

PABLO PIÑA D-28079  
P.O. BOX 7500 D-2 122<sup>nd</sup> STU.  
CRESCENTCITY, CALIF 95531

NOV. 30. 2013  
SATURDAY AM.

RE: DISCIPLINARY ACTION  
FOR TALKING TO ANOTHER PRISONER. (POST).

IN 2011, RIGHT AFTER THE SECOND HUNGER STRIKE HAD ENDED, I WAS TRYING TO GET MY RIGHT LEG X-RAYED BECAUSE I HAD TWEEKED IT WHILE PLAYING HANDBALL ON THE YARD.

THEY HAD JUST GAVE US A HANDBALL AFTER 20 YEARS SO WE CAN USE IT ON THE YARD TO HAVE SOMETHING TO DO OUT THERE.

I USED TO BE VERY GOOD AT HANDBALL, AND LIKED PLAYING IT BOTH IN PRISON AND ON THE STATE SIDE. BUT I HAVEN'T SEEN A HANDBALL IN OVER 20 YEARS.

BUT LIKE RIDING A BIKE YOU DON'T NEVER FORGET THE MECHANICS AND TECHNIQUES. SO AFTER I EXERCISED I'D LEAVE THE LAST HALF HOUR TO PLAY HANDBALL.

THE THING IS, IS THAT I FORGOT I WAS NOT CONDITIONED FOR THE STRESS IT PAGES ON THE KNEES AND LEGS, AND I WAS TOO EXCITED TO THINK ABOUT IT AS I CHASED THE BALL. BECAUSE WE HAVE FOUR WALLS AROUND US, I USED ALL FOUR WALLS. AND IT FELT GOOD, I USED TO BE ABLE TO KILL IT WITH EITHER HAND, AND ANY WHERE ON THE WALL, BUT MY FAVORITE SPOT IS ON THE LEFT OR RIGHT CORNER, SO I TRIED SOME OF THEM BUT MISSED, SO I HAD TO RUN IN CLOSE AND SCOOP UP THE BALL BEFORE IT BOUNCED TWICE. I WAS GOOD AT IT ONCE, LONG TIME AGO.

AND I RAN UP TO THE WALL AND HIT IT TO THE LEFT CORNER AND TURNED MY BODY TO RUN WHERE THE BALL WOULD BE. AND MY KNEE POPPED, IT GOT REALLY BAD, I COULDN'T WALK ON THAT LEG. THE DOCTOR REFUSED TO GIVE ME X-RAYS, AND MEDICATION. SHE SAID IT WOULD HEAL BY ITSELF. I HAD TO MAKE MY OWN LEG WRAP. I TORE A T-SHIRT INTO A LONG STRIP AND USED IT FOR AN ACE BANDAGE. ALMOST A YEAR LATER THEY FINALLY TOOK ME FOR X-RAYS, BUT THE SGT. AT THE INFIRMARY KICKED ME OUT OF THE CLINIC FOR TALKING TO A GUY IN THE NEXT CELL. WE WERE NOT TALKING LOUD. BUT THE SGT. KICKED US BOTH OUT, AND GAVE US A WRITE UP AS YOU CAN SEE.

**RULES VIOLATION REPORT**

CDC NUMBER <b>D28079</b>	INMATE'S NAME <b>PINA</b>	LIFE	RELEASE/BOARD DATE	INST <b>PBSP</b>	D02-122L	HOUSING NO. <b>D11-12-0005</b>	LOG NO.
VIOLATED RULE NO(S) <b>3004(b)</b>		SPECIFIC ACTION <b>ORDER</b>	REFUSING A DIRECT		LOCATION <b>SHU</b>	DATE <b>12-06-2011</b>	TIME <b>1000 HRS</b>
CIRCUMSTANCES							

On Tuesday, December 6, 2011 at approximately 1000 hours I observed inmate [REDACTED] who was occupying Specialty Clinic temporary holding cell #9, verbally communicating with inmate PINA, D28079, D2-122L, in Specialty Clinic temporary holding cell # 8. It is clearly painted on all the temporary holding cell doors and inside the temporary holding cells not to talk to other inmates while in the Specialty clinic. Inmate [REDACTED] and PINA were told numerous time to stop talking. They would stop for a few minutes then resume talking. Inmate [REDACTED] was removed from the Specialty Clinic and returned to his assigned unit at approximately 1200 hours.

This inmate is not EOP or Crisis Bed. Following current guidelines for Mental Health Assessments, the circumstances of this offense have been carefully evaluated. The Reviewing supervisor has concluded that a Mental Health Assessment is not required.

REPORTING EMPLOYEE (Typed Name and Signature) [REDACTED]	DATE <b>12/12/11</b>	ASSIGNMENT <b>SGT</b>	RDO'S <b>S/S/H</b>
REVIEWING SUPERVISOR'S SIGNATURE [REDACTED]	DATE <b>12/12/11</b>	INMATE/SEGREGATED/PENDING HEARING <b>N/A</b>	LOC.
CLASSIFIED <input type="checkbox"/> ADMINISTRATIVE <input checked="" type="checkbox"/> SERIOUS	OFFENSE DIVISION: <b>F</b>	DATE <b>12.13.11</b>	CLASSIFIED BY (Typed Name and Signature) [REDACTED]
			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 type="checkbox"/> CDC 115	BY: (STAFF'S SIGNATURE) [REDACTED]	DATE <b>12/14/11</b>	TIME <b>1005</b>	TITLE OF SUPPLEMENT
<input type="checkbox"/> INCIDENT REPORT LOG NUMBER:	BY: (STAFF'S SIGNATURE) [REDACTED]	DATE	TIME	BY: (STAFF'S SIGNATURE)

HEARING

The issuing officer used simple English and short sentences to ensure the inmate understood what was issued to him as well as the circumstances of the offense.



