

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

INMATES, D.C. JAIL, et al., )  
Plaintiffs )  
v. ) Civil Action No. 75-1668  
DELBERT C. JACKSON, et al., )  
Defendants )

AMENDED COMPLAINT

I. JURISDICTION

1. This is a class action on behalf of all convicted persons confined in the District of Columbia Jail against the Director of the District of Columbia Department of Corrections, the Superintendent of Detention Services of the Department of Corrections, and the Mayor of Washington, D.C., alleging unconstitutional and illegal acts, practices, and omissions of defendants in violation of the plaintiffs' rights arising under the First, Fourth, Fifth, Eighth, and Ninth Amendments of the United States Constitution, as well as provisions of the District of Columbia Code, and praying for declaratory and injunctive relief.

2. Jurisdiction is conferred on this Court under 28 U.S.C. § 1331 relating to federal questions, 28 U.S.C. § 1361 relating to injunctive and mandamus relief, 28 U.S.C. § 2201 and 2202 relating to declaratory judgements, and 11 D.C. Code § 521 conferring general equity jurisdiction on the District Court and by the Court's ancillary jurisdiction to hear non-federal claims. The amount in controversy exceeds \$10,000.

Inmates D.C. Jail v. Jackson



JC-DC-002-001

II. PARTIES

3. Plaintiffs are all citizens of the United States and are convicted prisoners incarcerated at the District of Columbia Jail.

4. Plaintiff Norman Barksdale is a sentenced prisoner incarcerated in the District of Columbia jail since June 2, 1975, to serve a suspended sentence of one year confinement and two years probation re-imposed after a probation violation.

5. Plaintiff Harry Brown was incarcerated in the District of Columbia Jail on July 28, 1975, and convicted on October 14, 1975, and is presently awaiting sentencing.

6. Plaintiff Pleasant Burke-El is a sentenced prisoner incarcerated in the District of Columbia Jail on August 30, 1975, for an alleged parole violation and is presently awaiting his parole revocation hearing and trial on the charge which constitutes the alleged parole violation.

7. Plaintiff James DeVaughn is a sentenced prisoner on parole from another jurisdiction. He was incarcerated in the District of Columbia Jail on July 11, 1975, to await trial on local charges and is being held by virtue of a detainer filed by his parole board pending outcome of the local charges.

8. Plaintiff James Hargrove, Jr., was incarcerated in the District of Columbia Jail on June 18, 1975, and convicted in November, 1975, and is presently awaiting a Youth Act Study. Plaintiff is also being held on detainer from another jurisdiction on a separate charge.

9. Plaintiff Rudolph Jenkins is a sentenced prisoner incarcerated in the District of Columbia on September 24, 1975,

for violation of work release. Plaintiff is presently awaiting a Work Release Review Board hearing and trial on new charges.

10. Thomas W. Robinson is a sentenced prisoner who has been incarcerated in the District of Columbia Jail since June 29, 1975, pursuant to a writ of habeas corpus ad prosequendum. He is presently awaiting return to the Federal Medical Center in Springfield, Missouri, where he had been sent for court ordered psychiatric treatment. Mr. Robinson's case in the District of Columbia which was the basis for the writ was disposed of in September, 1975.

11. Plaintiff Bonarell Scott is a sentenced prisoner incarcerated in the District of Columbia Jail on February 25, 1975 for an alleged parole violation and is presently awaiting a parole revocation hearing and trial on the charge which constitutes the alleged parole violation.

12. Plaintiff Robert L. Scruggs is a sentenced prisoner incarcerated in the District of Columbia Jail on March 27, 1975, for an alleged parole violation. A parole revocation hearing was held in May, 1975, which resulted in a continuance pending final disposition of the charge which constitutes the alleged parole violation. The charge has been dismissed and he is now awaiting a revocation hearing.

13. Plaintiff George Watts is a sentenced misdemeanor prisoner incarcerated in the District of Columbia Jail on August 23, 1975 after removal for emergency medical treatment to a hospital. He was eligible for parole in September, 1975, and is presently awaiting a parole hearing.

14. Defendant Delbert C. Jackson is Director of the District of Columbia Department of Corrections and is responsible for the

overall administration of the Jail. He is sued individually and in his official capacity.

