

**U.S. District Court
Southern District of Florida (West Palm Beach)
CIVIL DOCKET FOR CASE #: 9:20-cv-81071-RAR**

Ham v. Inch et al

Assigned to: Judge Rodolfo A. Ruiz, II

Referred to: Magistrate Judge Alicia O. Valle (Settlement) Cause: 42:1983 State Prisoner Civil Rights

Date Filed: 07/07/2020

Jury Demand: Plaintiff

Nature of Suit: 550 Prisoner: Civil Rights

Jurisdiction: Federal Question

Plaintiff

Ottis Lee Ham

represented by **Ottis Lee Ham**

X31911

Avon Park Correctional Institution

Inmate Mail/Parcels

8100 Highway 64 East

Avon Park, FL 33825

PRO SE

V.

Defendant

Mark S. Inch

Secretary D.O.C.

TERMINATED: 01/20/2021

Defendant

SGT. Salmon

TERMINATED: 09/01/2020

Defendant

Francisco Acosta

Warden, Department of Corrections

TERMINATED: 09/01/2020

Defendant

Claude Maye

Warden, Department of Corrections

TERMINATED: 09/01/2020

Defendant

A. Johnson

*Grievance Coordinator, Department
of Corrections*

TERMINATED: 09/01/2020

Defendant

Captain John Doe #1

Captain, Department of Corrections

TERMINATED: 09/01/2020

Defendant

Sargeant John Doe #2

Sargeant John Doe #2

TERMINATED: 09/01/2020

Defendant

Sargeant John Doe #3

Sargeant, Department of Corrections

TERMINATED: 09/01/2020

Defendant

Officer John Doe #4

Officer, Department of Corrections

TERMINATED: 09/01/2020

Defendant

E. Adderly

*Grievance Coordinator, Department
of Corrections*

TERMINATED: 09/01/2020

Defendant

J. Heller

*Medical Doctor, Department of
Corrections*

TERMINATED: 09/01/2020

Defendant

Leroy Adams

*Medical Doctor, Lakeside Medical
Center, official capacity*

TERMINATED: 01/20/2021

Defendant

Sergeant Joseph Salmon
*Florida Department of Corrections, in
his individual and official capacities*

represented by **Louis Jean-Baptiste , Jr.**
Law Offices of Stephen G. Webster
610 N. Duval St.
Tallahassee, FL 32310
8505977142
Fax: 8502242283
Email: lb@swebsterlaw.net
LEAD ATTORNEY

Defendant

Sergeant John Doe
*Florida Department of Corrections, in
his individual and official capacities*
TERMINATED: 01/20/2021

Date Filed	#	Docket Text
08/04/2021	43	ORDER TO MAKE PLAINTIFF-INMATE AVAILABLE BY TELEPHONE. Signed by Magistrate Judge Alicia O. Valle on 8/4/2021. <i>See attached document for full details.</i> (dpr) (Entered: 08/04/2021)
08/04/2021	42	ORDER SETTING TELEPHONIC SETTLEMENT CONFERENCE. Settlement Conference set for 10/6/2021 at 10:00 AM in the Fort Lauderdale Division before Magistrate Judge Alicia O. Valle. Signed by Magistrate Judge Alicia O. Valle on 8/4/2021. <i>See attached document for full details.</i> (dpr) (Entered: 08/04/2021)
08/03/2021	41	REFERRAL FOR SETTLEMENT CONFERENCE. THIS MATTER is REFERRED for purposes of a settlement conference before Magistrate Judge Alicia O. Valle, to occur on or before September 30, 2021. Signed by Judge Rodolfo A. Ruiz, II on 8/3/2021. <i>See attached document for full details.</i> (daa) (Entered: 08/03/2021)
08/03/2021	40	SCHEDULING ORDER: Trial set for 10/12/2021 in Fort Lauderdale Division before Judge Rodolfo A. Ruiz II. Calendar Call set for 10/5/2021 at 9:00 AM in Fort Lauderdale Division before Judge Rodolfo A. Ruiz II. Amended Pleadings due by 8/23/2021. Discovery due by 9/9/2021. Joinder of Parties due by 8/23/2021. In Limine Motions due by 9/1/2021. Dispositive Motions due by 9/26/2021. Pretrial Stipulation due by 9/6/2021. Signed by Judge Rodolfo A. Ruiz, II on 8/3/2021. <i>See attached document for full details.</i> (ail) Pattern Jury Instruction Builder - To access the latest, up to date changes to the 11th Circuit Pattern Jury Instructions go to <u>https://pji.ca11.uscourts.gov</u> or <u>click here.</u> (Entered: 08/03/2021)

