

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

<b>KENNISON BATTLE, <u>et al.</u>,</b>	)	
	)	
<b>Plaintiffs,</b>	)	
	)	
<b>v.</b>	)	<b>Civil Action No. 99-1788 (RCL)</b>
	)	
<b>DISTRICT OF COLUMBIA, <u>et al.</u>,</b>	)	
	)	
<b>Defendants.</b>	)	
	)	

**AMENDED ORDER**

Pursuant to the Court’s ruling in its Pretrial Order [165], the following are established facts in this case.

Beginning February 23, 1996 and lasting for several weeks, defendant District of Columbia] knowingly and intentionally subjected inmates confined in the South One unit of the DC Jail, including plaintiffs, to inhumane, unconstitutional conditions of confinement. These conditions included total lack or inadequacy of (1) sanitation (inoperable, backed-up, and unclean toilets or sinks; feces, urine, saliva, and other dirt and filth on floors, walls, bars, and other surfaces; insects including roaches, gnats, water bugs, centipedes, and fruit flies; lack of cleaning agents and cleaning tools); (2) personal cleanliness (cut-off water supply; inadequate supply of hot and/or cold water; dirty water; inoperable sinks; denial of access to showers; lack of personal hygiene items such as soap, toothbrushes, and toothpaste; lack of clean clothing, sheets and towels and no means to clean them); (3) eating utensils (requiring prisoners to use and re-use playing cards, scraps of Styrofoam, and their unwashed hands to eat); (4) heat (low temperature; insufficient clothing necessary for warmth; lack of blankets); (5) air (odors and contamination

from chemical agents, smoke, feces, and urine); and (6) medical treatment (including denial of medical treatment following the use of force by officers, and denial of showers following chemical sprayings by officers). Plaintiffs suffered these unconstitutional conditions, and consequent physical discomfort and mental and emotional distress, to varying degrees, for varying periods of time.

On February 23, 1996, plaintiff Shannon Battle was in the NE-1 unit of the Jail. At approximately 2:00-4:00 p.m., District of Columbia correctional officers, including approximately two lieutenants and eight corporals, came to NE-1 and took several prisoners, including Mr. Battle, to South One. The officers did not permit the prisoners to bring any of their personal property with them.

Officers placed Mr. Battle in Cell #39 on the lower left tier in South One. He remained there from his arrival on February 23, 1996 until on or about March 3, 1996. During this time, he asked a commanding officer each day for permission to call his parents and/or his lawyer. The first time he made this request, February 23, 1996, a District of Columbia correctional officer sprayed him with chemical agent. The spray caused intense irritation, itching and burning on Mr. Battle's face and in his eyes, as well as mental and emotional distress. The intense irritation, itching, and burning lasted for approximately fifteen to thirty minutes, during which Mr. Battle was unable to open his eyes. The irritation, itching, and burning gradually subsided over a period of approximately three hours. Mr. Battle received no medical treatment or shower following the spraying. District of Columbia correctional officers denied Mr. Battle's requests to call his parents or his lawyer on every other occasion when he made such requests. Mr. Battle received no recreation or shower when in South One. The water in Mr. Battle's cell did not run the entire

time that he was in South One. The cell was filthy. The air smelled very bad. There were flies and roaches. Women's sanitary napkins had been glued to the seat of the toilet. They were so dirty that Mr. Battle did not want to sit on them. For the first two days, although the temperature was extremely cold, Mr. Battle had no sheets, towels, or blankets. He had only a jumpsuit and tennis shoes (without socks). To try to stay warm, Mr. Battle walked constantly in his cell when awake. The effort was not successful. Mr. Battle was cold constantly. He shivered from the cold. His feet were numb from the cold. At night, Mr. Battle lay down, shivering from the cold, until he passed out. He slept a short while, then awoke and shivered until he passed out again. This happened repeatedly, all night. An officer gave Mr. Battle a blanket on or about February 26, 1996. Mr. Battle wrapped himself in the blanket, but he still shivered from the cold. The periods during which he slept were longer than before he had the blanket, but he still woke up several times, shivering from the cold. Mr. Battle did not receive his personal property while he was in South One. Every day, officers entered the units wearing shields and carrying sticks. On or about March 1, 1996, officers removed Mr. Battle from his cell to appear before a Housing Board. The Board told Mr. Battle they would recommend his transfer to general population. Two days later, on or about March 3, 1996, Mr. Battle was removed from South One.

