



JC-FL-001-003

IN THE UNITED STATES DISTRICT COURT FOR  
THE NORTHERN DISTRICT OF FLORIDA  
TALLAHASSEE, FLORIDA

WILLIE M. ARIAS, )  
DOUGLAS BLACKBEAR, )  
WILLIAM BOLTON, )  
ROBERT LEE BROWN, )  
EDNA M. DIAMOND, )  
JAY A. DIAMOND, )  
FRANKLIN LEE FOWLER, )  
CHESTER ISON, )  
ALBERT MCKENZIE, )  
KEITH McMURRAY, )  
GARY MOORE, )  
JAMES MOORE, )  
DANIEL OSBORN, )  
JOSEPH PUMPHREY, )  
WALTER LEE SMITH, )  
KELLY SPENCER, )  
WALTER H. THOMPSON, )  
OTIS WALKER, )  
ALBERT WILLIAMS, )  
JAMES DOYLE WOODIE, )  
LEE EDWARD WREN, )  
Individually and on behalf of )  
all others similarly situated, )

No. TCA 79-792

Plaintiffs, )

-vs- )

LOUIE L. WAINWRIGHT, )  
Individually and in his official )  
capacity as Secretary of the )  
Florida State Department of )  
Corrections, )  
1311 Winewood Boulevard, )  
Tallahassee, Florida 32301, )  
Defendant. )

AMENDED  
COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF

Plaintiffs complain against the defendant as follows:

NATURE OF ACTION

1. Plaintiffs, prisoners in Florida's county deten-  
tion facilities (hereinafter "overnight jails" or simply  
"jails"),<sup>1/</sup> seek declaratory and injunctive relief --  
individually and on behalf of all persons who are now or

<sup>1/</sup> "County detention facilities" is defined for purposes of  
this action to include all those county and municipal deten-  
tion facilities in the State of Florida that house prisoners  
for periods of 48 hours or more ("overnight jails"). See at-  
tached Memorandum of Points and Authorities in support of  
Plaintiff's Motion for Certification of a Class, at 2, n.1.

will be confined in such county jails -- to remedy and restrain violations of their federal constitutional and civil rights. These violations have been caused by defendant Louie L. Wainwright, Secretary of Florida's Department of Corrections.

2. Florida has established a legislative scheme that makes defendant Wainwright responsible for promulgating and enforcing minimum constitutional standards relating to the maintenance and operations of the State's jails. Fla. Stat. Ann. § 951.23 (1978 Supp.). Defendant Wainwright has failed to carry out his statutory duties. As a result of his acts and omissions, taken under color of state law, defendant has caused plaintiffs' continued confinement under deplorable conditions that violate their constitutional rights.

#### JURISDICTION AND VENUE

3. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1343(3) and (4); 42 U.S.C. §§ 1983 and 1988; 28 U.S.C. §§ 2201 and 2202; and the Constitution of the United States, specifically but not limited to the First, Fourth, Fifth, Sixth, Eighth, Ninth and Fourteenth Amendments thereto.

4. There exists between the parties an actual controversy, justiciable in character, in respect to which a declaration of rights and injunctive and other appropriate relief is requested.

5. Venue is properly laid in this Court pursuant to 28 U.S.C. §1391(b).

#### PLAINTIFFS

6. Named plaintiffs bring this action on their own behalf and on behalf of a class of persons who are presently or will in the future be confined in county jails in the State of Florida.

7. Plaintiff Willie M. Arias is a prisoner of the State of Florida and is presently incarcerated in the Plantation Key Substation, an annex of the Monroe County Jail.

8. Plaintiff Douglas Blackbear was arrested in the State of Florida and charged with offenses under Florida law and is presently incarcerated in the Collier County Jail, solely to insure his appearance at trial.

9. Plaintiff William Bolton was arrested in the State of Florida and charged with offenses under Florida law and is presently incarcerated in the Pasco County Detention Center, solely to insure his appearance at trial.

10. Plaintiff Robert Lee Brown is a prisoner of the State of Florida and is presently incarcerated in the Brevard County Jail.

11. Plaintiff Edna M. Diamond was arrested in the State of Florida and charged with offenses under Florida law and is presently incarcerated in the Hendry County Jail, solely to insure her appearance at trial.

12. Plaintiff Jay A. Diamond was arrested in the State of Florida and charged with offenses under Florida law and is presently incarcerated in the Hendry County Jail, solely to insure his appearance at trial.

13. Plaintiff Franklin Lee Fowler is a prisoner of the State of Florida and is presently incarcerated in the Hendry County Jail.

14. Plaintiff Joseph Pumphrey was arrested in the State of Florida and charged with offenses under Florida law and is presently incarcerated in the Gadsden County Jail, solely to insure his appearance at trial.

15. Plaintiff Chester Ison was arrested in the State of Florida and charged with offenses under Florida law and

is presently incarcerated in the Pasco County Detention Center, solely to insure his appearance at trial.

