, JR., PARALEGAL  
DOC # CB-2674  
1111 Altamont Blvd.  
Frackville, PA 17931

EXECUTED ON THIS 10<sup>th</sup> DAY OF February, 19 94,  
AT THE S.C.I. AT FRACKVILLE, PENNSYLVANIA.

# **EXHIBIT 2**

U.S. District Court For  
The Middle District Of Penna.

(5)  
3/25/94  
CY

Theodore SAVAGE  
Plaintiff

FILED  
SCRANTON

Civil Action No:

94-0249

VS.

MAR 24 1994

DEAN D.W. DeLong  
et al., Defendants

PER ~~DEPUTY CLERK~~

(Judge Caldwell) X

Plaintiff's Objections To Magistrates  
Report AND Recommendation

The magistrate firstly misplaces plaintiff complaint. The magistrate concluded that respondent superior theory does not apply to section 1983 actions.

The plaintiff does not rely on the respondent superior theory.

If prison officials know of violations of a prisoners rights, are in the position to correct them, and fail to do so, "they are liable for damages under section 1983," and higher officials who are aware of unconstitutional living conditions may be liable to persons confined under them. Villanueva vs. Geary, 654 F.2d 851 (8th Cir. 1981) unless they have no power to alter them. Williams

vs. Bennett, 689 F.2d 1370, 1388 (11<sup>th</sup> Cir. 1982).

In this case defendants knew of the conditions contained in plaintiff's complaint. On Feb. 24, 1993, plaintiff sent a letter to defendant JURACKA, with a copy being sent to all defendants to this action. See: (Attached "Exhibit-A"). Plaintiff was at Carbon Co. Prison on various occasions in the past, not just this one time.

By plaintiff advising defendants of the unconstitutional conditions, and them doing nothing to upgrade these violations, they are in fact liable under section 1983, as set forth in VILLANUEVA, Supra.

The magistrate determined that plaintiff has failed to state a 8<sup>th</sup> Amendment claim. The conditions of the Carbon Co. Prison did involve the required "wanton and unnecessary infliction of pain" and "serious deprivation of human needs," Rhodes vs. Chapman, 452 U.S. 337, 347, 101 S.Ct. 2392, 2399 (1981). The plaintiff respectfully submits that "heat" is a "human need". The Carbon Co. Prison does not have "any heat at all" on the lower tier of the block, the temperature in the lower tier cells range from 20 to 30 degrees in the night and morning hours, plaintiff could literally see his breath when in his cell. Further, the windows in the cells are all tape together, with air from outside blowing in at

times make it almost the temperature of actual outdoors. Plaintiff was at Carbon Co. Prison in February, 1993, as his attached exhibit reflects, that was in the winter of 1993, defendants had over a year to have heaters placed in or on the lower tier. Inadequate heating violates the 8th Amendment. See: Smith vs Sullivan, 553 F.2d 373, 380-81 (5th Cir. 1977); Ramos vs. Lamm, supra, 639 F.2d 559, 568 (10th Cir. 1980); Also see: Bel vs. Hall, 392  F. Supp. 274 (D. Mass. 1975).

Inadequate sanitation violates the 8th Amendment, whether it involves defective plumbing, infestation by vermin, or lack of cleaning or garbage disposal. See: Blake vs. Hall, 668 F.2d 52 (1st Cir. 1981); Palmigiano vs. Garrahy, 443 F. Supp. 956, 961, 979 (D.R.I. 1977); Ramos vs. Lamm, supra.

Plaintiff's complaint states clearly there is "no" heat on the lower tier of the Carbon Co. Prison, and that it is infested with various vermin. The plaintiff submits he has stated a valid 8th Amendment claim when applying the above principals of law hereto.

With respect to liability, defendants are the only individuals with legal authority to authorize and direct that the prison be upgraded, surely the correctional officers can't sign contracts to have the required work done to meet the mandatory requirements being defendants knew of these conditions, and failed to upgrade them, they are liable for damages under section 1983.

The Magistrate states mootness because Plaintiff is no longer at the Carbon Co

PRISON. The action also seeks damages which makes the matter never moot. The request for the injunction would be moot, but not the damages. Plaintiff is entitled to damages even if he is no longer at the Carbon Co. Prison, he is entitled to damages for the suffering he already went thru in the past.

