

**IN THE
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

CHARLES KING, ANDRE BROWN,)
CHIOKE HILL, THOMAS GILBERT,)
NELSON MUNIZ, ANTHONY SMITH,)
and ANDRE McGREGG,)
Plaintiffs,)

v.

) **No. 06 C 0204**

ROGER E. WALKER, Director of)
Illinois Department of Corrections,)
JESSE MONTGOMERY, Deputy)
Director of Parole,)
Operations,)
Defendants.)

) **Magistrate Judge Geraldine**
) **Soat Brown**
)
) **Judge Gettleman**

AMENDED CLASS ACTION COMPLAINT FOR INJUNCTIVE RELIEF

The Plaintiffs, CHARLES KING, ANDRE BROWN, CHIOKE HILL, THOMAS GILBERT, NELSON MUNIZ, ANTHONY SMITH, and ANDRE McGREGG, through their attorneys, THOMAS PETERS and KEVIN PETERS, state as follows:

COUNT I

PARTIES, JURISDICTION AND VENUE

1. Plaintiff King is a citizen of the United States and an Illinois parolee who currently is in custody at the Logan Correctional Center.

2. Plaintiff Brown is a citizen of the United States and an Illinois parolee who

currently is in custody at the Big Muddy Correctional Center.

3. Defendant Walker is the Director of the Illinois Department of Corrections. In that capacity, he sets the policies and practices relating to parolees and he is sued in his individual and his official capacity.

4. Defendant Montgomery is the Deputy Director of Parole for the Illinois Department of Corrections. In that capacity, he implements the policies of Defendant Walker and trains other IDOC employees in accordance with those policies and practices, and Montgomery is sued in his individual and his official capacities.

5. All of the acts and omissions alleged in this complaint were made under color of state law.

6. This action is brought pursuant to 42 U.S.C. §1983 for violations of Plaintiffs' constitutional rights under the Due Process Clause of the Fourteenth Amendment.

7. All of the Defendants maintain offices and do business in or near Chicago, Illinois.

8. This Court has jurisdiction pursuant to 28 U.S.C. §1331, 1334 and 2201.

FACTUAL BACKGROUND

9. Charles King (No. B68682) was paroled from the Logan Correctional Center.

10. Following his release on parole, Plaintiff King was assigned a parole agent in Cook County, Illinois.

11. In mid-December 2005, Plaintiff King was arrested in Chicago for an alleged

violation of parole (Case No. 05-4013982-01).

12. Plaintiff King denies that he committed a parole violation at any time prior to his arrest in December, 2005.

13. Within a few hours of his arrest, Plaintiff King was taken to the Cook County Jail.

14. Plaintiff King was transferred to the Stateville Correctional Center within 10 days of his arrest.

15. Case number 05-4013982-01 was dismissed on the motion of the Cook County State's Attorney's Office on December 28, 2005.

16. Plaintiff King had not waived his right to a preliminary parole revocation hearing, at or near the site of the alleged violation, when he was transferred to the Stateville Correctional Center, Joliet, Illinois.

17. It is, and was, at all relevant times, the policy and practice of Defendants, Walker and Montgomery, to return alleged parole violators to the institution from which they were paroled.

18. As a direct result of that policy of Defendants Walker and Montgomery, Plaintiff King was transferred from the Stateville Correctional Center to the Logan Correctional Center.

19. The Logan Correctional Center is located in Lincoln, Illinois.

20. Lincoln is approximately 165 miles from Chicago.

21. Plaintiff King did not waive his constitutional right to a prompt preliminary parole revocation hearing at any time prior to his transfer from the Stateville Correctional Center to the Logan Correctional Center.

22. Plaintiff King has been in custody for more than 30 days, and he still has not had a preliminary parole revocation hearing.

23. Plaintiff King has a well-established constitutional right to a prompt preliminary parole revocation hearing.

24. Plaintiff King has a well-established constitutional right to a preliminary parole revocation hearing near the site of the alleged parole violation.

25. Plaintiff King has a well-established constitutional right to retain counsel, to call witnesses, and to confront and cross examine witnesses at his preliminary parole revocation hearing.

26. Defendants' policies and practices as applied to Plaintiff King violated Plaintiff King's constitutional rights as identified in paragraphs 22-25 above.

27. Defendants' policy of shipping alleged parole violators out of the Cook County Jail to the Stateville Correctional Center and then to the institution from which the parole was granted, creates a system which guarantees that no Cook County parolee will receive a prompt preliminary parole revocation hearing at or near the site of the alleged parole violation.

28. Defendants' policy of shipping alleged parole violators out of the Cook

County Jail to the Stateville Correctional Center and then to the institution from which the parole was granted creates a system which guarantees that Cook County parolees will not have counsel or favorable witnesses present when a preliminary parole revocation hearing finally is held.

29. Absent exigent circumstances, a preliminary parole revocation hearing should be held within ten (10) days of a parolee's arrest and the hearing should be held at or near the site of the alleged violation, but in no case in excess of 60 miles from the site of the alleged violation.

