

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

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

In re:

MUHAMMAD SHABBAZ FARRAKHAN,
et al.,

Plaintiffs,

GARY LOCKE, et al.,

Defendants.

NO. CS-96-76-RHW

MEMORANDUM IN
SUPPORT OF PLAINTIFFS'
MOTION TO AMEND
COMPLAINT

I. INTRODUCTION

Plaintiff requests court for leave to amend complaint, and to add two causes of action against Defendants.

II. FACTUAL STATEMENT

University Legal Assistance (ULA) has been associated with the case Farrakhan v. Locke, No. CS-96-076-RHW, since April 18, 1997. Since this time, ULA has been researching and conducting discovery in regard to the causes of action alleged in the amended complaints. During research and the conduct of discovery, ULA has concluded that there are new and related causes of

MEMORANDUM IN SUPPORT OF
PLAINTIFF'S MOTION TO AMEND
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1 action that should be asserted. The Plaintiffs are alleging new causes of action as
2 follows:

3 (A) The process which Defendants have established for restoring a
4 offender's civil rights deprives an offender of the right to vote based on their
5 previous condition of servitude.

6 This "process," is set out as follows:

7 When an offender has completed the requirements of the
8 sentence, the secretary of the department [of Corrections] or
9 the secretary's designee shall notify the sentencing court,
10 which shall discharge the offender and provide the offender
11 with a certificate of discharge. RCW 9.94A.220 (1). The
12 discharge shall have the effect of restoring all civil rights lost
13 by operation of law upon conviction, and the certificate of
14 discharge shall so state. RCW 9.94A.220(3).

15 While Washington's civil rights reinstatement statute appears to establish a
16 "process" of restoring civil rights to offenders, correspondence received from Dale
17 B. Ramerman, Presiding Judge for King County Superior Court (Exhibit "A"),
18 Statement from Ralph Munro, Secretary of State entitled "Voting Rights of
19 Convicted Felons" (Exhibit "B"), and letter from Jeffrey T. Even, Assistant
20 Attorney General regarding Voting Rights of Convicted Felons (Exhibit "C")
21 shows that the "process" is incomplete, muddled and confusing.

22 The process is incomplete because as Judge Ramerman declares in his letter
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24 the judiciary is not responsible for notifying an offender that his or her voting
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26 rights are restored when a certificate of discharge is issued. However, neither the
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1 Secretary of State nor the Secretary of the Department of Corrections address the
2 issue of how the offender is notified of his civil rights being restored.
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4 Conceivably, the burden shifts to the last attorney of record in regard to notifying
5 an offender of the restoration of their civil rights. If this burden is to shift to the
6 last attorney of record, then notification of civil rights restoration should be an
7 explicit requirement of the representation and not just an exercise of shifting the
8 responsibility from the state to someone else. In conclusion, the "process" is
9 incomplete because it does not make provisions to allow notice to go to an
10 offender that their civil rights have been restored.
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14 (B) Plaintiffs are being denied the right to vote because of the unjust
15 structure of the payment system set forth in RCW 9.94A.120 (12), RCW
16 9.94A.142, and RCW 9.94A.145 which an offender must be subjected to in order
17 to complete the terms of their sentence. As a result, Plaintiffs are being deprived
18 the right to vote based on their previous condition of servitude pursuant to and in
19 violation of 42 U.S.C. 1971.
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22 In order for an offender to have his civil rights restored he or she must
23 complete the requirements of his or her sentence and receive a certificate of
24 discharge from the sentencing court. RCW 9.94A.220. Requirements of the
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1 sentence include payment of any fines due and owing under the sentence. The
2 Department of Corrections, herein after referred to as DOC, supervises all
3 payments of an offender's legal financial obligations and restitutionary
4 obligations. RCW 9.94A.120. A certificate of discharge will not be issued by the
5 DOC until all the requirements of the sentence are met, including legal financial
6 obligations and restitutionary obligations. Further, it is our understanding that the
7 DOC will not issue a certificate of discharge even though the offender has
8 substantially complied with his financial legal obligations and restitutionary
9 obligations by making timely payments.
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14 This result is unjust and in violation of 42 U.S.C. 1971 for those offenders
15 who are making a good faith effort to comply with the terms of their sentence but
16 are unable to fulfill the financial obligations. Interpretation of RCW9.94A.220
17 should be one of allowing those offenders who are substantially complying with
18 the payment portion of the terms of their sentence to regain their voting rights
19 upon completion of all other sentencing requirements. This proposed structure
20 would not dismiss the offender's obligation to pay but would allow for an
21 equitable result.
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1 III. DISCUSSION

2 A. LEAVE TO AMEND SHOULD BE GRANTED

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4 1. Fed. R. Civ. P. 15(a) Favors Amendments

5 F.R.C.P. 15(a) of the Federal Rules of Civil Procedure provides that leave to
6 amend “shall be freely given when justice so requires.” Pleadings may be
7 amended under Rule 15 at any state in the proceedings. Nguyen v. United States,
8 792 F. 2d 1500, 1503 (9th Cir. 1986). Moreover, leave should be granted under
9 Rule 15 unless there is a substantial reason to deny it. Keniston v. Roberts, 717 F.
10 2d 1295, 1300 (9th Cir. 1983). Accordingly, amendments to pleadings should be
11 applied with “extreme liberality.” United States v. Webb, 655 F. 2d 977, 979 (9th
12 Cir. 1981).

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17 In this case, leave to amend should be allowed so that all claims relating to
18 this action may be resolved in a single proceeding. Consolidation of the claims
19 would result in a savings of time and resources for the Court and the parties.

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21 2. Amendment Would Not Cause Any Prejudice

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23 In the present situation, amendment of the Complaint would not prejudice
24 Defendants for the reasons that Defendants are already familiar with the core facts

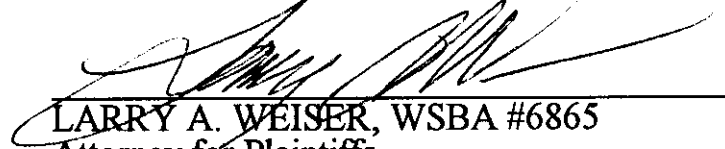
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IV. CONCLUSION

Leave to amend would permit all claims against defendants to be resolved in a single proceeding, thus promoting the interest of judicial economy and efficiency. For all the foregoing reasons, Plaintiff requests that the Court grant leave to amend complaint. The proposed Amended Complaint is attached.

DATED this ____ day of October, 1999.

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