

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

FILED**UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO****UNITED STATES DISTRICT COURT****JAN 16 2019**for the
District of New Mexico

____ Division

Case No.

19CV41-RB-JHRBennie T. Pind

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

"See Attached"

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS**(Prisoner Complaint)****NOTICE**

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

Bennie T. Pino / Plaintiff / Petitioner,

V.

Mescalero Apache Tribal Courts,
B. I. A Law Enforcement - Mescalero
Agency,

B. I. A Law Enforcement Officer -
Jackson,

B. I. A Law Enforcement officer -
I. Decker,

B. I. A Law Enforcement officer -
Transport officer - Wiskers.

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

Bennie T. Pino

All other names by which
you have been known:

ID Number

2018000709

Current Institution

Lincoln County Detention Center

Address

P.O. Box 339Curri2020,N.M.88301

City

State

Zip Code

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name

Mescalero Apache Tribal CourtsJob or Title (*if known*)

Shield Number

Employer

Address

Mescalero Apache TribeP.O. Box 227MescaleroN.M.88340

City

State

Zip Code

☐

Individual capacity

☒

Official capacity

Defendant No. 2

Name

BIA Mescalero Agency / Law Enforcement.Job or Title (*if known*)

Shield Number

Employer

Address

MescaleroN.M.88340

City

State

Zip Code

☒

Individual capacity

☒

Official capacity

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

Defendant No. 3

Name

Job or Title (if known)

Shield Number

Employer

Address

T. Decker
 BIA Law Enforcement Officer
 BIA Mescalero Agency
 Mescalero N.M. 88340
 City State Zip Code
☒ Individual capacity ☒ Official capacity

Defendant No. 4

Name

Job or Title (if known)

Shield Number

Employer

Address

Wiskers
 BIA Law Enforcement Officer -
 Transport Officer
 BIA Mescalero Agency
 Mescalero N.M. 88340
 City State Zip Code
☒ Individual capacity ☒ Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

☒ Federal officials (a *Bivens* claim)

☐ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

U.S.C. 18-241 & U.S.C. 18-242
 American Indian Civil Rights Act.

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

Deprivation of any Rights, privileges, or
 immunities secured by the Constitution
 and Federal Laws 42 U.S.C. 1983

Defendant No 5

Name: Jackson.

Job or Title: B.I.A Law Enforcement Officer.

Shield No:

Employer: B.I.A Mescalero Agency.

Address: Mescalero, N.M. 88340

✓ Individual Capacity.

✓ Official Capacity.

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

Suing under Section 1983 42 U.S.C. 1983 defendants acted under Color of law.

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (check all that apply):

- ☐ Pretrial detainee
- ☐ Civilly committed detainee
- ☐ Immigration detainee
- ☐ Convicted and sentenced state prisoner
- ☒ Convicted and sentenced federal prisoner
- ☒ Other (explain) *Sentenced for Mescalero Tribal Court,*

IV. Statement of Claim

to run concurrent with Otero County, Alamogordo, N.M.

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

*Mescalero Apache Reservation - Mescalero, N.M.
2017 to 2018.*

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

N/A

C. What date and approximate time did the events giving rise to your claim(s) occur?

12/8/17, 10 A.M.

D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

See attached Page

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

Physical and Verbal, Mental assault made by the B.I.A Law Enforcement.

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

TO have my case heard in U.S. District Courts - seeking relief and also money damages against the B.I.A Law Enforcement (Mescalero Agency) as a whole. Also seek a Tort claim against individual & official Capacity for the unjust Actions done by Federal officers acting under Color of Law. TO Be free from retaliation from the Mescalero Apache Tribe / B.I.A Law Enforcement (Mescalero Agency) as a whole.

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

- A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☒ Yes

☐ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

*Lincoln County Detention Center, Chief
Ignacio - Office of Justice Services,
Towaco, CO.*

- B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☒ Yes

☐ No

☐ Do not know

- C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☒ Yes

☐ No

☐ Do not know

If yes, which claim(s)?

*Lincoln County Detention Center
only has a grievance procedure
and not Chief Ignacio - Office of
Justice Services,*

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☒ Yes

☐ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐ Yes

☐ No

- E. If you did file a grievance:

1. Where did you file the grievance?

N/A

2. What did you claim in your grievance?

N/A

3. What was the result, if any?

N/A

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. *(Describe all efforts to appeal to the highest level of the grievance process.)*

N/A

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

N/A

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

N/A

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

N/A

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VIII. Previous Lawsuits

The “three strikes rule” bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has “on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.” 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this “three strikes rule”?

☐ Yes

☒ No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☐ Yes

☒ No

- B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)

1. Parties to the previous lawsuit

Plaintiff(s)

Bennie T. Pind

Defendant(s)

Mescalero Apache Tribal Court

BIA Law Enforcement - Mescalero Agency.

2. Court (if federal court, name the district; if state court, name the county and State)

U.S. District Court, Las Cruces, N.M.

88001.

