

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

FREDERICK HARPER, MARVIN MAXIE,
CHARLES HOLMES, and SEAN HILL,
individually and on behalf of all present and
future inmates in the Fulton County Jail

Plaintiffs,

v.

FULTON COUNTY, GEORGIA; FULTON
COUNTY BOARD OF COMMISSIONERS,
KAREN HANDEL, Chairperson, ROB PITTS,
EMMA I. DARNELL, WILLIAM EDWARDS,
TOM LOWE, NANCY BOXILL, members;
in their official capacities

Defendants,

MYRON FREEMAN, Fulton County
Sheriff, in his official capacity,

Defendant and Third Party Plaintiff

v.

JIM DONALD, Commissioner, Georgia
Department of Corrections, in his official
capacity; and the GEORGIA DEPARTMENT
OF CORRECTIONS,

Third-party Defendants.

CIVIL ACTION
NO. 04-CV-1416-MHS

**SECOND AMENDED
COMPLAINT**

SECOND AMENDED COMPLAINT

1. This is an action on behalf inmates at the Fulton County Jail and its two annexes (the Bellwood Annex and the Marietta Annex) seeking declaratory and injunctive relief with regard to longstanding constitutional deficiencies at the Jail resulting from overcrowding, inadequate staffing, and the breakdown of the plumbing, ventilation, electrical, security and laundry systems due to over use and lack of maintenance. These deficiencies, which have resulted in injury to both inmates and Jail personnel, violate the Eighth and Fourteenth Amendments to the United States Constitution as well as Georgia law. The Plaintiffs bring this action pursuant to the Civil Rights Act of 1871, 42 United States Code §1983, as representatives of all current and future inmates at the Fulton County Jail.

2. Plaintiffs seek protection from intolerable living conditions and the constant threat to their lives and safety resulting from overcrowding, inadequate staffing, the presence of weapons in the Jail, locks that do not work on many cells, and other deficiencies described herein. The main jail facility on 901 Rice Street was designed for 1400 inmates. However, it has an asserted capacity of 2,250 as a result of double bunking and even triple bunking some cells that were designed for one person. The Jail's population is several hundred over 2,250; it has even

exceeded 4,000 inmates on occasion. An additional 300 or more inmates are housed in the annexes – two buildings near the Jail which are not fit for human habitation. The constant housing of more inmates than the capacity of the Jail to hold has contributed to the breakdown of its air, plumbing, electrical and laundry systems – systems which are simply worn out from use 24 hours a day, seven days a week by far more people than they were designed for.

3. The problem of too many inmates in too little space has been compounded by a severe shortage of detention officers due to unfilled positions and a high rate of absenteeism. Sections of the Jail that were designed to be staffed by 14 detention officers are being staffed by two, and, on some occasions, only one. Staff shortages endanger both inmates and staff. On multiple occasions, there have not been enough detention staff to patrol the Jail, to complete counts of the inmates, or to escort nurses to the housing units to dispense medications.

4. At times, the available staff has been insufficient to respond to emergency situations in a timely manner. Both inmates and staff have been injured in altercations, suffering stab wounds, broken limbs, head injuries and other injuries.

5. The problems of an excessive inmate population and a shortage of staff are further exacerbated by the breakdown of basic systems required for health and

safety -- plumbing, laundry, electric, and air handling systems. In some areas, water leaks from the ceiling, from toilets, and from chases into inmate living areas. On multiple occasions, raw sewage has come up from drains and overflowed from toilets in some cells. Floors have flooded in some housing units. Inmates have sustained injuries as a result of slipping on the water. The air handling system at the Jail has been unable to remove the humidity from the air and cool some zones because there are too many people in those zones. Parts of the Jail are without electricity at times -- including the elevators, which remain inoperable until electricity has been restored. The Jail has, at times, been unable to handle the laundry needs of the inmates because of the volume of laundry received from so many people being housed at the Jail and broken equipment. The laundry has not been handled properly to avoid a substantial risk of transmission of serious illnesses including diarrhea, staph infections, and hepatitis.

6. The Jail has failed to release people in its custody once it no longer had a legal basis for holding them. As a result of the way cases are inadequately processed by the courts and the Jail staff, people admitted to the Jail after arrest may remain there several days after their release has been ordered, bond has been posted, or charges have been dismissed. The failure of the Jail to promptly release

people when they are entitled to be released causes injury to the plaintiffs including loss of employment and housing. It also contributes of the crowded conditions in the Jail.

