

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY  
BOWLING GREEN DIVISION

[Filed Electronically]

STUART COLE and LOREN PATTERSON, )  
individually and on behalf of all others )  
similarly situated, )

PLAINTIFFS )

v. )

WARREN COUNTY, KENTUCKY )

Serve: Mike Buchanon )  
County Judge-Executive )  
420 East 10<sup>th</sup> Ave., Suite 201 )  
Bowling Green, KY 42101 )

1:11-CV-189-M

CLASS ACTION COMPLAINT

MIKE BUCHANON, individually )

Serve: Mike Buchanon )  
420 East 10<sup>th</sup> Ave., Suite 201 )  
Bowling Green, KY 42101 )

JACKIE T. STRODE, individually )

Serve: Jackie T. Strode )  
Jailer )  
Warren County Regional Jail )  
920 Kentucky Street )  
Bowling Green, KY 42101 )

JEFF ROBBINS, individually )

Serve: Jeff Robbins )  
Chief Deputy )  
Warren County Regional Jail )  
920 Kentucky Street )  
Bowling Green, KY 42101 )

PAT WATT, individually )

Serve: Pat Watt )  
Chief Administrative Deputy )  
Warren County Regional Jail )  
920 Kentucky Street )

Bowling Green, KY 42101 )  
 )  
**MISSE COOPER-EDMONDS, individually** )  
**Serve: Misse Cooper-Edmonds** )  
**Chief Deputy** )  
**Warren County Regional Jail** )  
**920 Kentucky Street** )  
**Bowling Green, KY 42101** )  
 )  
**GAYLE ESTON, individually** )  
**Serve: Gayle Eston** )  
**908 Captains Ct** )  
**Bowling Green, KY 42103-9605** )  
 )  
**SOUTH CENTRAL BANK OF** )  
**BOWLING GREEN, INC.** )  
**Serve: Ellen Lee Bale** )  
**Chairwoman** )  
**South Central Bank of** )  
**Bowling Green, Inc.** )  
**1757 Campbell Lane** )  
**Bowling Green, KY 42104** )  
 )  
**ELLEN LEE BALE, individually** )  
**Serve: Ellen Lee Bale** )  
**P.O. Box 667** )  
**208 South Broadway** )  
**Glasgow, KY 42141** )  
 )  
**TOMMY ROSS, individually** )  
**Serve: Tommy Ross** )  
**President** )  
**South Central Bank of** )  
**Bowling Green, Inc.** )  
**1757 Campbell Lane** )  
**Bowling Green, KY 42104** )  
 )  
**DEFENDANTS.** )

**I. Introduction**

1. Plaintiffs Stuart Cole and Loren Patterson file this action in their individual capacity and on behalf of all persons who, while incarcerated or detained at the Warren County Regional Jail (“the Jail”), have been wrongfully deprived of their property without due process of law by:

a. The policy, custom and/or practice at the Jail of endorsing, cashing and retaining all proceeds from checks in the possession of persons admitted to the Jail other than sentenced prisoners without the payees' knowledge, approval, endorsement or consent, in violation of Kentucky law, the Civil Rights Act of 1871, 42 U.S.C. §1983, the Fourth and Fourteenth Amendment of the United States Constitution, and Section 10 of the Kentucky Constitution;

b. The policy, custom and/or practice of accepting and honoring such checks by South Central Bank of Bowling Green, Inc. (the "Bank"), in violation of Kentucky law, the Civil Rights Act of 1871, 42 U.S.C. §1983, the Fourth and Fourteenth Amendment of the United States Constitution, and Section 10 of the Kentucky Constitution; and

c. The policy, custom and/or practice at the Jail of retaining cash and proceeds from checks of persons admitted to the Jail other than sentenced prisoners without their consent, and/or in violation of and/or in excess of sums permitted under KRS § 441.265, and/or without providing an accounting of same, in violation of Kentucky law, the Civil Rights Act of 1871, 42 U.S.C. §1983, the Fourth and Fourteenth Amendment of the United States Constitution, and Section 10 of the Kentucky Constitution.

2. On information and belief, numerous persons admitted to the Jail who are not sentenced prisoners have been subject to the wrongful taking of their property by such policies, customs and/or practices and the wrongful conduct described below. On information and belief, such policies, customs and/or practices have caused consequential and special damages to some or all such persons in addition to the actual damages represented by the funds retained.