15. Defendant Aubrey B. Kearney is Superintendent of Detention Services for the District of Columbia Department of Corrections and is directly responsible for the operation of the Jail. He is sued individually and in his official capacity.

16. 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.

17. The plaintiffs are representative of a class within the meaning of Rule 23 of the Federal Rules of Civil Procedure. The class consists of all persons, except pre-trial detainees, incarcerated at the District of Columbia Jail. The class is an on-going one and includes individuals who will be incarcerated at the D.C. Jail in the future. Due to the nature of the class and its size, joinder of all members is impracticable. The members of the class are readily identifiable from the Defendant's records. There are questions of law and fact common to the class and the claims of the plaintiffs are typical of those of the remainder of the class. The plaintiffs will fairly and adequately protect the interest of the class.

### III. STATEMENT OF CLAIM

18. 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 Ninth Amendments. They are confined

in cells and dormitories which are overcrowded, and which violate minimal architectural standards as well as American Correctional Association standards. The overcrowding, heating, ventilation, and other aspects of the physical conditions all constitute a health threat.

- b. The living conditions and extreme overcrowding at the D.C. Jail have a severe deleterious effect on the health and wellbeing of the plaintiffs and the class they represent who are confined in those conditions. These conditions cause or contribute to anxiety, tension, nervousness, insomnia, and are psychologically debilitating.
- c. These conditions are not limited to the period within which the individual is confined at the Jail, but may also have a permanent effect on prisoners after they are released.
- d. Numerous violations of the District of Columbia Building Code, Plumbing Code, Housing Regulations, Health Regulations, Food Regulations and Fire Code exist at the D.C. Jail. The food service operation clearly falls below recognized public health standards, and affords a high opportunity for the transmission of disease among the Jail population.
- e. Although Departmental Order 4740.1 (October 28, 1971) requires a medical examination of food handlers at least twice a month, that regulation has not been complied with. No regular medical examination of civilian employee food handlers at the Jail is conducted by the medical staff of the Department of Corrections, and medical examinations of prisoner food handlers have been sporadic.

- f. Laundry services for most jail residents are inadequate. There is no procedure for laundering underwear, except for prisoners on Captain's Detail, and if a resident wishes to wash his underwear (T-shirt, shorts, and socks) he must do so in the shower, and without an extra set to wear while his clothes are drying.
- g. Laundering of bed linen and blankets is also sporadic, and prisoners frequently must sleep without pillows or pillowcases, or on a dirty sheet and blanket. The jail laundry, which launders the outer garments and underwear of the Captain's Detail, also does all the laundry for the guard force, the kitchen employees, and the medical staff.
- h. The inadequacy of food and the lack of recreational facilities constitute punishment in violation of the Fifth and Eighth Amendments.
- i. There are inadequate facilities for out-door recreation at the Jail, and the prisoners do not receive adequate opportunity for out-door recreation or exercise. In addition, the absence of suitable clothing prevents out-door recreation in inclement weather.
- j. There are no adequate in-door recreational facilities at the Jail.
- k. Hospital and other medical services are inadequate to ensure health and safety of plaintiffs, in violation of their Fifth and Eighth Amendment rights.
- l. Substantial numbers of prisoners at the Jail display psychiatric symptoms during the course of their incarceration. The Jail medical staff is not

equipped to house, care for, or treat the psychiatric patient, yet many prisoners who display these symptoms remain at the jail for long periods of time.

- m. Inadequate security measures subject plaintiffs to the threat and danger of assault by other prisoners, thus violating their rights under the Fifth and Eighth Amendments.
- n. The Metropolitan Police Department refuses to investigate allegations of criminal assaults by prisoners on other prisoners at the Jail, unless they result in a homicide or "near-homicide". The Police do investigate all allegations of assaults or threats by prisoners against guards, civilian employees, or visitors occurring at the Jail.
- o. Plaintiffs and the members of their class are subject to the use of indiscriminate and excessive force by defendants, their agents, and employees, which force is not related to any legitimate interest of the institution and which inflicts severe bodily injury and damage upon the plaintiffs.
- p. Prisoners are confined in the "Control Cells" and "Treatment Segregation" cells without prior due process procedural safeguards.
- q. The conditions of the "Control" and "Treatment Segregation" cells violate plaintiffs' rights under the Fifth and Eighth Amendments.
- r. The lack of programs enabling plaintiffs to better themselves through education or work training violates plaintiffs' Fifth and Eighth Amendment rights.

