

- COMPLAINT

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

Isaiah Macer, Stephanie
Molock, Lonnie Skinner,
Larry D. Brooks-el, and
all others similarly situated,

Prisoner Plaintiffs,
and

Portia Macer, Ramon Stephens,
Diane Mills, and all others
similarly situated,

Community Plaintiffs,

v.

Lawrence Dinisio, Blenda
W. Armistead, Herbert L. Andrew
III, Clinton S. Bradley III,
Nancy J. Clem, Thomas Duncan,
Carlton Callahan, in their
individual and official
capacities,

Defendants.

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DISTRICT COURT
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COMPLAINT

Plaintiffs, on behalf of themselves and the classes alleged herein, state the following:

I. Preliminary Statement

1. This is a class action brought by Plaintiffs on behalf of all persons who are or will be confined at the Talbot County Detention Center (TCDC) in Easton, Maryland, and community people/families who visit or have relatives in the TCDC. Plaintiffs seek declaratory and injunctive relief for deprivations under color of state law of their rights, privileges

Macer v. Dinisio



JC-MD-005-001

and immunities secured by the Constitution of the United States, and, in particular, those secured by the First, Sixth, Eighth, and Fourteenth Amendments thereof.

2. Plaintiffs specifically seek relief from conditions at the TCDC which fall below the standards of human decency, deny basic human needs, and inflict needless suffering on prisoners, and their visitors and families. Plaintiffs incarcerated in the TCDC further contend that they are forced to live in an environment where the ill effects of particular conditions, often exacerbated by other conditions, threaten their physical and mental well-being and result unnecessarily in their physical and mental deterioration. Plaintiffs, relatives and visitors of those incarcerated in the TCDC live in fear that their loved ones will be subjected to physical and mental harm and are themselves harmed by the ill effects of the conditions specifically pertaining to visitation.

3. The TCDC is an antiquated structure, erected in 1881, located in Easton, Maryland. Long ago it outlived its usefulness as a detention center for prisoners. Its walls are literally crumbling, and its infra-structure of heating, electrical and plumbing facilities is beyond repair. It is severely overcrowded. Approximately 50 prisoners are incarcerated at the TCDC. Prisoners are double-celled in 20 square foot cells. The staff is fighting a losing battle in attempting to maintain security and discipline in a facility that is poorly designed, overcrowded, and dilapidated. Prisoners can no longer suffer in

silence while the bureaucracy moves slowly toward the construction of a new building. There is inadequate space for visiting and visitors often have to wait outside, unsheltered during inclement weather. The imminent risks that the existing conditions at the TCDC pose to the health and welfare of those confined there as well as their relatives and visitors require the immediate attention and action of this Honorable Court.

II. Jurisdiction

4. Plaintiffs seek relief under 42 U.S.C. §1983 to redress injuries suffered by them and the classes they represent for deprivation under color of state law of rights secured to them under the First, Sixth, Eighth and Fourteenth Amendments. This Court has jurisdiction over the claims pursuant to 28 USC §1331 and 1343(3).

5. Venue in the District of Maryland is proper. Each of the Defendants resides in the District of Maryland, and each of the claims for relief arose in this district.

III. Plaintiffs

6. Isaiah Macer is a 50 year old black man. He is a lifelong resident of Maryland; originally from Baltimore, and has lived in Talbot County for 20 years. At the time of his arrest on drug charges, he had been steadily employed for over 10 years. His wife, Portia Macer, also lives in Talbot county and is employed at the Meridian Nursing Home. Mr. Macer has been incarcerated at the TCDC since August 22, 1986, a period of 15 months, awaiting trial. He is financially unable to post bail.

7. Stephanie Molock is a young black woman, the mother of one small child. She is a sentenced prisoner, has been incarcerated at the TCDC since July, 1987, and expects to remain there until January, 1988. She is a resident of Talbot County as is her family. Because of her incarceration, Ms. Molock's two year old son is being cared for by her mother. She is allowed to visit with her son only one day per week for thirty minutes, and even then she must remain chained to a bench in the visiting area while visiting with her child.