WHEREFORE, plaintiff prays this Honorable Court direct that this action proceed, and that the Court does not adopt the Magistrates Report AND Recommendation.

And he will forever pray, etc.

Respectfully submitted,  
Theodore Savage  
Theodore SAVAGE  
Plaintiff

Dated: March 18, 1994

Certificate

I am this 18<sup>th</sup> day of March, serving a true and correct copy of these objections upon Magistrate Durkin by regular U.S. mail postage prepaid. I do not know defendant's counsel.

Theodore Savage  
Theodore SAVAGE  
Plaintiff

Exhibit-A

Theodore SAVAGE, JR.  
LUZERNE Co. PRISON  
99 WATER STREET  
WILKES-BARRE, PA 18702

FEBRUARY 24, 1993

William F. JURACKA, WARDEN  
CARBON Co. PRISON  
128 W. BROADWAY  
Jim Thorpe, PA 18229

IN RE: PRISON CONDITIONS.

DEAR WARDEN JURACKA:

I WAS A PRISONER CONFINED IN YOUR PRISON FROM FEB. 21, 93 TO FEB. 23, 93, AND THIS LETTER IS IN REFERENCE TO THE PRISON CONDITIONS AT THE CARBON Co. PRISON.

AS YOU ARE AWARE, THERE IS NO HEAT ON THE LOWER TIER OF THE CARBON Co. PRISON. IT IS AND WAS FREEZING COLD ON THE LOWER TIER WHILE I WAS CONFINED IN YOUR PRISON. I HAVE SPOKE WITH VARIOUS INMATES WHO ARE CELLED ON THE LOWER TIER WHERE THERE IS NO HEAT, AND THEY HAVE ADVISED ME IT IS SO COLD IN THE CELLS THAT SLEEPING BECOMES UNBEARABLE SOME NIGHTS.

I AM A PROFESSIONAL PARALEGAL/INVESTIGATOR AND FROM MY PERSONAL OBSERVATION OF THE CARBON Co. PRISON IT IS UNFIT FOR HUMAN LIVING, AND THE CONDITIONS THEREIN BOTH VIOLATED MY

(1 OF 2)

Rights, and continue to violate the rights of all prisoners confined in the Carbon Co. Prison. The heaters on the top tier do not heat the lower tier or lower tier cells. The shower room ceiling is deteriorating and falling apart, and there are mice, water bugs, and various types of vermin infestation problems at your prison. Further, the law library is inadequate to protect the rights of the prisoners to have adequate access to the courts. The only books contained in the law library are, "American Jurisprudence", and "Vale Pa. Digest", this is not adequate especially considering there is no up to date pocket parts therein. I ask that you take a look at 37 PA. Code § 95.221 thru § 95.248, and make an effort to abide by the requirements of such. The prisoners rights are being violated, and I am concerned with their welfare.

I ask that you take the appropriate steps to better the conditions of the Carbon County Prison. I will be following up on these conditions.

Thank you for your time in these matters.

cc: Dean D. DeLong  
Tom Gerhard  
John D. Medilski  
File.

Very truly yours,  
~~Theodore Savage, Jr.~~  
Theodore Savage, Jr.

(2 of 2)

Exhibit - B

THEODORE SAVAGE, JR. :  
PLAINTIFF, :

IN THE UNITED STATES DISTRICT  
COURT FOR THE MIDDLE DISTRICT  
OF PENNSYLVANIA

-VS-

:  
: CIVIL ACTION LAW

DEAN D. W. DELONG, et, al., :  
DEFENDANTS, :

NO. OF 19

A-F-F-I-D-A-V-I-T

I, the undersigned, hereby declare that I am a prisoner confined in the Carbon County Prison and that the following facts are true and correct:

1. That the cells in the Carbon County Prison do not have any type of running hot water in them.
2. That the law library here at the Carbon County Prison only has the following law book therein:
  - a. "Vale Pennsylvania Digest," with no up to date pocket parts.
  - b. "Amercan Jurisprudence," with no up dated pocket parts.
3. That the law library does not have "ANY" volumes of the Purdons Pennsylvania Statutes.
4. That the lower tier of the Carbon County Prison does not have any type of heaters, and it is very cold on the lower tier and even colder in the cells on the lwer tier.
5. That the ceiling in the shower is deteriorating and falling apart.
6. That the Carbon County Prison is not fit for human living in that it is unclean and unsanitary.
7. That I have read this affidavit and the facts contained herein are true and correct, and I am a competent adult individual to observe same.