7. Thus, the Plaintiffs and other inmates at the Jail are being held in violation of their rights under the Eighth Amendment and Fourteenth Amendments of the United States Constitution as applied through 42 U.S.C. § 1983, and O.C.G.A. §§42-4-4, 42-4-5, and 42-5-2. Plaintiffs seek declaratory and injunctive relief to remedy the conditions which are the bases for this action.

I. JURISDICTION

8. This suit is brought under the Eighth and Fourteenth Amendments to the United States Constitution as enforced through 42 U.S.C. §1983, and under O.C.G.A. §§ 9-2-20, 42-4-4 et seq., and 42-5-2 et seq. The Court has jurisdiction over the plaintiffs' federal constitutional claims pursuant to 28 U.S.C. §§1331 and 1343(a) and over plaintiffs' state law claims pursuant to 28 U.S.C. § 1367(a).

9. This Court is authorized to grant declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201 and 2202.

II. VENUE

10. The Northern District of Georgia is an appropriate venue for this action because the Jail is in Fulton County, the events giving rise to this action occurred in this district, the Fulton County Board of Commissioners is a defendant, and defendant Freeman and the defendant members of the Fulton County Commission discharge their official responsibilities which are the subject of this action are officials of Fulton County. See 28 U.S.C. § 1391(b)(1), (2).

III. PARTIES

11. The Plaintiffs are persons who are or have been confined to the Fulton County Jail and have been subject to the unconstitutional conditions there. Plaintiff Frederick Harper has been housed in both the Bellwood Annex and the fifth floor of the Jail. At the Jail, he was housed with two other men in a cell on the fifth floor designed for one person. In the zone in which he was placed, there were a total of 18 single-person cells, each housing three men. There were two functioning showers for approximately fifty men. Plaintiff Harper observed many fights and was threatened with assault. The living area was very hot and humid, particularly during the summer months. Ceiling tiles were missing in the unit and

brown water leaked from the ceiling. Water leaked from the pipes and toilets.

Rust, mildew, algae, and mold were visible in the showers.

12. Plaintiff Marvin Maxie was arrested and placed in the Jail on December 12, 2003. He was housed on the fifth floor. In the zone where he lived, Mr. Maxie observed water pipes bursting and sewage pipes leaking next to his cell. He experienced numerous gaps in receiving his blood pressure medication.

13. Plaintiff Charles Holmes was confined on the fifth floor of the Jail, one of three persons housed in a single-person cell. He observed many fights and weapons in the zone.

14. Defendant Fulton County, Georgia, is the governmental entity responsible under state law for properly maintaining, operating, and funding the Fulton County Jail. O.C.G.A. §§ 36-9-5; 42-5-2 (a). That duty includes providing sufficient living space for the number of inmates housed at the Jail; providing funding for an adequate number of detention staff; and maintaining the plumbing, laundry, electric and ventilation systems at the Jail so that the Jail is operated in a safe, secure, sanitary and humane manner. In addition, it is the duty of the County "to maintain the inmate, furnishing him food, clothing, and any needed medical and hospital attention." O.C.G.A. § 42-5-2 (a).

15. Defendant Fulton County Commission and its members, Karen Handel, Emma Darnell, William Edwards, Robb Pitts, Tom Lowe and Nancy Boxill, are responsible for ensuring that Fulton County complies with its duties regarding the operation of the Jail as set out in the foregoing paragraph. The Commission possesses the power under Article XI of the Georgia Constitution to levy taxes, initiate bond issues, and otherwise raise revenues and appropriate funds for hiring detention staff and maintaining the Jail.

16. Defendant Myron Freeman is the Sheriff of Fulton County, Georgia. As Sheriff, he is charged under Georgia law with the duty of taking “custody of the jail and the bodies of such persons as are confined therein,” O.C.G.A. § 42-4-4(a)(1), to operate the Jail and provide secure and healthy conditions of confinement, O.C.G.A. § 42-4-4 (a)(1)-(2), and to remove inmates from the Jail and commit them to the jails of nearby counties should the Jail become unsafe. O.C.G.A. § 42-4-5 (a)(3).

17. Defendants James Donald and the Georgia Department of Corrections are third-party defendants as a result of a complaint against them by the Sheriff. James Donald is the Commissioner of the Department of Corrections and is

responsible for removing inmates from the Jail and transferring them to state prisons once his Department has been provided the necessary documentation.