06/18/2021	39	ANSWER and Affirmative Defenses to Complaint by Joseph Salmon. Attorney Louis Jean-Baptiste, Jr added to party Joseph Salmon(pty:dft). (Jean-Baptiste, Louis) (Entered: 06/18/2021)
04/20/2021	38	SUMMONS (Affidavit) Returned Executed on 22 Complaint 42 USC 1983 or Bivens with a 21 day response/answer filing deadline pursuant to Fed. R. Civ. P. 12 Joseph Salmon served on 4/9/2021, answer due 4/30/2021. (dj) (Entered: 04/21/2021)
04/13/2021	37	NOTICE of Change of Address by Ottis Lee Ham (address previously updated, nothing mailed out) (ail) (Entered: 04/13/2021)
03/30/2021	36	NOTICE of Change of Address by Ottis Lee Ham (address updated) (ail) (Entered: 03/30/2021)
03/22/2021	35	NOTICE by Mark S. Inch . Attorney Mike Joseph Gordon added to party Mark S. Inch(pty:dft). (Gordon, Mike) (Entered: 03/22/2021)
03/16/2021	34	NOTICE of Change of Address by Ottis Lee Ham (Address Updated) (amb) (Entered: 03/16/2021)
03/12/2021	33	Summons (Affidavit) Returned Unexecuted as to SGT. Salmon. (amb) (Entered: 03/12/2021)
03/10/2021	32	CLERK'S NOTICE of compliance re 31 Order redirecting service. Copy of order forwarded by email to Alexandria E. Williams, Attorney Supervisor for the FDOC, Office of General Counsel as instructed. (daa) (Entered: 03/10/2021)
03/09/2021	31	ORDER REDIRECTING SERVICE. The Clerk's Office is INSTRUCTED to forward, by email, to Alexandria E. Williams, Attorney Supervisor for the FDOC, Office of General Counsel at alexandria.williams@fdc.myflorida.com, a copy of this Order. Ms. Williams SHALL, by March 30, 2021, either: (1) inform the U.S. Marshal and the Court in confidence and under seal of the last known address for Defendant Salmon; (2) make an appearance on behalf of Defendant Salmon; or (3) advise the Court that neither alternative is possible. If the last known address of Defendant Salmon is provided directly to the U.S. Marshal, Ms. Williams shall file a notice with the Court stating that she has done so. Ms. Williams must also forward to the U.S. Marshal a copy of such notice. Signed by Judge Rodolfo A. Ruiz, II on 3/9/2021. <i>See attached document for full details.</i> (daa) (Entered: 03/10/2021)
02/23/2021	30	Summons (Affidavit) Returned Unexecuted as to SGT. Joseph Salmon. (amb) (Entered: 02/24/2021)
02/17/2021	29	Summons (Affidavit) Returned Unexecuted as to SGT. Joseph Salmon. (amb) (Entered: 02/18/2021)