For several weeks beginning approximately March 23, 1996, plaintiff Bernard Brown was confined in Cell #77 in the lower right tier of South One. One day in March, between fifteen and twenty District of Columbia correctional officers entered the lower right tier of South One and shouted "Ya'll got a ass whippin comin." The officers shouted to the inmates to place their hands outside of their cells so that the officers could place handcuffs on them behind their backs. Mr. Brown complied and was handcuffed from behind. Mr. Brown's cell door opened. An officer

grabbed Mr. Brown and slammed him face down to the floor of his cell. An officer pressed his foot onto Mr. Brown's head. Another officer pressed his foot onto Mr. Brown's back. Other officers searched Mr. Brown's cell. An officer asked, "Bernard, where's the matches at." Mr. Brown replied, "I don't know what you're talking about, and my head plus back hurt. Can you please get off of me." One of the officers kicked Mr. Brown in the ribs. Officers pulled Mr. Brown up off of the floor and one of them slapped him in the head. Officers dragged Mr. Brown to the dining area on the upper tier. In the dining room Mr. Brown saw other inmates from the lower right tier with their hands handcuffed behind their backs. Some were coughing, others were naked, and some had swollen eyes. When Mr. Brown was returned to his cell he noticed that his toothpaste, soap, deodorant, hairbrush, lotion, baby powder, baby oil, underwear, t-shirts, socks, tennis shoes and over 60 family photographs, including pictures of his deceased mother, were missing. None of these items was returned to Mr. Brown. As a result of the officers' slamming Mr. Brown to the floor, stepping on his head and back, kicking his ribs, and slapping his head, Mr. Brown suffered immediate pain at the sites of the blows, continuing pain and discomfort which gradually diminished and ended after about a week, and mental and emotional distress.

On a subsequent day, another incident took place on the lower right tier of South One while Mr. Brown was confined in cell #77. Around 6:00 or 6:30 p.m. District of Columbia correctional officers entered the tier. They approached Mr. Brown's cell. An officer said to Mr. Brown, "Bernard are you buckin too? Because you need to know that you'll be treated the same and guess what else I have. My knife. Yes, in case you get silly." Mr. Brown's cell was opened and the officer punched Mr. Brown in the head several times. Mr. Brown fell to the floor and

acted as if he were unconscious, although he wasn't. The officer stated, "I've got something for that." He left and returned moments later with a fire extinguisher and sprayed the yellow spray from the fire extinguisher on Mr. Brown. Mr. Brown arose and moved around his cell, avoiding some of the continued spraying. Mr. Brown and parts of his cell remained covered with the extinguisher spray for approximately six hours, until officers on the midnight shift allowed him to take a shower and to clean his cell. As a result of the officer's repeated punching of Mr. Brown, Mr. Brown suffered immediate pain at the sites of the blows, continuing pain and discomfort which gradually diminished and ended after about a week, and mental and emotional distress. As a result of the officer's spraying of Mr. Brown with the fire extinguisher, Mr. Brown suffered the discomfort and distress of being covered for several hours with the extinguisher spray.

On a subsequent day, District of Columbia correctional officials and District of Columbia correctional officers were touring the South One unit. While the officers and the officials were on the top right tier Mr. Brown banged on his cell bars and the officials all looked towards his cell. Mr. Brown yelled, "I need to see someone please." An officer walked down to the lower right tier and approached Mr. Brown's cell. He told Mr. Brown, "You'll get a legal call. Just shut-up!" Mr. Brown told him that he didn't care about getting a legal call; he was interested in finding out what happened to his property. The officer and the others left South One. Approximately an hour and a half later an officer approached Mr. Brown's cell and said, "Mr. Brown you still haven't learned your lesson. Pop 77!" The command to "Pop 77" was a command to open Mr. Brown's cell door. The officer swung at Mr. Brown. Mr. Brown ducked. The officer punched Mr. Brown in the chest. As a result of the officer's punching of Mr. Brown,

Mr. Brown suffered immediate chest pain and continuing pain and discomfort which gradually diminished and ended after a few days, and mental and emotional distress.

On or about March 1, 1996, plaintiff Eugene Scott was in the SE-2 open population unit of the Jail. He was found guilty of a prison discipline offense, lack of cooperation, and District of Columbia correctional officers took him to Cell #63 in the lower right tier of South One.