18. Defendants are sued in their official capacities. They have all acted under color of law.

IV. CLASS ACTION ALLEGATIONS

19. The Plaintiffs bring this action on behalf of themselves and all others who are similarly situated pursuant to Rule 23(a) and (b)(2) of the Federal Rules of Civil Procedure. The members of the class consist of all inmates who are or will be incarcerated at the Fulton County Jail and are subject to the conditions described herein.

20. At any given time, there are from 2600 to over 3,000 inmates confined at the Jail and its two annexes. This large group changes size and composition on a daily basis as inmates are taken into the Jail and released from it. Therefore, joinder of all Fulton County Jail inmates is impracticable.

21. The questions of law and fact presented by this lawsuit are common to all class members. All are inmates at the Jail and its annexes, and endure the same conditions which threaten their lives, health and safety. The legal rights asserted by Plaintiffs are common to all of the inmates at the Jail. The defendant Sheriff,

County Commission, and the County Commission's members all have the same legal duties and responsibilities with regard to the issues raised in this suit to every person housed at the Jail and its annexes.

22. The claims of the Plaintiffs are typical of the claims of the class as a whole. The conditions and practices challenged in this action apply with equal force to the Plaintiffs and all inmates at the Jail. Thus, the claims of the named Plaintiffs are typical of those of the class.

23. The named Plaintiffs will fairly and adequately represent the interests of the class as a whole. They are represented by counsel who have substantial knowledge of the Jail and its operations, have investigated conditions at the Jail, and are experienced in class action litigation involving jail and prison conditions.

24. Pursuant to Federal Rules of Civil Procedure 23(a) and 23(b)(2), class certification is warranted because the various Defendants have acted or failed to act in a manner applicable to the class as a whole. Thus, final injunctive relief addressing the class as a whole is appropriate.

V. FACTUAL ALLEGATIONS

25. The main building used by Fulton County as a jail, located at 901 Rice Street, Atlanta, Georgia [hereinafter referred to herein as the "Jail"], was designed

by Atlanta architect Paul Rosser to house less than 1400 inmates – 1332 beds in cells and 44 infirmary beds. The plumbing, including the number of toilets, showers, and water fountains, the air handling system, and the electrical system were designed for 1400 inmates. Each cell, with the exception of a few cells for multiple inmates, was designed for a single inmate. However, after construction of the Jail had begun, a decision was made to put two bunks in cells designed for one inmate on floors 1-5, thereby adding 918 beds. However, while the number of beds was increased, the amount of living space remained the same. No modification was made of the plumbing, electrical and air handling systems to handle the larger population. As a result, from the day it opened, the Jail has housed far more inmates than the number for which it was designed. As Chief Jailer Roland Lane observed in a report to the sheriff about the unconstitutional conditions at the Jail:

The operational activation date of the jail was met with instant crowding and understaffing and has been abused with overloading of inmates without proportionate security staffing for more than 15 years.¹

1. Roland Lane, *Proposal to Achieve Constitutional Compliance for Conditions of Confinement in Fulton County Jail Facilities*, page 2 (May 1, 2004) (hereinafter “Lane Report.”)

26. After construction was complete, additional beds were added on the sixth and seventh floors and even a third bed was put in some cells that were designed for a single person, leaving very little space in those cells. Sheriff Jacquelyn Barrett promised the American Correctional Association to reduce the population of the Jail on the fourth and fifth floors in order to win accreditation for the Jail, but to this day, it has not occurred.

27. As a result of the additional beds, the main Jail building is purported to have a capacity of 2,250, plus 44 infirmary beds. Even that number of people severely strains the Jail's plumbing, electrical, ventilation and laundry systems, which were designed for 1,400. However, the number of people in the Jail has not been limited to 2,250; its population rangers from 300 to 1,000 above that level.

28. In addition to the main Jail, the defendants have housed some inmates in two old buildings, which are referred to as "annexes" or "barracks." One is designated the Bellwood Annex and the other is called the Marietta Annex. Both simply have large rooms full of bunk beds. They do not have enough showers and toilets for the inmates housed in them. The roofs leak when it rains. There is mold throughout the buildings. They are not fit for human habitation. Although the predecessor sheriff indicated repeatedly that the use of the annexes was only

temporary – and obtained accreditation of the Jail by promising to remove inmates from the annexes by the end of 2003 – hundreds of inmates remain housed in the annexes.

