

IN THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

CIVIL DIVISION

GARRY ANDERSON)
1901 D Street, S.E.)
Washington, D.C. 20003,)

and)

GEORGENE GREENFIELD)
1901 D Street, S.E.)
Washington, D.C. 20003,)

and)

MELVIN HUCKS)
1901 D Street, S.E.)
Washington, D.C. 20003,)

and)

DARRYL MAYO)
1901 D Street, S.E.)
Washington, D.C. 20003,)

and)

TERRI MEADE)
1901 D Street, S.E.)
Washington, D.C. 20003,)

and)

BRIAN PATTERSON)
1901 D Street, S.E.)
Washington, D.C. 20003,)

and)

DONNELL WILLIAMS)
1901 D Street, S.E.)
Washington, D.C. 20003,)

Plaintiffs,)

v.)

Civil Action No. 05ca-_____
Judge_____

HON. ANTHONY WILLIAMS)
 1350 Pennsylvania Avenue, NW)
 Washington, D.C. 20004,)
)
 and)
)
 S. ELWOOD YORK, JR.)
 1923 Vermont Avenue, NW, Room 203)
 Washington, D.C. 20001)
)
Defendants.)
 _____)

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiffs Garry Anderson, Georgene Greenfield, Melvin Hucks, Darryl Mayo, Terri Meade, Brian Patterson and Donnell Williams (collectively “Plaintiffs”), by their undersigned attorneys, for their Complaint against Defendants the Hon. Mayor Anthony Williams, Mayor of the District of Columbia (“Williams” or “the Mayor”) and S. Elwood York, Jr., Interim Director of the District of Columbia Department of Corrections (“York” or “the Director”), seeking injunctive and declaratory relief, hereby allege as follows:

NATURE OF THE CASE

1. This action is an action for declaratory and injunctive relief, having as its foundation the District of Columbia Government’s deliberate and willful refusal to comply with and enforce the District of Columbia Jail Improvement Act of 2003, D.C. Law 15-62, D.C. Stat. § 24-201.71 (2003) (“Jail Improvement Act” or “Act,” copy attached hereto as Exhibit A). Plaintiffs, currently incarcerated in the District’s Central Detention Facility (“CDF” or “the Jail”), are placed directly in harm’s way as a result of

this failure to enforce the Act's requirements to establish and maintain a safe prison population capacity.

2. As detailed below, enactment of the Jail Improvement Act was directly attributable to a finding of the Council of the District of Columbia that prison overcrowding resulted in generally unsafe prison conditions and increased prison violence, and specifically contributed to the deaths of two pre-trial detainees. The Jail Improvement Act thus imposes necessary controls upon the dangerous conditions resulting from and caused by prison overcrowding. The D.C. Government's admitted failure and refusal to enforce this law has exacerbated the already dangerous conditions in the CDF, and Plaintiffs, fearful for their safety, turn to this Court, seeking declaratory and injunctive relief, to force the Mayor and Director to adhere to their non-discretionary duty to comply with and enforce the Act.

PARTIES

3. Plaintiff Garry Anderson is a D.C. resident and currently resides at the D.C. Jail, 1901 D Street, SE, Washington, DC 20003.

4. Plaintiff Georgene Greenfield is a D.C. resident and currently resides at the D.C. Jail, 1901 D Street, SE, Washington, DC 20003.

5. Plaintiff Melvin Hucks is a D.C. resident and currently resides at the D.C. Jail, 1901 D Street, SE, Washington, DC 20003.

6. Plaintiff Darryl Mayo is a D.C. resident and currently resides at the D.C. Jail, 1901 D Street, SE, Washington, DC 20003.

7. Plaintiff Terri Meade is a D.C. resident and currently resides at the D.C. Jail, 1901 D Street, SE, Washington, DC 20003.

8. Plaintiff Brian Patterson is a D.C. resident and currently resides at the D.C. Jail, 1901 D Street, SE, Washington, DC 20003.

9. Plaintiff Donnell Williams is a D.C. resident and currently resides at the D.C. Jail, 1901 D Street, SE, Washington, DC 20003.

10. Defendant Hon. Anthony Williams is the Mayor of the District of Columbia. He is named as a defendant herein in his official capacity.

11. Defendant S. Elwood York, Jr., is the Interim Director of the D.C. Department of Corrections (“DCDC”). He is named as a defendant herein in his official capacity.