South One was cold. Officers took away all of Mr. Scott's property. They did not return it until he left South One on March 20. Mr. Scott had only a prison jumpsuit to wear. He had no sheet or blanket. Due to the cold, he shivered and could not sleep. The cell had no hot water. The toilet did not work. Mr. Scott had no soap, toothbrush, toothpaste, or towel. On March 3, 1996, Mr. Scott faked a suicide attempt to get out of the block. District of Columbia correctional officers took him to the psychiatric unit. On or about March 8, 1996 officers took him to Cell #22 in the lower left tier of South One, where he remained until about March 20, 1996. The toilet in Cell #22 was inoperable. It also leaked, covering the floor with dirty, foul-smelling toilet water. Mr. Scott used a milk carton as a toilet. When officers came with a trash bag to collect empty food trays, Mr. Scott emptied the milk carton containing his body wastes into the trash bag. Mr. Scott had only one pair of boxer shorts, one pair of socks, and one jumpsuit to wear. He had no personal hygiene items. There was no hot water in his cell. Mr. Scott had no eating utensils. He used a piece of a styrofoam food tray as an eating utensil. South One was cold. Mr. Scott had no blanket. He shivered. Mr. Scott tore the cover of his mattress so he could get inside it to try to stay warm. It was uncomfortable inside the mattress. Due to the cold and discomfort, Mr. Scott was unable to sleep for more than a few minutes at a time. At no time was Mr. Scott allowed out of Cell 22 for recreation or a shower.

On or about March 18, 1996, a District of Columbia correctional officer came to Mr. Scott's cell and said, "I'll be back." At the beginning of the next shift, at approximately 5:00 p.m., that officer returned to Mr. Scott's cell with a large number of officers. He sprayed chemical agent at Mr. Scott. Mr. Scott moved from the back of his cell toward the bars, extending his hand through the bars to be handcuffed. Officers handcuffed him. The officer kept spraying the chemical at Mr. Scott causing him to gag, and suffer an asthma attack, as well as mental and emotional distress. Mr. Scott wheezed and gasped for breath. The officer said to the other officers, "Kick his ass." District of Columbia correctional officers entered Mr. Scott's cell, beat him in his cell, and continued to beat him as they dragged him into the laundry room next door to his cell. The officers hit Mr. Scott in the head, body, and groin. They beat him with slapjacks. They stomped on his hand, fracturing his finger. They dragged him to the infirmary, continuing to beat him. In the infirmary, Mr. Scott received eye drops but no other medical treatment. Officers took him back to his cell. Later that day he received medical treatment during which medical personnel discovered Mr. Scott's fractured finger. In addition to immediate pain caused by the officers' blows, Mr. Scott, due to the beating, suffered mental and emotional distress and was stiff and sore for approximately three days.

On or about February 24, 1996, plaintiff Vonsauli Smith received a Disciplinary Report for being "out of place" during a count when he had been unable to enter his cell in SE-2 at the D.C. Jail because the cell was locked. Five days later, on or about February 29, 1996, Mr. Smith appeared at an adjustment hearing. He was found guilty, received a 14-day sentence, and was immediately taken to Cell #11 in the upper left tier of South One. Mr. Smith was not allowed to bring any of his property with him. He did not receive his property until three days later. For the

first three days Mr. Smith had no personal hygiene items. When Mr. Smith received his property, he still had no toothpaste, toothbrush, or soap. A few days later he borrowed soap from another prisoner. South One was infested with roaches and other insects. South One was cold. Mr. Smith had two sheets, but did not receive a blanket until the fourth day he was in Cell #11. During his first four days in South One Mr. Smith stayed awake and moved as much as possible in his cell to stay warm. When he fell asleep he was soon awakened by numbness in various parts of his body, due to being cold. After he received a blanket, Mr. Smith wrapped himself in the blanket at nearly all times, but was still cold. Mr. Smith had no warm water in his cell. He had no eating utensils. He used a piece of styrofoam as an eating utensil. Mr. Smith left South One on March 23, 1996.

On March 14, 1996, at approximately 4:00 p.m. during shift change, a District of Columbia correctional officer entered the upper left tier of South One, looked around, and left. The tier had been flooded and flooding continued for approximately 45 minutes. Another District of Columbia correctional officer and approximately six or seven other officers then entered the tier. An officer came to Mr. Smith's cell, which had water in it from the flooding, and asked if Mr. Smith had flooded the tier. Mr. Smith said no, and noted that all of the cells had water in them. The officer displayed a canister of chemical agent and Mr. Smith stepped to the back of the cell to avoid being sprayed. The officer said that Mr. Smith was "not being orderly" and that he was going to "mace" Mr. Smith. He stated, "If you don't come to the bars, we're going to give you an old-fashioned ass whupping." He called to officers in the bubble to "pop" Mr. Smith's cell and the cell door opened. He told officers to "go in and whup him." Approximately six or seven District of Columbia correctional officers entered Mr. Smith's cell.