29. The Jail and the annexes are not only dangerously overcrowded, they are dangerously understaffed. Evaluations by the Chief Jailer, and outside experts brought in by the County Commission and the Sheriff in 2004 all found that the Jail was understaffed. Applying the staffing ratio calculations provided by the National Institute of Correction Large Jail Network, the Jail was short 169 officers in May, 2004.² The following July, Dr. Robert Greifinger reported the continued staff shortage of 87 vacancies.³

30. Such serious understaffing inhibits the ability of the staff to conduct preventive patrols which, as the Chief Jailer reported, are the “most effective method for maintaining order and control in the facility.”⁴ The Chief Jailer

2. Lane report, *supra* n. 1, at 4.

3. Letter of Dr. Robert Greifinger to Paula Morgan Nash, July 12, 2004. The letter is appended to the original Complaint filed in this action.

4. *Id.* at 5.

observed that on May 1, 2004, the Jail staff was only able to conduct “11% of the hourly required patrols necessary to maintain security and control of the jail.”⁵

31. These staff shortages have resulted in danger to both staff and inmates. On multiple occasions, the only detention staff on duty in some cellblocks has been a single officer in a glass booth; there are no officers to patrol the units. Understaffed and overwhelmed officers are unable to quickly end altercations between inmates. Altercations that are not broken up quickly can result in great bodily harm. Sufficient staff at the Jail would have prevented many violent incidents that have occurred there. There are unacceptably long delays in responding to emergency calls; food is often cold when it finally reaches the housing units; legal visits are delayed; and inmates sometimes do not see medical personnel or get needed medication.

32. The physical plant, including the plumbing, electric, air handling and laundry systems, at the Jail are failing because they are not designed for the demands put upon them by the number of people at the Jail.

33. As a result of breakdowns in the plumbing, raw sewage comes up through the drains in the cellblocks on the first floor, overflows from some toilets,

5. *Id.*

leaks from the bottom of others and drips from pipes. Many showers and sinks at the Jail do not work. Throughout the Jail, leaks from pipes create stagnant pools of water on the floor. The Fulton County Grand Jury for May-June 2004 reported, "The Jail did not pass the health inspection due to plumbing and other infrastructure issues. Plumbing was not designed to handle more than 1,100 inmates. Improvements should be made as soon as possible."

34. The air handling systems have failed in many parts of the Jail. As a result, inmates crowded into inadequate space experience excessive temperatures and inadequate ventilation, which adds to tension and poses a health risk as well.

Dr. Greifinger reported:

The air handling systems are overburdened; they break down. The HVAC controls do not work. There are leaking pipes throughout the facility, broken or missing security cameras, damaged ceiling tile and overflowing toilets. On 5 North, body heat alone uses more than 50% of the air-conditioning capacity. The plumbing problems persist, with toilet leaks and inoperable sinks. The electrical systems are so

strained that power regularly goes out in the dental unit. It is almost impossible to work productively in this environment.⁶

He described one housing unit as follows:

Wet clothing draped the railings – hopefully to dry in humidity exceeding 90%. The temperature was well over 80 degrees. Hot, especially for patients on psychotropic medications that make them vulnerable to heat injury such as heat stroke. Puddles outside the showers, mold inside, mold like a fur carpet on the ceiling. Acrid. The air conditioning cannot keep up with the heat and moisture.

35. There is mold and mildew throughout the Jail.⁷

36. Locks on many cells do not work. The Fulton Grand Jury for the May-June 2004 Term reported: “None of the panic buttons work.”

37. Because of the number of inmates, the crowded conditions in which they are confined and the lack of sufficient staff, repairing and maintaining the systems has become increasingly difficult for the Jail staff. The maintenance staff, with an average 1,300 work orders per month, simply cannot keep up. Preventive

6. Greifinger letter of May 31, 2004 at 3.

7. *Id.*, at 2.

maintenance is impossible because the staff is constantly responding to emergency breakdowns or vandalism.

38. The overcrowding, inadequate staffing, raw sewage, heat, humidity, mold, and other conditions at the Jail result in tension that leads to violence. Dr. Greifinger described the fifth floor of the Jail as follows:

It was dank, full of sweaty bodies. The air was thick with the scent of wet underwear. Rank. Each zone the same. Wet laundry on the railings. Raised voices. Noisy. Crowded. Inmates buzzing about, milling randomly, a few banging on the zone doors. Mattresses on the floor in the day room. No duty officers in sight. It was very hot indoors this pleasant Spring day. The air-conditioning had been broken for days. There are two showers on a zone; zone 5 North 500 has 59 inmates, 18 sleeping on the floor. 5 South has 326 inmates, but only 12 showers. This is a unit built for 108, or about 200 double-bunked. There are broken ceiling tiles and water dripping from the ceilings into garbage pails.⁸

8. *Id.*, at 1.