01/21/2021	28	Summons Issued as to Sergeant Joseph Salmon. (daa) (Entered: 01/21/2021)
01/20/2021	27	PAPERLESS ORDER instructing the USMS to serve Sergeant Joseph Salmon on Plaintiff's behalf with the service packet prepared by the Clerk's Office. Signed by Judge Rodolfo A. Ruiz, II (bca) (Entered: 01/20/2021)
01/20/2021	26	ORDER SCREENING SECOND AMENDED COMPLAINT. The Second Amended Complaint [ECF No. 22] shall PROCEED IN PART and be DISMISSED IN PART so that only the excessive force claim and deliberate indifference to serious medical needs claim against Sergeant Salmon, in his individual capacity, shall PROCEED. All other claims are hereby DISMISSED. The Clerk of Court is INSTRUCTED to serve Sergeant Salmon on Plaintiffs behalf. With the exception of Sergeant Salmon, all other Defendants are TERMINATED. Signed by Judge Rodolfo A. Ruiz, II on 1/20/2021. <i>See attached document for full details.</i> (daa) (Entered: 01/20/2021)
01/20/2021	25	PAPERLESS ORDER granting Motion for Leave to Proceed in forma pauperis ("IFP") and therefore reinstating Plaintiff's IFP status. A Magistrate Judge previously granted Plaintiff IFP status. [ECF No. 11]. However, because Plaintiff did not attach an inmate account statement, as required by 28 U.S.C. § 1915(a), the Court vacated the Magistrate Judge's order granting Plaintiff IFP status. [ECF No. 19]. Diligently, Plaintiff provided his inmate account statement, see [ECF No. [24-1]], meaning the prematurely granted Motion for Leave to Proceed IFP is now properly GRANTED. See [ECF No. 3]. Signed by Judge Rodolfo A. Ruiz, II (bca) (Entered: 01/20/2021)
10/28/2020	24	Prisoner Consent Form and Financial Certificate by Ottis Lee Ham (Attachments: # 1 Trust and Account Statement)(ail) (Entered: 10/28/2020)
10/14/2020	22	AMENDED Complaint pursuant to 42 USC 1983 against Leroy Adams, John Doe, Mark S. Inch, Joseph Salmon, filed by Ottis Lee Ham.(ail)Text Modified on 10/14/2020 (ail). (Entered: 10/14/2020)
10/13/2020	23	NOTICE of Filing Proposed Summons(es) by Francisco Acosta, Leroy Adams, Mark S. Inch, Joseph Salmon, Sgt. Thompson/Thomas. (amb) (Entered: 10/14/2020)
10/13/2020	21	PAPERLESS ORDER granting 18 Motion for Leave to Amend. Plaintiff need not refile the amended complaint. The Clerk is hereby directed to docket a copy of the proposed amended complaint separately from the motion. Signed by Judge Rodolfo A. Ruiz, II (bca) (Entered: 10/13/2020)
10/13/2020	20	PAPERLESS ORDER striking 15 "Amended Notice of Intent to Sue." Liberally construed, the instant filing is an amended complaint. [ECF No. 15]. Fed. R. Civ. P. 15(a), however, requires a plaintiff to seek leave of

		<p>court before filing an amended complaint if they have already filed one as a matter of course. Plaintiff previously filed an amended complaint. [ECF No. 14]. The instant filing is therefore an unauthorized filing. Despite his pro se status, Plaintiff must comply with procedural rules. See <i>Loren v. Sasser</i>, 309 F.3d 1296, 1304 (11th Cir. 2002) ("Despite construction leniency afforded pro se litigants, we nevertheless have required them to conform to procedural rules."). Accordingly, the "Amended Notice of Intent to Sue" is hereby STRICKEN for failure to comply with procedural rules. Signed by Judge Rodolfo A. Ruiz, II (bca) (Entered: 10/13/2020)</p>
10/13/2020	19	<p>PAPERLESS ORDER vacating 11 Order granting Motion for Leave to Proceed in forma pauperis (IFP); denying without prejudice 3 Motion for Leave to Proceed IFP; and revoking IFP status. By its own plain terms, the Order at issue acknowledged that, before granting IFP status for a prisoner-plaintiff, prisoner-plaintiffs must provide an inmate account statement reflecting the last 6 months of transactions within their institution. See [ECF No. 11] at 2. Plaintiff never provided that necessary information. In fact, Plaintiff had notice of this requirement when he filed his Motion. See [ECF No. 3] at 1. Thus, the Order at issue prematurely granted IFP status. Accordingly, the Magistrate Judge's 11 Order granting Motion for Leave to Proceed IFP is VACATED; Plaintiff's Motion for Leave to Proceed IFP is DENIED without prejudice; and IFP status is hereby REVOKED. Plaintiff must provide an inmate account statement reflecting the last 6 months of transactions within his institution by November 10, 2020. Plaintiff is warned that the Court shall only accept the inmate account statement if it has been mailed and docketed by that date. Plaintiff is therefore warned that he must mail the requisite information with sufficient time for it to be received by mail and docketed by that date. Failure to provide the inmate account statement in accordance with this Order will result in dismissal of this case for failure to comply with Court orders. Signed by Judge Rodolfo A. Ruiz, II (bca) (Entered: 10/13/2020)</p>
10/08/2020	18	<p>PLAINTIFF'S MOTION FOR LEAVE TO AMEND COMPLAINT by Ottis Lee Ham. Responses due by 10/22/2020 (Attachments: # 1 Complaint & Exhibits)(amb) (Entered: 10/08/2020)</p>
10/01/2020	17	<p>Reassignment of Paired Magistrate Judge, pursuant to pro se magistrate repairing, to Magistrate Judge Alicia O. Valle. Magistrate Judge Lisette M. Reid no longer assigned to case. (yar) (Entered: 10/01/2020)</p>
10/01/2020	16	<p>Reassignment of Paired Magistrate Judge, pursuant to pro se magistrate repairing, to Magistrate Judge Alicia O. Valle. Magistrate Judge Lisette M. Reid no longer assigned to case. (yar) (Entered: 10/01/2020)</p>
09/09/2020	15	<p>**STRICKEN**AMENDED NOTICE OF INTENT TO SUE by Ottis Lee Ham (amb) Text Modified on 10/14/2020 (ail). (Entered: 09/09/2020)</p>

