



JC-AL-007-001

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

APR 13 11 11 AM '82
U.S. DISTRICT COURT

KEVIN P. ROOKS, JOHN PAUL OWENS,)
KENNETH EARL WILLIAMS, CURTIS)
SEXTON, individually and on)
behalf of all inmates in the)
Conecuh County Jail in)
Evergreen, Alabama,)

Plaintiffs,)

v.)

Civil Action No. 92-0316BH-M

MORRIS THIGPEN, Commissioner)
of the Alabama Department of)
Corrections in his official)
capacity; CONECUH COUNTY;)
FREDDIE STALLWORTH, JEROLD DEAN,)
LEONARD MILLENDER, HUGH BARROW,)
and FRANK PATE, in their official)
capacities as Conecuh County)
Commissioners; EDWIN L. BOOKER,)
individually and in his official)
capacity as Sheriff of Conecuh)
County; and LARRY FARRELL,)
individually and in his official)
capacity as Chief Deputy of)
Conecuh County,)

Defendants.)

COMPLAINT

I. INTRODUCTION

1. Plaintiffs bring this class action lawsuit on behalf of all inmates who have been, are now or in the future will be imprisoned in the Conecuh County Jail in Evergreen, Alabama (hereinafter "Jail"). Plaintiffs challenge the inhumane conditions of confinement and treatment that they suffer at the Jail as a result of a total lack of exercise, fresh air, or

5. The Court is authorized to grant declaratory and injunctive relief by 28 U.S.C. Sections 2201 and 2202.

III. VENUE

6. The Southern District of Alabama is an appropriate venue for this action under 28 U.S.C. Section 1391(b)(1), because defendants Freddie Stallworth, Jerold Dean, Leonard Millender, Hugh Barrow, Frank Pate, Edwin L. Booker and Larry Farrell in their official capacity reside in this district. See also 28 U.S.C. Section 1392(a). It is also an appropriate venue because a "substantial part of the events or omissions giving rise to the claim[s] occurred" in this district. 28 U.S.C. Section 1391(b)(2).

IV. PARTIES

7. Plaintiff Kevin P. Rooks was housed in the Jail for two (2) months from the first week of February, 1992 to the first week of April 1992 while serving a ninety (90) day sentence. Rooks was housed on both the "County side" and the "State side" of the Jail.

8. Plaintiff John Paul Owens began serving a one (1) year sentence at the Jail on August 28, 1991 living in both eight-man cells on the "County side" at different times.

9. Plaintiff Kenneth Earl Williams has been at the Jail since October 24, 1991 on a disorderly conduct charge waiting for the Grand Jury to meet in June, 1992. Williams is housed on the

15. Defendants Freddie Stallworth, Jerold Dean, Leonard Millender, Hugh Barrow and Frank Pate are sued in their official capacities as members of the Conecuh County Commission. The Commission exercises authority over the sheriff and the Jail, and is obligated under Alabama law to properly maintain and fund the Jail. See Alabama Code Sections 11-12-14, 11-12-15(a)(1), 11-14-9, 11-14-10, 11-14-20, 11-14-22, 11-16-28, 14-6-20, 14-6-41(b), 14-6-81, 14-6-92, and 14-6-93, 14-6-96, 14-6-105 (1975).

16. Defendant Edwin L. Booker is sued individually and in his official capacity as sheriff of Conecuh County, Alabama. As sheriff, Booker oversees the general operation of the Jail. He is also charged by Alabama law with the duty of properly maintaining the Jail and caring for its prisoners. See Alabama Code Sections 11-41-21, 11-16-29, 14-6-1, 14-6-17, 14-6-19, 14-6-40, 14-6-94, 14-6-95, 14-6-96, 14-6-97, 14-6-105 (1975).

17. Defendant Larry Farrell is sued individually and in his official capacity as Chief Deputy and head jailer of the Conecuh County Jail. As head jailer, Farrell directly supervises and controls the Jail. He is also charged by Alabama law with the duty of properly maintaining the Jail and caring for its prisoners. See Alabama Code Sections 14-6-8, 14-6-19, 14-6-21, 14-6-40, (1975).

V. CLASS ACTION ALLEGATIONS

18. Plaintiffs bring this action on behalf of themselves and all other persons who have been, now are or in the future

23. Defendants have acted and refused to act on grounds generally applicable to the class, thereby making appropriate final declaratory and injunctive relief with respect to the class as a whole.