39. Inmates and staff remain subject to the risk of more violence, injury and even death unless the Jail's population is reduced substantially and its staff increased.

40. Because of the volume of inmates being received and the shortage of staff, people who arrive at the Jail in custody may spend two days or more in the intake area. While being processed, these new inmates must sleep on a concrete floor or stand. No mattresses or blankets are provided. On the other hand, while those being admitted to the Jail often remain in intake too long, on other occasions they are not held long enough for medical screening, including testing for tuberculosis.

41. The Jail has released people who should be held and failed to release people even though there was no longer has a legal basis for holding them. People remain in the Jail unlawfully because of the failure of court and Jail personnel to process documents regarding their release. It is common for inmates released on signature bond at their first appearance hearing not to be released, but to be held in the Jail for several days after the court has ordered their release. The same is true for inmates who make bond, have their charges dismissed, are sentenced to time served or ordered released for some other reason. While many of the delays are a

few days, some are far longer. For example, Willie Hill remained in the Jail over seven months *after* being sentenced to *time served* for jaywalking in municipal court on November 23, 2003. There is an unacceptable risk that many other inmates, like Mr. Hill, will be subject to prolonged, illegal detention. The defendants have failed to take measures to ensure the prompt release on inmates once there is no longer a legal basis for holding them.

42. People admitted to the Jail are, on occasion, "lost." For example, Nguyen Hen Van, a mentally ill Vietnamese man who speaks no English, was in the Jail for 19 months, apparently for purposes of a mental competency examination. Yet he was never seen by the mental health staff at the Jail. There is an unacceptable and preventable risk that other inmates at the Jail will suffer the same type of prolonged and illegal detention. The defendants have failed to take measures to monitor the legal status of inmates in order to ensure the prompt release on inmates once there is no longer a legal basis for holding them.

43. There are people in the Jail waiting for court proceedings who could be in the community. People arrested for minor offenses could be released after arrest without spending a night at the Jail. Instead, they are booked into the Jail, taken to first appearance hearings one to three days later and, even if ordered released, often

remain in the Jail several more days, being unlawfully held at the Jail and contributing to the overcrowding. People charged with violations of probation are arrested and housed at the Jail while awaiting revocation hearings when they could be summoned to those hearings.

44. The Jail in its current condition is an inappropriate place for many of the people who are housed there. A number of mentally ill people are housed at the Jail waiting an examination by a mental health professional from Grady Hospital or a bed at Georgia Regional Hospital. There are also handicapped and disabled people at the Jail. The living conditions for handicapped and disabled people at the Jail are inadequate. In fact, the Fulton County Grand Jury for May-June 2004 recommended, "A new facility is needed to house those who are handicapped or disabled."

45. The failure of the Georgia Department of Corrections to remove inmates from the Jail once they have been sentenced contributes to the overcrowding. In fiscal year 2001, Fulton County was reimbursed for 1,565 days for which state inmates remain in the Jail 15 days after proper documentation was made regarding their sentences; in 2002, the number was 6,990, and in fiscal 2003, the number was 22,635.

46. A buildup of inmates, reduction in staff and breakdown of systems in the spring of 2004 resulted in “a state of crisis, necessitating immediate action to reduce the inmate population, increase security staffing, and repair and maintain the basic systems required for basic health and safety, such as laundry, plumbing, electricity, and air handling.”⁹ Dr. Greifinger was a consultant with regard to health care at the Jail, initially for the United States District Court and then for Fulton County. After inspecting the Jail on May 26-27, he reported, “the severe overcrowding and staff shortages have resulted in mounting tension within the living units.”¹⁰ Dr. Geifinger returned to the Jail on July 12, 2004, and found “no substantial change in the crowding and the resulting environmental conditions.”¹¹

47. The crisis at the Jail has been well documented. A Fulton County Grand Jury, Chief Jailer Roland Lane, an independent contractor hired to assess the conditions of the maintenance facilities at the Jail (ARAMARK ServiceMaster), and evaluations made for the the Fulton County Commission and the Fulton County Sheriff all reached conclusions similar to those of Dr. Greifinger. All of

9. Report of Dr. Robert Greifinger, M.D. to Fulton County, May 31, 2004, page 1.

10. *Id.*

11. Report of Dr. Greifinger of July 12, 2004, at 1.

these reports have found overcrowding, understaffing, and maintenance disrepair to be the bases of the crisis at the Jail.

