

THE SWEET TASTE OF SUCCESS!

Tuesday

November 2, 2016

Over the past couple of years, I've written a number of times in regards to the various "difficulties" I've experienced with my lawsuit against the prison and its employees. (Notice that I chose the far more general term of "difficulties," as opposed to the far more meaningful, and in my opinion, accurate, term of "conspiracies." This was intentional, my attempt to avoid future litigation with an entity as powerful and corrupt as Satan himself.) These difficulties were relatively trivial at first. For instance, the prison's Inmate Appeals Office refused to accept, let alone process, my first several attempts to utilize my administrative remedies, but I persevered, or as my mother would have said, I was too dumb and/or stubborn to quit, and in the end, they not only accepted and processed my appeal, they also admitted full and complete liability for the injuries I'd suffered. They quickly followed this up with all sorts of testing, to verify the nature, extent and cause of my injuries, testing which would explicitly confirm my allegations. One would think that, after such a lengthy process, the prison would have immediately provided me with the corrective surgery needed to cure the injuries they'd caused, and indeed, this is what appeared would happen. Unfortunately, things in prison rarely happen the way they're supposed to.

My Primary Care Physician (PCP) immediately recommended surgery, which, at first, seemed to have been approved by the prison administration. However, after being sent to an outside hospital a number of times, even going so far as to receive a preoperative consultation, I was told that I couldn't receive the surgery, not because the prison had changed its stance, but because the procedure deemed medically necessary by all of the prison's own experts had been deemed a violation of prison rules and regulations. In other words, we know our negligence injured you, and that surgery can correct it, but the rules we drafted specifically forbid us from repairing the damages we caused. My response was short and simple, "you broke it, you fix it." Sadly, this was not to be, and at the end of the day, I was left with no recourse other than to file a lawsuit.

I naively believed that involving the courts would somehow bring about at least a semblance of justice. I should have known better, and from personal experience. After all, I'm serving a prison sentence for crimes I as never even convicted of, let alone charged with, but like so many others have pointed out, time and time again, I can be pretty mule headed when I believe I'm right.

After accepting my complaint, the deputy clerk notified me that I had to make a mandatory payment within a specified number of days, or else my case would be dismissed. As an indigent litigant, I had no way of making such a payment, but a friend of mine stepped in to loan me a few bucks (thanks Garry), and the case was allowed to proceed forward. A receipt was sent to me, acknowledging that payment had been received and applied towards the filing fee (did you know that, under California law, anyone can receive a fee waiver for filing fees, **except** inmates, who are required to pay their filing fee, in full?), but from that moment on, all of the court clerks in contact with me refused to acknowledge that payment had ever been received, let alone applied. I wrote to the clerks, time and time again, asking that they correct their balance sheet, but more often than not, I was simply ignored. When they did respond, it was always to something else I'd written about in the letter, and before you knew it, they started returning motions to me, unfiled, claiming that I couldn't file any motions until after I'd made the mandatory payment.

As if this wasn't bad enough, not only were the clerks refusing to acknowledge the initial payment (sent to them from an outside source), they were also refusing to acknowledge the monthly payments I'd started sending in from my inmate account, the result of my having been given a job in one of the prison's factories. I couldn't understand it. I had receipts, from the prison, no less, stating that money had been taken out of my account and sent into the courts for my mandatory monthly payments, but the clerk were continuing to insist they hadn't received so much as a single payment, so I filed the necessary paperwork to make an official inquiry to the prison's Inmate Trust Office. Imagine my surprise when I found out that, yes, the prison was taking money out of my account to apply towards my legally mandated monthly obligations, but no, they weren't actually sending the money in. Instead, they were holding it in a special account, where it gathered interest for the prison, and would continue to do so until the prison was ready to mail the payment out, either upon my release, or at the conclusion of the case, whichever came first. While this explained why the court wasn't receiving my monthly payments, this never did explain why they continued to claim not having received my initial payment, despite having mailed me a receipt showing acceptance and application.

Despite these problems, my case proceeded. Knowing the clerks were going to refuse to accept and file any motions I submitted to them via snail mail, I started requesting, in the middle of my court hearings, that the Judge reserve hearing dates for any motions I wanted filed, with assurances that they paperwork had either already been sent, or would be by the end of the business day. As I suspected, when the Judge got involved, the deputy clerks started accepting and filing my motions, even if they did hold onto them for a month before sending me a conformed copy. (A "conformed copy," for those who don't know, is a copy returned to the party filing the document which shows an official date and stamp as proof of when it was filed with the court.) It still wasn't an ideal solution, as it involved me having to wait until an actual court hearing before I could notify the court of my intent to file something, but it was nevertheless a step in the right direction.