8. That I am signing this affidavit voluntarily and of my own free will with no threats being made to me by anyone.

I DECLARE UNDER THE PENALTIES OF PERJURY THAT THE FACTS IN THIS AFFIDAVIT ARE TRUE AND CORRECT IN SUBSTANCE AND IN FACT.

Respectfully submitted,

(1) Henry J. Fox  
Prisoner Carbon County Prison

(2) Robin A. Hannah  
Prisoner Carbon County Prison

(3) Brian C. Snyder  
Prisoner Carbon County Prison

(4) John Sitarich  
Prisoner Carbon County Prison

(5) George R. Mallamaci  
Prisoner Carbon County Prison

(6) [Signature]  
Prisoner Carbon County Prison

DATED: February 6th, 1994.

(7) Douglas Richardson  
Prisoner Carbon County Prison

Witnessed this 6th day of February, 1994

BY: Theodore Savage, Jr.  
Theodore Savage, Jr., PARALEGAL

# EXHIBIT 3

FORM 1983

*n/c to pliff*

①  
8/30/89

FORM TO USED BY PRISONERS IN FILING A  
COMPLAINT UNDER THE CIVIL RIGHTS ACT ,42 U.S.C. 1983

IN THE UNITED STATES DISTRICT COURT  
FOR THE  
MIDDLE DISTRICT OF PENNSYLVANIA

Theodore SAVAGE Jr.

**3: CV - 89 - 1244**

(ENTER ABOVE THE FULL NAME OF THE  
PLAINTIFF OR PLAINTIFF IN THIS ACTION)

vs.

Allyn SINGAVAGE  
Walter Sokolowski  
Richard Turner  
Lewis Butwin

(ENTER ABOVE THE FULL NAME OF THE  
DEFEDANT OR DEFENDENTS IN THIS ACTION)

FILED  
SCRANTON

AUG 29 1989

DONALD R. BERRY

PER DB  
DEPUTY CLERK

I. PREVIOUS LAWSUITS

A. HAVE YOU BEGUN OTHER LAWSUITS IN STATE OR FEDERAL COURT  
DEALING WITH THE SAME FACTS INVOLVED IN THIS ACTION OR  
OTHERWISE RELATING TO YOUR IMPRISONMENT

YES X NO \_\_\_\_\_

.B. IF YOUR ANSWER IS YES ,DESCRIBE EACH LAWSUIT IN  
THE SPACE BELOW (IF THERE IS MORE THAN ONE LAWSUIT, DESCRIBE THE ADDITIONAL  
ON ANOTHER PICE OF PAPER, USING THE ABOVE OUTLINE

*Theodore SAVAGE Jr.*  
99 WATER STREET  
WILKES-BARRE, PENNSYLVANIA 18702

161

PARTIES TO THIS PREVIOUS LAWSUIT

PLAINTIFF Theodore Savage Jr.

