

STATE OF CALIFORNIA
RULES VIOLATION REPORT -

TABE: 9.6
 CCCMS: NO

DEPARTMENT OF CORRECTIONS
 Page 1 of 2

CDC NUMBER D28079	INMATES NAME PINA <i>Participating</i>	RELEASE/BOARD DATE LIFE <i>sw 10/19/11</i>	INST PBSP	HOUSING NO D02-122L	LOG NO D11-09-0056
VIOLATED RULE NO(S) 3005 (a)	SPECIFIC ACTS Willfully Delaying/Obstruction a Peace Officer <i>Participating in Disturbance</i> <i>Mass Disturbance</i>	LOCATION D02-122L	DATE 9/28/11	TIME 1700	

CIRCUMSTANCES

On Wednesday, September 28, 2011, at about 1700 hours, while conducting my duties as the Facility D Housing Unit, Floor Officer, I was distributing the meal trays in the unit. I offered inmate PINA, D28079, D02-122L, housed in D02-122L, his meal tray, and he refused. PINA had previously been participating in the statewide hunger strike and had already refused at least eight consecutive meals. This meal refusal constituted his ninth consecutive meal refused.

Per Pelican Bay State Prison Operational Procedure 228, Hunger Strike, "Any inmate refusing nine consecutive meals is considered to be on a hunger strike." This refusal coincided with a planned, state-wide hunger strike/mass disturbance organized by inmates in the Security Housing Unit at Pelican Bay State Prison. His willful and deliberate behavior has caused delays in the custody operations and additional workload for custody and medical staff by increase in escorts and the monitoring of inmates suspected of participating in this hunger strike. These additional requirements have deterred staff from their normal duties of providing routine services to the remainder of the inmate population and have required supervisory staff to respond to the disturbance as well, significant delays or cancellation of services such as visiting, canteen, medical appointments, and yard has occurred as a result of this inmate's participation in this mass hunger strike. His refusal to use the appropriate venue to voice his grievances resulted in a decrease of services for themselves and to the inmates who have not participated in this disturbance and this hunger strike can lead to disorder.

A statement was not recorded as to why he was participating in the hunger strike.

REPORTING EMPLOYEE (Typed Name and Signature) K. RE <i>K. RE</i>	DATE 10-7-11	ASSIGNMENT D2 FLR OFC 3/W	RDO'S M/T
REVIEWING SUPERVISOR'S SIGNATURE <i>Sgt. P. P. P.</i>	DATE 10-7-11	<input type="checkbox"/> INMATE SEGREGATED PENDING HEARING	
CLASSIFIED <input type="checkbox"/> ADMINISTRATIVE <input checked="" type="checkbox"/> SERIOUS	OFFENSE DIVISION D	DATE 10/7/11	CLASSIFIED BY (Typed Name and Signature) S. Walsh, c.c.#
HEARING REFERRED TO <input type="checkbox"/> HO <input checked="" type="checkbox"/> SHO <input type="checkbox"/> SC <input type="checkbox"/> FC		COPIES GIVEN INMATE BEFORE HEARING	
<input checked="" type="checkbox"/> CDC 115	BY: (STAFF'S SIGNATURE) <i>[Signature]</i>	DATE 10/9/11	TIME 1945
<input type="checkbox"/> INCIDENT REPORT LOG NUMBER:	BY: (STAFF'S SIGNATURE)	DATE	TIME

HEARING

- 1) MEMO DATED 9-27-11
- 2) 114A DATED 9-26-11 TO 10-2-11
- 3) CONFIDENTIAL 1030 DATED 9-28-11
- 4) CDC 115

J. McPherson [Signature] 10-23-11
Go [Signature] 10-28-11 0910

REFERRED TO CLASSIFICATION BPT/NAEA

ACTION BY: (TYPED NAME) R. TUPY, LIEUTENANT	SIGNATURE <i>[Signature]</i>	DATE 11/3/11	TIME 1815
REVIEWED BY: (SIGNATURE) <i>[Signature]</i>	DATE 11-28-11	CHIEF DISCIPLINARY OFFICER'S SIGNATURE <i>[Signature]</i>	DATE 11/29/11
<input checked="" type="checkbox"/> COPY OF CDC 115 GIVEN INMATE AFTER HEARING	BY: (STAFF'S SIGNATURE) <i>[Signature]</i>	DATE 1-26-12	TIME 1200