3. Docket or index number

1:18-CV-00759-JCH-GJF, 2:18-CV-00565-ICG-GJF

4. Name of Judge assigned to your case

District Judge Kenneth J. Gonzales, and

5. Approximate date of filing lawsuit

6-19-18

Magistrate Judge Gregory J. Fouratt

6. Is the case still pending?

☐ Yes

☒ No

If no, give the approximate date of disposition.

10-4-2018

7. What was the result of the case? (For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)

Dismissed, due to undelivered mail later
put a change of address.

- C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

Pro Se 14 (Rev. 12/16) Complaint for Violation of Civil Rights (Prisoner)

- ☐ Yes
☒ No

D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s)

N/A

Defendant(s)

2. Court *(if federal court, name the district; if state court, name the county and State)*

N/A

3. Docket or index number

N/A

4. Name of Judge assigned to your case

N/A

5. Approximate date of filing lawsuit

N/A

6. Is the case still pending?

☐ Yes

☒ No

If no, give the approximate date of disposition

N/A

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

N/A

IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 1-14-19

Signature of Plaintiff

Printed Name of Plaintiff

Prison Identification #

Prison Address

Bennie Pino
Bennie T. Pino
2018000709
P.O. Box 339
Mescalero N.M. 88301
City State Zip Code

B. For Attorneys

Date of signing: _____

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City State Zip Code

Telephone Number

E-mail Address

IV. Statement of Claim

D. While seeking help on the Mescalero Apache Reservation, B.I.A Law Enforcement Officers filed in the Mescalero Apache Tribal Court false Police reports. The harassment the B.I.A Law Enforcement put my family and myself through. The threats made against myself and while I was incarcerated in Chief Ignacio Detention Center - Office of Justice Services, Towaoc, CO. The assault the B.I.A Correction Dept, Chief Ignacio Detention Center, Towaoc, CO. Feel that the Law Enforcement has made my family and myself unable to live on the Mescalero Apache Reservation. Threats, slander, assault, False Police reports, etc.

Bennie Pino, #2018000709
Lincoln County Detention Center
P.O. BOX 339
Carrizozo, NM 88301

U.S. District Courts
District of N.M.
Office of the Clerk
Suite 270
333 Lomas Blvd. N.W.
Albuquerque, N.M.
87102

Case No: 1:18-CV-00759-JCH-GJF,
2:18-CV-00565-KG-GJF

Re: Grievance Form # 01072019-001,

To Whom It May Concern;

Please file documents with
above case numbers.

Thanks,
Bennie Pino
Bennie Pino

Lincoln County Detention Center

Grievance Form # 01072019-001

(A grievance must be filed within 5 days of original incident or issue)

Inmate Name: Bennie Pino County # Lincoln Housing Unit Delta

Complaint/Comments: I've requested numerous times to address my medical problems. It's been several mths since I've had my Mental Health medication and my back top left tooth has been cracked in half. Been sentence for the Mesquero Tribal Courts and get BIA hasn't made any attempt to address my condition. Where do I go from this point or can the Medical staff help me. This will be my final attempt before I file against BIA/IHS for a prisoner civil right complaint.

Action requested by Inmate: _____

Inmate Signature: Bennie PinoDate / time: 1-7-19 @ 1:00 PM

Officer (giving form): _____

Date / time: _____



INFORMAL ☒ Resolution is accepted by Inmate: (to be completed within 24 hours and only if resolved prior to hearing.)

This grievance has been informally resolved as follows:

It was made aware we have been faxing his request to BIA/IHS Tribal Court to take care of his dental issue. We know @ IHS are doing what we need to do in order part. IHS that needs to make your apt.

Inmate Signature: Bennie PinoDate / time: 1-7-19Date Copy of Grievance Returned to Inmate: 1/9/19Staff member: [Signature]Date / time: 1/9/19 @ 1:45

Supervisory Review: _____

Date / time: _____

I would like this matter:

☐ Referred to the Inmate Grievance Committee (IGC)
☐ I agree with the resolution

Lincoln County Detention Center

Sick Call Request Form

Date of Request <u>11-25-18</u>	Name <u>Bernie Pino</u>	
Date of Birth <u>2-10-79</u>	ID# <u>2018000709</u>	Housing Unit <u>Delta</u>
Briefly state the reason for your request: (Be as specific as possible)		
<u>I need my tooth pulled because</u>		
<u>I crack the tooth in half.</u>		
<u>This has been going on for</u>		
<u>two week now and would</u>		
<u>appreciate that the tooth</u>		
<u>be pulled to avoid further</u>		
<u>pain.</u>		
<u>Thank s,</u>		
<u>Bernie Pino</u>		

- If you cannot write, please ask a staff member for assistance in completing this form.
- If you have a medical emergency, please notify an officer.
- You must have your ID with you to receive treatment.