DEFENDANT Allen Sinavage, Walter Sokolowski

2. COURT (IF FEDERAL COURT NAME THE DISTRICT, IF STATE COURT, NAME THE COUNTY)

Middle District Court of Pennsylvania

3. DOCKET NO. NUMBER UNKNOWN

4. NAME OF JUDGE TO WHOM CASE WAS ASSIGNED William W. Caldwell

5. DISPOSITION (FOR EXAMPLE WAS THE CASE DISMISSED? WAS IT APPEALED? IS IT PENDING) Dismissed

6. APPROXIMATE DATE OF FILING LAWSUIT UNKNOWN

7. APPROXIMATE DATE OF DISPOSITION UNKNOWN

.II PLACE OF PRESENT CONFINEMENT Luzerne County Prison

A. IS THERE A PRISONER GRIEVANCE PROCEDURE IN THIS INSTITUTION YES \_\_\_\_\_ NO X

B. DID YOU PRESENT THE FACTS RELATING TO YOUR COMPLAINT IN THE STATE GRIEVANCE PROCEDURE? YES \_\_\_\_\_ OR NO X

C. IF YOUR ANSWER IS YES

1. WHAT STEPS DID YOU TAKE NONE

2. WHAT WAS THE RESULTS? NONE

D. IF YOUR ANSWER IS NO, EXPLAIN WHY NOT No prisoner grievance procedure.

III. PARTIES.

(IN ITEMS A. BELOW, PLACE YOUR NAME IN THE FIRST BLANK & PLACE YOUR PRESENT ADDRESS IN THE SECOND BLANK DO THE SAME FOR ADDITIONAL PLAINTIFFS IF ANY

a. NAME OF PLAINTIFF Theodore SAVAGE Jr.  
ADDRESS 99 water st. Wilkes-Barre PA. 18702

(IN ITEM B BELOW, PLACE THE FULL NAME OF THE DEFENDANT IN THE FIRST BLANK HIS OFFICIAL POSITION THE SECOND BLANK HIS PLACE OF EMPLOYMENT IN THE THIRD BLANK USED ITEM C FOR THE NAMES OF ADDITIONAL DEFENDANTS

B. DEFENDANT Allyn SINCAUAGG IS  
EMPLOYED AS Warden AT  
Luzerne County Prison

C. ADDITIONAL DEFENDANTS Walter Sokolowski  
Deputy Warden, Richard Turner  
Sgt. Lewis Butwin, Correctional Officer

IV STATEMENT OF CLAIM

STATE HERE AS BRIEFLY AS POSSIBLE THE FACTS OF YOUR CASE DESCRIBE HOW EACH DEFENDANT IS INVOLVED INCLUDE ALSO THE NAMES OF OTHER PERSONS INVOLVED DATES PLACES DO NOT GIVE ANY INTENT TO ALLEGE A NUMBER OF RELATED CLAIMS, NUMBER SET FORTH EACH CLAIM IN A SEPARATE PARAGRAPH USE AS MUCH SPACE AS YOU NEED ATTACH EXTRA SHEET IF NECESSARY

~~\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_~~

ON  
Added  
Sheets

#### IV. Statement of Claims:

1) That the Plaintiff is an inmate of the 1st floor L-2 (Lucerne County Prison) I am in administrative lock up, The plaintiff takes his exercise up on the fifth floor yard, (2 hour per day)

2) That the Plaintiff Avers that if the weather is not permitting, that he is suppose to go to the gym.

3) That on or about August 19, 1989 at 6:50 pm the plaintiff was sent up to the fifth floor yard, at said time there was puddles in the yard also it was raining, I told the correctional officer in the booth to call down and let Sgt. Richard Turner know that it was raining out and that there where puddles in the yard, Correctional officer Lewis Butwin and Sgt Richard Turner said "it ain't nothen you only have an hour left".

4) At approx. 7:05 pm while playing Hand ball, I fell and sprained my ankle, all of which was because of the puddles and wet ground.

5) The plaintiff Avers that the following two inmate that were out in the yard at the

Statement of CLAIM cont. . .

time this incident occurred AND witnessed the fall, AND also requested along with me to go down the gym because of the weather.

They Are:

1) LEONARD SLAVINSKI

1st floor L-2 (L.C.P)

2) Christopher Tarmusick

1st floor L-2 (L.C.P)

I, ~~Theodore Savage~~ hereby verify that the facts set forth in this statement of claim are true and correct, and that any false statement is made subject to the penalties of Section 4904 of the PA. crimes code.

Respectfully Submitted,  
~~Theodore Savage~~

Signed on this 32<sup>nd</sup> day  
of August, 1989

~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~  
~~\_\_\_\_\_~~

V. RELIEF

STATE BRIEFLY EXACTLY WHAT YOU WANT THE COURT TO DO FOR YOU

MAKE NO LEGAL ARGUMENTS CITE NO CASES OR STATES

WHEREFORE: your plaintiff prays that  
your honorable court order the defendants  
to pay a sum of \$100,000 each AND or  
issue AN order upon the defendants,  
ordering them not to put us out in  
the yard when it is wet or hazardous,  
or AS your court deems just AND proper.