VI. FACTUAL ALLEGATIONS

24. The Jail is located on the upper floor of the county courthouse in Evergreen, Alabama.

25. The Jail² consists of four eight-persons cells, two on the "State side" and two on the "County side;" one four-person cell in which women are confined; a "Lock-up" cell for four men and a trustee cell for four men. One side of the Jail is the "State side" for inmates from or on the way to State prison. The other side is the "County side" for inmates awaiting trial or serving sentences confined to the County Jail. Each "side" consists of two eight-man cells and a day room. A cell is approximately thirteen feet (13') by nine feet (9').

26. The Jail was constructed in 1956 to house approximately forty-five (45) inmates; however, the number of inmates which the Jail can confine safely and humanely in accordance with constitutional standards is substantially less than its 1956 design capacity.

27. The Jail is used to house both men and women. The Jail

² Attached is a floor plan of the Jail, taken in part from an Alabama Fire Marshal inspection report. The diagram is not drawn to scale but is an approximation of the Jail layout and allocation of space in the Jail. See (Complaint, Attachment 1).

sheriff and County Commission to improve the conditions of confinement for county inmates who have legally and rightfully been placed under the control of these defendants. State prisoners also occupy already-overcrowded bed space and living space, which could otherwise be allocated to county prisoners who are properly incarcerated in the Jail. Finally, confinement of State prison inmates at the Jail, particularly for long periods of time, makes it difficult to properly classify and segregate such inmates according to the seriousness of their charge, security risk or their needs.

31. The Jail houses inmates with special needs, including inmates who are physically or mentally ill, suicidal, intoxicated, and chemically dependent. There is no medical cell nor any cell available for use as a medical cell. There is no cell designed to be resistant to inmates who are at risk of harming themselves. To the contrary, all the cells provide ample means by which a suicidal inmate could injure or kill himself or others. There is no policy or training for suicide-risk identification, observation or management despite at least one known suicide attempt.

32. Persons detained or incarcerated at the Jail spend anywhere from several hours to over a year confined at the Jail. A substantial number of the Jail's present inmates have been incarcerated at the Jail for periods greater than six months. A significant number of prisoners are transferred between the Evergreen County Jail and the other jails or are released from

impossible, and causing inmates who try to read or write to suffer headaches and severe eyestrain. The light from the ceiling does not reach inmates in the bottom bunk leaving them virtually in the dark.

44. Inmates and others in the Jail confront a variety of grave fire hazards. In the event of a serious fire, it is likely that many of the prisoners would lose their lives. The electrical system in the Jail is in disrepair and threatens the safety of inmates. There are hanging, exposed wires throughout the Jail. Water drips from electrical wiring in at least one cell. Plastic bags and boxes are used to store inmates' belongings and cell floors and walls are covered with flammable materials because of a lack of storage space. Water leaks through the Jail roof when it rains and the holes in the plumbing leak water on the Jail floor.

45. There are no policies or procedures for a fire or other emergencies. There is only one jailer on duty in the Jail from 5:00 p.m. to 7:00 p.m. There is no two-way communication system or other effective means by which inmates can notify the staff of a fire. Neither Jail staff nor prisoners or trustees have been instructed on procedures to follow in the event of a fire. Because each cell door must be individually unlocked by hand, the lone jailer would not have time to safely evacuate the prisoners if a fire occurred. The lock-up cell is also secured by a chain and padlock. The cell doors are too narrow and swing in a direction against exit, hazards that would further obstruct an

operates in the winter runs constantly, the temperature cannot be controlled. Each inmate is given only one thin, often dirty, blanket. Jail officials refuse to allow inmates extra blankets in the cold weather. Inmates have suffered extreme discomfort and adverse health effects from such exposure. Several inmates have caught colds and the flu, which is quickly spread to other prisoners in the overcrowded Jail.

48. The Jail has been infested and inmates have suffered from an outbreak of crabs and bites from other pests.

49. Plumbing in the Jail is sparse, unsanitary, and in terrible disrepair. Each side contains only one shower, which must be shared by as many as sixteen (16) or more inmates. The toilet in the County side day room has a hole that leaks water onto the floor. The one attempt to repair the leak was unsuccessful. The showers are painted metal. The paint has nearly worn away exposing rusty walls and floors. The poor conditions of the showers has been noted since at least 1990 by the DOC inspector as needing attention.