## **II. Jurisdiction and Venue**

3. Plaintiffs, and all others similarly situated, seek recovery of actual and punitive damages from Defendants under the Civil Rights Act of 1871, 42 U.S.C. §1983, for gross and unconscionable violations of the rights, privileges and immunities guaranteed them by the Fourth and Fourteenth Amendments to the Constitution of the United States. Accordingly, this Court has jurisdiction of this case pursuant to the provisions of 28 U.S.C. §1331 and §1343. Plaintiffs, and all others similarly situated, also seek declaratory and injunctive relief as well as damages from Defendants under state and common law and Section 10 of the Kentucky Constitution pursuant to

the supplemental jurisdiction of this Court. As Warren County, Kentucky is the location of all acts pertinent to Plaintiffs' claims, venue is proper in this Court.

### **III. Parties**

4. Plaintiffs were incarcerated following their arrest, but bonded out and were not sentenced prisoners, at the Warren County Regional Jail (the "Jail") in Warren County, Kentucky.

5. Defendants Warren County, Kentucky (the "County"), and County Judge-Executive Mike Buchanon, at all times mentioned herein, employed, were responsible for the establishment of policies either formally or by custom for, and were responsible for the employment, training, supervision and conduct of, the officers and employees of the Jail.

6. Defendant Strode, at all times mentioned herein, was the Warren County Jailer, and Defendants Robbins, Watts, Cooper-Edmonds and Eston (who retired on July 31, 2011) were for all or part of all times mentioned herein, Chief Deputies of the Jail (collectively, the "Individual County Defendants"). As such, the Individual County Defendants were responsible for the establishment of policies, customs and practices governing the employment, training, supervision and conduct of, officers and employees staffing the Jail, and the establishment of policies, customs and practices governing conduct and practices of the Jail's officers and employees regarding, *inter alia*, property of arrestees and pre-trial detainees like Plaintiffs, and, on information and belief, individually participated in the wrongful conduct made the basis of this complaint.

7. Upon information and belief, South Central Bank of Bowling Green, Inc. (the "Bank") at all times mentioned herein maintained one or more depository accounts for the Jail.

8. Upon information and belief, Defendants Bale and Ross (the "Individual Bank Defendants"), at all times mentioned herein, were Chairwoman and President, respectively, of the Bank, and as such were, together with the Bank, responsible for the establishment of policies,

customs and practices governing the employment, training, supervision and conduct of, officers and employees of the Bank, and the establishment of policies, customs and practices governing conduct and practices of the Bank's officers and employees regarding, *inter alia*, ensuring proper endorsement of, and acceptance for deposit into the accounts of the Bank's account holders, checks presented to the Bank by its customers, and, on information and belief, individually participated in the wrongful conduct made the basis of this complaint.

#### **IV. Nature of Defendants' Conduct**

9. The County and the Individual County Defendants (collectively, "the County Defendants") engaged in the conduct described below under color of state law, and in accordance with the policies, customs and practice of the County and the Jail. The offenses described below resulted from the failure of the County Defendants to employ qualified persons for positions of authority, and/or to properly or conscientiously train and supervise the conduct of such persons after their employment, and/or to promulgate appropriate operating policies and procedures either formally or by custom and practice to protect the constitutional and statutory rights of inmates in the Jail's care and custody. The County Defendants created, approved or knowingly acquiesced in a policy, custom and/or practice under which unconstitutional practices and practices which violate statutory and common law occurred, and/or promulgated operating policies and procedures either formally or by custom and practice which violate the constitutional, statutory and common law rights of inmates in the Jail's care and custody. The County Defendants' conduct was intentional or grossly negligent, was conducted in bad faith, and was indicative not only of deliberate indifference to, but active malice and a total and reckless disregard for the constitutional, statutory and common law rights of Plaintiffs and the classes, justifying an award of punitive damages in addition to the actual damages which Plaintiffs and the classes are entitled to recover.

10. The Bank and the Individual Bank Defendants (collectively, the “Bank Defendants”), engaged in the conduct described below as state actors and in accordance with the policies, customs and practices of the Bank. The offenses described below resulted from the failure of the Bank Defendants to employ qualified persons for positions of authority, and/or to properly or conscientiously train and supervise the conduct of such persons after their employment, and/or to promulgate appropriate operating policies and procedures either formally or by custom and practice to protect the constitutional, statutory and common law rights of inmates in the Jail’s care and custody. The Bank Defendants created, approved or knowingly acquiesced in a policy, custom and/or practice under which unconstitutional practices and practices which violate statutory and common law occurred, and/or promulgated operating policies and procedures either formally or by custom and practice which violate the constitutional, statutory and common law rights of inmates in the Jail’s care and custody. The Bank Defendants’ conduct was intentional or grossly negligent, was conducted in bad faith, and was indicative not only of deliberate indifference to, but active malice and a total and reckless disregard for the constitutional, statutory and common law rights of Plaintiffs and the classes, justifying an award of punitive damages in addition to the actual damages which Plaintiffs and the classes are entitled to recover.

