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DANIEL J. JUDGE,
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Judge Robert H. Whaley

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JUN 26 2000

JAMES R. LARSEN, CLERK
DEPUTY
SPOKANE, WASHINGTON

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON**

MUHAMMAD SHABAZZ FARRAKHAN,)
(aka ERNEST S. WALKER), et al.,)

Plaintiffs,

v.

GARY LOCKE, et al.,

Defendants.

NO. CS-96-076-RHW

AMENDED ANSWER
TO PLAINTIFFS' FOURTH
AMENDED COMPLAINT

COME NOW the Defendants, by and through their attorneys, CHRISTINE O. GREGOIRE, Attorney General, and DANIEL J. JUDGE and JEFFREY T. EVEN, Assistant Attorneys General, and hereby submit their Amended Answer to Plaintiffs' Fourth Amended Complaint.

I. JURISDICTION

1. Jurisdiction: Defendants deny that this Court has subject matter jurisdiction over this complaint. Defendants intend to challenge subject matter jurisdiction under the Rooker-Feldman doctrine.

1 **II. VENUE**

2 2. **Venue:** Defendants admit that venue in this Court is proper.

3 **III. PARTIES**

4 **Plaintiffs:**

5 3. Defendants admit that **Plaintiff Muhammad Shabazz Farrakhan** is a
6 former Washington State prisoner who was released from state confinement in
7 1997, and that he is over the age of 18 and is an African-American. Defendants
8 lack sufficient knowledge to answer, and therefore deny, that Mr. Farrakhan has
9 wished to vote and has requested registration as a voter in the state of Washington.
10 Defendants deny the remainder of the allegations contained in paragraph 3.

11 4. Defendants admit that **Plaintiff Al-Kareem Shadeed** is a Washington
12 State prisoner who is currently incarcerated at the Washington State Reformatory
13 in Monroe, Washington. Defendants lack sufficient knowledge to answer, and
14 therefore deny, that Mr. Shadeed has wished to vote and has requested registration
15 as a voter in the state of Washington. Defendants deny that Mr. Shadeed "has been
16 denied the right to vote and participate in the electoral process". Defendants admit
17 that Mr. Shadeed is excluded from the elective franchise under Washington law
18 because he has been convicted of one or more crimes punishable by incarceration in
19 a Washington State correctional facility and his rights have not been restored by the
20 superior court. Defendants admit the remainder of the allegations contained in
21 paragraph 4.

22 5. Defendants admit that **Plaintiff Marcus X. Price** is a former
23 Washington State prisoner who was released from state confinement in 1998.
24 Defendants lack sufficient knowledge to answer, and therefore deny, that Mr. Price
25 has wished to vote and has requested registration as a voter in the state of
26 Washington. Defendants deny that Mr. Price "has been denied the right to vote and

1 participate in the electoral process". Defendants admit that Mr. Price is excluded
2 from the elective franchise under Washington law because he has been convicted of
3 one or more crimes punishable by incarceration in a Washington State correctional
4 facility and his rights have not been restored by the superior court. Defendants
5 admit the remainder of the allegations contained in paragraph 5.

6 6. Defendants admit that Plaintiff Ramon Barrientes is a Washington
7 State prisoner who is currently incarcerated at the Washington State Penitentiary
8 in Walla Walla, Washington. Defendants lack sufficient knowledge to answer,
9 and therefore deny, that Mr. Barrientes has wished to vote and has requested
10 registration as a voter in the state of Washington. Defendants deny that Mr.
11 Barrientes "has been denied the right to vote and participate in the electoral
12 process". Defendants admit that Mr. Barrientes is excluded from the elective
13 franchise under Washington law because he has been convicted of one or more
14 crimes punishable by incarceration in a Washington State correctional facility and
15 his rights have not been restored by the superior court. Defendants admit the
16 remainder of the allegations contained in paragraph 6.

17 7. Defendants admit that Plaintiff Timothy Schaaf is a Washington
18 State prisoner who is currently incarcerated at the Washington State Reformatory
19 in Monroe, Washington. Defendants lack sufficient knowledge to answer, and
20 therefore deny, that Mr. Schaaf has wished to vote and has requested registration as
21 a voter in the state of Washington. Defendants deny that Mr. Schaaf "has been
22 denied the right to vote and participate in the electoral process". Defendants admit
23 that Mr. Schaaf is excluded from the elective franchise under Washington law
24 because he has been convicted of one or more crimes punishable by incarceration in
25 a Washington State correctional facility and his rights have not been restored by the
26

1 superior court. Defendants admit the remainder of the allegations contained in
2 paragraph 7.

3 8. Defendants admit that Plaintiff Clifton Briceno is a Washington
4 State prisoner who is currently incarcerated at the Washington State Reformatory
5 in Monroe, Washington. Defendants lack sufficient knowledge to answer, and
6 therefore deny, that Mr. Briceno has wished to vote and has requested registration
7 as a voter in the state of Washington. Defendants deny that Mr. Briceno "has been
8 denied the right to vote and participate in the electoral process". Defendants admit
9 that Mr. Briceno is excluded from the elective franchise under Washington law
10 because he has been convicted of one or more crimes punishable by incarceration in
11 a Washington State correctional facility and his rights have not been restored by the
12 superior court or the Indeterminate Sentence Review Board (ISRB). Defendants
13 admit the remainder of the allegations contained in paragraph 8.

