



JC-DC-001-001

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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LEONARD CAMPBELL :  
JOHN McILWAIN :  
RICHARD KINARD :  
ELIGAH HAIR SMITH :

Plaintiffs, :

v. :

Civil Action No. \_\_\_\_\_

CHARLES M. RODGERS :  
Superintendent, D.C. Jail :  
200 - 19th Street :  
Washington, D. C. :

KENNETH L. HARDY :  
Director, D.C. Department :  
of Corrections :  
614 H Street, N. W. :  
Washington, D. C. :

WALTER R. WASHINGTON :  
Mayor and Commissioner of :  
the District of Columbia :

Defendants. :  
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COMPLAINT FOR INJUNCTION, DECLARATORY  
JUDGMENT AND OTHER APPROPRIATE RELIEF

Plaintiffs complain against the defendants as follows:

I.

JURISDICTION

1. This is an action for a declaratory judgment that plaintiffs' constitutional rights are being violated by the conditions of their confinement in the District of Columbia Jail and for a permanent injunction preventing defendants

from continuing to violate plaintiff's rights, while acting under color of law.

2. Jurisdiction is conferred on this court under 28 U.S.C. §1343 providing for jurisdiction over claims arising under 42 U.S.C. §1983 and 1985, and U.S.C. §2201 and 2202 relating to declaratory judgments and the D.C. Code §11-521 conferring general equity jurisdiction on the District Court and by the Courts' ancillary jurisdiction to hear non-federal claims.

II.

THE PARTIES

3. Plaintiffs are citizens of the United States and of the District of Columbia and reside at the District of Columbia Jail. They were arrested in the District of Columbia and are charged with offenses under the District of Columbia Code cognizable in the United States District Court. In each case bond was set by a United States Magistrate or judge of that Court. Each plaintiff has been unable to make bond and is incarcerated at the D.C. Jail solely to insure his appearance at trial and for no other reason.

4. Plaintiffs are as follows:

Name and Docket No.	Incarcerated Since	Bond	Trial Date
Leonard Campbell U.S.M. D14-2021-71	June 18, 1971	\$5,000	Not Set
John McIlwain Cr. No. 1178-71	April 20, 1971	\$2,500	July 30, 1971
Richard Kinard U.S.M. D14-1870-71	July 14, 1971	\$5,000	Not Set
Elijah Hair Smith U.S.M. D14-1610-71	May 17, 1971	\$10,000	Not Set

5. The Plaintiffs are representative of a class within the meaning of Rule 23, Fed. R. Civ. P. The class consists of all unconvicted pre-trial detainees incarcerated at the District of Columbia Jail. The class is an on-going one and includes pre-trial detainees who will be incarcerated at the D.C. Jail in the future. The class is so numerous that joinder of all members is impracticable. The members of the class are readily identifiable from the Defendants' records. There are questions of law and fact common to the class. The claims of the Plaintiffs are typical of the claims of the class. The Plaintiffs will fairly and adequately protect the interest of the class.

6. Defendant Charles R. Rodgers is Superintendent of the District of Columbia Jail. He is sued individually and in his official capacity.

7. Defendant, Kenneth L. Hardy, is Director of the D.C. Department of Corrections and is responsible for the overall administration of the D.C. Jail. He is sued individually and in his official capacity.

~~8. Defendant, Gilbert Hahn, is Chairman of the District of Columbia City Council. He is sued individually and in his official capacity and as a representative of the city council. Said council is the legislative body of the District of Columbia charged with allocating monies to the Department of Corrections.~~

9. Defendant, Walter R. Washington is Mayor and Commissioner of the District of Columbia. He is sued individually and in his official capacity as chief executive officer of the District of Columbia.

III.

STATEMENT OF CLAIM

<sup>9</sup>10. Plaintiffs are incarcerated at the District of Columbia Jail solely because they are unable to post bond to secure their release prior to their trials. They are presumed innocent and are incarcerated solely to ensure their presence at trial.

<sup>10</sup>11. Plaintiffs allege, upon information and belief, that the defendants, by their intentional acts and omissions, are violating their constitutional rights in that:

a. The physical conditions of plaintiffs' confinement constitute punishment in violation of the Fifth, Eighth, and Fourteenth Amendments. They are confined in cells and dormitories which in some cases are overcrowded, but which, in any event, violate minimal architectural standards as well as American Correctional Association standards. The jail is overcrowded; the heating, ventilation and other aspects of the physical conditions all constitute a health threat.

b. The inadequacy of food and the lack of recreational facilities constitute punishment in violation of the Fifth, Eighth and Fourteenth Amendments.

c. The lack of programs enabling plaintiffs to maintain employment, where possible, prior to trial, constitutes punishment in violation of the Fifth, Eighth and Fourteenth Amendments.

d. Plaintiffs are denied adequate contact with the general community. The censorship of mail, limitations on visitors, lack of access of telephones, newspapers, and other means of communication violate plaintiffs First, Fifth, Eighth, and Fourteenth Amendment rights.

e. Hospital and other medical services are inadequate to ensure health and safety of plaintiffs, in violation of their Fifth, Eighth, and Fourteenth Amendment rights.

f. Inadequate security measures subject plaintiffs to the threat and danger of assault by other inmates, thus violating their rights under the Fifth, Eighth and Fourteenth Amendments.