8. Lonnie Duane Skinner is a 20 year old white man. He is a resident of Talbot County. Mr. Skinner has been incarcerated since July 17, 1987, because he has not been able to post his \$5,000.00 bail. After Mr. Skinner had been incarcerated for two weeks at the TCDC, he attempted suicide. He was transferred to a non-secure mental health facility in Chestertown, Maryland. He did not attempt to escape from that facility. After completing the treatment program in Chestertown, he was released on the condition that he enter a 28 day drug program. He was not placed in a drug program, but was returned to the TCDC to await trial.

10. Larry Brooks-El is a 34 year old black male. He has been a resident of Talbot County since July, 1976. He has been incarcerated in the TCDC since September 29, 1987. Mr. Brooks requires special medical attention for a skin condition but no medical doctor has prescribed the medicated soaps and lotions necessary to relieve his suffering. Mr. Brooks has an unusually

high metabolic rate, such that the diet given the inmates at TCDC is insufficient.

11. Ramon Stephens is the two year old son of Stephanie Molock. When he visits his mother he must see her chained and frequently she is chained in such a way as to prevent her from hugging him. The manner in which he must see his mother has resulted in unnecessarily destroying the parent-child relationship.

12. Diane Mills is the aunt of Pierre Mills who has been incarcerated in the TCDC for approximately five months. Ms. Mills is like a mother to Pierre. She visits him regularly. She has been employed for 23 years in the radiology department of Easton Memorial Hospital. Due to her work schedule, she often has difficulty visiting Pierre in the three hour time slot allotted for visits per week. In addition, on occasion she has been unable to visit him because of the severe restriction on the number of visitors a person can have in the three hour period. As an employee of the hospital, she is aware of prisoners at the TCDC being seriously injured and has waited in fear that the person being transported to the hospital was her nephew.

13. Portia Macer is the wife of Isaiah Macer who has been incarcerated at the TCDC for approximately 15 months. She can only visit him for thirty minutes per visit although she is frequently unable to visit him more than once per month due to her work schedule. She has had to wait outside in inclement weather on a number of occasions prior to being allowed to visit

with her husband. As a result, she has developed or exacerbated viral conditions. Her seven year old daughter resists visiting Mr. Macer due to the conditions in the visiting room. This unnecessarily interferes with the familial relationships.

IV. Defendants

14. Lawrence Dinisio is the Jail Administrator and is responsible for the day-to-day operation of the TCDC. He is a full-time employee of the Talbot County Council under the supervision of the County Manager. Mr. Dinisio is an experienced correctional professional and, because of his daily presence in the jail, is fully aware of the deficiencies which exist therein.

15. Blenda W. Armistead is the County Manager of Talbot County and has general supervisory authority over the operation of the TCDC. She is an employee of the Talbot County Council.

16. Herbert L. Andrews, III is the president of the Talbot County Council. Clinton S. Bradley, III, Nancy J. Clem, Thomas Duncan, and Carlton Callahan are members of the Talbot County Council, and as such they have statutory responsibility, pursuant to the Talbot County Code, section 16-4, for supervision of the operation of the jail and the appropriation of funds to meet the needs of those confined at the TCDC. The Talbot County Council is fully aware of the deficiencies that exist at the TCDC, and yet has failed to remedy those deficiencies.

V. Class Action Allegations

17. This is a class action under Rules 23(a) and 23(b)(1) and (2) of the Federal Rules of Civil Procedure.

18. Prisoner Plaintiffs are representative parties of a class of all persons who are confined at TCDC, or who may be so confined in the future.

19. Community Plaintiffs are representative parties of a class of all persons who are relatives of or visitors to prisoners at TCDC.

20. Plaintiffs are members of their respective classes and their claims are typical of all class members. Plaintiffs are represented by competent counsel and will fairly and adequately protect the interests of the class.