- s. Volunteer groups have attempted to assist residents of the Jail, particularly in the area of educational programs. The Department has frequently failed to cooperate with these groups, with the result that the Jail residents have been denied access to programs which would ameliorate the conditions of their confinement at no cost to the Department and without damage to legitimate security interests.
- t. There is no classification program at the Jail for determining the level of security needed for each prisoner. As a result, many prisoners who do not require maximum security are housed in the maximum security areas of the Jail under the most stringent living conditions. Only a small percentage of Jail residents require maximum security housing, and the remainder could safely be housed in less rigorous and less secure conditions of confinement.
- u. Plaintiffs are denied adequate contact with the general community. The censorship of mail, limitations on visitors, lack of access to telephones, newspapers, and other means of communication violate plaintiffs' First, Fifth and Eighth Amendment rights.
- v. Prisoners are denied access to legal materials and adequate access to counsel.
- w. There have been instances of substantial delays in allowing lawyers access to their clients at the Jail. There is no procedure for telephone calls to be made into the jail from lawyers seeking to contact their

clients, and the procedure and facilities for allowing prisoners to make out-going calls from the jail are inadequate.

- x. "Contact visits", available to jail residents on Captain's Detail (whether sentenced or unsentenced), are denied to the rest of the Jail population. Contact visits are the principal attraction to obtain prisoners for the Detail jobs, and this is the main reason for withholding this privilege from other prisoners. Contact visits, for the most part, are not withheld from jail residents because of security or custody concerns.
- y. All of the above conditions and practices make incarceration at the D.C. Jail more restrictive and onerous than incarceration at other correctional institutions for men operated by the District of Columbia Department of Corrections.
- z. All of the above actions of the defendants and their agents are in violation of the constitutional and statutory rights of the plaintiffs and more particularly the rights to freedom of speech, right to counsel, freedom from cruel and unusual punishments, right to privacy and rights of due process and equal protection of the law.

19. Defendants Jackson, Kearney, 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 "a" through "z" above.

20. 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.

21. 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 prisoners 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 correction experts designated by the Court 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 the individual and collective acts, practices, and omissions of the defendants:

- a. 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 United States Constitution;

b. have subjected plaintiffs and the class they represent to summary discipline without due process in violation of the Sixth and Fifth Amendments;

c. have deprived plaintiffs and the class they represent of the equal protection of the law to which they are entitled under the Fifth Amendment;

d. have deprived plaintiffs and the class they represent of their rights to effective assistance of counsel in violation of the Sixth and Fifth Amendments;

e. have deprived plaintiffs and the class they represent of their rights under the First and Fifth Amendments.

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 due them; to specifically include:

a. that the District of Columbia Jail and the cells and dormitories therein be kept safe and sanitary, 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;

b. that prisoners not be overcrowded at 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 prisoners 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 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 a prisoner may see, communicate with, and receive communication from;

n. that no censorship be exercised on incoming or outgoing mail, newspapers, books, and periodicals. The only control on incoming mail be inspection for 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 prisoner rights be promulgated and provided to every prisoner upon entry into the jail;

p. that no discipline on prisoners 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;

q. that defendants, their agents and employees shall not employ excessive force upon the person of any prisoner; that no guard or other employee shall be permitted to keep upon his person any weapon not issued or authorized by the Department of Corrections and that any of defendants' agents or employees who uses force upon the person of a prisoner shall file a written report, which shall be a public record,

with the Superintendent of the D.C. Jail setting forth the time, date, and place of the occurrence, the prisoner's name and D.C. number, the type of force used, the reason for its use, the witnesses to its use, the injuries inflicted, and the medical attention received, if any.

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 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 each plaintiff be compensated for the wrongful and arbitrary punishment suffered in the amount of ten thousand dollars (\$10,000) against the defendants jointly and severally.

9. 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 paragraphs (5) and (8) above.

10. That the Court appoint as an impartial advisor a recognized expert in the field of corrections to evaluate the plans submitted pursuant to paragraph (5) and to report to the Court.

11. That during the pendency of this action and thereafter, defendants Jackson and Kearney 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 they represent by reason of this action.

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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