CDC NUMBER D-28079	INMATE'S NAME PINA	LOG NUMBER D11-09-0056	INSTITUTION PBSP	TODAY'S DATE 11/3/11
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SUPPLEMENTAL CONTINUATION OF: CDC 115 CIRCUMSTANCES HEARING I.E. REPORT OTHER

Hearing: The hearing was convened on November 3, 2011 at approximately 1819 hours, when I introduced myself to PINA as the Hearing Officer for this disciplinary. PINA stated he was in good health with normal vision and hearing. PINA acknowledged that he received a copy of the following documents more than 24 hours in advance of the hearing: CDC-115, Confidential 1030, CDC-114A and Memo dated September 27, 2011. These reports as well as the disciplinary charge of PARTICIPATION IN A MASS DISTURBANCE were reviewed with PINA in the hearing. He stated that he understood both and that he was prepared to begin the hearing.

District Attorney: This has not been referred for criminal prosecution.

Due Process: The behavior of this inmate was evaluated at the time that the Reviewing Supervisor reviewed this disciplinary report. The Reviewing Supervisor concluded that a mental health assessment was not required. The SHO concurs. There is no compelling need for a mental health assessment based upon the circumstances given in this report.

The disciplinary was served on the inmate within 15 days of discovery and the hearing was held within 30 days of service. The inmate received his copies of all documents more than 24 hours in advance of the hearing. There are no due process issues.

Staff Assistant:

The SHO ensured the Disability Effective Communication (DEC) system and/or Central file was reviewed and the inmate was queried for effective communication.

"S" was identified with:

No disabilities or issues requiring equally effective communication TABE 4.0 or lower, "S" TABE is 9.6

Per the CDC 115-A, PINA has requested assignment of a Staff Assistant. PINA has not provided any explanation for this request. Staff Assistant will not be assigned as the SHO is satisfied that PINA speaks sufficient English, is literate enough to understand the disciplinary reports, the issues are not complex and a confidential relationship is not required.

Investigative Employee:

An IE was not assigned as the issues are not complex, and the available information is sufficient. Per the CDC 115-A and his statements in the hearing, PINA requested IE assignment. As the housing status of this inmate is restricted, I reviewed this request with PINA in the hearing. PINA stated that he had requested IE assignment for the following reason: "Because it's my right." Request for IE assignment denied. While the inmate is in restricted housing, PINA has failed to show that an assigned IE would obtain any additional, relevant information required for his defense or that his housing restrictions prevent PINA from obtaining his own information.

Request for Witnesses: PINA requested the Reporting Employee as a witness. Request granted. Officer Re' was present at the hearing. PINA also requested the September 30th search staff. PINA could not identify the staff members. Request denied as the SHO determined that there would be no new or additional information by unidentified staff.

Video and photo evidence:

Videotape evidence was not an issue for this hearing.

Plea: PINA entered a plea of NOT GUILTY to this charge.

Hearing testimony: PINA gave the following testimony as his defense: PINA became uncooperative at the hearing. The SHO had PINA escorted back to his cell and continued the hearing in PINA's absence.

SIGNATURE OF WRITER R. Tupy		TITLE Correctional Lieutenant	DATE NOTICE SIGNED 11/3/11	
COPIES OF CDC-115-C GIVEN TO INMATE <i>X 2</i>	GIVEN BY: (STAFF'S SIGNATURE) <i>[Signature]</i>	DATE SIGNED: 1-2-12	TIME SIGNED: 1200	

STATE OF CALIFORNIA
CDC 1030 (12/86)

DEPARTMENT OF CORRECTIONS AND REHABILITATION

CONFIDENTIAL INFORMATION DISCLOSURE FORM

INMATE NUMBER: D28079 INMATE: PINA

1) Use of Confidential Information.

