

**U.S. District Court
Southern District of Florida (Miami)
CIVIL DOCKET FOR CASE #: 1:11-cv-23821-KLR**

Thomas v. Shoney et al
Assigned to: Senior Judge Kenneth L. Ryskamp
Referred to: Magistrate Judge Patrick A. White
Cause: 42:1983 State Prisoner Civil Rights

Date Filed: 10/24/2011
Jury Demand: Defendant
Nature of Suit: 550 Prisoner: Civil Rights
Jurisdiction: Federal Question

Plaintiff

Permon Thomas
Prisoner ID: 425550

represented by **Permon Thomas**
425550
Charlotte Corrections Institution
33123 Oilwell Road
Punta Gorda, FL 33955
PRO SE

V.

Defendant

Ass. Warden Shoney
official and individual

Defendant

Evelyn Garst
*Correctional Service Administrator,
official and individual
TERMINATED: 02/14/2012*

Defendant

Warden William Churchwell
*Dade Correctional Facility
official and individual
TERMINATED: 02/14/2012*

Defendant

Officer Tate
Classification, official & individual

represented by **Kathleen Mary Savor**
Office of the Attorney General
110 SE 6 Street
10th Floor
Fort Lauderdale, FL 33301
(954) 712-4600
Fax: (954) 712-4700
Email: kathleen.savor@myfloridalegal.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Javier Rivera
*Head of Classification, official and
individual*

represented by **Kathleen Mary Savor**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

Captain Urbina
official and individual

Defendant

Regional Director Marta Villacorta*official and individual*

TERMINATED: 02/14/2012

Defendant**John Doe #1-4***official and individual*

Date Filed	#	Docket Text
10/24/2011	<u>1</u>	COMPLAINT under the Civil Rights Act, 42 U.S.C. § 1983 against All Defendants. Filing fee \$ 350.00 (FEE NOT PAID), filed by Permon Thomas. (Attachments: # <u>1</u> Summon(s))(ar2) (Entered: 10/24/2011)
10/24/2011	<u>2</u>	Judge Assignment to Judge Patricia A. Seitz (ar2) (Entered: 10/24/2011)
10/24/2011	<u>3</u>	Clerks Notice of Magistrate Judge Assignment to Magistrate Judge Patrick A. White. Pursuant to Administrative Order 2003-19 for a ruling on all pre-trial, non-dispositive matters and for a Report and Recommendation on any dispositive matters. (ar2) (Entered: 10/24/2011)
10/26/2011	<u>4</u>	MOTION for Leave to Proceed in forma pauperis by Permon Thomas. (ar2) (Entered: 10/26/2011)
10/26/2011	<u>5</u>	AFFIDAVIT of Indigency Re. <u>4</u> MOTION for Leave to Proceed in forma pauperis filed by Permon Thomas. (ar2) (Entered: 10/26/2011)
10/27/2011	<u>6</u>	ORDER PERMITTING PLAINTIFF TO PROCEED WITHOUT PREPAYMENT OF FILING FEE BUT ESTABLISHING DEBT TO CLERK OF \$350.00 and Granting <u>4</u> Motion for Leave to Proceed in forma pauperis. Signed by Magistrate Judge Patrick A. White on 10/26/2011. (tw) (Entered: 10/27/2011)
10/27/2011	<u>7</u>	ORDER OF INSTRUCTIONS TO PRO SE CIVIL RIGHTS LITIGANTS. Signed by Magistrate Judge Patrick A. White on 10/26/2011. (tw) (Entered: 10/27/2011)
11/22/2011	<u>8</u>	ORDER RE SERVICE OF PROCESS REQUIRING PERSONAL SERVICE UPON AND INDIVIDUAL. The United States Marshal shall serve a copy of the complaint and appropriate summons upon: Classification Officer Tate, South Florida Reception Center, (South Unit), 13910 N.W. 41 Street, Doral, FL 33178-3014 or South Florida Reception Center (Male), 14000 N.W. 41 Street, Doral, FL 33178-3003, Mr. Javier Rivera, Head of Classification, Dade Correctional Institution, 19000 S.W. 377th Street, Florida City, FL 33034-6499 and Captain Urbina, Dade Correctional Institution, 19000 S.W. 377th Street, Florida City, FL 33034-6499. Signed by Magistrate Judge Patrick A. White on 11/22/2011. (tw) (Entered: 11/22/2011)
11/22/2011	<u>9</u>	REPORT AND RECOMMENDATIONS on 42 USC 1983 case re <u>1</u> Complaint filed by Permon Thomas. Recommending 1. The claim of denial of adequate medical treatment shall proceed against Tate, Rivera, Urbina and Warden Shoney. 2. The plaintiff must provide a specific address for Warden Shoney or he shall be dismissed. 3. The plaintiff may file an amended complaint naming specific John Does, their addresses and each defendants actions which violated the plaintiff's constitutional rights. 4. The case shall be dismissed against Defendants Warden Churchwell, Evelyn Garst, and Marta Villacorta for failing to state a claim against these defendants. Objections to RR due by 12/9/2011. Signed by Magistrate Judge Patrick A. White on 11/22/2011. (tw) (Entered: 11/22/2011)
11/23/2011	<u>10</u>	Summons Issued as to Javier Rivera. (br) (Entered: 11/23/2011)
11/23/2011	<u>11</u>	Summons Issued as to Tate. (br) (Entered: 11/23/2011)
11/23/2011	<u>12</u>	Summons Issued as to Urbina. (br) (Entered: 11/23/2011)
12/09/2011	<u>13</u>	MOTION for Extension of Time to File Objections as to <u>9</u> REPORT AND RECOMMENDATIONS on 42 USC 1983 case re <u>1</u> Complaint by Permon Thomas. (ar2) (Entered: 12/09/2011)

