

Daniel Masterson

H-22514 C4-110-L

California State Prison - Los Angeles County
44750 60th Street West / P.O. Box 4610
Lancaster, California. 93536-7620

May 20, 2012

Paul Wright, Editor
Prison Legal News
P.O. Box 2420
West Brattleboro, Vermont. 05303

NINTH CIRCUIT AFFIRMS PRISON OFFICIALS
MAY RETALIATE FOR PRISONER REPORTING SEXUAL ABUSE

In an one page decision, the Ninth Circuit recently affirmed the California Eastern District's granting of summary judgment to prison officials that retaliated against a prisoner for reporting sexual misconduct. Prisoner Daniel Masterson, in pro se, litigated the case since 2005 in an effort to expose and stop years of sexual abuse and misconduct at California's Mule Creek State Prison. Masterson wrote each and every single California Assemblymember, Senator and Congressman at least twice in an effort to expose and stop the sexual misconduct being committed. All with negative results. Dianne Fienstien wrote the Office of the Governor (Schwarzenegger - which was reported in an article in the Sacramento Bee Newspaper), also with negative results. Declarations from witnesses and victims spanning a five year period, all stating the sexual misconduct was on-going was sent to the Court, Office of the California Inspector General, Office of the CDCR Secretary and Office of the Ombudsman. The evidence was overwhelming, but again resulted in negative results... the sexual misconduct was permitted to continue. See case: DANIEL J. MASTERSON vs. ROSANNE CAMPBELL, et. al., D.C. # 2:05-cv-0192-AK, 9th Cir. #11-15023.

In a related case, Masterson appealed the California Eastern District's granting of summary judgment for prison officials for the threats and retaliatory transfer for Masterson filing the original law suit. The Ninth Circuit is currently reviewing that case, see DANIEL J. MASTERSON vs. SILVIA HUERTA-GARCIA, et. al., D.C. #2:07-cv-01307-KJD-PAL, 9th Cir. # 11-17389.

Mr. Wright, please edit the above to your heart's content, but please report on the cases. Do not hesitate to contact me for copies of the overwhelming evidence, including but not limited to elected officials responses, copies of years of declarations et cetera.

Respectfully,


Daniel J. Masterson

NOT FOR PUBLICATION

APR 26 2012

UNITED STATES COURT OF APPEALS

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

DANIEL J. MASTERSON,

Plaintiff - Appellant,

v.

ROSANNE CAMPBELL; et al.,

Defendants - Appellees.

No. 11-15023

D.C. No. 2:05-cv-00192-AK

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Alex Kozinski, Chief Judge, Presiding

Submitted April 17, 2012**

Before: LEAVY, PAEZ, and BEA, Circuit Judges.

Daniel J. Masterson, a California state prisoner, appeals pro se from the district court's summary judgment in his 42 U.S.C. § 1983 action alleging retaliation and due process violations by prison officials. We have jurisdiction

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

under 28 U.S.C. § 1291. We review de novo, *Barnett v. Centoni*, 31 F.3d 813, 815 (9th Cir. 1994) (per curiam), and we affirm.

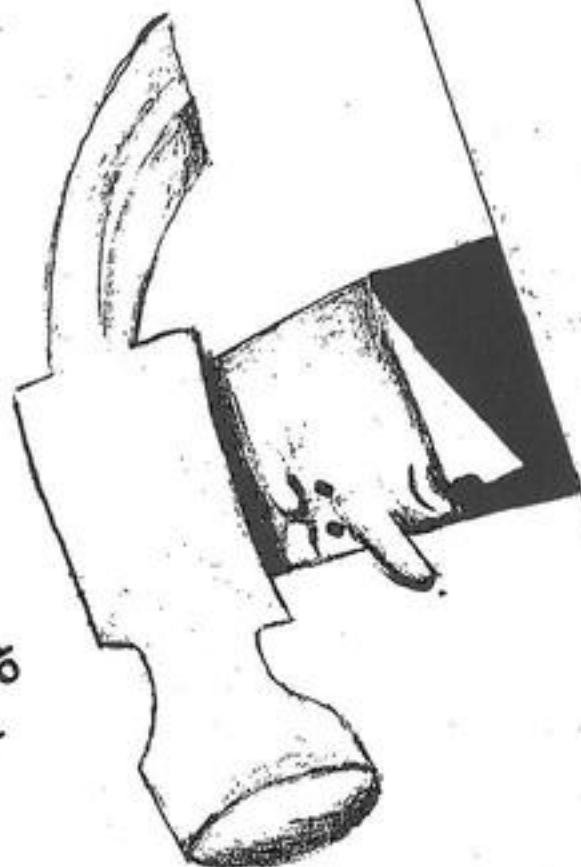
The district court properly granted summary judgment on the retaliation claims because Masterson failed to raise a genuine dispute of material fact as to whether defendants' conduct was based on a retaliatory motive rather than legitimate correctional goals. *See Pratt v. Rowland*, 65 F.3d 802, 806 (9th Cir. 1995) (plaintiff must show allegedly retaliatory action did not advance legitimate correctional goals).

The district court properly granted summary judgment on Masterson's due process claims because the record reflects that procedural safeguards were met and that "some evidence" supports the prison disciplinary decisions. *Superintendent v. Hill*, 472 U.S. 445, 455-56 (1985). Further, the decisions did not impose an "atypical and significant hardship." *Ghana v. Pearce*, 159 F.3d 1206, 1209 (9th Cir. 1998) (quoting *Sandin v. Conner*, 515 U.S. 472, 484 (1995)).

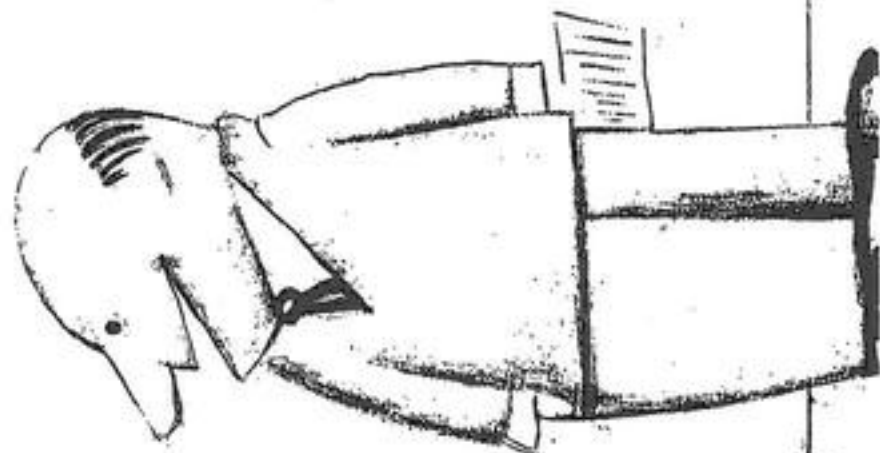
Masterson's remaining contentions, including that the district court abused its discretion in denying his requests for reconsideration, appointed counsel, and discovery continuances, are unpersuasive.

AFFIRMED.

9TH CIRCUIT COURT
OF APPEALS



CASE LAW



PRISONER LITIGATOR
IN PRO SE