50. The cell toilet sits inches away from and at the same level as the bottom bunks, an arrangement which is unsanitary and allows inmates no privacy. Because of the cells' cramped arrangements, prisoners in the beds farthest from the cell doors have the choice of sleeping with their faces inches away from either the toilet on one side, or a fellow inmate's feet on the other. Persons in these beds are sometimes awakened by the sound and stench of another prisoner defecating right beside them.

request to remove the weapon and inmate.

60. Inmates at the jail are endangered on a daily basis as a result of the delegation of many jailer functions to inmate-trustees.

61. Jailers rely heavily on trustees to deliver food and medication to inmates, to respond to prisoners' calls for assistance, to process other inmates on intake and to perform various other tasks that require entrance into the cell areas and allow the inmate-trustees authority over other inmates.

62. No criteria, policy or procedure exists for selecting inmates for trustee status; rather, Jail officials select trustees at whim. Both pretrial and sentenced inmates have been trustees. Both violent and non-violent offenders have been trustees. The only limitation on trustee status is that inmates who are female are excluded from trustee status. Defendants deny females trustee status solely on the basis of their gender. Trustees receive greater privileges than other inmates, including contact visits, more living space, and freedom to move about the Jail or Courthouse or surrounding area.

63. The safety and security of inmates at the Jail are endangered on a daily basis as a result of the absence of any system for classifying inmates or proper facilities for separating and housing inmates.

64. The defendants do not classify inmates admitted to the Jail. Thus, they neither identify any special needs the inmates have, nor identify or separate prisoners who pose a risk to

methods by which inmates may attempt suicide, including: a variety of fixtures from which an inmate can hang himself with ropes made from a ready supply of items; electrical wiring and water by which they can electrocute themselves; and high areas from which they can throw themselves to the cement floor. Failure of staff or designated trustees to watch and make sure that inmates take prescribed medication also allows inmates to stockpile medication which can be used for overdoses. A whole variety of homemade weapons floating around the Jail also provide a convenient means for suicidal inmates to inflict harm on themselves.

67. The Jail has no area for booking incoming inmates. Inmates are processed in the main hall. No room is available for strip searches or body-cavity searches. The latest inspection by the DOC reveals that the locking mechanisms at the Jail are still on the decline, even though this same deficiency was noted in March of 1991 and October of 1990.

68. Prisoners entering the Jail are not subjected to adequate health screening. No policy or procedure exists for assessing the special health needs and problems of newly admitted inmates. The Jail staff are not trained to assess these needs or problems. Prisoners with staph infections, lice, crabs, and other communicable diseases have been housed in the general population. Mentally ill inmates have been housed in the general population. Prisoners undergoing withdrawal from addictive chemical substances are housed in the general population. Jail

plaintiffs of the minimal civilized measure of life's necessities.

VII. CAUSES OF ACTION

79. Plaintiffs hereby incorporate by reference all of the above factual allegations to support the following claims.

Count I

80. The conditions of confinement at the Jail and defendants' deliberate indifference to those conditions and their policies and practices in administering and overseeing the Jail, considered both discretely and in their totality, constitute cruel and unusual punishment in violation of plaintiffs' rights under the Eighth and Fourteenth Amendments to the United States Constitution, as enforced through 42 U.S.C. Section 1983.

Count II

81. The conditions of confinement at the Jail and defendants' deliberate indifference to those conditions and defendants' policies and practices in administering and overseeing the Jail, considered both discretely and in their totality, constitute a denial of due process in violation of plaintiffs' rights under the Fourteenth Amendments to the United States Constitution, as enforced through 42 U.S.C. Section 1983.

Count VI

85. Defendants' practice of punishing inmates at the Jail for disciplinary infractions without providing them notice of the charges, a hearing, or other procedural protections, violates plaintiffs' rights to due process under the Fifth and Fourteenth Amendments to the United States Constitution, as enforced through 42 U.S.C. Section 1983.

Count VII

86. Defendants' refusal to protect inmates from assault and otherwise keep them physically safe and secure violates plaintiffs' rights under the Eighth Amendment and the due process under the Fourteenth Amendments to the United States Constitution, as enforced through 42 U.S.C. Section 1983.