And the Plaintiff will  
ever pray etc...

(5)

SIGNED THIS twenty second DAY OF August 19 89

Theodore Savage Jr.  
SIGNATURE OF PLAINTIFF OR  
PLAINTIFFS

EXECUTED AT Luzerne County Prison W-B. Luzerne  
NAME OF INSTITUTION, CITY, COUNTY

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING  
IS TRUE & CORRECT

EXECUTED ON August 22, 1989  
(DATE)

Theodore Savage Jr.  
SIGNATURE OF PLAINTIFF OR  
PLAINTIFFS

# **EXHIBIT 4**

*n/c to pty*

①  
10/15/90  
KUB

**1983 FORM**

FORM TO BE USED BY PRISONERS IN FILING A COMPLAINT  
UNDER THE CIVIL RIGHTS ACT, 42 USC § 1983

Theodore SAVAGE,  
Respectively in his  
UNOFFICIAL CAPACITY,

In the United States District  
Court for the Middle  
District of Pennsylvania

**3: CV-90-1825**

(Enter above the full name of  
the plaintiff or plaintiffs in  
this action)

vs.

Walter Sakolowski,  
Respectively in his  
OFFICIAL CAPACITY,

**FILED  
SCRANTON**

OCT 15 1990

PER [Signature]  
DEPUTY CLERK

(Enter above the full name of  
the defendant or defendants  
in this action)

**I. Previous Lawsuits**

A. Have you begun other lawsuits in state or federal court  
dealing with the same facts involved in this action or  
otherwise relating to your imprisonment?  
Yes \_\_\_ No \_\_\_

B. If your answer to A. is yes, describe each lawsuit in  
the space below. (If there is more than one lawsuit,  
describe the additional lawsuits on another piece of  
paper, using the same outline).

1. Parties to this previous lawsuit

Plaintiffs: \_\_\_\_\_

\_\_\_\_\_

Defendants: \_\_\_\_\_

\_\_\_\_\_

2. Court (if federal court, name the district: if state court, name the county).

\_\_\_\_\_

3. Docket Number \_\_\_\_\_

4. Name of judge to whom case was assigned:

\_\_\_\_\_

5. Disposition (for example: was the case dismissed? Was it appealed? Is it still pending?) \_\_\_\_\_

6. Approximate date of filing lawsuit: \_\_\_\_\_

7. Approximate date of disposition: \_\_\_\_\_

II. Place of Present Confinement: LUZERNE COUNTY PRISON

A. Is there a prisoner grievance procedure in this institution? Yes \_\_\_ No

B. Did you present the facts relating to your complaint in the state prisoner grievance procedure? Yes \_\_\_ No

C. If your answer is YES:

1. What steps did you take? NONE

\_\_\_\_\_

2. What was the result? NONE

\_\_\_\_\_

D. If your answer is NO, explain why not: NO SUCH  
procedure here.

III. Parties

(In Item A below, place your name in the first blank and place your present address in the second blank. Do the same for additional plaintiffs, if any).

A. Name of plaintiff Theodore Savage  
Address 99 Water St. Wilkes-Barre, PA 18702

(In Item B below, place the full name of the defendant in the first blank, his official position in the second blank, and his place of employment in the third blank. Use item C for the names, positions, and places of employment of any additional defendants).

B. Defendant Walter Sokolowski is  
employed as WARDEN at  
LUZERNE COUNTY PRISON, 99 Water St. W-B, PA.

C. Additional Defendants: NONE.  
\_\_\_\_\_  
\_\_\_\_\_

IV. Statement of Claim:

State here as briefly as possible the facts of your case. Describe how each defendant is involved. Include also the names of other persons involved, dates and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. (Use as much space as you need. Attach extra sheet if necessary).

1.) That on July 16, 1990 the plaintiff filed a civil action with your Honorable Court against Frank Handley et al, which is filed to 3:CV-90-1336.

2.) That on Sept. 30, 1990, the plaintiff requested law books from the prison librarian, Jean Orloski, and...

V. RELIEF

State briefly exactly what you want the court to do for you.

Make no legal arguments. Cite no cases or statutes.