<sup>11</sup>12. Plaintiffs further allege that they are subject to confinement in the Control Cells and Treatment Segregation Cells of the Jail in violation of their constitutional rights in that:

a. Such confinement is carried out as a disciplinary measure without prior due process procedural safeguards and

b. The conditions of the Treatment Segregation Cells violate plaintiffs rights under the Fifth, Eighth, and Fourteenth Amendments.

<sup>12</sup>13. Plaintiffs further allege that they are denied access to legal materials and adequate access to counsel in violation of their Fifth, Sixth and Fourteenth Amendment rights.

<sup>13</sup>14. Plaintiffs further allege that the physical conditions of the jail are in violation of the District of Columbia Housing Code.

<sup>14</sup>15. Defendants Rodgers, Hardy, ~~Waher~~, and Washington each within the scope of his authority, and under color of law, and as a matter of custom and practice, planned, executed, and enforced the practices and policies constituting the violations alleged in paragraphs

<sup>15</sup>  
~~16~~. All of the conditions and practices separately and in the aggregate make incarceration in the D.C. Jail more severe, punitive and restrictive than post-sentence incarceration at other correctional institutions to which plaintiffs might be sent if they were convicted, notwithstanding that the plaintiffs are awaiting trial and presumed innocent.

<sup>16</sup>  
~~17~~. As a result of the conditions and practices at the D.C. Jail, detainees are psychologically and physically harmed and damaged. Moreover, they are induced to plead guilty to criminal charges pending against them in order to avoid the conditions and practices herein described which exist at the Jail.

<sup>17</sup>  
18. There is an actual and continuing controversy requiring a declaration of the rights of the named plaintiffs and the members of the class. There is no adequate remedy at law.

<sup>18</sup>  
19. The existence and continuation of the unconstitutional practices, policies, acts and omissions alleged herein have subjected and will continue to subject the class to irreparable suffering and injury unless defendants, and each of them, are enjoined by this Court from continuing such practices, policies, acts and omissions and are required to perform their respective duties according to law.

IV

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, on behalf of themselves and all other detainees similarly situated, pray:

1. That the Court allow this case to proceed as a class action and that all members of the class be notified by defendants of the pendency of this action by posting one

copy of the complaint and a copy of this Court's order on this motion in a conspicuous place in each section of the jail and that several attorneys designated by plaintiffs' attorneys and several attorneys designated by defendants' attorneys be permitted to move through the jail so as to answer questions by members of the class.

2. That the Court order defendants to permit corrections experts designated by plaintiffs to inspect the jail and all of its facilities and to report to all parties and the Court on the results of their inspection.

3. That the Court declare that ~~through~~ the individual and collective effect of their acts, practices, and omissions the Defendants:

a. <sup>has</sup> ~~have~~ subjected Plaintiffs and the class they represent to punishment without Due Process of Law, and to cruel and unusual punishment within the meaning of the Eighth and Fourteenth Amendments of the United States Constitution;

b. <sup>has</sup> ~~have~~ subjected Plaintiffs and the class they represent to summary discipline without due process in violation of the Sixth and Fourteenth Amendments;

c. <sup>has</sup> ~~have~~ deprived Plaintiffs and their class of their constitutionally protected rights to a fair trial, guaranteed by the Sixth and the Fourteenth Amendments;

d. <sup>has</sup> ~~have~~ deprived Plaintiffs and their class to the equal protection of the law to which they are entitled under the Fourteenth Amendment;

e. <sup>has</sup> ~~have~~ deprived Plaintiffs and their class of their rights to effective assistance of counsel and to assist in their defense, in violation of the Sixth and Fourteenth Amendments;



f. <sup>have</sup> ~~have~~ deprived Plaintiffs and their class of their rights under the First and Fourteenth Amendments;

g. have, under color of law and while acting in their official capacities, deprived plaintiffs of the rights described above in violation of Title 42 U.S. Code §§1981-1985;

h. <sup>have</sup> ~~have~~ deprived Plaintiffs of their rights under Housing Regulations §2306, 2307, 2404, 2202, 2206, 2301-2, 2608, 2209.

4. That a preliminary and permanent injunction be issued, enjoining and restraining Defendants from engaging in any of the unlawful acts, practices or omissions complained of in this complaint.

