

**ORIGINAL**

1 DANIEL J. JUDGE  
WSBA # 17392  
2 Office of the Attorney General  
Criminal Justice Division  
3 PO Box 40116  
Olympia, WA 98504-0116  
4 (360) 586-1445

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

**DEC 27 1999**

JAMES R. LARSEN, CLERK  
DEPUTY  
SPOKANE, WASHINGTON

5 JEFFREY T. EVEN  
WSBA # 20367  
6 Office of the Attorney General  
General Counsel Unit  
7 PO Box 40100  
Olympia, WA 98504-0100  
8 (360) 586-0728

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

10 MUHAMMAD SHABAZZ  
11 FARRAKHAN, et al.,

NO. CS-96-076-RHW

12 Plaintiffs,

DEFENDANTS' ANSWER TO  
PLAINTIFFS' FOURTH  
AMENDED COMPLAINT

13 v.

14 GARY LOCKE, et al.,

15 Defendants.

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

20 **I. JURISDICTION**

21 1. Jurisdiction: Defendants admit that this Court has subject matter  
22 jurisdiction over this complaint.

**RECEIVED**

**DEC 27 1999**

CLERK, US DISTRICT COURT  
SPOKANE, WASHINGTON

DEFENDANTS' ANSWER TO  
PLAINTIFFS' FOURTH AMENDED  
COMPLAINT

1

ATTORNEY GENERAL OF WASHINGTON  
Criminal Justice Division  
PO Box 40116  
Olympia, WA 98504-0116  
(360) 586-1445

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**II. VENUE**

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

**III. PARTIES**

Plaintiffs:

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

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

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

1 Washington. Defendants deny that Mr. Price "has been denied the right to vote  
2 and participate in the electoral process". Defendants admit that Mr. Price is  
3 excluded from the elective franchise under Washington law because he has been  
4 convicted of one or more crimes punishable by incarceration in a Washington  
5 State correctional facility and his rights have not been restored by the superior  
6 court. Defendants admit the remainder of the allegations contained in paragraph  
7 5.

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

19 7. Defendants admit that Plaintiff Timothy Schaaf is a Washington  
20 State prisoner who is currently incarcerated at the Washington State  
21 Reformatory in Monroe, Washington. Defendants lack sufficient knowledge to  
22 answer, and therefore deny, that Mr. Schaaf has wished to vote and has requested  
registration as a voter in the state of Washington. Defendants deny that Mr.  
Schaaf "has been denied the right to vote and participate in the electoral process".  
Defendants admit that Mr. Schaaf is excluded from the elective franchise under  
Washington law because he has been convicted of one or more crimes punishable

1 by incarceration in a Washington State correctional facility and his rights have not  
2 been restored by the superior court. Defendants admit the remainder of the  
3 allegations contained in paragraph 7.

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

21 10. Defendant Gary Locke. Defendants deny that federal law provides  
22 for liability against any Defendant in his or her official capacities. Defendants  
admit the remainder of the allegations contained in paragraph 10.



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18. Defendants lack sufficient knowledge to answer, and therefore deny, the allegations contained in paragraph 18.

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

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

21. Defendants deny paragraph 21 in its entirety.

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

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

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

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

29. Defendants deny that Plaintiffs have presented valid causes of action as set forth in Paragraphs 29 – 37 of Plaintiffs' Fourth Amended Complaint.

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**VI. EQUITABLE 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.

**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.

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G. Plaintiffs' claims are subject to the defense, assumption of the risk.

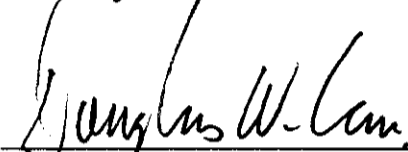
**RELIEF REQUESTED**

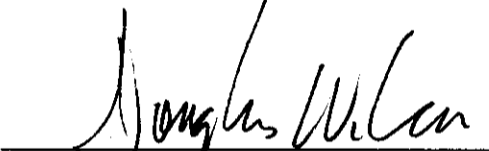
WHEREFORE, having fully answered the Complaint of Plaintiffs and having stated affirmative defenses, the Defendants pray for judgment dismissing the Fourth Amended Complaint with prejudice, directing that the Plaintiffs take nothing thereby, and awarding Defendants' costs and reasonable attorney's fees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

Defendants reserve the right to demand a jury,

RESPECTFULLY SUBMITTED this 22<sup>nd</sup> day of December, 1999.

CHRISTINE O. GREGOIRE  
Attorney General

  
DANIEL J. JUDGE  
WSBA #17392  
Office of the Attorney General  
Criminal Justice Division

  
JEFFREY T. EVEN  
WSBA # 20367  
Office of the Attorney General  
General Counsel Unit

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5 General Counsel Division  
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8  
9 UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

10 In re:  
11 MUHAMMAD SHABBAZ  
12 FARRAKHAN,  
et al.,

13 Plaintiff,

14 v.

15 GARY LOCKE, et al.,

16 Defendant.

NO. CS-96-076-RHW

AFFIDAVIT OF SERVICE  
BY MAIL

17 STATE OF WASHINGTON )  
18 County of Thurston ) ss.

19 Judy Lonborg, being first duly sworn upon oath, depose and say:

20 That I am a citizen of the United States over the age of eighteen and competent to  
be a witness herein.

21 That on 22<sup>nd</sup> day of December, 1999, I deposited in United States Postal  
22 Service, postage prepaid, and addressed as follows:

23 DENNIS CRONIN  
MAXEY LAW OFFICES  
24 W 1835 BROADWAY  
SPOKANE WA 99201

LARRY WEISSER  
UNIVERSITY LEGAL ASSISTANCE  
1220 N DAKOTA ST  
SPOKANE WA 99220

25 \\\n26

AFFIDAVIT OF SERVICE BY  
MAIL

ATTORNEY GENERAL OF WASHINGTON  
Criminal Justice Division  
PO Box 40116  
Olympia, WA 98504-0116  
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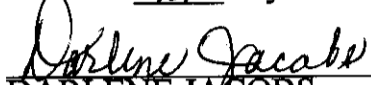
1 a copy of the following documents in the above-referenced cause:

2 DEFENDANTS' ANSWER TO PLAINTIFFS' FOURTH AMENDED  
3 COMPLAINT; and AFFIDAVIT OF SERVICE BY MAILING.

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SUBSCRIBED AND SWORN to before me this 22<sup>nd</sup> day of December, 1999.

  
\_\_\_\_\_

DARLENE JACOBS  
NOTARY PUBLIC in and for the  
State of Washington.  
Commission expires: 02/28/01.