14 Regarding paragraphs 3 – 8, Defendants deny that the Plaintiffs named in
15 these paragraphs have resided in one specific prison facility throughout their
16 incarceration.

17 Defendants:

18 9. State of Washington. Defendants deny that the state of Washington
19 lacks immunity from suit by a resident of the state of Washington under state and
20 federal law. Defendants deny that Plaintiffs have stated a claim under federal
21 law.

22 10. Defendant Gary Locke. Defendants deny that federal law provides
23 for liability against any Defendant in his or her official capacities. Defendants
24 admit the remainder of the allegations contained in paragraph 10.
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1 18. Defendants lack sufficient knowledge to answer, and therefore deny,
2 the allegations contained in paragraph 18.

3 19. Defendants admit that the Washington State Minority and Justice
4 Commission has issued reports, but deny the remainder of the allegations
5 contained in Paragraph 19.

6 20. Defendants admit that the Washington State Minority and Justice
7 Commission has issued reports, but deny the remainder of the allegations
8 contained in Paragraph 20.

9 21. Defendants deny paragraph 21 in its entirety.

10 Regarding paragraphs 22, 23, 24, 26, and 28 of Plaintiffs' Fourth Amended
11 Complaint, Defendants admit that RCW 9.94A.220(1) provides: "When an
12 offender has completed the requirements of the sentence, the secretary of the
13 department or the secretary's designee shall notify the sentencing court, which
14 shall discharge the offender and provide the offender with a certificate or
15 discharge."

16 Regarding paragraph 25 of Plaintiffs' Fourth Amended Complaint,
17 Defendants deny the allegations contained in paragraph 25.

18 Regarding paragraph 27 of Plaintiff's Fourth Amended Complaint,
19 Defendants lack sufficient knowledge to answer, and therefore deny the
20 allegations contained in paragraphs 27.

21 **V. FIRST, SECOND, THIRD, & FOURTH CAUSES OF ACTION**

22 29. Defendants deny that Plaintiffs have presented valid causes of action
23 as set forth in Paragraphs 29 – 37 of Plaintiffs' Fourth Amended Complaint.
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VI. EQITABLE RELIEF REQUESTED

38. Defendants deny that Plaintiffs have presented a valid claim for equitable relief as set forth in Paragraphs 38 and 39 of the Complaint.

VII. REQUEST FOR RELIEF

AS TO EACH CAUSE OF ACTION APPLICABLE

Defendants deny that Plaintiffs are entitled to any relief as set forth in this section of their complaint. Plaintiffs' claims should be dismissed with prejudice.

VIII. DENIALS

Unless expressly admitted above, Defendants deny each and every remaining allegation contained in Plaintiffs' Complaint.

AFFIRMATIVE DEFENSES

BY WAY OF FURTHER ANSWER AND AFFIRMATIVE DEFENSES, Defendants affirmatively allege:

- A. Plaintiffs have failed to state a claim upon which relief can be granted.
- B. Plaintiffs have failed to exhaust available administrative and other state remedies.
- C. Plaintiff Farrakhan lacks standing because he has registered to vote subsequent to his conviction.
- D. Plaintiffs may not challenge the fact or duration of their confinement in a civil rights action.
- E. Plaintiffs' claims are barred by the doctrines of res judicata and collateral estoppel.
- F. Plaintiffs' claims are not justiciable because their claims are not ripe.
- G. Plaintiffs' claims are subject to the defense, assumption of the risk.

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RELIEF REQUESTED

WHEREFORE, having fully answered the Complaint of Plaintiffs and having stated affirmative defenses, the Defendants pray for judgment dismissing the Fourth Amended Complaint with prejudice, directing that the Plaintiffs take nothing thereby, and awarding Defendants' costs and reasonable attorney's fees herein.

Defendants reserve the right to demand a jury.

RESPECTFULLY SUBMITTED this 23rd day of June, 2000.

CHRISTINE O. GREGOIRE
Attorney General

for Carol Murphy WSBA #21244
DANIEL J. JUDGE, WSBA #17392
Assistant Attorney General
Office of the Attorney General
Criminal Justice Division

for Carol Murphy
JEFFREY T. EVEN, WSBA #20367
Assistant Attorney General
Office of the Attorney General
General Counsel Unit

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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF WASHINGTON

10 MUHAMMAD SHABAZZ FARRAKHAN,)
11 et al.,)

11 Plaintiffs,

NO. CS-96-076-RHW

NOTICE OF HEARING

12 v.

13 GARY LOCKE, et al.,

14 Defendants.

15 TO: CLERK OF THE ABOVE-ENTITLED COURT;
16 AND TO: LARRY WEISER, Attorney for Plaintiffs;
17 AND TO: DENNIS CRONIN, Attorney for Plaintiffs;

18 PLEASE TAKE NOTICE that the Defendants' Motion For Leave To File An
19 Amended Answer under Fed. R. Civ. P. 15(a) will be brought on for consideration,
20 without oral argument, on July 24, 2000, and the Clerk is requested to place this
21 cause on the motion docket for that day.

22 DATED this 23rd day of June, 2000.

23 Respectfully submitted,

24 CHRISTINE O. GREGOIRE
25 Attorney General

26 *Carol Murphy* WSBA # 21244
for DANIEL J. JUDGE, WSBA #17392
Assistant Attorney General

RECEIVED

NOTICE OF HEARING

JUN 26 2000

CLERK, US DISTRICT COURT
SPOKANE, WASHINGTON