5. That the Court order that, within 60 days, Defendants submit to the Court a plan for assuring that Plaintiffs and the class they represent are accorded all of the rights and privileges of the innocent; and that they be subjected only to such inconveniences necessary to ensure their presence at subsequent court proceedings. More specifically, the Plaintiffs and the class they represent should be assured by the plan:

a. that the District of Columbia Jail and the cells and dormitories therein be kept in safe and sanitary conditions, with proper electrical connections, plumbing, heating and ventilation, and, at a minimum, that the jail's conditions be maintained in accordance with the District of Columbia Housing Law (Housing Regulations 2306, 2307, 2404, 2202, 2206, 2301-02, 2608, 2209);

b. that prisoners not be overcrowded in the D.C. Jail and that each cell, ward, and dormitory contain no more prisoners than the designed capacity of the cell and cellblock.

c. that a regular recreational and exercise program, outside of the cells, be established and that all prisoners be permitted outside of the jail for sufficient periods to assure their continuous physical and mental well-being.

d. that the isolation and punishment of prisoner in the treatment segregation cells be terminated;

e. that all prisoners be fed in suitable, sanitary facilities outside of their cells and that edible food in accordance with recognized nutritional needs be furnished;

f. that the prisoners be permitted enough showers to ensure that they remain clean;

g. that the prisoners be furnished clean mattresses and beds, a complete set of bedding and clothing, including socks and undergarments, which are cleaned and changed at least once weekly, adequate towels, proper cleaning equipment, and other personal necessities (such as tooth paste, soap, etc.);

h. that prisoners be accorded essential preventive medical practices and receive adequate and sound medical, dental and mental health care;

i. that an educational and vocational program and voluntary work program be established;

j. that prisoners have continuous opportunity to talk and associate with each other;

k. that prisoners have access to a sufficient quantity and quality of books, magazines and newspapers, law books and legal materials;

l. that visiting conditions be established which ensure decency, comfort, privacy of conversations, conjugal rights, and additional visiting periods;

m. that no limitations be placed on persons an inmate may see, communicate with, and receive communication from;

n. that no censorship be exercised on incoming or outgoing mail, newspapers, books, and periodicals; that the only control on incoming mail be for inspection of contraband such as drugs or weapons; that adequate phones be installed and the prisoners have access to them in order to make local, outgoing calls without charge; and that such phones not be wiretapped or monitored in any manner;

o. that a code of intra-jail behavior providing for inmate rights be promulgated and provided to every prisoner upon entry into the jail;

p. that no discipline on inmates be inflicted without first affording them notice, a hearing, the assistance of counsel, the confrontation of accusers, the right to cross-examine, written records of a hearing decision, reasons therefor and evidence relied upon, and a hearing before an impartial official.

6. That the Court order the Defendants to implement the plans submitted pursuant to paragraph 5.

7. That if a satisfactory plan cannot be submitted and implemented, the Defendants be enjoined and restrained from incarcerating or detaining any and all of the Plaintiffs and members of the class they represent in the District of Columbia Jail and further enjoined from transferring Plaintiffs and their class to an alternative facility

unless Defendants can provide evidence satisfactory to the court that the alternative does not suffer from the conditions herein complained of and that it is accessible to visitors and counsel.

8. That the Court enter its order permanently directing Defendants Washington and the City Commissioners to appropriate funds and to take such further steps as may be necessary and appropriate within their powers for the implementation of the provisions contained in paragraph (8) above.

9. That the Court appoint as an impartial advisor a recognized expert in the field of corrections to evaluate the plans submitted pursuant to paragraphs and to report to the Court.

10. That during the pendency of this action and thereafter defendants Rodgers and Hardy and each of the jail officials and guards under their direction or control be restrained and enjoined from any and all acts of punishment and reprisal with respect to the named plaintiffs and the members of the class by reason of this action.

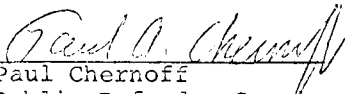
11. That this Court grant such damages as will compensate Plaintiffs and the members of their class for the psychological, physical and economic losses incurred as inmates of the D.C. Jail.

12. That the Court retain jurisdiction over defendants until such time as the Court is satisfied that the practices, policies, acts and omissions alleged herein no longer exist and will not recur.

Respectfully submitted,

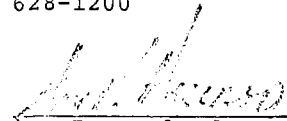
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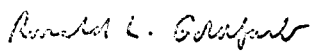


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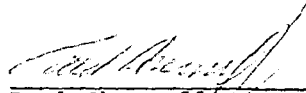
Of Counsel:

Thomas A. Hammond, Jr.

VERIFICATION

DISTRICT OF COLUMBIA ss

PAUL CHERNOFF, being first duly sworn according to law, deposes and says that he has read the within complaint and that the items contained therein are correct to the best of his knowledge, information, and belief.

  
Paul Chernoff

SUBSCRIBED AND SWORN TO  
BEFORE ME, this 16th day  
of July, 1971.

  
NOTARY PUBLIC, D.C.