

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

FILED
U.S. DISTRICT COURT
INDIANAPOLIS DIVISION
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SOUTHERN DISTRICT
OF INDIANA
LAURA A. BRIGGS
CLERK

TREVOR RICHARDSON, on his own behalf and on behalf of class of those similarly situated,)
)
)
Plaintiffs,)

v.)

MONROE COUNTY SHERIFF, in his official capacity,)
and, MONROE COUNTY COMMISSIONERS, in their)
official capacity,)
)
Defendants.)

No.

Complaint-Class Action

: 08 -cv- 0174 -RLY -JMS

**CLASS ACTION COMPLAINT FOR INJUNCTIVE AND
DECLARATORY RELIEF**

Introduction

1. This is a class action complaint for declaratory and injunctive relief challenging unconstitutional and unlawful conditions of confinement at the Monroe County Jail which is consistently and dangerously overcrowded.

Jurisdiction

2. This Court has jurisdiction of this cause pursuant to 28 U.S.C. §§ 1331 and 1343.

3. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391.

4. Declaratory relief is authorized by 28 U.S.C. §§ 2201, 2202 and by Rule 57 of the Federal Rules of Civil Procedure.

5. This action is brought, pursuant to 42 U.S.C. § 1983, to redress the deprivation, under color of state law, of rights secured by the Constitution of the United States.

6. This Court has jurisdiction of the supplemental state law claims pursuant to 28 U.S.C. §

1367.

Parties

7. Trevor Richardson is an adult male who is confined in the Monroe County Jail.
8. The office of the Monroe County Sheriff is sued pursuant to Rule 25(d)(2) of the Federal Rules of Civil Procedure.
9. The office of the Monroe County Commissioners is sued pursuant to Rule 25(d)(2) of the Federal Rules of Civil Procedure.

Class Action Allegations

10. This action is brought by plaintiff on his own behalf and on behalf of a class of those similarly situated pursuant to Rule 23(a) and (b)(2) of the Federal Rules of Civil Procedure.
11. The class is defined as:

any and all persons currently confined, or who will in the future be confined, in the Monroe County Jail.
12. All requirements of Rule 23(a) are met in this cause in that:
 - a. The class is so numerous that joinder of all members is impractical. Although the capacity of the Monroe County Jail is approximately 200, it operates with many more prisoners than 200.
 - b. There are questions of law or fact common to the class: whether conditions in the Monroe County Jail violate the United States Constitution and Indiana law.
 - c. The claims of the representative party are typical of those of the class.
 - d. The representative party will fairly and adequately protect the interests of the class.
13. The further requirements of Rule 23(b)(2) of the Federal Rules of Civil Procedure are met in this cause in that the defendants, at all times, have acted or have refused to act in a manner

generally applicable to the class, thereby making final injunctive and declaratory relief appropriate with respect to the class as a whole.

Legal Background

14. Indiana law provides that the sheriff of a county must “[t]ake care of the county jail and the prisoners there” IND. CODE § 36-2-13-5(a)(7).
15. The county commissioners of each Indiana county, as the county’s executive, have the statutory duty to “establish and maintain a . . . county jail” IND. CODE § 36-2-2-24. This includes providing a jail and keeping it in good repair. *Weatherholt v. Spencer County*, 639 N.E.2d 354 (Ind.Ct.App. 1994).

Factual Allegations

16. The Monroe County Jail has a rated capacity of approximately 200 beds, excluding booking and isolation cells.
17. The Jail operates over the rated bed capacity for much, if not all, of the time.
18. A number of the living areas in the Jails are grossly overcrowded.
19. Because of overcrowding, prisoners are forced to sleep in day room areas outside of cells.
20. Because of overcrowding, prisoners are forced to sleep on the floor of the gymnasium.
21. This prevents the prisoners of the Jail from having recreation opportunities.
22. There are no bathroom or showers in the gymnasium.
23. In order that prisoners who are forced to reside on the floor of the gymnasium may have access to toilets and showers the door in J Block to the gymnasium is kept open so that the prisoners in the gym can access toilets and showers in J Block.