Note: You have been added to the dental list.Date: 11/26/18 Time: 1100 Nurse: V. Gomez

- ☐ Protocol Attached
- ☐ Telephone Order Written
- ☐ RTC in ____ days if no improvement
- ☐ Patient Education given

S-100.12 Attachment 01 Request for Services

LASALLE
CORRECTIONS**LaSalle Corrections**
Secure Division**Inmate/Detainee Request for Services**

Inmate/Detainee Name:

Bernie Pino

Inmate/Detainee Number:

2018000709

Housing Location:

Delta

Assignment:

*—*I am requesting ☐ Information or ☐ Interview for the following reasons:*Request to see Indian Health Services
regarding Mental Health, Doctor, and
Dentist.*

Date:

12-19-18

Inmate/Detainee

Signature:

Bernie Pino

Inmate/Detainee will not write below this line

Your request has been forwarded to BIA/IHS.

Date:

21 Dec. 2018

Staff signature:

*A. Baker LYN**Medical*

INMATE/ DETAINEE REQUEST FORM

NAME: *Bennie Hino*DATE: *12-19-18*NUMBER: *2018000709*HOUSING: *Delta*

PLEASE CHECK THE CORRECT BOX

- | | |
|---|---|
| <input type="checkbox"/> CHIEF OF SECURITY | <input type="checkbox"/> COMMISSARY |
| <input type="checkbox"/> COMPLIANCE | <input type="checkbox"/> INTAKE/ BOOKING |
| <input type="checkbox"/> SHIFT LIEUTENANT | <input type="checkbox"/> RECREATION |
| <input type="checkbox"/> CHAPLAIN | <input type="checkbox"/> LIBRARY |
| <input checked="" type="checkbox"/> MEDICAL | <input type="checkbox"/> INDIGENT |
| <input type="checkbox"/> FOOD SERVICE | <input type="checkbox"/> INDIGENT HYGIENE |
| <input type="checkbox"/> PROPERTY | <input type="checkbox"/> GRIEVANCE |
| <input type="checkbox"/> LAUNDRY | <input type="checkbox"/> COUNSELOR |
| <input type="checkbox"/> MAIL | <input checked="" type="checkbox"/> BIA |
| <input type="checkbox"/> PHONE SERVICES | <input type="checkbox"/> USMS |

WRITE REQUEST BELOW

Request to see Mental Health at Indiana Health Services, also request to see doctor regarding my ache in my legs.

Thank you

Bennie Hino

RECEIVED
IN 12/20/18

REFERRED TO:

INPATIENTS:

RESPONSE BY: *V. Gomez, LOR*DATE: *12/20/18*

Your request to see Mental Health & HS will be forwarded to them. You will also be placed to the doctor for further evaluation and treatment regarding your legs.



Lincoln County Detention Center

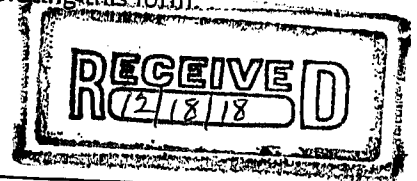
EMERALD HEALTHCARE SERVICES

Sick Call Request Form

Date of Request <u>12-17-18</u>	Name <u>Bennie Pind</u>
Date of Birth <u>5-10-77</u>	ID# <u>5018000109</u>
Housing Unit <u>Ddta</u>	
Briefly state the reason for your request: (Be as specific as possible)	
<p><u>Request</u> <u>to see Mental Health &</u> <u>a doctor regarding my</u> <u>Medication. Also I was</u> <u>advised that I needed</u> <u>to see Medical to have</u> <u>meds given to me unless</u> <u>I am allowed or put</u> <u>in another request.</u></p>	

Bennie Pind

- If you cannot write, please ask a staff member for assistance in completing this form.
- If you have a medical emergency, please notify an officer.
- You must have your ID with you to receive treatment.



Note: You will be placed on mental health list (psych) and
MD list

Date: 12/18/18 Time: 0800 Nurse: M. Mares, LPN

- ☐ Protocol Attached
- ☐ Telephone Order Written
- ☐ RTC in ____ days if no improvement
- ☐ Patient Education given

Bernie Find 2018000709
P.O. Box 339
Carri2020, N.M.
88301

RECEIVED
At Albuquerque NM

JAN 16 2019

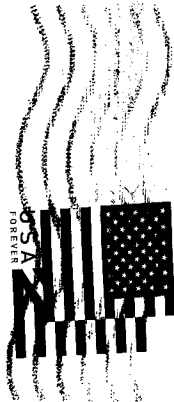
CLERK

United States District Courts
District of New Mexico
Office of the Clerk
Suite 270
333 Lomas Blvd. N.W.
Albuquerque, N.M.

87102-227470



EL PASO COUNTY
DISTRICT
14 JAN 2019 PM 2 L



Bennie Pind 2018000709
P.O. Box 339
Carriizo, N.M. 88301

RECEIVED
At Albuquerque NM

JAN 16 2019

CLERK

EL PASO TX 799
RECEIVED DISTRICT
14 JAN 2019 PM 2 L



United States District Courts
District of New Mexico
Office of the clerk
Suite 270
333 Lomas Blvd. N.W.
Albuquerque, N.M.

87102-227470