Information received from a confidential source(s) has been considered in the:

a) CDC-115, Disciplinary Report dated 9/28/2011 submitted by
K. RE, Correctional Officer
STAFF NAME, TITLEb) CDC-114-D, Order and Hearing for Placement in Segregated Housing dated N/A

2) Reliability of Source.

The identity of the source(s) cannot be disclosed without endangering the source(s) or the security of the institution.

This information is considered reliable because:

- a) This source has previously provided confidential information which has proven to be true.
- b) This source participated in and successfully completed a Polygraph examination.
- c) More than one source independently provided the same information.
- d) This source incriminated himself/herself in a criminal activity at the time of providing the information.
- e) Part of the information provided by the source(s) has already proven to be true.
- f) Other (Explain): The Information within Incident Report Log # PBSP-FDPO-11-09-0377 would allow leaders and participants of the disturbance to identify those inmates who chose not to participate and confidential security measures taken by the institution to quell the disturbance, thus endangering non-participating inmate's safety and the security of the institution. Institution responses to this hunger strike were implemented are considered confidential to this inmate as well as the participant's names and non-participant's names.

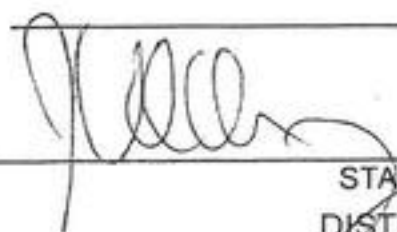
3) Disclosure of information received.

The information received indicated the following: That PINA was identified as an active participant of a mass disturbance/hunger strike which involved hundreds of inmates at Pelican Bay State Prison and as a result inmate programs and services were obstructed, delayed, or cancelled in numerous areas of the prison in response to the disturbance.

(If additional space needed, attach another sheet.)

4) Type and current location of documentation, (for example: CDC-128-B of 5-15-86 in the confidential material folder).

A Compact Disk containing the CDC 837 Incident Report log# PBSP-FDPO-11-09-0377 document dated 09/26/11 in the confidential material folder of this inmate's central file.



STAFF SIGNATURE, TITLE

10-28-11

DATE DISCLOSED

DISTRIBUTION: WHITE — Central File; GREEN — Inmate; YELLOW — Institution Use

RULES VIOLATION REPORT

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CDC NUMBER D28079	INMATE'S NAME PINA, PABLO	RELEASE/BOARD DATE LIFE	INST. PBSP	HOUSING NO. D02-122	LOG NO. D13-07-0067
VIOLATED RULE NO(S). 3005 (d)(3)		SPECIFIC ACTS Willfully Delaying Peace Officer (Participation in a Mass Hunger Strike)	LOCATION D02-122	DATE 7/11/2013	TIME 1700

CIRCUMSTANCES
 On Thursday 7/11/2013, at approximately 1700 hours, while assigned to the Pelican Bay State Prison (PBSP) Security Housing Unit (SHU), I conducted a review of the CDCR 114A Detention/Segregation Record of inmate PINA, D28079, D02-122. The CDCR 114A indicated PINA had missed nine (9) consecutive state issued meals as of July 10, 2013. Pursuant to Operational Procedure (OP) 228 an inmate that misses nine (9) consecutive state issued meals is considered to be on a hunger strike. This refusal coincided with a planned, statewide hunger strike/work stoppage/mass disturbance organized by the inmates housed in the SHU at PBSP. PINA's willful and deliberate behavior has caused delays in the custody operations and additional workload for custody and medical staff by the increase in escorts and the monitoring of inmates suspected of participating in this hunger strike. With these additional requirements, staff members have been delayed in the performance of their normal duties. Furthermore, PINA's actions by willfully participating in the hunger strike, have contributed to significant disruptions of the normal operation of this Institution. The disruptions are noted by having delayed or canceled inmate services, such as the Law Library, canteen, medical appointments and yard. PINA's refusal to use the appropriate venues to voice his grievance has resulted in a decrease of services for him and the inmates who have not participated in this hunger strike/work stoppage/mass disturbance.