30. Defendant's policy of shipping alleged parole violators out of the Cook County Jail to Joliet Correctional Center and then to the institution from which the parolee was granted is in direct contradiction to the agreed settlement in Willard v. Snyder, 01 C 1884 (see attached Exhibits A and B).

WHEREFORE, Plaintiff King prays the Court will a) issue a preliminary injunction barring Defendants from continuing their policy of transferring parolees from the Cook County Jail before the parolee has had, or waived, a preliminary parole revocation hearing; b) permanently enjoining Defendants from continuing their police as alleged herein; c) award costs and attorney's fees.

COUNT II

1-30. Plaintiff Brown re-alleges paragraphs 1-30 of Count I as paragraphs 1-30 of Count II.

31. Plaintiff Brown (No. S00309) was paroled from the Big Muddy Correctional Center.

32. On or about January 4, 2006, Plaintiff Brown was arrested for a parole violation.

33. Plaintiff Brown denies that he violated any condition of his parole on the day of his arrest or on any other day.

34. Plaintiff Brown was not served with notice of the parole violation charges, has not waived his right to a prompt preliminary parole revocation hearing, and has not had a parole revocation hearing.

35. Plaintiff Brown has been in custody for more than 10 business days, and he still has not had a preliminary parole violation hearing.

WHEREFORE, Plaintiff Brown prays the Court will a) issue a preliminary injunction barring Defendants from continuing their policy of transferring parolees from the Cook County Jail before the parolee has had, or waived, a preliminary parole revocation hearing; b) permanently enjoining Defendants from continuing their policy as alleged herein; c) award costs and attorney's fees.

COUNT III

1-30. Plaintiff Hill re-allege paragraphs 1-30 of Count I as paragraphs 1-30 of Count III.

31. Plaintiff Hill (No. K69594) was paroled from the Illinois Department of

Corrections on or about June 3, 2005.

32. On or about December 20, 2005, Plaintiff Hill was arrested for a parole violation (Case No. 05-6020474-01).

33. Within 10 days of his arrest, Plaintiff Hill was transferred from Cook County Jail to Stateville Correctional Center.

34. Case number 05-6020474-01 resulted in a finding of no probable cause and dismissed against the Plaintiff on January 17, 2006.

35. Plaintiff Hill denies that he committed a parole violation at any time prior to his arrest of December 20, 2005, or since his arrest.

36. Plaintiff Hill had not waived his right to a preliminary parole revocation hearing, at or near the site of the alleged violation, when he was transferred to the Stateville Correctional Center, Joliet, Illinois.

37. Shortly after his transfer to Stateville Correctional Center, Plaintiff was transferred to Western Illinois Correctional Center where he is currently incarcerated.

38. Plaintiff Hill was not served with notice of the parole violation charges, has not waived his right to a prompt preliminary parole revocation hearing, and has not had a parole revocation hearing.

39. Western Illinois Correctional Center is in excess of 100 miles from the site of the alleged parole violation.

WHEREFORE, Plaintiff Hill prays the Court will a) issue a preliminary injunction

barring Defendants from continuing their policy of transferring parolees from the Cook County Jail before the parolee has had, or waived, a preliminary parole revocation hearing; b) permanently enjoining Defendants from continuing their policy as alleged herein; c) award costs and attorney's fees.

COUNT IV

1-30. Plaintiff Thomas Gilbert realleges paragraphs 1-30 of Count I as paragraphs 1-30 of Count IV.

31. Plaintiff Gilbert (No. B37469) was paroled from the Illinois Department of Corrections on or about November 30, 2004.

32. On or about August 30, 2005, Plaintiff Gilbert was arrested for a parole violation in Chicago, Illinois.

33. Plaintiff Gilbert denies that he violated any condition of his parole before his arrest, on the day of his arrest, or since his arrest of August 30, 2005.

34. Within a few hours of his arrest, Plaintiff Gilbert was taken to the Cook County Jail.

35. Within 10 days, Plaintiff Gilbert was transferred to Stateville Correctional Center in Joliet, Illinois.

36. Shortly after his arrival at Stateville Correctional Center, Plaintiff Gilbert was transferred to Logan Correctional Center where he remains incarcerated.

37. Plaintiff Gilbert had not waived his right to a preliminary parole revocation

hearing at or near the site of the alleged violation when he was transferred to Logan from Stateville.

38. Logan Correctional Center is in excess of 100 miles from the site of Plaintiff Gilbert's alleged parole violation.

WHEREFORE, Plaintiff Gilbert prays the Court will a) issue a preliminary injunction barring Defendants from continuing their policy of transferring parolees from the Cook County Jail before the parolee has had, or waived, a preliminary parole revocation hearing; b) permanently enjoining Defendants from continuing their policy as alleged herein; c) award costs and attorney's fees.

COUNT V

1-30. Plaintiff Muniz realleges paragraphs 1-30 of Count I as paragraphs 1-30 of Count V.

31. Plaintiff Muniz was paroled from the Illinois Department of Corrections on or about November 8, 2003.

32. On or about January 21, 2006, Plaintiff Muniz was arrested in Chicago for an alleged parole violation.

33. Shortly after his arrest, Plaintiff Muniz was taken to Cook County Jail.

34. Within days, Plaintiff Muniz was transferred to Stateville Correctional Center in Joliet, Illinois, where he is currently incarcerated.