48. The policies, practices and conditions challenged in this lawsuit are the result of deliberate indifference on the part of defendants to the substantial risk of death or serious harm for inmates at the Fulton County Jail. All defendants know about this risk, which is longstanding, pervasive, well-documented and apparent to any knowledgeable observer. The many problems of the Jail have been widely publicized and acknowledged by some of the defendants. The policies, practices and conditions challenged in this case have caused and, unless enjoined, will continue to cause needless suffering and an ongoing risk of death or serious injury to staff and inmates.

49. Plaintiffs and members of the class have exhausted all administrative remedies available to them. Numerous grievances regarding the conditions at the Jail have not received a response.

VI. CLAIMS FOR RELIEF

50. Based upon all of the paragraphs set out in this Complaint, plaintiffs state the following claims for relief.

Count I – Cruel and Unusual Punishment

51. The conditions of confinement at the Jail and Defendants' deliberate indifference to those conditions, as well as their policies and practices in administering and overseeing the Jail, considered both discretely and in their totality, constitute cruel and unusual punishment in violation of plaintiffs' rights under the Eighth and Fourteenth Amendments to the United States Constitution, as enforced through 42 U.S.C. § 1983.

Count II – Violation of Due Process of Law

52. The conditions of confinement at the Jail and Defendants' deliberate indifference to those conditions, as well as their policies and practices in administering and overseeing the Jail, considered both discretely and in their totality, constitute a denial of due process of law in violation of plaintiffs' rights under the Fourteenth Amendment to the United States Constitution, as enforced through 42 U.S.C. § 1983.

Count III – Overdetention

53. The failure of the Defendant sheriff and his staff to release individuals promptly upon notification that there is no longer a basis for holding them violates

the Plaintiffs' rights under the Fourth, Eighth and Fourteenth Amendments to the United States Constitution, as enforced through 42 U.S.C. § 1983.

**Court IV – Failure of Fulton County Defendants
to properly maintain and operate the Jail**

54. The failure of defendants Fulton County and the Fulton County Board of Commissioners to properly maintain, operate, and fund the Jail to “maintain the inmate, furnishing him food, clothing and any needed medical and hospital attention” violates plaintiffs' rights under O.C.G.A. § 42-5-2.

**Count IV – Failure of Sheriff to Provide Secure, Safe and Sanitary
Conditions, Medical Care and to Remove Inmates**

55. The failure of the Defendant sheriff to provide secure, safe and sanitary conditions of confinement, to provide timely and sufficient medical care for inmates, and to remove inmates from the Jail and commit them to the jails of nearby counties because the Jail has become unsafe violates plaintiffs' rights under O.C.G.A. §§ 42-4-4 (a)(1)-(2), and 42-4-5 (a)(3).

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully pray that this Court:

1. Assume jurisdiction over this action;

2. Order that this case may be maintained as a class action pursuant to Rule 23(a) and 23(b)(2) of the Federal Rules of Civil Procedure;

3. Declare unconstitutional and unlawful the conditions of confinement and treatment of inmates at the Jail;

4. Enter a permanent injunction requiring the Defendants, their successors, agents, employees, and all persons acting in concert with them, to take immediate steps to provide inmates with a safe, secure and sanitary environment, including but not limited to the following: (1) require the Defendants to employ adequate number of trained staff as needed to operate the Jail properly, to protect the inmates from assaults, to respond to emergencies, to escort inmates to the infirmary, and to accompany nurses on the floors for distribution of medication; (2) require the Defendants to replace or repair and maintain, as is appropriate, the plumbing, electricity, air handling and laundry; (3) require the Defendant to release people promptly from the Jail upon notification that a court has ordered their release, that they have made bond, that their cases have been dismissed or any other notification that the Jail no longer has a legal basis for holding them; and (4) prohibit the Defendants from housing three inmates to a cell or having any inmate sleep on the floor.

5. Award plaintiffs costs of this lawsuit and reasonable attorney's fees; and,
6. Order such additional relief as the Court may deem just and proper.

Respectfully submitted this 28th day of November, 2005.

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By s/Stephen B. Bright

CERTIFICATE OF COMPLIANCE

I, Stephen B. Bright, do hereby certify that the foregoing document has been prepared in 14-point Times New Roman font and complies with LR 5.1B.

This 28th day of November, 2005.

s/Stephen B. Bright

CERTIFICATE OF SERVICE

I, Stephen B. Bright, do hereby certify that on this day I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system on November 28, 2005, which will send notification to counsel for the Defendants:

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This 28th day of November, 2005.

s/Stephen B. Bright