1.) Issue a temporary injunction upon the defendant until final disposition of this case, so that plaintiff has access to the prison law library, to pursue this action.

2.) Issue a permanent injunction upon the defendant, so that the plaintiff will have access to the library until released from custody.

3.) Put a stay on civil action NO. CV-90-1336 - Savage v. Handley et al, until final disposition of this case.

continued.

plaintiff's request was denied, Librarian Jean Oloski said that it's the warden's "Walter Sokolowski" ordered that I am not permitted law book until I pay for some law book I owe money for.

2) That plaintiff has not had access to the law library, or the contents of same ever since above said date.

4) That the plaintiff has a civil action pending before your Honorable Court Filed to 3:CV-90-1336, AND A recently filed Habeas Corpus captioned Savage v. Sokolowski AND without access to the law library he CANNOT pursue either action.

5) That the defendant is denying the plaintiff access to the court, AND plaintiff's right to petition the court for grievance guaranteed to plaintiff by U.S.C.A. CONST. Amend. 1, Also PA. CONST. Article 1, section 20.

6) Please find attached the rules out of the Luzerne County Correctional Facility hand book concerning law library procedures.

Signed this eighth day of October,  
19 90.

Theodore Savage

(Signature of plaintiff or  
plaintiffs)

Executed at L.C.C.F. W-B, PA.  
(Name of institution, city, county)

I declare under penalty of perjury that the  
foregoing is true and correct.

Executed on October 8, 1990.  
(Date)

Theodore Savage

(Signature of plaintiff or  
plaintiffs)

**LAW LIBRARY**

This institution provides a law library to ensure the right of an inmate to have access to the Courts. The facility acknowledges the right to prepare and file legal documents, interference or substantive review by prison staff. Each inmate who desires to utilize the library for self-help purposes must submit an inmate request form, prior to the request date, indicating scheduling. Law Library scheduling is normally based on the first come - first serve basis, however, emergency requests (i.e., when an inmate advises that a deadline must be met for filing a brief) may be given priority. Each inmate so requesting will be permitted to spend a minimum of one hour daily in the Law Library. A maximum of fifteen (15) persons are permitted into the Law Library at one time.

- 1) **LEGAL ASSISTANCE:** The right of access to the court allows an inmate to receive assistance in the preparing and filing of legal papers.
- 2) One inmate may assist another inmate (without charge) if such assistance does not interfere with normal facility operations. Inmates of different sex or under different security classifications are not permitted in the Law Library at the same time.
- 3) Legal pads, envelopes, etc., are available for purchase through the commissary. If an inmate is indigent (meeting the criteria and following the indigent process) he may qualify to receive paper, envelope, postage, carbon paper and pen free of charge, for filing legal documents.
- 4) All legal materials requiring notary service, stapling and post-conviction forms are made available to inmates via inmate request form submitted to the Administration Office at least 24 hours prior to notarization time. The effort will be made to provide service within 24 to 36 hours. Notary service will be provided on a daily basis from 9:00 A.M. to 9:45 A.M.
- 5) Carbon paper may be obtained via request form to the Deputy Warden.
- 6) Each inmate is responsible for the care of legal materials, with not publications to be removed from the Law Library, with the exception of those in classification, 3th floor and inmates housed in the R.M. unit of the institution, they are to submit requests to the Librarian as to what they need and the Librarian will supply what is needed. All items will be returned within 3 days unless they can show reason as to why they will need extra time. Any violation of the above statement will result in disciplinary action.
- 7) In matters involving Court stipulation agreements (i.e., cells access to the courts, access to Law Library, searches of cells) problems should be addressed to the Warden by inmate request form.
- 8) All inmates are subject to be searched upon entering or exiting the Law Library.

**VISITATION**

The value of frequent visitation with family and friends in sustaining family life and maintaining morale is recognized by the Facility. The number of visitors an inmate may receive and the length of the visits are limited only by schedules, available space and security requirements. Presently, an inmate may receive four 25 minute visits per week. ALL NON-CONTACT.

Anyone having relatives who live more than one hundred (100) miles away, may request a visit for 45 minutes after a request is given to the Administration.