12/12/2011	<u>14</u>	ORDER Granting Motion to Extend Deadline; re <u>13</u> Motion for Extension of Time to File Response/Reply. Objections to Report and Recommendation due 12/26/11. Signed by Judge Patricia A. Seitz on 12/12/2011. (asl) (Entered: 12/12/2011)
12/12/2011		Set/Reset Deadlines per <u>14</u> Order as to <u>9</u> REPORT AND RECOMMENDATIONS on 42 USC 1983 case re <u>1</u> Complaint filed by Permon Thomas. Objections to RRdue by 12/26/2011 (asl) (Entered: 12/12/2011)
12/22/2011	<u>15</u>	OBJECTIONS to <u>9</u> Report and Recommendations by Permon Thomas. (ar2) (Entered: 12/23/2011)
12/30/2011	<u>16</u>	SUMMONS (Affidavit) Returned Executed on <u>1</u> Complaint Classification Officer Tate served on 12/1/2011, answer due 12/22/2011. (yha) Modified text on 2/3/2012 (ar2). (Entered: 12/30/2011)
01/23/2012	<u>17</u>	MOTION for Order Compelling <i>Florida Department of Corrections and Alexander Walters, Deputy General Counsel for F.D.O.C. to Produce the Last Known Addresses for Defendant's Ass. Warden Shoney, Classification Supervisor Javier Rivera, and Assistant Warden Tate</i> by Permon Thomas. Responses due by 2/9/2012 (ar2) (Entered: 01/24/2012)
01/26/2012	<u>18</u>	ORDER denying <u>17</u> Motion to Compel, discovery motions are to be made directly to parties and if the requests are made to non parties the plaintiff must obtain and pay for service of subpoenas.. Signed by Magistrate Judge Patrick A. White on 1/26/2012. (cz) (Entered: 01/26/2012)
02/03/2012	<u>19</u>	MOTION for Clerks Entry of Default as to Tate by Permon Thomas. (jua) (Entered: 02/06/2012)
02/03/2012	<u>20</u>	AFFIDAVIT re <u>19</u> MOTION for Clerks Entry of Default as to Tate filed by Permon Thomas. (jua) (Entered: 02/06/2012)
02/03/2012	<u>21</u>	MOTION for Clerks Entry of Default as to Javier Rivera, Urbina by Permon Thomas. (jua) (Entered: 02/06/2012)
02/03/2012	<u>22</u>	AFFIDAVIT re <u>21</u> MOTION for Clerks Entry of Default as to Javier Rivera, Urbina filed by Permon Thomas. (jua) (Entered: 02/06/2012)
02/06/2012	<u>23</u>	ORDER by Clerk of Entry of Default re <u>19</u> Motion for Clerks Entry of Default as to Tate. Signed by DEPUTY CLERK on 2/6/2012. (jua) (Entered: 02/06/2012)
02/06/2012	<u>24</u>	ORDER by Clerk of Non-Entry of Default re <u>21</u> Motion for Clerks Entry of Default as to Javier Rivera, Urbina. Reason: Summons (Affidavit) Returned Executed OR Waiver of Service Executed – has NOT been entered on docket. Signed by DEPUTY CLERK on 12/6/2012. (jua) (Entered: 02/06/2012)
02/07/2012	<u>25</u>	ORDER TRANSFERRING CASE to the Honorable Kenneth L. Ryskamp for all further proceedings, accepted and signed on 2/7/12. Judge Patricia A. Seitz no longer assigned to case. Signed by Judge Patricia A. Seitz on 2/7/2012. (asl) (Entered: 02/08/2012)
02/14/2012	<u>26</u>	ORDER Adopting Report and Recommendations of Magistrate Judge; re <u>9</u> Report and Recommendations. Plaintiff's Claims against defendants Warden Churchwell, Evelyn Garst, and Marta Villacorta are dismissed for failure to state a claim. Signed by Senior Judge Kenneth L. Ryskamp on 2/14/2012. (asl) (Entered: 02/14/2012)
02/22/2012	<u>27</u>	MOTION For The Court To Issue an Order Requiring <i>Reply to the Plaintiff's Civil Rights Complaint</i> with attached exhibits by Permon Thomas. Responses due by 3/12/2012 (cqs) (Entered: 02/23/2012)
02/22/2012	<u>28</u>	MEMORANDUM Of Law in Support re <u>27</u> MOTION to Compel <i>Reply to the Plaintiff's civil rights complaint</i> by Permon Thomas. (cqs) (Entered: 02/23/2012)
02/22/2012	<u>29</u>	MOTION for Telephonic Hearing re <u>27</u> MOTION to Compel <i>Reply to the Plaintiff's civil rights complaint</i> by Permon Thomas. (cqs) (Entered: 02/23/2012)
03/08/2012	<u>30</u>	SUMMONS (Affidavit) Returned Executed on <u>1</u> Complaint Javier Rivera served on 3/5/2012, answer due 3/26/2012. (jua) (Entered: 03/08/2012)