35. Plaintiff Muniz denies that he violated any condition of his parole on the day

of his arrest or since that day.

36. Plaintiff Muniz was not served with notice of the parole violation charges, has not waived his right to a prompt preliminary parole revocation hearing, and has not had a parole revocation hearing.

37. Plaintiff Muniz has been in custody for more than 10 days, and he still has not had a preliminary parole revocation hearing.

WHEREFORE, Plaintiff Muniz prays the Court will a) issue a preliminary injunction barring Defendants from continuing their policy of transferring parolees from the Cook County Jail before the parolee has had, or waived, a preliminary parole revocation hearing; b) permanently enjoining Defendants from continuing their policy as alleged herein; c) award costs and attorney's fees.

COUNT VI

1-30. Plaintiff Smith realleges Counts 1-30 of Count I as paragraphs 1-30 of Count VI.

31. Plaintiff Smith (No. R27627) was paroled from the Illinois Department of Corrections on or about June 23, 2004.

32. On or about February 3, 2006, Plaintiff Smith was arrested for a parole violation in Chicago, Illinois.

33. Plaintiff Smith denies that he violated any condition of his parole before his arrest, on the day of his arrest, or since his arrest of February 3, 2006.

34. Within hours of his arrest Plaintiff Smith was taken to Cook County Jail.

35. Within days of his incarceration at Cook County Jail, Plaintiff Smith was transferred to Stateville Correctional Center in Joliet, Illinois.

36. Plaintiff Smith has not waived his right to a prompt (within 10 days) preliminary parole revocation hearing at or near the site of the alleged violation.

WHEREFORE, Plaintiff Muniz prays the Court will a) issue a preliminary injunction barring Defendants from continuing their policy of transferring parolees from the Cook County Jail before the parolee has had, or waived, a preliminary parole revocation hearing; b) permanently enjoining Defendants from continuing their policy as alleged herein; c) award costs and attorney's fees.

COUNT VII

1-30. Plaintiff McGregg realleges paragraphs 1-30 of Count I as paragraphs 1-30 of Count VII.

31. Plaintiff McGregg (No. S00405) was paroled from the Illinois Department of Corrections on or about August 3, 2004.

32. Plaintiff McGregg was arrested for an alleged parole violation on or about September 12, 2005, in Chicago, Illinois.

33. Plaintiff McGregg denies that he violated any condition of his parole since being paroled in August of 2004.

34. Within hours of his arrest, Plaintiff McGregg was incarcerated at Cook

County Jail.

35. Within days of his arrest Plaintiff Gregg was transferred to Stateville Correctional Center in Joliet, Illinois.

36. Plaintiff Gregg has not waived his right to a prompt preliminary parole revocation hearing at or near the site of the alleged violation.

37. Plaintiff Gregg has been in custody for more than 150 days without a preliminary, or final, parole revocation hearing.

WHEREFORE, Plaintiff Gregg prays the Court will a) issue a preliminary injunction barring Defendants from continuing their policy of transferring parolees from the Cook County Jail before the parolee has had, or waived, a preliminary parole revocation hearing; b) permanently enjoining Defendants from continuing their policy as alleged herein; c) award costs and attorney's fees.

COUNT VIII

CLASS ACTION

1-30. Plaintiffs re-allege paragraphs 1-30 of Count I as paragraphs 1-30 of Count VIII.

31. Defendants' policies and practices have been in effect for more than a year.

32. The number of Cook County parolees who have been adversely affected by Defendants' policies during the last two years exceeds five hundred.

33. Plaintiffs represent a class of Cook County parolees who have been or will be

arrested for parole violations in Cook County, Illinois and who will then be: a) taken into custody at the Cook County Jail; b) transferred from the Cook County Jail within 10 days without a preliminary parole revocation hearing; c) transferred from the Cook County Jail to the Illinois Department of Corrections; and d) held without a preliminary parole revocation hearing for more than 60 days.

34. The class, as so defined, is too numerous to make joinder of all class members practicable.

35. Defendants have established a unified policy that affects all Cook County parolees charged with violations in the same way.

36. Plaintiffs' claims are typical of the claims of all class members.

37. Common issues of law and fact predominate over any minor differences in treatment.

38. Plaintiffs' counsel can fairly and adequately represent the class.

39. The constitutional rights of all class members are being violated by Defendants' policies and practices as described herein.

WHEREFORE, Plaintiffs pray the Court will a) issue a preliminary injunction barring Defendants from continuing their policy of transferring parolees from the Cook

County Jail before the parolee has had, or waived, a preliminary parole revocation hearing; b) permanently enjoining Defendants from continuing their police as alleged herein; c) award costs and attorney's fees.

Respectfully Submitted,

S/Thomas Peters

THOMAS PETERS, ONE OF THE
ATTORNEYS FOR PLAINTIFFS
407 S. Dearborn, Suite 1675
Chicago, IL 60605
312-697-0022