21. The classes are so numerous that joinder of the members is impracticable. Current members of the class of prisoners number approximately 50. Current members of the class of community people who visit or are relatives of the prisoners is greater than 50.

22. The lawsuit challenges various conditions of confinement at the TCDC and there are questions of law and fact common to the classes.

23. The Defendants have acted and refused to act on grounds generally applicable to the classes, thereby making appropriate final injunctive and declaratory relief with respect to the classes.

VI. Factual Allegations

Shelter

24. The TCDC is grossly overcrowded. The women's area is located on the second floor of the jail in what apparently was designed to be a small apartment. Four beds are crowded into two tiny rooms. There are large holes in the plasterboard walls which allow cold air to enter in the winter. The rooms are stifling hot in the summer. There is no air-conditioning or other ventilation. Windows are often broken and remain unrepaired. Women are never allowed to go outdoors. There is no adequate means of escape in the event of fire. There is no means of summoning assistance from staff in the event of illness or other emergency other than by banging on the heavy, solid wood door.

25. The men's area is equally overcrowded. The lower area of the main cellblock contains approximately 12, 4x5 foot cells. Each of these cells houses two men. The upper area of the main cellblock houses approximately 24 men in a variety of make-shift living quarters, none of which meet space requirements of nationally recognized standards for comparable facilities.

26. The protective custody/holding area at the front of the jail contains four cells, approximately 7x10 feet each. These cells are usually used to house two men in each cell, but often, especially during the summer, three men are housed in each cell, the third man sleeping on a cot placed between the bunks. These

cells are used to house geriatric, infirm, physically vulnerable or mentally disturbed prisoners.

27. There is no recreation area in the main cellblock or the protective custody area. Men are allowed to congregate in the open tier areas outside the cells, but these areas are also used for storage, leaving space for little activity other than conversation. Women are allowed to sit, chained to a bench in the visiting room one to two hours per day for recreation.

28. In the lower cell area there is only one shower and one toilet available for 12 men. The toilets and showers are old, encrusted with grime, mold and mildew, and often inoperable.

29. Prisoners are often without hot water for periods of weeks. Where hot water is available, there is not enough for everyone to take a hot shower.

30. There is no ventilation system in the jail. There is no air-conditioning. Heating facilities are antiquated and often inoperable. There are broken windows throughout the jail which allow cold air, rain and insects to enter the cellblocks.

31. Lighting is dim throughout the jail. No provision is made for appropriate reading lights. Inside the cells it is extremely dark, even during daylight hours. This condition makes supervision of prisoners impossible.

32. No facilities are provided for indoor or outdoor exercise. Prisoners never go outdoors except for court dates. Many prisoners have gone for months literally without stepping outside the jail. The lack of physical exercise increases the

level of tension among the prisoners which often erupts into violence.

33. The risk of injury to prisoners by fire is great, as no adequate measures have been taken to insure the safe evacuation of all prisoners from the jail in the event of fire. The construction of the facility and the deterioration of basic utility systems increase the risk of fire. Fire escapes are woefully inadequate.

34. Insects abound within the institution. Water bugs, commonly referred to as "eighteen-wheelers", thrive in the shower areas. Flies cluster around open drains which often back-up with raw sewage. All manner of bugs enter through the many broken windows. The living areas are infested with cockroaches.

35. Because the building is so old, the walls are literally crumbling. Paint chips fall into beds and even into food while prisoners are eating. Many prisoners complain of rashes and other ailments they believe are caused by environmental conditions.

Food

36. Prisoners are not provided with an adequate, nutritious diet. Only two hot meals are served per day, at breakfast and at lunch. After the noon meal, prisoners must subsist on two sandwiches which are provided at 5:30 p.m. for dinner. They receive no other meal until the next morning. Prisoners complain that these sandwiches are often inedible, having been prepared early in the day before the cook leaves in the afternoon. Almost

every prisoner in the jail has suffered a significant weight loss during incarceration. Food is improperly prepared and is served under unsanitary conditions. Many prisoners have become physically ill after eating food served at the jail.