Mr. Smith retreated to his bed and curled up to protect himself. Officers hit him with their fists on his head, ribs, hand, back, shoulder, arms, and legs. An officer used a long black wooden stick like a battering ram to hit Mr. Smith repeatedly in his right rib cage. The blows fractured Mr. Smith's 9th and 10th posterior ribs and displaced his 10th lateral right rib. After one of the blows from the stick, Mr. Smith suddenly lost his wind and had difficulty breathing. A District of Columbia correctional officer appeared to notice that Mr. Smith was in severe pain and told the other officers to "mop his ass up the tier." Mr. Smith uncurled from the fetal position, experiencing sharp pain in his right rib area. Officers grabbed him by the collar, lifted him up, and an officer punched him in the right side of his face. Smith lay on his back on his bed. Officers grabbed his legs and pulled him off the bed, causing his head and back to hit the floor.

He was unable to move his arms to break his fall because of the pain in his ribs. The officers dragged Mr. Smith by his feet out of his cell onto the tier. Officers grabbed Mr. Smith and thrust him down the tier, causing him to slide, spinning on his back and onto his side, approximately 10 feet. Mr. Smith landed at the feet of other officers face down. These officers picked him up, turned him onto his back, and slid him in the same manner back down the tier, again approximately 10 feet. Mr. Smith tried to tell the officers that something was wrong with his ribs, but he could barely breathe.

After first suggesting that Mr. Smith should mop up the tier, District of Columbia correctional officers placed handcuffs on Mr. Smith's wrists behind his back, over his protests that this position caused severe pain. In response to Mr. Smith's protests, an officer grabbed his handcuffed wrists and pushed them up higher against Mr. Smith's back. In this position, officers pushed Mr. Smith along corridors, first to R&D to change his jumpsuit, then to the infirmary. In

the infirmary, Mr. Smith told medical staff what had happened and asked them to check his ribs for damage. A doctor listened with a stethoscope to Mr. Smith's breathing and then officers returned Mr. Smith to his cell in South One. There, Mr. Smith began throwing up blood. Another prisoner told an officer that Mr. Smith needed medical attention. Officers came to Mr. Smith's cell and again took him to the infirmary. The same doctor who had listened to Mr. Smith's breathing with a stethoscope took an X-ray of Mr. Smith's chest (but not of his ribs) and said, "there's nothing wrong with you." Another doctor looked at the X-rays, felt Mr. Smith's right rib cage, performed a rib X-ray, determined that Mr. Smith needed immediate hospital treatment and ordered that Mr. Smith be taken to D.C. General Hospital. At the hospital, Mr. Smith received treatment including pain killers and ointment. Early the following morning, Mr. Smith returned to the same cell in South One, where water remained on the floor.

As a result of the chemical spraying and beating, Mr. Smith suffered pain, discomfort, mental and emotional distress, fractured and displaced ribs, and inability to move his upper body normally for several weeks.

On February 23, 1996 District of Columbia correctional officers took plaintiff Timothy Williams to South One and placed him in Cell #19 on the upper left tier. Mr. Williams was one of the first prisoners placed in South One on February 23, 1996. The officers did not permit Mr. Williams to bring to South One any of his personal property, including personal hygiene items and legal papers. At the entrance to South One, District of Columbia correctional officers took away Mr. Williams's Nike athletic shoes. Mr. Williams entered Cell #19 wearing only a jumpsuit, t-shirt, underwear, and socks. For approximately three weeks, Mr. Williams received no shower and wore the same jumpsuit, t-shirt, underwear, and socks, which he washed out in

cold water in the sink in his cell. Mr. Williams had no hot water in his cell. He received no other clothes until he had been in South One for at least three weeks, when he received a couple of pairs of socks, a t-shirt, and underpants. Later, he received his athletic shoes. While he was housed in Cell #19, Mr. Williams had no blanket or sheet. South One was cold. Mr. Williams shivered from the cold. He gathered small scraps of cloth and foam and tried to wrap himself up to stay warm. On his bed, he lay underneath his mattress, with his back against the steel frame. He moved around inside his cell, spoke with other prisoners while standing at the bars of his cell, and did exercises in his cell to try to stay warm. Mr. Williams was too cold to sleep normally. After long periods of no sleep, he would fall asleep for short periods of time, physically exhausted from shivering and the lack of sleep. After approximately three weeks in South One, he received a shower approximately two times per week, and was given lye soap to wash himself, which caused his skin to break out. While he was housed in Cell #19, Mr. Williams served occasionally as a detail member. Because the water in the upper tier shower was very cold, Mr. Williams sometimes took a shower on the lower tier while he was out of his cell on detail; however, the water in the lower tier shower was so hot that it was painful to stand under the water. On food distribution detail, Mr. Williams was allowed out of his cell for approximately 5-10 minutes at a time, to pick up food trays from cells on both the upper right and left tiers. On cleaning detail, he was allowed out of his cell for up to 30 minutes at a time, and he sometimes collected scraps of cloth and bits of soap from empty cells. He used these scraps and soap to try to clean his own cell #19, which was filthy, and gave them to other prisoners to use in their own cells. Mr. Williams asked officers to provide cleaning agents and supplies so that the prisoners could clean their cells, but the officers refused. The toilet in his cell #19 was backed-up. When