#### **IV. Class Action**

11. Plaintiffs bring this action as a class action pursuant to Rules 23(b)(1), (2) and (3) of the Federal Rules of Civil Procedure. The classes consists of (a) all persons incarcerated in the Jail who were not sentenced prisoners who have had checks in their possession when admitted to the Jail taken, endorsed and deposited by the County Defendants in the Jail’s account or accounts with the Bank or other financial institutions; (b) all persons incarcerated in the Jail who were not sentenced prisoners who have had the cash and checks in their possession when admitted to the Jail retained by

the County Defendants without their written consent, and/or in violation of and/or in excess of sums permitted under KRS § 441.265; and (c) all persons incarcerated in the Jail who were not sentenced prisoners who have had the cash and checks in their possession when admitted to the Jail retained by the County Defendants without giving an accounting to such persons upon release from the Jail.

12. Plaintiffs will fairly and adequately protect the interests of all class members. They are members of the classes and their claims are typical of the claims of all class members. Plaintiffs will aggressively pursue the interests of the entirety of the classes. Plaintiffs' interest in obtaining injunctive relief and actual, special, consequential and punitive damages for the violations of their statutory and constitutional rights and privileges are consistent with and not antagonistic of those of any other person within their classes.

13. Given the events which transpired upon their admission to the Jail and following their release from the Jail, Plaintiffs allege that the County Defendants have a policy, custom and/or practice of: (a) seizing checks in the possession of all persons admitted to the Jail, endorsing such checks without such persons' consent or legal authorization, depositing such checks in its account or accounts with the Bank or other financial institutions, and retaining the proceeds; (b) retaining cash and checks in the possession of all persons admitted to the Jail without their consent, and/or in violation of and/or in excess of sums permitted under KRS § 441.265; and (c) retaining the cash and checks in the possession of all persons admitted to the Jail without giving an accounting to such persons upon release their from the Jail. In addition, Plaintiffs allege that the Bank Defendants have a policy, custom and/or practice of accepting checks made payable to persons detained or incarcerated in the Jail, and depositing such checks in the Jail's account or accounts with the Bank without the payee's endorsement, consent or legal authorization.

14. Such conduct violates the rights of persons who are not sentenced prisoners under, among other things, the Fourth and Fourteenth Amendments to the Constitution of the United States, 42 U.S.C. §1983, and Section 10 of the Kentucky Constitution and Kentucky common law. The only question that remains to be resolved is whether Plaintiffs and the members of the classes are entitled to declaratory and injunctive relief, and to an award of compensatory and punitive damages and, if so, the extent of such an award.

15. A class action is superior to other available methods for the fair and efficient adjudication of this controversy because:

- a. A multiplicity of suits with consequent burden on the Court and Defendants should be avoided;
- b. It may be virtually impossible for all class members to intervene as parties-plaintiff in this action; and
- c. Upon adjudication of Defendants' liability, claims of the class members can be determined by this Court.

## **VI. Facts**

16. KRS 441.265 provides in relevant part that:

a. A prisoner in a county jail shall be required by the sentencing court to reimburse the county for expenses incurred by reason of the prisoner's confinement as set out in this section, except for good cause shown.

b. The jailer may adopt, with the approval of the county's governing body, a prisoner fee and expense reimbursement policy, which may include, but not be limited to, the following:

- i. An administrative processing or booking fee;
- ii. A per diem for room and board of not more than fifty dollars (\$50) per day or the actual per diem cost, whichever is less, for the entire period of time the prisoner is confined to the jail;
- iii. Actual charges for medical and dental treatment; and
- iv. Reimbursement for county property damaged or any injury caused by the prisoner while confined to the jail.

c. Rates charged may be adjusted in accordance with the fee and expense reimbursement policy based upon the ability of the prisoner confined to the



jail to pay, giving consideration to any legal obligation of the prisoner to support a spouse, minor children, or other dependents. The prisoner's interest in any jointly owned property and the income, assets, earnings, or other property owned by the prisoner's spouse or family shall not be used to determine a prisoner's ability to pay.

d. Payment of any required fees may be automatically deducted from the prisoner's property or canteen account.