09/01/2020	14	AMENDED COMPLAINT against Leroy Adams, Mark S. Inch, Joseph Salmon, John Doe filed in response to Order Granting Motion for Leave (PER ECF D.E. 13 ORDER), filed by Ottis Lee Ham. (Attachments: # 1 Exhibits A-D) (daa) (Entered: 09/01/2020)
09/01/2020	13	PAPERLESS ORDER granting Plaintiff's 12 Motion to Amend the Complaint. Plaintiff's proposed Amendment attached to his motion shall become the operative complaint in this action, and will be screened in turn. Plaintiff need not refile the amended complaint. The Clerk is hereby directed to cause a copy of the proposed amended complaint to be docketed separately from the motion. Signed by Magistrate Judge Lisette M. Reid on 9/1/2020. (nn) (Entered: 09/01/2020)
08/31/2020	12	MOTION for Leave to Amend 1 Complaint, by Ottis Lee Ham. Responses due by 9/14/2020 (Attachments: # 1 Amended Complaint, # 2 Exhibit)(kpe) (Entered: 09/01/2020)
07/10/2020	11	**VACATED** ORDER granting 3 Motion for Leave to Proceed in forma pauperis to the extent that the plaintiff need not prepay even a partial filing fee in this case, or to prepay costs such as for service of process. Plaintiff owes the United States a debt of \$350.00 which must be paid to the Clerk of the Court as funds become available. USM Service NOT Ordered. Signed by Magistrate Judge Lisette M. Reid on 7/9/2020. <i>See attached document for full details.</i> (br) Modified on 10/14/2020 per DE 19 ORDER(ail). (Entered: 07/10/2020)
07/10/2020	10	ORDER denying 5 Motion to Appoint Counsel. Signed by Magistrate Judge Lisette M. Reid on 7/9/2020. <i>See attached document for full details.</i> (br) (Entered: 07/10/2020)
07/10/2020	9	ORDER OF INSTRUCTIONS TO PRO SE CIVIL RIGHTS LITIGANTS. Signed by Magistrate Judge Lisette M. Reid on 7/9/2020. <i>See attached document for full details.</i> (br) (Entered: 07/10/2020)
07/07/2020	8	Prisoner Consent Form and Financial Certificate by Ottis Lee Ham. (drz) (Entered: 07/08/2020)
07/07/2020	7	Declaration in Support re 5 MOTION to Appoint Counsel filed by Ottis Lee Ham. (drz) (Entered: 07/08/2020)
07/07/2020	6	MEMORANDUM of Law in Support of re 5 MOTION to Appoint Counsel by Ottis Lee Ham. (drz) (Entered: 07/08/2020)
07/07/2020	5	MOTION to Appoint Counsel by Ottis Lee Ham. Responses due by 7/21/2020 (drz) (Entered: 07/08/2020)
07/07/2020	4	NOTICE of Change of Address by Ottis Lee Ham (Address Updated in CM/ECF). (drz) (Entered: 07/08/2020)

07/07/2020	<u>3</u>	MOTION for Leave to Proceed in forma pauperis by Ottis Lee Ham. (drz) (Entered: 07/08/2020)
07/07/2020	2	<p>Clerks Notice of Judge Assignment to Judge Rodolfo A. Ruiz, II and Magistrate Judge Lisette M. Reid.</p> <p>Pursuant to Administrative Order 2019-2, this matter is referred to the Magistrate Judge for a ruling on all pre-trial, non-dispositive matters and for a Report and Recommendation on any dispositive matters. (drz) (Entered: 07/08/2020)</p>
07/07/2020	<u>1</u>	Complaint pursuant to 42 USC 1983 against Francisco Acosta, Leroy Adams, E. Adderly, Captain John Doe #1, J. Heller, Mark S. Inch, A. Johnson, Claude Maye, Officer John Doe #4, SGT. Salmon, Sargeant John Doe #2, Sargeant John Doe #3. Filing fee \$ 400.00. IFP Filed, filed by Ottis Lee Ham.(drz) (Entered: 07/08/2020)