Count VIII

87. Defendants' deliberate indifference to the inmates' serious medical needs violates plaintiffs' rights under the Eighth Amendment and Fourteenth Amendment to the United States Constitution, as enforced through 42 U.S.C. Section 1983.

Count IX

88. DOC defendants have refused to "require that the building and grounds" of the Jail "be kept in the best sanitary condition," in violation of plaintiffs' rights under Alabama Code

violation of Alabama Code Section 14-6-93 (1975).

Count XIV

94. Defendants have refused to keep the Jail "in a clean and sanitary condition" and to "exercise every precaution to prevent the spread of disease among the inmates," in violation of Alabama Code Section 14-6-95 (1975).

Count XV

95. Defendants have refused to "see that the food for the inmates of the [J]ail ... is nutritious, clean, wholesome, and of sufficient quantity and variety" or "to have all kitchens where food is prepared for the inmates adequately screen against flies," in violation of Alabama Code Section 14-6-97 (1975).

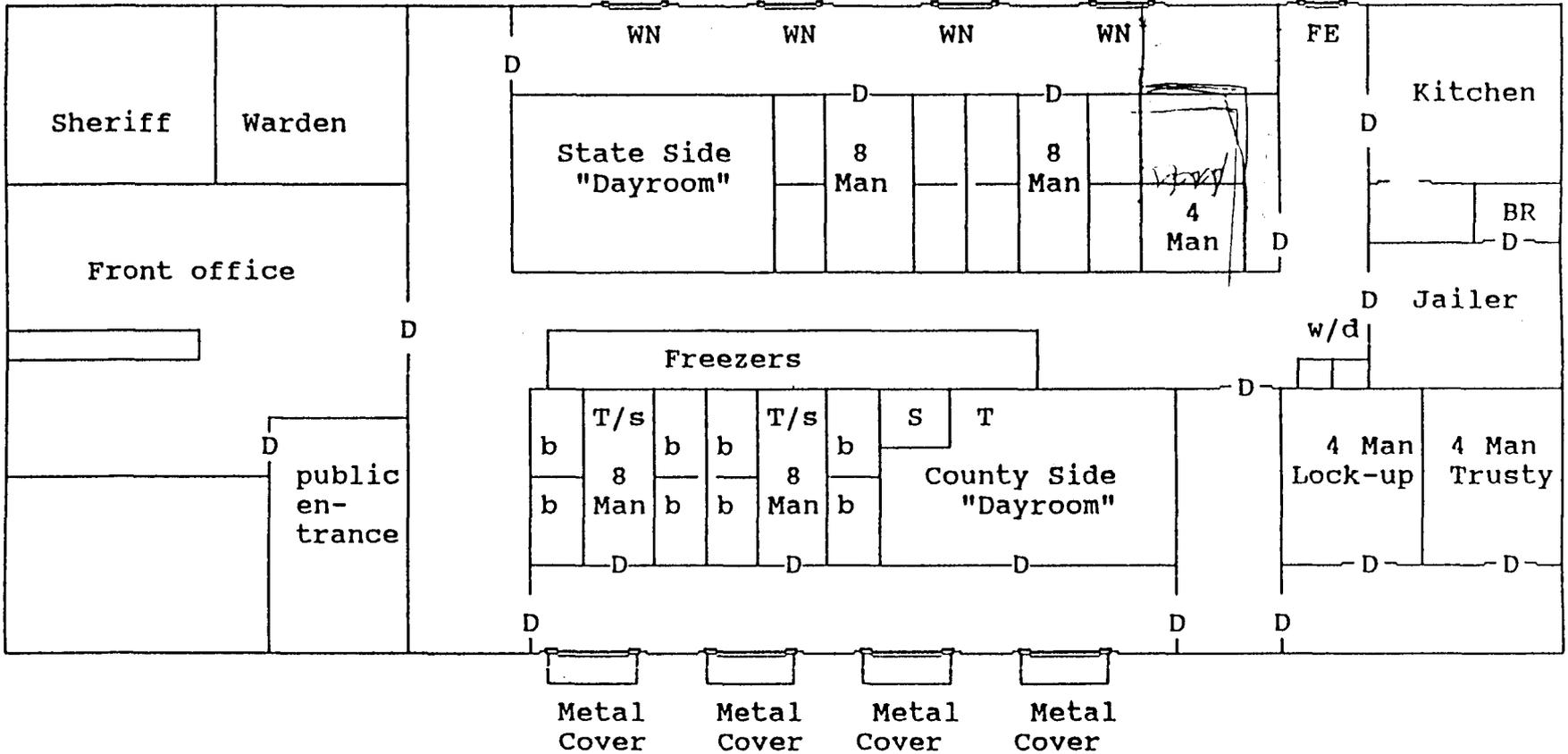
Count XVI

96. Defendants have refused to ensure that the Jail is "fire-proof, properly ventilated, sufficiently lighted by day and night, adequately heated and contain[s] adequate sanitary plumbing and sewerage connections," in violation of Alabama Code Section 14-6-103 (1975).

Count XVII

97. Defendant has refused to require the Conecuh County Commission to correct deficiencies in the Jail's drinking water, food, clothing, bedding, ventilation, air space, heating and

**CONECUH COUNTY JAIL/THIRD FLOOR COUNTY COURTHOUSE
EVERGREEN, ALABAMA**



- KEY**
- b bunk
 - BR bathroom
 - D door
 - FE fire exit
 - T toilet
 - s sink
 - S shower
 - w/d washer/dryer
 - WN window

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CERTIFICATE OF SERVICE

I do hereby certify that on this 30 day of June,
1992 a copy of the foregoing was served upon the following coun-
sel of record:

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Andrew W. Redd, Esq.
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by depositing same in the United States Mail, postage prepaid.

Henry Brewster
Attorney for Plaintiff

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FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

JUN 20 1991

KEVIN P. ROOKS, JOHN PAUL OWENS,)
KENNETH EARL WILLIAMS, CURTIS)
SEXTON, TAMMY M. MIXON and)
CYNTHIA A. FAIR, individually)
and on behalf of all inmates in)
the Conecuh County Jail in)
Evergreen, Alabama,)

Plaintiffs,)

v.)

MORRIS THIGPEN, Commissioner)