16. Plaintiff Albert McKenzie is a prisoner of the State of Florida and is presently incarcerated in the Brevard County Jail.

17. Plaintiff Keith McMurray was arrested in the State of Florida and charged with offenses under Florida law and is presently incarcerated in the Jackson County Jail, solely to insure his appearance at trial.

18. Plaintiff Gary Moore is a prisoner of the State of Florida and is presently incarcerated in the Jackson County Jail.

19. Plaintiff James Moore is a prisoner of the State of Florida and is presently incarcerated in the Polk County Jail, and who, at the time of the filing of the original Complaint herein, was incarcerated at the Glades County Jail.

20. Plaintiff Daniel Osborn is a prisoner of the State of Florida and is presently incarcerated in the Gadsden County Jail.

21. Plaintiff Walter Lee Smith was arrested in the State of Florida and charged with offenses under Florida law and is presently incarcerated in the Jackson County Jail, solely to insure his appearance at trial.

22. Plaintiff Kelly Spencer was arrested in the State of Florida and charged with offenses under Florida law and is presently incarcerated in the Collier County Jail, solely to insure his appearance at trial.

23. Plaintiff Walter H. Thompson was arrested in the State of Florida and charged with offenses under Florida law and is presently incarcerated in the Monroe County Jail, solely to insure his appearance at trial.

24. Plaintiff Otis Walker was arrested in the State of Florida and charged with offenses under Florida law and is

presently incarcerated in the Lee County Jail, solely to insure his appearance at trial.

25. Plaintiff Albert Williams was arrested in the State of Florida and charged with offenses under Florida law and is presently incarcerated in the Gadsden County Jail, solely to insure his appearance at trial.

26. Plaintiff James Doyle Woodie is a prisoner of the State of Florida and is presently incarcerated in the Collier County Jail.

27. Plaintiff Lee Edward Wren was arrested in the State of Florida and charged with offenses under Florida law and is presently incarcerated in the Collier County Jail, solely to insure his appearance at trial.

DEFENDANT

28. Defendant Wainwright is Secretary of Florida's Department of Corrections. Under Florida law, he is explicitly authorized and directed to promulgate rules and regulations prescribing standards and requirements with reference to the construction, equipping, maintenance and operation of all jails, including but not limited to their cleanliness, floor space, nutrition, medical care, classification, discipline and general operations. Fla. Stat. § 951.23(2). He is directed, in mandatory terms, to "enforce such rules and regulations" and to inspect all jails in order to determine whether the standards and requirements are being met. Fla. Stat. §951.23(3). Finally, defendant Wainwright is empowered to seek an injunction prohibiting the confinement of any county prisoner in any facility which does not meet the standards and requirements he has prescribed, and/or to certify to the circuit court that county prisoners are being confined in noncomplying facilities, in which case the court "shall order" such prisoners removed to complying facilities. Fla. Stat. § 951.23(3) and (4).

29. Plaintiffs bring this action on behalf of themselves and all other persons who are now or will in the future be confined in county jails in the State of Florida, pursuant to Rule 23 of the Federal Rules of Civil Procedure and Rule 17 of the Rules of the United States District Court for the Northern District of Florida. As set forth below, the prerequisites to a class action enumerated in Rule 23(a) and (b) of the Federal Rules are satisfied in this case.

30. Approximately 10,000 persons are confined in jails in the State of Florida. The class of persons who are now or will in the future be confined in such facilities is so numerous that joinder of all its members is clearly impracticable. Rule 23(a)(1), Fed. R. Civ. P.

31. There are questions of law or fact common to all members of the class. Rule 23(a)(2), Fed. R. Civ. P. The principal common questions are whether defendant Wainwright has breached his statutory duties to promulgate constitutional jail standards, to conduct meaningful jail inspections, and to enforce compliance with the jail standards and with the Constitution, and whether plaintiffs' constitutional rights have been violated as a result of defendant's dereliction of his statutory duties.

32. Plaintiffs' claims are typical of those of the class they seek to represent. Rule 23(a)(3), Fed. R. Civ. P. Defendant's statutory duties run to all members of the proposed class. Defendant's breach of those duties affects all class members in a similar fashion by subjecting them to unconstitutional conditions of confinement. Plaintiffs have no interests that conflict with those of the class and the relief plaintiffs seek will benefit all members of the class.

33. Plaintiffs assert no position antagonistic to or in conflict with that of other members of the class, and they and their attorneys are prepared and able to prosecute this action vigorously and expeditiously. Rule 23(a)(4), Fed. R. Civ. P.