24. J Block has approximately 24 permanent beds in it in 16 cells.
25. Because of the overcrowding, however, there have been at times more than 40 people on the floor of either J Block or the gymnasium.
26. All these prisoners are forced to share two showers and limited toilets.
27. A number of other cell block areas in the Jail are also overcrowded.
28. The overcrowding leads to increased tension between the prisoners that frequently erupts into violence.
29. For example, prisoners have fought over bed space.
30. Because of the overcrowding, the cell blocks and particularly the showers, become extremely dirty.
31. Because of the overcrowding, meals are frequently served cold.
32. Living conditions for those in the overcrowded cell blocks, are inhumane, unsanitary, dangerous and harsh.
33. The cell areas are too crowded for prisoners to be able to effectively exercise. There is no ability for prisoners to engage in recreation in the indoor recreation area because prisoner are housed on its floor. Prisoners are not taken for outdoor recreation.
34. At times, some of the blocks are so overcrowded that it is impossible to walk in the areas outside the cells that are open to the prisoners during the day. There are simply too many people on the floor.
35. Because of the overcrowding there is a lack of supervision over the inmates which is extremely dangerous.

36. Trevor Richardson has been in the Monroe County Jail for almost six months.
37. For more than four months he was forced to sleep on the floor in J Block because of overcrowding.
38. He has experienced the extreme overcrowding of J Block and the other problems that accompany the overcrowding: tension among the prisoners, violence among the prisoners, dirty showers and living conditions, cold food, complete lack of recreation, and, in general, unsafe and hazardous conditions.
39. He is currently placed on J Block.
40. Trevor Richardson has filed a number of grievances concerning conditions at the Jail, but has received no response despite complying with the Jail's grievance procedure.
41. After receiving no response at all from the Jail to his initial grievances Trevor Richardson attempted to fully comply with the grievance requirements by filing another initial grievance on December 26, 2007. A copy is attached as Attachment 1.
42. At no time did he receive any reply to this grievance or even an acknowledgement.
43. Nevertheless, after 14 days, there being no response, Trevor Richardson deemed the grievance to be denied and filed an appeal on January 10, 2008. A copy is attached as Attachment 2.
44. Mr. Richardson was not supplied an appeal form by anyone at the Monroe County Jail, but utilized an appeal form received from his counsel.
45. Again, there was no response, or even acknowledgement, of the grievance appeal.
46. After 15 days, during which time no response or acknowledgement was made of the appeal,

Mr. Richardson filed a further appeal. That further appeal is attached as Attachment 3.

47. Again, at no time was Mr. Richardson supplied an appeal form by anyone associated with the Jail. He received one from his counsel.
48. No response or even acknowledgement has been received of this last appeal.
49. Mr. Richardson has exhausted all administrative remedies that are available to him.
50. The conditions in the Monroe County Jail result in the denial of basic human needs and the minimal civilized measures of life's necessities and amount to punishment.
51. Defendants have been on notice for some time concerning the deficiencies in the Jail but have failed to take the necessary steps to resolve the overcrowding and other problems. At all times defendants have acted and have failed to act in a deliberate and purposeful manner.
52. At all times the defendants have known of the risk of serious harm faced by plaintiff and the class and have failed to take reasonable measures to abate the risk.
53. The defendant County Commissioners have failed in their mandatory, non-discretionary duty to establish and maintain the county jail.
54. Defendant Sheriff has failed in his mandatory, non-discretionary duty, to take care of the Monroe County Jail and the prisoners and detainees housed there.
55. The actions and inactions of the defendants are causing the plaintiff and the class irreparable harm for which there is no adequate remedy at law.
56. At all times defendants have acted under color of state law.

Claims for Relief

57. The conditions at the Monroe County Jail violate the 14th Amendment to the United States

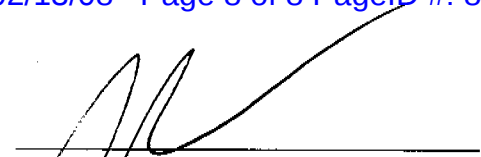
Constitution as applied to pre-trial detainees and the 8th Amendment to the United States Constitution as applied to convicted prisoners.

58. Defendant County Commissioners of Monroe County, Indiana, have failed to maintain a county jail as required by IND. CODE § 36-2-2-24.
59. Defendant Sheriff has failed in his duty to care for prisoners confined to the Monroe County Jail as required by IND. CODE § 36-2-13-5(a)(7).

Request for Relief

WHEREFORE, plaintiff requests that this Court:

1. Certify this cause as a class action with the class as defined above.
2. Declare that the actions and the inactions of the defendants violate the United States Constitution and Indiana law for the reasons specified above.
3. Enter a preliminary injunction, later to be made permanent, requiring defendants to take all steps necessary to operate the Jail in a manner free of constitutional infirmity.
4. Enter a preliminary injunction, later to be made permanent, requiring defendants to take all steps necessary to comply with all of the duties owed to plaintiff and the class under Indiana law.
5. Award plaintiff costs and reasonable attorneys' fees pursuant to 42 U.S.C. § 1988.
6. Award all other just and proper relief.



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