JURISDICTION AND VENUE

12. Plaintiffs bring this action against Defendants pursuant to the equitable power of the Superior Court of the District of Columbia, which is vested with the authority to review claims for equitable relief from allegedly unlawful action by public officials by D.C. Code § 11-921(a)(6), under which this Court has jurisdiction over “any civil action or other matter, at law or in equity, brought in the District of Columbia.”

13. Venue is proper in this Court because the Defendants reside and perform their official functions in the District, and all or a substantial part of the events, acts or omissions giving rise to Plaintiffs’ cause of action and claims for relief against the Mayor and the Director occurred in the District of Columbia.

GENERAL ALLEGATIONS

14. The Jail Improvement Act is the ultimate product of a decades-long legal struggle by prisoners and pre-trial detainees to compel the D.C. Government, acting by and through the D.C. Department of Corrections (“DCDC”), to create and maintain conditions in the District’s penal facilities that conform to the requirements of the United

States Constitution and the District's laws. *See* District of Columbia Committee Report, B. 15-31, at 1 (May 22, 2003) ("Report," attached hereto as Exhibit B).

15. In 1975 and again in 1985, the United States District Court for the District of Columbia held that the District violated the Eighth Amendment rights of prisoners and pre-trial detainees to be free from cruel and unusual punishment by allowing routine and continuous overcrowding of its penal facilities. *Id.* at 1-2 (citing *Campbell v. McGruder*, 416 F. Supp. 111 (D.D.C. 1976), *aff'd*, 188 U.S. App. D.C. 258, 580 F.2d 521 (1978); *Inmates of D.C. Jail v. Jackson*, 416 F. Supp. 119 (D.D.C. 1976) (collectively "the prison condition suits")).

16. In 1985, the District Court imposed a cap on the prison population of the CDF of 1,674 prisoners to address and remedy these court-determined constitutional violations. Report at 2. The Federal District Court noted that the CDF was designed to hold 1,356 inmates, but found that the Jail could hold 25% more than that number. *Id.*

17. The District of Columbia repeatedly violated the orders and decrees entered as a result of the prison condition suits and, in 1993, the District Court appointed a Special Officer to ensure the District's compliance with the Court's determinations with respect to population limitations. *Id.*

18. In 1994, the Court-appointed Special Officer found that the District still had not complied with the operative court orders, despite the nearly eight years that had passed since the first court decision. *Id.* at 2.

19. The plaintiffs in the prison condition suits and the District entered into a court-approved Consent Decree in 1995, which contained a specific timetable for achieving compliance with constitutional standards for conditions within the District's

penal facilities. *Id.* The District did not, however, comply with the terms of that Decree.

Id.

20. In 1996, Congress enacted the Prison Litigation Reform Act (“PLRA”), which allowed for termination, upon motion, of any court-ordered prospective relief regarding prison conditions, unless there was a court determination of ongoing federal constitutional violations. Omnibus Consolidated Rescissions and Appropriations Act of 1996, Pub. L 104-134, 1996 H.R. 3019, codified at 18 U.S.C. § 3626 (1997).

21. In early 2002, the D.C. Government moved, pursuant to the PLRA, to vacate the court-approved Consent Decree imposing a population cap on the CDF. *Id.* The motion was granted in March of 2002. (Copy attached hereto as Exhibit C).

22. In 2002, members of the D.C. Council introduced the District of Columbia Jail Inmate Cap Amendment Act of 2002, which would have limited the population of the CDF to the same level as the Consent Decree (e.g., 1,674). The legislation never passed into law.

23. Safety and security conditions at the CDF immediately deteriorated as a result of the lifting of the population cap and, in December 2002, two pre-trial detainees, Givon Pendleton and Mikal Gaither, were fatally stabbed in separate incidents; a convicted prisoner was also attacked but lived. Report at 3. Plaintiffs believe, and thus aver, that overcrowding of the CDF and insufficient staffing of the facility with correctional officers by DCDC to accommodate the increased population directly resulted in the conditions in which these incidents could occur.

THE D.C. JAIL IMPROVEMENT ACT

24. In January 2003, in response to the tragic events of December 2002, a group of ten members of the D.C. Council introduced Bill 15-31, which would become the Jail Improvement Act.

25. Upon information and belief, the Mayor initiated negotiations with the Council to alter a provision in the draft Jail Improvement Act contemplating a fixed population cap, as had been contained in the proposed District of Columbia Jail Inmate Cap Amendment Act of 2002, to a cap to be determined on the basis of findings by a consultant.