REFERRED TO  CLASSIFICATION  BPT/NAEA

ACTION BY: (TYPED NAME) [REDACTED]	DATE <b>1/13/12</b>	TIME <b>0835</b>
REVIEWED BY: (SIGNATURE) [REDACTED]	DATE <b>1-17-12</b>	TIME <b>1/27/12</b>
<input checked="" type="checkbox"/> COPY OF CDC 115 GIVEN INMATE AFTER HEARING	DATE <b>2-1-12</b>	TIME <b>1030</b>

CDC NUMBER D28079	INMATE'S NAME PINA	LOG NUMBER D11-12-0005	INSTITUTION PBSP	TODAY'S DATE 01/13/12
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SUPPLEMENTAL     CONTINUATION OF:     CDC 115 CIRCUMSTANCES     HEARING     I.E. REPORT     OTHER

**Hearing:** The hearing was convened on January 13, 2012, at approximately 08m35 when I introduced myself to PINA as [REDACTED], 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 document more than 24 hours in advance of the hearing: CDC-115. This report as well as the disciplinary charge of REFUSING TO OBEY A DIRECT ORDER was 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:** Per CDC115C of 12/4/12, assignment of a Staff Assistant was considered unnecessary as his current mental health does not impair his ability to comprehend either the charges or the disciplinary process. In the hearing, PINA agreed that he speaks English, is literate, the issues are not complex and a confidential relationship is not required. Staff Assistant will not be assigned. PER CDCR115A PINA waived any rights to a Staff Assistant in writing on 12/15/11.

**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 waived his rights to an Investigative Employee in writing on 12/15/2010.

**Request for Witnesses:** PINA requested only the Reporting Employee (RE) as a witness. Request granted. PINA requested SHO ask the RE if he (RE) observed PINA talked at the time RE approached the cell.

**Video and photo evidence:** Videotape and/or photo evidence was not an issue for this hearing.

**Plea:** NOT GUILTY

**Hearing testimony:** PINA gave the following testimony as his defense: PINA asserts he went to the clinic for x-ray, and was merely standing there not talking. PINA asserts he has no control over what another man does.

**Finding: Guilty of the Div. F (10) (CCR 3315 (a)(3)(J)) offense REFUSAL TO OBEY ORDERS.** This offense requires evidence that the inmate was given a direct order by a staff member and the inmate refused to comply with this order. This finding is based upon the following preponderance of evidence:

- A. The written testimony of Correctional Sergeant [REDACTED] in the disciplinary report of 12/06/2011 wherein [REDACTED] testifies that PINA and [REDACTED] continued to engage in conversation after several verbal orders and posted written orders were ignored.
- B. Based upon PINA's question of the Reporting Employee, Correctional Sergeant [REDACTED] testifies that there are mirrors throughout the clinic where inmate behavior is observed from various locations.
- C. SHO asked PINA if he had disrespected [REDACTED] by not responding to his conversation. PINA had no comment in his defense.

SIGNATURE OF WRITER [REDACTED]	TITLE [REDACTED]	DATE NOTICE SIGNED 1/13/2012
COPIES OF CDC 115 C GIVEN TO INMATE [REDACTED]	GIVEN BY: (STAFF'S SIGNATURE) [REDACTED]	DATE SIGNED: 2-1-12
		TIME SIGNED: 1080

STATE OF CALIFORNIA  
RULES VIOLATION REPORT - PART C

DEPARTMENT OF CORRECTIONS

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CDC NUMBER D28079	INMATE'S NAME PINA	LOG NUMBER D11-12-0005	INSTITUTION PBSP	TODAY'S DATE 01/13/12
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SUPPLEMENTAL     CONTINUATION OF:     CDC 115 CIRCUMSTANCES     HEARING     I.E. REPORT     OTHER

D. SHO asked PINA if he would allow the person of another to place him (PINA) at risk of a disciplinary charge without asking the person of another to remain quiet. PINA had no response in his defense, merely indicating he can't control anyone else.

E. SHO finds that even considering PINA's assertion he (PINA) was not talking at the exact moment the RE approached the cell, the assertion is insufficient evidence to tip the scales of preponderance in PINA's favor.

F. SHO does not find the assertion that PINA was not talking at a specific point in time to be a conclusive statement refuting the charge.

**Disposition:** Assessed 30 day credit forfeiture for this Div. F offense. PINA was informed that his credit restoration period began December 07, 2011, and this restoration period is a minimum of three months (if within 60 days of scheduled release, the minimum is reduced to one month). If he is found guilty of any administrative or serious CDC-115 issued during this credit restoration period, he forfeits his eligibility for restoration. If he completes this restoration period disciplinary free, he may request a classification review. Classification will make the final determination whether he is eligible for restoration or request an additional period of disciplinary free conduct. Appeal rights were explained. PINA was referred to CCR §3084.1 and following for additional information on appeal procedures.

**Additional penalties:** NONE

**Enemies:** There were no enemy concerns identified throughout this process.