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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. SA CV 01-0981-GLT (MLGx)

Date: November 26, 2002

Title: Fred Pierce, et al. v. County of Orange, et al.

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PRESENT:

HON. Gary L. Taylor JUDGE

Lisa Bredahl
Deputy Clerk

None Present
Court Reporter (SM)

ATTORNEYS PRESENT FOR PLAINTIFFS:

ATTORNEYS PRESENT FOR DEFENDANTS:

None Present

None Present

PROCEEDINGS: **Order DENYING Defendants' Motion to Dismiss and Motion For a More Definite Statement**

[In Chambers]

Defendants Orange County and Sheriff Michael S. Carona moved to dismiss portions of Plaintiffs' Fourth Amended Class Action Complaint and to require Plaintiffs to provide a more definite statement. Defendants' Motions are DENIED.

Defendants argue Plaintiffs Fred Pierce and Max Sanders have not sufficiently alleged facts to support their claim for injunctive relief because they do not allege they are presently incarcerated. Plaintiffs' Complaint sets forth the allegedly unlawful conditions to which detainees are regularly subject in Defendants' jails. Plaintiffs also allege they were arrested and held, but do not allege whether they had been released at the time the Complaint was filed. Thus, it is possible Plaintiffs were in custody and subject to the allegedly unlawful jail conditions at the time the Complaint was filed. Construed in the light most favorable to Plaintiffs, the Complaint sufficiently allege a claim for injunctive relief. Defendants' Motion to Dismiss is DENIED.

Defendants also contend Plaintiffs Jonathan Nelson and Adam Ramirez do not have standing to bring individual claims because according to the Complaint, they were only at the booking stage at the time the Complaint was filed and had not been injured by the allegedly unlawful jail conditions. A defendant's alleged repeatedly injurious conduct in the past may show a sufficiently likelihood that the defendant will engage in such conduct in the near future for purposes of standing based on the threat of future harm. See Armstrong v. Davis, 275 F.3d 849, 861 (9th Cir. 2001). Plaintiffs allege Defendants subject detainees such as Plaintiffs to unlawful conditions on an on-going and recurring basis. Thus, taking Plaintiffs' allegations as true, Plaintiffs are sufficiently likely to be injured and have standing to sue. Defendants' Motion to Dismiss is DENIED.

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Defendants also move for a More Definite Statement pursuant to Rule 12(e). For the reasons stated in the Court's August 26, 2002 Order, the Court finds Plaintiffs' allegations are not so ambiguous or vague as to prevent Defendants from framing a response. Defendants' Motion for a More Definite Statement is DENIED.

The December 2, 2002 hearing is taken off-calendar.

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