~~\*VISITORS ARE SUBJECT TO SEARCH UPON HAVING REASONABLE CAUSE.~~

**GENERAL RULES GOVERNING VISITS**

- 1) **APPROVED VISITATION LIST:** A list of approved visitors shall be established during the initial commitment process and recorded on the inmate's visitation log (only those listed will be admitted). The basic list may contain a maximum of eight (8) names and the inmate is responsible to furnish the complete name, age, address and relationship of those listed. Minors under the age of 18 may visit when accompanied by a parent or legal guardian, and need not be placed on the visitation list. In the case of a spouse under the age of 18, verification of age and marriage will be required. Persons who have been incarcerated in the Luzerne County Correctional Facility during the previous 6 months normally will be denied visitation approval. (exception may be granted for immediate family/extraordinary circumstances. To seek approval submit a request form to the Deputy Warden.) Changes or additions to the visitation list may be made utilizing the inmate request form (marked visitation space). The name of a visitor may be removed for good cause; however, the inmate will be informed in writing of the decision and the reason such action was taken. The inmate shall have the opportunity to have such a decision reviewed by the Warden by submitting an inmate request form.
- 2) Visitors must produce two forms of identification proving age, proper address and must match the visitation list information.
- 3) Individuals found to be under the influence, disorderly or improperly dressed, will be denied entrance.
- 4) Children under the age of 18 may visit when accompanied by an parent or legal guardian and these visits shall not count against the inmate's visitation limit. However, not more than two (2) persons, including children may visit at one time.

**CHILDREN UNDER THE AGE OF FIVE (5) MAY VISIT TWICE MONTHLY ON THE FIRST AND LAST VISITING DAYS OF THE MONTH**

- 5) The parent or guardian is responsible for the conduct of the child while on institution property and failure to exercise control may result in termination of the visit and expulsion from facility property.
- 6) Any inmate violating visiting regulations is subject to suspension of visitation privileges.

# **EXHIBIT 5**

JAN 25 2006 08:08

P.03/07

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

EDWARD KAMEL ABRAHAM, JR.  
THEODORE KING SAVAGE, J.D.

CIVIL ACTION

FILED

v.

DAVID DIGUGLIELMO, et al.

NO. 06-0058

JAN 19 2006  
MICHAEL J. HUNT, CLERK  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

ORDER

AND NOW, this 19<sup>th</sup> day of January, 2006, in accordance with the accompanying memorandum, IT IS ORDERED that the motion for leave to proceed in forma pauperis, filed by Theodore King Savage, J.D., is DENIED pursuant to 28 U.S.C. § 1915(g).

BY THE COURT:

  
BRUCE W. KAUFFMAN, J.

1-20-06  
C. P. S.  
Aluckin  
Savage  
Hunt  
Stark

JAN 10 2007 00:10

P.07/07

(3)

*Kauffman*

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

FILE

EDWARD KAMEL ABRAHAM, JR.  
THEODORE KING SAVAGE, J.D.

CIVIL ACTION

JAN 10 2007

MICHAEL E. ...  
BY: *[Signature]*

v.

DAVID DIGUGLIEMO, et al.

NO. 06-0058

MEMORANDUM

KAUFFMAN, J.

JANUARY 19, 2006

Plaintiff, Theodore King Savage, J.D., an inmate, is seeking to bring a pro se 42 U.S.C. § 1983 civil rights action without prepayment of fees. He alleges that he going to be transferred from S.C.I. Graterford to S.C.I. Cresson in retaliation for litigation that he has filed in this court. He also alleges that he has been denied the right to purchase magazines and newspapers because he is in the restricted housing unit.

Pursuant to 28 U.S.C. § 1915(g), a prisoner who on three or more prior occasions while incarcerated has filed an action in a federal court that was dismissed as frivolous, malicious, or for failure to state a claim upon which relief may be granted, must be denied in forma pauperis status unless he is in imminent danger of serious physical injury at the time that the complaint is filed. Abdul-Akbar v. McCalvie, 239 F.3d 307 (3d Cir.), cert. denied, 533 U.S. 953 (2001).