REPORTING EMPLOYEE (Typed Name and Signature) Sgt B. Davis <i>BMD</i>	DATE 7-16-13	ASSIGNMENT D-Facility Sgt.	RDO'S Varies
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REVIEWING SUPERVISOR'S SIGNATURE <i>[Signature]</i>	DATE 7-17-13	<input type="checkbox"/> INMATE SEGREGATED PENDING HEARING
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CLASSIFIED <input checked="" type="checkbox"/> SERIOUS	OFFENSE DIVISION: D	DATE 07/17/13	CLASSIFIED BY (Typed Name and Signature) <i>K Getrauer</i>	HEARING REFERRED TO <input checked="" type="checkbox"/> HO <input checked="" type="checkbox"/> SHO <input type="checkbox"/> SC <input type="checkbox"/> FC
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COPIES GIVEN INMATE BEFORE HEARING				
<input checked="" type="checkbox"/> CDC 115	BY: (STAFF'S SIGNATURE)	DATE	TIME	TITLE OF SUPPLEMENT
	C/O I. Dewitt <i>[Signature]</i>	7-22-13	0900	1) CDCR 114A dated 7/8/13 thru 7-14-13
<input type="checkbox"/> INCIDENT REPORT LOG NUMBER:	BY: (STAFF'S SIGNATURE)	DATE	TIME	BY: (STAFF'S SIGNATURE)
	C/O I. Dewitt <i>[Signature]</i>	7-22-13	0900	C/O I. Dewitt <i>[Signature]</i>

SEE ATTACHED CDC 115 C FOR HEARING SUMMARY

REFERRED TO <input checked="" type="checkbox"/> CLASSIFICATION <input type="checkbox"/> BPT/NAEA	ACTION BY: (TYPED NAME) R. O'NEILL, SENIOR HEARING OFFICER	SIGNATURE <i>[Signature]</i>	DATE 07/23/13	TIME 2005
REVIEWED BY: (SIGNATURE) T.E. PUGET, FACILITY CAPTAIN <i>[Signature]</i>	DATE 8/3/2013	CHIEF DISCIPLINARY OFFICER'S SIGNATURE R.K. SWIFT, ASSOCIATE WARDEN <i>[Signature]</i>	DATE 8/5/13	TIME
<input checked="" type="checkbox"/> COPY OF CDC 115 GIVEN INMATE AFTER HEARING	BY (STAFF'S SIGNATURE) <i>[Signature]</i>	DATE 8/6/13	TIME 1000	

NAME and NUMBER

PINA

D-28079

CELL: D2-122L


On November 3, 2011, this inmate was found guilty of a disciplinary offense (log number D11-09-0056) involving Participation in a Mass Disturbance. The following loss of privileges are assessed:

Per the Memorandum dated August 29, 2011, subject Department Operations Manual Supplement 54030.1, Inmate Property addendum, color pen fillers, Nupastel color sticks and drawing paper in the Security Housing Unit, states in part: Colored pen fillers, Nupastel color sticks and drawing paper will be allowed for inmates who stay disciplinary-free for a period of one year. Referred to ICC for consideration of loss of privileges.

Per the Memorandum dated August 29, 2011, subject of, Department Operations Manual Supplement 54020.25, Visiting Photo Program Addendum; Inmate Photos in the Security Housing Unit. States in part: Inmates who have been disciplinary-free for one year are eligible to participate in this program. Referred to ICC for consideration of loss of privileges.

Per CCR 3314(e)(10) and 3315(f)(5)(L) inmates placed in ASU, SHU, PSU, Privilege Group D, who are found guilty of any administrative or serious RVR are subject to temporary loss of entertainment appliances through February 1, 2012 for a total of 90 days.

ORIG : C-File
cc :


R. TURY
Correctional Lieutenant
Facility D

DATE 11/03/2011

PBSP

GENERAL CHRONO