26. On May 22, 2003, the Council issued the Committee Report on the proposed Jail Improvement Act, detailing the inhumane and unsafe conditions in the CDF and the murder of Givon Pendleton, which the Report directly attributed to overcrowding-induced security lapses. *Id.* at 3. The Report stated the purpose of the Jail Improvement Act as follows:

The purpose of Bill 15-31 is to improve what are currently unsafe, unhealthy, overcrowded, and inhumane conditions at the District of Columbia Central Detention Facility ("Jail") through inspections, monitoring, and reporting; initiate immediate changes in operating protocols including a classification system and housing plan; institute a population ceiling at the Jail; and the requirement that the facility obtain accreditation by a national professional correctional organization. These specific improvements are designed to result in a safer institution. To fail to pass legislation in this arena would constitute a failure to recognize and act on what is potentially a dangerous situation for inmates, staff and residents of the District of Columbia.

Id. at 1 (emphasis added).

27. The Jail Improvement Act, D.C. Law 15-62, contains detailed requirements regarding population capacity at the CDF. As codified, D.C. Code Section 24-201.71(a) requires that

[t]he number of inmates housed at any one time in the Central Detention Facility shall not exceed the number of persons established by an independent consultant pursuant to subsection (c) of this section.

28. Subsection (b) of Section 24-201.71 states:

Within 90 days of January 30, 2004, the Mayor shall develop and submit to the Council for a 30-day period of review, excluding days of Council recess, a plan for establishing the maximum number of inmates that can be housed at any one time within the Central Detention Facility. The plan shall consist of a contract with an independent consultant, who, upon approval of the plan by the Council, will determine the maximum number of inmates that can be housed at any one time within the Central Detention Facility based upon physical capacity, programming, classification system, and housing plan of the Central Detention Facility. If the Council does not approve or disapprove the plan, by resolution, within the 30-day period, the plan shall be deemed disapproved.

29. Subsection (c) of the Statute requires that

[t]he Mayor shall establish, by rule, the maximum number of inmates to be housed at any one time in the Central Detention Facility. The maximum number shall be determined by an independent consultant contracted with by the Mayor pursuant to the plan approved under subsection (b) of this section.

See Exhibit A (emphasis added).

30. The Act, as originally enacted (D.C. Law 15-62) in Section 8 thereof, provided that subsection (a) “shall apply 210 days after the effective date of this Act” -- *i.e.*, January 30, 2004.

31. In 2004, the Mayor commissioned the firm of Pulitzer Bogard & Associates, LLC (“Bogard”), to perform the capacity study in accordance with Subsection (b) of the Act; Bogard determined that the CDF population should be fixed within an “operational range” of 2,061, plus or minus 5% for population fluctuation, or

from 1,958 to 2,164 inmates or pre-trial detainees at any given time. DC Detention Facility, Study of Operational Capacity, Final Report, Apr. 12, 2004, at 39 (“Bogard Report,” attached hereto as Exhibit D).

32. The Bogard Report notes that the population of the CDF at the time of the study was 2,300, in excess of even the high range of the appropriate operational capacity of the Jail, as determined by the consultants. Bogard Report at 28, 30. The average daily population of the Jail has been between 2,300 and 2,400 since November 2002. *Id.* at 39.

THE D.C. GOVERNMENT’S FAILURE TO ENFORCE THE ACT

33. In a letter to the Chair of the D.C. Council Committee on the Judiciary, dated April 11, 2005, District of Columbia Deputy Mayor for Public Safety and Justice Edward D. Reiskin stated “[t]he current population of the [CDF] is roughly 2,300, which is close to the average population for the past two years.” *See* Letter of Edward D. Reiskin to the Hon. Phil Mendelson (Apr. 11, 2005), at 2 (“Reiskin Letter,” attached hereto as Exhibit E).

34. The Reiskin Letter contains several criticisms of the Bogard Report, and suggests alternate bases for determinations of appropriate resident capacity at the CDF. These statements come despite the fact that the Mayor negotiated for the provisions contained in the Act providing for the determination of the population cap by a consultant of the Mayor’s choosing. The Mayor chose this consultant, and the Bogard Report thus represents the official findings of the commissioned Consultant, as required under the Act.

35. The statements contained in the Reiskin Letter are clear and unambiguous admissions that the Mayor and his officers have not enacted and do not perceive

themselves as obligated to enact a regulation capping the CDF population, or otherwise enforce the Act, despite their non-discretionary legal obligation to do so.