Plaintiff, Theodore King Savage, J.D. has, prior to the instant action, filed four civil actions in the United States District Court for the Middle District of Pennsylvania which were

JAN-25-2001 00:08

dismissed as frivolous.<sup>1</sup> Furthermore, nothing in this complaint suggests that he is in imminent danger of serious physical injury. Accordingly, the motion to proceed in forma pauperis, filed by plaintiff Theodore King Savage, J.D., will be denied.

---

<sup>1</sup> The four civil actions filed by plaintiff, Theodore King Savage, J.D., were as follows: 1) Civil Action No. 94-0249 was dismissed as frivolous by order filed April 6, 1994; 2) Civil Action No. 90-1825 was dismissed as frivolous by order filed November 6, 1990; 3) Civil Action No. 89-1391 was dismissed as frivolous by order filed October 24, 1989, and 4) Civil Action No. 89-1244 was dismissed as frivolous by order filed September 26, 1989.

**EXHIBIT 6**

JAN-25-2006 00:09

P.04/87

*Handwritten:* KAUFFMAN

IN The United States  
District Court For The Eastern District  
Of PENNSYLVANIA

Edward K. Abraham  
et. al. Plaintiff  
vs.  
David DiBuglielmo  
Defendants

FILED

JAN 26 2006  
MICHAEL KUNZ, Clerk  
By

No. 06-0058

5

(KAUFFMAN, J.)

RECEIVED  
JAN 26 2006

MOTION FOR RECONSIDERATION

NOW COMES, Theodore King  
SAVAGE, J.D. and he moves this  
Court for reconsideration of  
his Motion to Proceed In  
Forma Pauperis, and he avers  
as follows:

1. By order of this Court  
dated JANUARY 19, 2006, it  
denied plaintiff Theodore King  
SAVAGE, J.D. Motion to proceed  
in forma pauperis indicating  
he filed (4) four civil  
actions in the Middle District  
Court that were dismissed  
as frivolous.

2. That Plaintiff Theodore King  
SAVAGE, J.D. has never filed  
any civil actions in the  
Middle District Court, and such  
must be mistaken, and in-  
correct.

(1)

JAN-20-2001 10:14

3. That Plaintiff Theodore King Savage, J.D. has never filed any civil actions that were dismissed as frivolous as stated by this court in its JANUARY 19, 2006 Memorandum.

4. That as a matter for further review this matter, plaintiff Theodore King Savage, J.D. provides this court the following personal information

SSN: 193-30-3122  
DOB: 3-7-40

WHEREFORE, Plaintiff SAVAGE pray, this Court reconsider its JANUARY 19, 2006 Order, and grant him leave to proceed in forma pauperis in this action.

~~I declare under~~  
perjury the facts herein are true and correct.

Respectfully submitted  
~~Theodore King Savage~~

DATE: 1-25-06

Theodore King Savage  
SCT-Graterford #CB-2674  
Box 244 Rt. 29  
Graterford, Pa 19426

cc: Hon. Jame T. Giles

(2)

**EXHIBIT 7**

P. 05/07

JMT:KJ:2006 02/16/07

*Bank*

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

13

EDWARD KAMEL ABRAHAM, JR.  
THEODORE KING SAVAGE, J.D.

CIVIL ACTION

v.

DAVID DIGUGLIEMMO, et al.

NO. 06-0058

ORDER

FILED

MAR 15 2006

MICHAEL E. KUNZ, Clerk  
By *[Signature]* Dep. Clerk

AND NOW, this *14th* day of March, 2006, upon consideration of the Motion For Reconsideration (Document No. 5) filed by plaintiff, Theodore King Savage, J.D., in which he states that he has never filed any civil actions in the United States District Court for the Middle District of Pennsylvania and that his date of birth is March 7, 1940, IT IS HEREBY ORDERED that plaintiff's request for reconsideration is DENIED because several of the dockets from the United States District Court for the Middle District of Pennsylvania for civil actions filed by Theodore Savage have an inmate number listed as CB2674, which is the inmate number that plaintiff is using in the instant case, and furthermore the Inmate Locator database on the website for the Pennsylvania Department of Corrections indicates that Theodore Savage, CB2674, was committed from Luzerne County and was born on February 16, 1968.

BY THE COURT:

*[Signature]*  
BRUCE W. KAUFFMAN, J.

*3-16-06  
C.B. Digugliemmo  
Theodore King Savage*