another toilet in the unit was flushed, filthy water and debris would come up in Mr. Williams's toilet. A strong smell of feces and urine was always present. The food Mr. Williams received was inadequate in both quantity and sanitation. It often contained ashes or smelled of urine. Mr. Williams complained to officers about the condition of the food. The officer whom Mr. Williams suspected of tampering with his food, laughed at Mr. Williams and said, "Aren't you gonna eat?" Mr. Williams often did not eat all or any of the food he received and he felt hungry all of the time. Mr. Williams had no eating utensils. He ate using his unclean hands, playing cards which he used and re-used, and pieces of Styrofoam trays.

After approximately one month, following a flooding incident which occurred on the upper left tier, District of Columbia correctional officers removed Mr. Williams from Cell #19 and placed him in Cell #54 on the upper right tier of South One. Officers told Mr. Williams that he was moved to Cell #54 because he had instigated the flooding; however, Mr. Williams had been out of the unit on a legal visit during the incident. In Cell #54, Mr. Williams was placed in total separation and on special handling status. At a subsequent Adjustment Board hearing, Mr. Williams was taken off of restrictive status and resumed some detail duties. After he complained to the Special Officer appointed by the Court about conditions in the unit, however, Mr. Williams was removed from detail assignments. In Cell #54, Mr. Williams received, for the first time since he had been housed in South One, personal hygiene items, including one bar of soap (without lye), toothpaste, and a very small toothbrush. He also received one blanket and one sheet, the first he had received since he had been housed in South One. When he arrived in Cell #54, he had no hot water in his cell. Mr. Williams remained in Cell #54 until he was moved out of the South One unit at the end of May 1996. While he was housed in Cell #54, an incident

occurred during which [a] District of Columbia correctional officer jerked Mr. Williams's handcuffed wrists up behind Mr. Williams's back, straining his shoulder. Mr. Williams returned to South One from a legal visit and submitted to a strip search in the sallyport. When the strip search officer told Mr. Williams to use his hand to lift his testicles, and then use the same hand to hold open his lips and lift his tongue, Mr. Williams complained. An officer came out of the bubble area toward Mr. Williams. The other officer placed handcuffs on Mr. Williams's wrists behind his back and shackles on his ankles. The officer told the other officer, "I've got him from here." As the officer and Mr. Williams walked toward Cell #54, the officer said, "You're a bad ass; you're hard-headed." The officer grabbed the handcuffs on Mr. Williams's wrists and jerked his arms upward behind Mr. Williams's back. Mr. Williams told the officer that he thought he needed to see a doctor. The officer said, "You ain't seeing no doctor here." As a result of the jerking by the officer, Mr. Williams suffered pain in his shoulder and mental and emotional distress. In the South One unit, Mr. Williams received no medical treatment in response to repeated requests. He has since received treatment for this injury including steroid shots, physical therapy, and pain medication. On another occasion, while Mr. Williams was housed in Cell #54, a District of Columbia correctional officer punched him. Mr. Williams was at the top of the tier, wearing handcuffs. The officer approached Mr. Williams and, facing Mr. Williams, punched him in the stomach and right side of his face. As a result of this punching, Mr. Williams suffered pain at the sites of the officer's blows and mental and emotional distress. On another occasion, while Mr. Williams was housed in Cell #54, a District of Columbia correctional officer came to Cell #54 and sprayed chemical agent directly at Mr. Williams. Mr. Williams received no shower or medical treatment following the spraying of chemical agent. Mr. Williams suffered

burning of his eyes and skin and asthma symptoms of difficult breathing as a result of the officer's use of chemical agent.

During the entire time that Mr. Williams was housed in South One, officers repeatedly sprayed chemical agent throughout the tier where he was housed, causing irritation of Mr. Williams's eyes and skin, and triggering asthma symptoms of difficult breathing. Mr. Williams also suffered asthma symptoms and irritation of his eyes and skin when the housing unit filled with smoke during fires. Mr. Williams repeatedly requested, but did not receive, any medical treatment for these complaints.

SO ORDERED.

Signed by Royce C. Lamberth, United States District Judge, January 31, 2006.