36. On April 12, 2005, Deputy Mayor Reiskin reported to the D.C. Council Committee on the Judiciary that the District would “establish the recommended operational capacity *as a long term goal* achieved through operational and process improvements.” Committee on the Judiciary, “Office of the Deputy Mayor for Public Safety & Justice Fiscal Year 2006 Budget Request,” Statement of Edward D. Reiskin, Deputy Mayor for Public Safety & Justice, Apr. 12, 2005, at 4. (“Reiskin Report,” attached hereto as Exhibit F) (emphasis added).

37. This statement reaffirms that the Mayor, rather than enforcing the applicable law as enacted by legislature of the District, as is his non-discretionary obligation, regards the enacted law of the District as establishing nothing more than a “goal” to be complied with when and if the D.C. Government ever finds it convenient.

38. On April 26, 2005, Deputy Mayor Reiskin acknowledged that “[t]here is not a good excuse for taking 14 months to [enforce the Act]...I’m not going to defend it.” Editorial, “The City as Lawbreaker”, Washington Post, Tuesday, April 26, 2005, at A14 (Attached hereto as Exhibit G).

CAUSE OF ACTION

(For Declaratory And Injunctive Relief Pursuant to District of Columbia Superior Court Rule of Civil Procedure 57)

39. Plaintiffs reallege and incorporate by reference, as if fully restated herein, the facts and allegations set forth in Paragraphs 1 through 38 above.

40. Pursuant to D.C. Sup. Ct. R. Civ. P. 57, Plaintiffs seek declaratory and injunctive relief from the Defendants' knowing, conscious, willful and admitted failure to comply with and enforce the Jail Improvement Act.

41. This Court, pursuant to its equity powers, may review and address "allegedly unlawful action by public officials." *District of Columbia v. Sierra Club*, 670 A.2d 354, 358-59 (D.C. 1995) (citing *Speyer v. Barry*, 588 A.2d 1147, 1159-60 (D.C. 1991)).

42. Under the Jail Improvement Act, the Mayor and the DCDC had a non-discretionary duty to appoint a consultant to determine the capacity of the CDF, to establish rules and regulations to maintain a population beneath the determined capacity, and to enforce those rules and regulations.

43. The Mayor and the DCDC have failed to enact a rule, pursuant to the Jail Improvement Act, codifying the maximum prison capacity finding of the Bogard Report.

44. The Mayor and the DCDC have failed to comply with and enforce the prison capacity finding of the Bogard Report, as required under the Jail Improvement Act.

45. Plaintiffs, as sentenced offenders and pre-trial detainees, are directly affected by and placed at risk of grave physical harm due to the dangerous conditions created by the chronic overcrowding of the CDF resulting from the Mayor's and the DCDC's failure to enforce the requirements of the Act.

46. Plaintiffs therefore seek a declaration that the Mayor and the Director must follow the requirements of the Jail Improvement Act.

47. Plaintiffs seek an expedited proceeding, as allowable under Rule 57, as the overcrowded conditions at the CDF threaten their lives, health, and well-being.

48. Plaintiffs also seek an injunction preventing the Mayor and Director from incarcerating inmates in the CDF beyond the legal capacity set pursuant to the Jail Improvement Act.

WHEREFORE, the Mayor and Director should be immediately enjoined, during the pendency of this action, and permanently enjoined, upon the resolution of this action in Plaintiffs' favor, from maintaining a population at the CDF in excess of the legal capacity established pursuant to the applicable provisions of the Jail Improvement Act.

PRAYER FOR RELIEF

WHEREFORE, for all of the foregoing reasons, plaintiffs respectfully pray for the entry of an Order:

- (a) declaring that the Mayor's and Director's acts, omissions, policies and practices complained of herein violate the Jail Improvement Act;
- (b) permanently enjoining the Mayor and Director from continuation of any of the acts, omissions, policies or practices complained of herein that are found to violate the Jail Improvement Act;
- (c) requiring the D.C. Government, acting by and through the Department of Corrections, to bring itself with compliance with the population requirements for the CDF, as established under the Jail Improvement Act, within 30 days of the issuance of this Court's injunction decree;
- (d) awarding Plaintiffs' their reasonable and necessary costs of suit, including reasonable attorney's fees;

(e) providing that this Court shall retain supervisory jurisdiction over this matter in order to monitor the District of Columbia Government's full and continuing compliance with the injunctive relief ordered herein; and

(f) granting all such other and further relief as this Court deems necessary or appropriate in the interests of justice.

JURY DEMAND

Plaintiffs demand trial by jury of all issues triable by jury as of right, pursuant to
D.C. Super. Ct. R. Civ. P. 38(b).

DATED: June 29, 2005

Respectfully submitted,



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