Nothing in KRS 441.265 suggests that it applies to anything other than a *sentenced* prisoner (as opposed to an arrestee or pretrial detainee who retains a presumption of innocence), or permits a jail to deposit checks and retain cash in the possession of any person absent a court order, or without such person's consent, or without consideration of such person's support obligations or need for such funds to pay for more pressing obligations (such as rent, electricity, water, medicine, etc.), or without regard to such person's guilt of the offense for which they were arrested or are detained pending trial, or beyond the actual or reasonable cost incurred as a consequence of such person's incarceration, or without an accounting of funds collected, retained and returned, or without regard to the consequences of such action.

17. Plaintiffs were arrested, admitted to the Jail, and then released after posting bond. When Plaintiffs were admitted to the Jail, they both had in their possession certain checks made payable to such Plaintiff and sums of cash. The checks and cash were taken from them by the County Defendants in accordance with the County Defendants' policy, custom and/or practice. The County Defendants wrongfully, knowingly and intentionally, and without Plaintiffs' knowledge, approval, endorsement or consent, stamped the checks "For Deposit Only, Warren County Jail, Inmate Account," in accordance with Jail practice, custom and/or policy. The County Defendants then presented the checks to the Bank Defendants, which wrongfully accepted them for deposit into one or more accounts of the Jail at the Bank. The County Defendants retained proceeds of such checks in addition to the cash taken from Plaintiffs without Plaintiffs' consent, and/or in violation of

and/or in excess of the amounts authorized by KRS § 441.265. Plaintiffs received no accounting for the cash and checks taken and retained by the County Defendants.

18. Because of the County Defendants' wrongful retention of cash and checks in Plaintiffs' possession in violation of and/or in excess of the amounts authorized by KRS § 441.265 and their failure to account for same, the County Defendants' cashing of the checks in Plaintiffs' possession, and the wrongful acceptance and deposit of the checks by the Bank Defendants, Plaintiffs have suffered injury including, without limitation, the deprivation of their property without due process of law.

## **VII. Causes of Action**

### **A. Count I**

19. Paragraphs 1-18 above are incorporated herein by reference and made this Paragraph 19.

20. Plaintiffs' and the classes' treatment by the County Defendants is the result of a continuing pattern of misconduct and is the result of policies, procedures, customs and practices of the County Defendants, either written or unwritten, that are systematically applied to all persons admitted to the Jail, pursuant to which persons like Plaintiffs are deprived of their property without due process of law, in violation of the Fourteenth Amendment, and are subjected to unreasonable searches and seizures in violation of the Fourth Amendment, all in violation of the Civil Rights Act of 1871, 42 U.S.C. §1983. Such practices constitute an arbitrary use of government power, and evince a total, intentional and unreasonable disregard for and deliberate indifference to the constitutional, state and common law rights of persons in the Jail's care and custody, including Plaintiffs and the members of the classes, and the wholesale violations of those rights likely to result from the systematic pursuit of such policies, customs and practices.

21. Plaintiffs' and the classes' treatment by the Bank Defendants is the result of a continuing pattern of misconduct and is the result of policies, procedures, customs and practices of the Bank, either written or unwritten, that are systematically applied to all persons admitted to the Jail, pursuant to which the persons like Plaintiffs are deprived of their property without due process of law, in violation of the Fourteenth Amendment, and are subjected to unreasonable searches and seizures in violation of the Fourth Amendment, all in violation of the Civil Rights Act of 1871, 42 U.S.C. §1983. By engaging in such practices, the Bank Defendants serve as a state actor. Such practices constitute an arbitrary use of government power, and evince a total, intentional and unreasonable disregard for and deliberate indifference to the constitutional, state and common law rights of persons in the Jail's care and custody, including Plaintiffs and the members of the classes, and the wholesale violations of those rights likely to result from the systematic pursuit of such policies, customs and practices.

22. As a result of the foregoing, Plaintiffs and the classes, through Defendants' intentional or grossly negligent conduct, bad faith and deliberate indifference to their rights, were deprived of their property without due process of law in violation of the Fourteenth Amendment, and were subjected to an unreasonable seizure in violation of the Fourth Amendment to the United States Constitution, all in violation of the Civil Rights Act of 1871, 42 U.S.C. §1983.

**B. Count II**

23. Paragraphs 1-22 above are incorporated herein by reference and made this Paragraph 23.

24. By virtue of the foregoing, the County Defendants and Bank Defendants were negligent and grossly negligent, all to the damage of the Plaintiffs and the classes.

