

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

| | | |
|--------------------------------------|---|----------------------|
| Johnathan Lacy, |) | |
| |) | |
| <i>Plaintiff,</i> |) | |
| |) | |
| -vs- |) | No. 14-cv- |
| |) | |
| Thomas Dart, Sheriff of Cook County, |) | <i>(jury demand)</i> |
| Cook County, Illinois, Sgt. Johnson, |) | |
| Correctional Officer Nawara, |) | |
| Correctional Officer Lopez, and |) | |
| Correctional Officer Wilson, |) | |
| |) | |
| |) | |
| <i>Defendants.</i> |) | |

COMPLAINT

Plaintiff Johnathan Lacy, by counsel, alleges as follows:

1. This is a civil action arising under Section 202 of the Americans with Disabilities Act, 42 U.S.C. §12132, Section 504 of the Rehabilitation Act, 29 U.S.C. §794(a), and 42 U.S.C. §1983. The jurisdiction of this Court is conferred by 28 U.S.C. §12133, 29 U.S.C. §794a(a)(2), and 28 U.S.C. §1343.
2. Plaintiff Jonathan Lacy is a wheelchair bound disabled resident of the Northern District of Illinois. Plaintiff is currently confined at the Cook County Jail as detainee number 2014-0514252.
3. Defendant Thomas Dart is the Sheriff of Cook County. Plaintiff sues Dart in his official capacity only on his claims under the ADA and the Rehabilitation Act.

4. Defendant Cook County is joined in this action pursuant to *Carver v. Sheriff of LaSalle County*, 324 F. 3d 947 (7th Cir. 2003) and is liable for the wrongdoing as more fully described below.

5. Defendants Sgt. Johnson and correctional officers Nawara, Lopez, and Wilson are employees of the Cook County Sheriff. Plaintiff sues these officers in their individual capacity solely on his excessive force claim under 42 U.S.C. §1983.

6. As a wheelchair bound person, plaintiff requires access to a special sink, toilet, shower, and bed in order to take part in these basic life activities.

7. Plaintiff is one of more than fifty wheelchair bound persons who have entered the Cook County Jail in the past five years.

8. As the result of a lawsuit known as *Phipps v. Sheriff*, 07-cv-3889, defendants Sheriff and Cook County became aware that the Cook County Jail was failing to accommodate the needs of wheelchair bound detainees.

9. In the course of the *Phipps* litigation, defendants Sheriff and Cook County took a variety of actions to accommodate wheelchair bound detainees at the Jail.

10. After resolving the *Phipps* litigation, defendant Sheriff agreed to allow a greater number of wheelchair bound pre-trial detainees to enter the Jail than could be accommodated in ADA compliant facilities.

11. Plaintiff entered the Cook County Jail on May 14, 2014. At that time, the Jail did not have sufficient facilities to accommodate another wheelchair bound pre-trial detainee.

12. In June 2014, and for about eight day, plaintiff was assigned to a cell in Cermak Infirmary at the Cook County Jail which did not have the facilities required to accommodate a wheelchair bound prisoner. While confined in this cell, plaintiff was required to sleep on the floor and did have access to toilet and sink facilities as defendants Sheriff and Cook County provide to non-wheelchair bound prisoners. Confinement in this cell caused plaintiff to experience tremendous hardship in performing activities of daily living.

13. After plaintiff had been subjected to about eight days of confinement in the above described unlawful conditions, correctional officers sought to place plaintiff into a cell in the Cermak Infirmary. This cell likewise failed to provide toilet and sink facilities for plaintiff as a wheelchair bound person.

14. Plaintiff peaceably complained about being transferred to another inaccessible cell. Defendants Johnson, Nawara, Lopez, and Wilson then used force to place plaintiff into the inaccessible cell.

15. The force used by defendants Johnson, Nawara, Lopez, and Wilson was grossly excessive, inflicted without a legitimate basis, intended to harm plaintiff, caused plaintiff to suffer serious personal injuries, and thereby deprived

plaintiff of rights secured by the Fourteenth Amendment to the Constitution of the United States.

16. Plaintiff attends court at the Criminal Court Building at 2650 South California Avenue about once per month. The facilities at the Criminal Court Building are under the control of defendant Cook County.

17. Each morning before a scheduled court appearance, correctional officers transport plaintiff from his living unit to the basement of the Criminal Court Building.

18. Plaintiff is segregated from non-wheelchair bound detainees in the basement of the courthouse.

19. Non-wheelchair bound detainees are held in cells with free access to a toilet and a sink; wheelchair bound detainees, like plaintiff, are required to sit in his (or her) wheelchair in a hallway without access to a toilet and sink.

20. Defendants Sheriff and Cook County are aware that wheelchair bound detainees are deprived of access to toilet and sink facilities before and after court appearances at the Criminal Courts Building at 2650 South California Avenue.

21. Plaintiff has complained to numerous members of the medical staff, members of the correctional staff, and has filed several grievances regarding the above described wrongdoing, including a request for proper toileting accommodations on days when he is required to attend court at the Criminal Court Building. Despite the written and oral requests, plaintiff continues to be deprived

of rights secured by the ADA and the Rehabilitation Act and continues to suffer irreparable harm for which there is no adequate remedy at law.

22. Plaintiff hereby requests trial by jury.

WHEREFORE, the Plaintiff requests that he receive appropriate compensatory damages and punitive damages against the individual defendants Johnson, Nawara, Lopez, and Wilson and compensatory damages against defendants Sheriff and Cook County. Plaintiff also requests that the Court fashion appropriate injunctive relief against defendant Sheriff and Cook County and that the costs of this action, including attorney's fees, be taxed against defendant Cook County.

/s/ Patrick W. Morrissey
Patrick W. Morrissey
ARDC No. 6309730

Thomas G. Morrissey, Ltd.
10249 S. Western Ave.
Chicago, Illinois 60643
(773) 233-7900

Kenneth N. Flaxman
200 S Michigan Ave, Ste 201
Chicago, IL 60604
(312) 427-3200

Attorneys for Plaintiff