34. Defendant Wainwright, acting under color of state law, custom and usage, has failed to carry out his statutory duties to promulgate minimum constitutional standards relating to the maintenance and operation of the jails, to conduct meaningful inspections of the jails and to enforce compliance with the jail standards and with the Constitution. Although defendant Wainwright has promulgated standards, and some inspections have been conducted, he has not complied with the statutory requirement of inspections adequate to disclose violations of the jail standards, and he has not taken effective action to enforce the regulations. He is well aware that gross violations of constitutional requirements and of his own standards are pervasive in the county and municipal jail system, but he has failed to appropriate circumstances to exercise his statutory power to seek court orders prohibiting the confinement of prisoners in non-complying facilities. In addition, some of the standards -- particularly those relating to visitation, exercise, recreation and activity, and medical care -- on their face authorize constitutional violations.

35. As a direct result of defendant's acts and omissions, plaintiffs have been and are being subjected to conditions of confinement that, both individually and cumulatively, deny them due process and equal protection of the laws in violation of the Fourteenth Amendment, constitute cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments and/or violate the First, Fourth,

Fifth, Sixth and Ninth Amendments to the Constitution of the United States.

36. The unconstitutional conditions and practices to which plaintiffs have been and are being subjected as a result of defendant's acts and omissions include, but are not limited to the following:

(a) enforced idleness resulting from continuous cell confinement without access to dayrooms or activity space;

(b) denial of adequate exercise, activity and recreational facilities;

(c) inadequate medical, psychiatric and psychological care;

(d) arbitrary and unconstitutional restrictions on visitation;

(e) denial of contact visitation;

(f) intolerably inadequate heat, light, ventilation, and sanitation in cells, dormitories and toilet and shower facilities, endangering prisoners' physical and mental health and exposing them to vermin, cockroach and rodent infestation;

(g) inadequate and unclean clothing and bedding;

(h) hazardous fire and emergency conditions;

(i) denial of adequate materials for maintaining personal hygiene;

(j) grossly overcrowded living conditions;

(k) denial of nourishing food;

(l) preparation, storage and service of food under unsanitary conditions;

(m) violent assaults as a result of inadequate security and supervision and failure to properly classify prisoners;



(n) arbitrary, cruel and unusual discipline without due process;

(o) arbitrary and unconstitutional restrictions on correspondence and access to telephones;

(p) denial of access to courts, counsel and law books and writing materials;

(q) denial of work, educational and rehabilitative opportunities, resulting in physical, mental and psychological deterioration.

#### CLAIMS

37. The acts, omissions, practices and policies of defendant Wainwright described in paragraphs 34-36 above, taken individually and cumulatively, have denied plaintiffs due process and equal protection of the laws in violation of the Fourteenth Amendment, have subjected plaintiffs to cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments and have violated the rights, privileges and immunities guaranteed to plaintiffs by the First, Fourth, Sixth, Ninth and Fourteenth Amendments to the Constitution of the United States.

#### PRAYER FOR RELIEF

WHEREFORE, plaintiffs pray that this Court:

1. Issue a declaratory judgment that defendant's acts, omissions, practices and policies have denied plaintiffs due process and equal protection of the laws in violation of the Fourteenth Amendment, have caused them to be subjected to cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments and have violated the rights, privileges and immunities guaranteed to them by the First, Fourth, Fifth, Sixth, Ninth, and Fourteenth Amendments to the Constitution of the United States.

2. Enter a judgment, order and decree permanently prohibiting the defendant, his officers, agents, successors and all those acting in concert or participating with him from:

- (a) failing or refusing to conduct or cause to be conducted meaningful and exacting inspections of the jails;
- (b) failing or refusing properly to evaluate and monitor the conditions under which plaintiffs and members of their class are confined so as to detect and report any and all violations of the Constitution or Florida law, including the Florida jail standards promulgated pursuant to Fla. Stat. § 951.23;
- (c) failing or refusing to take, or assist in taking, steps necessary or appropriate to eliminate unconstitutional conditions of confinement in the jails and violations of Florida law, including the Florida jail standards; and
- (d) depriving plaintiffs or members of their class of their constitutional rights.

3. Enter a judgment, order and decree requiring defendant to promulgate new regulations that fully protect the constitutional rights of prisoners to adequate medical care, contact visitation and out-of-cell time, including daily indoor and outdoor exercise and recreation.

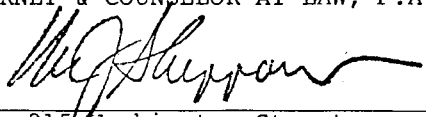
4. Enter a judgment, order and decree requiring defendant to confine plaintiffs, if at all, only under conditions that comport with the Constitution of the United States.

5. Enter a judgment, order and decree awarding the plaintiffs costs of this action and reasonable attorneys' fees.

Respectfully submitted,

WM. J. SHEPPARD  
ATTORNEY & COUNSELOR AT LAW, P.A.

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I HEREBY CERTIFY that a copy of the foregoing has been furnished to Sydney H. McKenzie, III, Esquire, Chief Trial Counsel, Office of the Attorney General, Department of Legal Affairs, The Capitol, Tallahassee, Florida 32301, by mail, this 12<sup>th</sup> day of April, 1979.

  
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