Sanitation

37. The TCDC is dirty throughout. Walls, ceilings and floors are difficult to clean due to age. Proper cleaning agents and equipment are not provided to prisoners so that they may keep their personal areas clean. The interior of the entire facility is dingy and in need of paint and fresh plaster.

38. The toilet facilities are deplorable. Showers are covered with slime, mold and mildew. Shower curtains are dirty and tattered. Toilets and sinks are often inoperable, and are covered with the accumulation of years of waste and grime. Plumbing facilities, including commodes, the shower and sinks, leak and are clogged, leaving water standing on floors and in showers. No provision is made for disinfection of the facilities.

39. Laundry facilities are totally inadequate for this population. Sheets, towels and blankets are dingy. Mattresses are not sanitized between uses by prisoners.

40. Infestations of germ-carrying insects pose a serious health risk. Roaches, flies, waterbugs and other insects are common throughout the TCDC.

41. The food preparation area is filthy. There is no structured system for maintenance and cleaning of food

preparation equipment. Dishwashing facilities are not adequate for institutional food preparation. Food storage is inadequate and poses a serious health risk. Food is not served at proper, safe temperatures of hot or cold. Many prisoners have become ill from eating the food served at TCDC.

Personal Safety

42. Overcrowding leads to scarcity of resources, tension and stress which in turn encourage confrontations and violence. The inadequate space and design of the TCDC prevents defendants from adequately separating weak and vulnerable prisoners from stronger ones. Guards are indifferent and unresponsive to prisoners' needs for protection. A prisoner was severely beaten while his cries for help went unnoticed. It has been alleged that on November 6, 1987, a geriatric prisoner was raped by others while in protective custody. Suicide attempts occur frequently.

43. The TCDC fails to provide employment, education or recreational opportunities resulting in pervasive idleness. Although at least partly caused by overcrowding, this idleness is also due to the indifference of the defendants to the needs of prisoners. No effort is made to provide activities which could be productive and relieve the tension and frustration of daily life at the TCDC. This idleness also contributes to the violence and the threat of violence.

44. Staffing is not adequate to supervise prisoners. Guards are not stationed inside the cellblocks, but must be

summoned by banging on bars or doors. Supervision of the living units and back areas of the cellblocks is impossible.

Medical, Mental Health, and Dental Care

45. Medical services at the TCDC are totally inadequate and constitute deliberate indifference to prisoners' serious medical needs. Emergency, routine and basic preventive care are inadequate. Adequate provision is not made for mental health or dental treatment at the institution.

46. Overcrowding has seriously exacerbated the deficiencies in services and staffing, and has increased the likelihood of the transmission of communicable diseases and other health risks. Recently the entire population had to undergo treatment for head lice. Routine screening of newly admitted prisoners is not done prior to placement in the general population of the facility. Prisoners serving weekend sentences often are not screened at all.

47. Mentally disabled prisoners are not separated from the rest of the population. No treatment is provided for them. They remain at the mercy of more aggressive prisoners.

Visitation

48. Visitation facilities at the TCDC are inadequate. Prisoners are allowed only three visitors one day per week between 9 a.m. and 12 p.m. for only 30 minutes per visit. Men are allowed to visit only under conditions in which they are separated from their loved ones by a thick mesh screen. Vision is disturbed by this screen and even voice communication is

extremely difficult. Women are chained to benches even while visiting with their children.

49. Visitors often have to wait outside due to the inadequate visiting area. There is no shelter to protect the visitors in the event of inclement weather. Visitors have suffered health problems because of this. Children cannot have contact at all with their fathers and contact is difficult with their mothers because of the chains. This environment causes children to be fearful and uncomfortable and unnecessarily interferes with their relationship with their parents.