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capacity as Chief Deputy of)
Conecuh County,)

Defendants.)

Civil Action No.
91-0316-BH-M

AMENDED COMPLAINT

Plaintiffs amend their complaint by adding the following claims and plaintiffs.

IV. Parties

10.a Tammy M. Mixon was housed in the jail from June 20, 1991 through July 2, 1991 on a bad check charge and from October 10 through October 30, 1991, on a contempt of child custody

order. At all relevant times she was pregnant. She was housed in the four-bunk women's cell.

10.b Cynthia A. Fair was housed in the jail for approximately two weeks at the end of 1990, for approximately two weeks in July of 1991, from October 24, 1991 to January 31, 1992, and from June 23-28, 1992. She was housed in the four-bunk women's cell. Her incarceration is capable of repetition.

VI. Factual Allegations

78.a During their incarceration plaintiffs Tammy M. Mixon and Cynthia A. Fair were not allowed out of their cell at any time, and, therefore, were unable to exercise or breathe fresh air. They were denied the right to be a trustee solely on the basis of their gender. On many occasions a jailer and trustees, with knowledge of the defendants, spied on Mixon, Fair and the other females through holes in the cell wall, holes into their shower stall, and holes into the commode. Trustees and male inmates, with the knowledge of the defendants, exposed themselves to the plaintiffs and other female inmates and made numerous sexual and obscene remarks and innuendos. Mixon, Fair and the other female inmates also suffered from all the other conditions of the jail alleged above, including denial of necessary toiletries, medical care, sanitary and healthful food and lack of segregation of inmates based upon communicable diseases and violent behavior.

VII. Causes of Action

Count XVIII

I do hereby

1992 a copy
90.a. The actions or inactions of the defendants constitute outrageous conduct and Tammy M. Mixon and Cynthia A. Fair have been caused to suffer humiliation, mental suffering, and physical suffering on account of the defendants' outrageous conduct and constitutional violations.

PRAYER FOR RELIEF

8. Award Tammy M. Mixon and Cynthia A. Fair such actual and punitive damages arising out of defendants' outrageous conduct and constitutional violations.

Respectfully submitted this 30 day of June, 1992.

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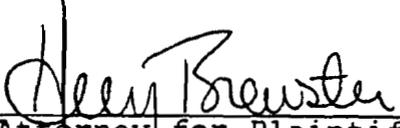
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by depositing same in the United States Mail, postage prepaid.


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