03/08/2012	<u>31</u>	MOTION for Default Judgment by Permon Thomas. (jua) (Entered: 03/08/2012)
03/08/2012	<u>32</u>	MOTION for Telephonic Hearing re <u>31</u> MOTION for Default Judgment by Permon Thomas. (jua) (Entered: 03/08/2012)
03/08/2012	<u>33</u>	DECLARATION of Military Service by Permon Thomas (jua) (Entered: 03/08/2012)
03/14/2012	<u>34</u>	MOTION to Issue an Order to the United States Marshall to Comply with the Court's 11/22/11 Order to Make Substituted Service Upon a Ranking Officer and to File with the Clerk of the Court and Plaintiff the Marshall's Remarks on the Process Receipt and Return Explaining the Reasons that Urbina and Rivera Could not be Personally Served re <u>8</u> ORDER RE SERVICE OF PROCESS REQUIRING PERSONAL SERVICE UPON AND INDIVIDUAL, by Permon Thomas. (jua) (Entered: 03/15/2012)
03/14/2012	<u>35</u>	MOTION to Voluntarily Dismiss <u>31</u> MOTION for Default Judgment, <u>32</u> MOTION for Telephonic Hearing re <u>31</u> MOTION for Default Judgment, by Permon Thomas. Responses due by 4/2/2012 (jua) (Entered: 03/15/2012)
03/20/2012	36	ORDER granting <u>35</u> Motion to Dismiss his motions for default and telphonic hearing. (DE#s 31 and 32).. Signed by Magistrate Judge Patrick A. White on 3/20/2012. (cz) (Entered: 03/20/2012)
03/20/2012	37	ORDER denying as moot <u>31</u> Motion for Default Judgment; denying as moot <u>32</u> Motion for Hearing, the plaintiff hs voluntarily dismissed these motions.. Signed by Magistrate Judge Patrick A. White on 3/20/2012. (cz) (Entered: 03/20/2012)
03/20/2012	<u>38</u>	ORDER TO MARSHAL 1. Provide a return of service for Defendant Urbina. 2. Provide clarification as to whether defendant Rivera was personally served despite the fact that his employment was terminated two years ago. 3. Upon receipt of information from the Marshall a determination of whether default should be applied against these two remaining defendants. 4. The motion for Court Order (DE#27) has been granted to the extent explained above. 5. The motion for telephonic hearing (DE#29) is denied. Signed by Magistrate Judge Patrick A. White on 3/20/2012. (tw) (Entered: 03/20/2012)
03/21/2012	<u>39</u>	ANSWER and Affirmative Defenses to Complaint with Jury Demand by Javier Rivera, Tate.(Savor, Kathleen) (Entered: 03/21/2012)