Access to Courts

50. Prisoners at the TDCJ are effectively denied access to the courts. There is no law library at the TDCJ and prisoners have no access to law books or other necessary materials such as paper, pens, typewriters, copy machines, envelopes or stamps. There are no law clerks to assist prisoners in their criminal cases, or in the myriad other legal problems prisoners, especially those serving long periods of time, encounter. Prisoners are not allowed contact visits with lawyers, and therefore encounter difficulty in communicating with those who represent them. Prisoners are thereby prevented from actively participating in the preparation of their cases.

VII. Claims for Relief

First Claim

51. Plaintiffs reallege and incorporate by reference paragraphs 24 through 47.

52. Defendants fail to provide Plaintiffs with the basic necessities of life, including adequate food, shelter, sanitation, medical, dental and mental health care, and personal safety. The conditions at the TCDC are incompatible with contemporary standards of decency, cause unnecessary and wanton infliction of pain and are not reasonably related to any legitimate governmental objectives. Sentenced prisoners are thereby subjected to cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments to the United States Constitution, and pre-trial detainees are subjected to impermissible punitive conditions in violation of the Due Process clause of the Fourteenth Amendment.

Second Claim

53. Plaintiffs reallege and incorporate by reference paragraph 48.

54. Plaintiffs incarcerated at the TCDC are denied the basic right of visitation with their families and friends in appropriate surroundings in violation of their rights under the First Amendment to the United States Constitution.

Third Claim

55. Plaintiffs reallege and incorporate by reference paragraph 49.

56. Plaintiffs, relatives and visitors to those incarcerated at the TCDC are subjected to conditions which threaten their health and well-being and violate their rights to

maintain familial relations under the First and Fourteenth Amendments to the United States Constitution.

Fourth Claim

57. Plaintiffs reallege and incorporate by reference paragraph 50.

58. Defendants, by their failure to provide adequate and appropriate materials and equipment, or law clerks to assist Plaintiffs, have denied Prisoner Plaintiffs access to courts in violation of the Sixth and Fourteenth Amendments of the United States Constitution.

VIII. No Adequate Remedy At Law

59. As a proximate result of the Defendants' policies, practices, procedures, acts and omissions, Plaintiffs have suffered, do suffer, and will continue to suffer immediate and irreparable injury, including physical, psychological and emotional injury. Plaintiffs' physical and psychological health and well-being will continue to deteriorate during the course of the confinement of prisoner-plaintiffs under the conditions described in this complaint. Plaintiffs have no plain, adequate or complete remedy at law to redress the wrongs described herein. Plaintiffs will continue to be irreparably injured by the policies, practices, procedures, acts and omissions of the Defendants unless this Court grants the injunctive relief that Plaintiffs seek.

IX. Prayer for Relief

WHEREFORE, Plaintiffs and the class they represent pray this Court:

1. Determine by order pursuant to Rule 23, Federal Rules of Civil Procedure, that this action may be maintained as a class action;

2. Issue a declaratory judgment stating the Defendants' policies, practices, acts and omissions described in this Complaint violate Plaintiffs' rights, guaranteed to them by the First, Sixth, Eighth and Fourteenth Amendments to the United States Constitution;

3. Permanently enjoin Defendants, their officers, agents, employees and successors in office, as well as those acting in concert and participating with them, from engaging in the unlawful practices described in this Complaint;

4. Retain jurisdiction of this matter until this Court's order has been carried out;

5. Award Plaintiffs their reasonable costs and attorneys' fees pursuant to 42 U.S.C. §1988; and

6. Grant such other relief as may be just and equitable.

Respectfully submitted,

Claudia Wright
 Claudia Wright
 Adjoa A. Aiyetoro
 ACLU National Prison Project
 1616 P Street, N.W.
 Suite 340
 Washington, D.C. 20036
 (202) 331-0500

Susan Goering / cw
 Susan Goering
 ACLU Maryland
 The Equitable Building
 Suite 405
 10 N. Calvert St.
 Baltimore, MD 21202
 (301) 576-1103

Counsel for Plaintiffs

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