Another problem I had was with making the hearings themselves. Time and time again, I was told by the prison that I couldn't attend the telephonic hearing because the prison didn't have anything official from the court directing the prison to allow me to use the phone. The fact that I had documents from the prison's own army of attorneys was irrelevant, nor were any documents I had from the courts themselves. They (the prison) needed their own copies, and they'd accept them from the court, and **only** the court. Not only that, but they couldn't be sent to just anyone in the prison. Send the documents to the wrong person, even by mistake, and this was enough to invalidate them, even if that person did forward them to the proper official. So, as one might guess, there were a number of times I was unable to make the hearing, and yet, I was still charged the \$86 fee for the phone call. (Seriously. They charge you \$86 **per call!!**)

Another one of the prison's tactics was to hold onto any outgoing mail from me to the sheriff's department. Such correspondence was **always** time sensitive, so even a delay of only a couple of days could have disastrous consequences. For example, most of the documents were subpoena duces tecums, each of which had a specified return date of at least 20 days from the date of service. Hold onto the letter for as little as a week, and there's a pretty good chance that, by the time the sheriff's department receives it, there's no way to serve it in a way that provides the person being served with the minimum amount of time required under the law. Several times, subpoenas were returned to me, unserved, because of the sheriff's inability to timely serve them, a delay caused by the prison's inability to timely process my outgoing mail, so, once again, I tried to think outside of the box. (Incidentally, even the Deputy Attorney General commented on the prison's delay with the prison's delay with processing my outgoing legal documents, but since his remarks were to me, and not the prison, the prison failed to take corrective action to ensure it didn't happen again.) Since they needed a minimum number of days to respond to the subpoenas, and since I had no way of knowing how long the prison would hold onto my outgoing mail, I decided that, instead of putting a specific date to respond to the subpoena, I'd instead put down that the party being served had "20 days following the date of service" to respond. Brilliant, as I thought that now, no matter how long the prison chose to hold onto my outgoing documents before sending them out, or how long the sheriff's department held onto them before serving them, the person being served would **always** have the minimum time prescribed under the law. What sounds good on paper doesn't always translate well into practice. When the sheriff's department took a look at what I'd done, they promptly refused to serve the documents, claiming that their deputies needed a physical date to put in their computers.

To say I was surprised would be a bit of an understatement. These are **deputies**, for crying out loud, people that were, presumably, high school graduates or G.E.D. recipients, which meant that they should have known how to do basic math, like adding 20 days to whatever date they served the subpoena. And let's keep in mind that the sheriff's department wasn't saying they needed to know when they had to respond to the subpoenas, because they weren't being served with the subpoena, they were saying that they were keeping their own personal records, and they didn't know when 20-days following proof of service was. Well, I don't know when you're receiving the documents, let alone serving them, so I'd guess that we're both even, now aren't we?

Somehow, I managed to overcome just about every obstacle thrown my way. When I was transferred to a new facility, one which had a law library about the size of my prison cell and only 5 available seats at any one time (despite having 1,000 guys trying to access it), I started buying my own lawbooks. When the prison held onto my outgoing mail, I started sending my letters out weeks ahead of time. When they failed to allow me to use the phone, I started documenting every incident, followed by bringing it to the court's attention. At the end of the day, I believe they realized I wasn't going to give up, so they finally came to me with a settlement, which I promptly accepted. Honestly, I knew I could have gotten substantially more, but I'm not a greedy man, and besides, the prison was working so hard to make things difficult that I was afraid of what they might do next. Would they lose some of my legal documents again? Would I miss a critical hearing and lose by default? Or would they resort to more "traditional" tactics, i.e., failing to promptly respond during a medical emergency? Given what I was up against, and my inability to find anyone willing to represent me against the prison system, I amended my complaint and accepted their offer, settling the matter out of court.

So, here I sit contemplating my decision. When I embarked on this journey, my goals were simple: get enough to pay off my court fines, in full, and maybe even have a couple of grand left over for myself. What did I get? Enough to completely pay off all of my court fines, \$8,925.62, plus the fee charged by the prison for paying these fines for me (\$531.40), and after which I still had almost \$10,100. I more than exceeded my goal, no thanks to the "justice" system, leaving me with a bitter sweet taste in my mouth. While it's true that my fines have been paid off, and I even have some money left over, at what cost? I still haven't been provided with the surgery to fix the damage they caused and I was figuratively punched, kicked, prodded, bullied and tormented every day since I filed my suit. Perhaps most egregious, however, is the fact that the very people responsible for ensuring justice seem to have actively conspired with the prison system to do everything in their power to prevent me, and others in my situation, from securing not just the relief they're legally entitled to, but which is moral and right. I can't help but ponder the impact, intentional or not, that this might have on a person's rehabilitation, to see the very people responsible for their rehabilitation engaged in such horrendous abuses of power to cover up their abuse. But, I content myself with knowing that, if I can somehow manage to keep them from "nickel and diming" me to death, I'll have something to help me get back on my feet when I eventually get out of here, especially if I can find a way to invest it.

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Note: It's important to point out that, while I was content to settle my issue for so little, this isn't to say that it wasn't worth more, had I taken it to trial, had an attorney to represent me, or even dug my heels in a little while longer. I settled because, as my grandmother used to tell me, time and time again, as a child, "it's better to have a bird in the hand, than two in the bush."