**C. Count III**

25. Paragraphs 1-24 above are incorporated herein by reference and made this Paragraph  
25.

26. By virtue of the foregoing, the County Defendants and Bank Defendants engaged in a conspiracy to wrongfully deprive Plaintiffs and the classes of their property, all to the damage of Plaintiffs and the classes.

**C. Count IV**

27. Paragraphs 1-26 above are incorporated herein by reference and made this Paragraph  
27.

28. By virtue of the foregoing, the County Defendants and Bank Defendants violated the laws of the Commonwealth of Kentucky, including, without limitation, Section 10 of the Kentucky Constitution, Articles 355.3 and 355.4 of the Kentucky Uniform Commercial Code, and sections 506.040 *et seq.*, 514.030, 514.070, 522.020 and 522.030 of the Kentucky Penal Code. In addition, the County Defendants violated the Administrative Regulations of the Commonwealth of Kentucky, including, without limitation, § 501 KAR 3:120.

**D. Count V**

29. Paragraphs 1-28 above are incorporated herein by reference and made this Paragraph  
29.

30. By virtue of the foregoing, the County Defendants and Bank Defendants acted in bad faith.

**E. Count VI**

31. Paragraphs 1-30 above are incorporated herein by reference and made this Paragraph  
31.

32. By virtue of the foregoing, the County Defendants and Bank Defendants converted the property of the Plaintiffs and the classes.

**E. Count VI**

33. Paragraphs 1-32 above are incorporated herein by reference and made this Paragraph 33.

34. By virtue of the foregoing, the County Defendants and Bank Defendants fraudulently deprived the Plaintiffs and the classes of their property.

**VIII. Damages**

35. Paragraphs 1-34 above are incorporated herein by reference and made this Paragraph 35.

36. As a consequence of the County Defendants and Bank Defendants' wrongful conduct, Plaintiffs and the members of the classes have been wrongfully deprived of their property, in violation of the Plaintiffs' and the classes' constitutional, statutory and common law rights.

37. As a result, Plaintiffs and the members of the classes are entitled to recover all actual, consequential and special damages arising from the conduct of the County Defendants and Bank Defendants. Furthermore, the County Defendants and Bank Defendants' violations of the constitutional, statutory and common law rights of the Plaintiffs and the classes were knowing, intentional, malicious and evinced a total and reckless disregard for the rights of Plaintiffs and the classes, entitling them to recover punitive damages from such Defendants in order to deter such conduct in the future.

38. The Bank Defendants acted in bad faith and failed to exercise ordinary care, and as a result Plaintiffs and the members of the Classes are entitled to recover from the Bank Defendants actual damages and special and consequential damages they suffered as a proximate consequence of

the Bank Defendants' actions pursuant to KRS § 355.4-103. In addition, Plaintiffs and the classes, pursuant to KRS § 286.3-800, are entitled to recover from the Bank the sums represented by all checks wrongfully accepted by the Bank and deposited to the account of the Jail.

**IX. Declaratory Judgment and Permanent Injunction**

39. Paragraphs 1-38 above are incorporated herein by reference and made this Paragraph 39.

40. In addition to the foregoing, Plaintiffs and the classes request that this Court issue a declaratory judgment against the County Defendants and Bank Defendants deeming unconstitutional any and all policies, procedures, customs or practices which resulted in the Jail's retention of cash and checks of persons who are not sentenced prisoners in violation of and/or in excess of sums authorized by KRS § 441.265, the Jail's failure to account to Plaintiffs and the classes for their property, and the Jail's endorsement of and cashing of Plaintiffs' and the classes' checks, and the Bank's depositing of such checks in the Jail's accounts, without the payees' knowledge, approval, endorsement or consent, and further request that this Court permanently order the County Defendants and Bank Defendants to refrain from following or enforcing such policies, procedures, customs or usages that contributed to the damages sustained by Plaintiffs and the classes.

**WHEREFORE**, Plaintiffs and the classes they represent request (a) that this action proceed as a class action under Fed. R. Civ. P. 23 and (b) a trial by jury, and further request that they and all members of the classes (c) be awarded actual, consequential, special and punitive damages, (d) be granted the declaratory and injunctive relief requested herein, and (e) be awarded all costs, attorney fees, pre- and post-judgment interest and all other relief to which they are entitled.

Respectfully submitted,

/s/ Gregory A. Belzley  
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