

COMPLAINT

DAVE BANK

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

GERALD MOHLER)
Central Laundry Facility)
P.O. Box 395)
Mariottsville & Buttercup Rd.)
Sykesville, MD 21784)

Plaintiff,)

v.)

C.A. No. R-83-573

PRINCE GEORGE'S COUNTY;)
14741 Governor Oden Bowie Drive)
Upper Marlboro, MD)
(Serve on Paris Glendening))

LAWRENCE HOGAN;)
1100 17th Street, NW)
Washington, D.C. 20036)

ARNETT GASTON;)
GERALD RICE;)
EDWARD BLAKESLEY)
CARLTON YOWELL)
DAVID ROBINSON;)
CLIFFORD HOLLOWAY.)

All other defendants' office)
addresses are at the Prince)
George's County Detention Center,)
Pratt Street, Upper Marlboro, MD.)

Defendants.)

AMENDED COMPLAINT

This a civil action for compensatory and punitive damages arising out of a brutal, multiple sexual assault and rape of the plaintiff on March 18, 1980 and the subsequent reign of terror to which he was subjected while a prisoner awaiting trial at the Prince George's County Detention Center (hereafter "Jail").

Mohler v. Prince George's Co.



JC-MD-006-001

JURISDICTION

1. This is a civil action for damages and declaratory relief brought pursuant to Title 42 U.S.C. §1983 and to redress the deprivations under color of law of rights secured by the Fourth, Fifth, Eighth and Fourteenth Amendments to the United States Constitution. Plaintiff also asserts certain enumerated state law claims.

2. This Court has jurisdiction over these claims pursuant to 28 U.S.C. §1343(3), 28 U.S.C. §1331 and 28 U.S.C. 2201, 2202. Plaintiff also invokes the pendent jurisdiction of this Court with respect to the asserted state law claims.

4. This Court has venue over this matter pursuant to 28 U.S.C. §1391(b).

PARTIES

5. Gerald Mohler, the plaintiff, is a citizen of Maryland.

6. Prince George's County, a defendant, is a county within the state of Maryland. It is charged with and responsible for the promulgation and the enforcement of the laws and policies governing the operation of the Prince George's County Jail and the overall supervision of this facility. Prince George's County employed defendants Hogan, Gaston, Price, Moe, Roe and Doe.

7. Lawrence Hogan, a defendant, was the County Executive of Prince George's County at all times relevant to the incidents which are the subject of this complaint. As such, he had responsibility for the promulgation and enforcement of the laws and policies governing the operation of the Prince George's County Jail and the overall supervision of the operation of this

facility. Defendant Hogan is sued both in his individual and in his official capacity. His office address is 1100 17th Street, NW, Suite 1000, Washington, D.C. 20036.

8. Arnett Gaston, a defendant, was the Director of the Prince George's County Jail at all times relevant to the incidents which are the subject of this complaint. As such, he is responsible for the care, placement, treatment and protection of all residents confined to the Jail. Defendant Gaston is sued both in his individual and in his official capacity. His office address is the Jail, Upper Marlboro, MD.

9. Gerald Rice, a defendant, was the Acting Major in charge of security at the Prince George's County Jail Center at all times relevant to the incidents which are the subject of this complaint. Defendant Rice was responsible for providing protection for the plaintiff at the time the incidents in question occurred. Defendant Rice is sued in both his individual and his official capacity. His office address is at the Jail, Upper Marlboro, MD.

10. Edward Blakesley, a defendant was a shift commander at the Jail at all times relevant to the incidents which are the subject of this complaint. As such he was responsible for providing protection for the plaintiff at the time the incidents in question occurred. Defendant Blakesley is sued in both his official and his individual capacity. His office address is at the Jail, Upper Marlboro, MD.

11. Carlton Yowell, a defendant was a shift commander at the Jail at all times relevant to the incidents which are the subject

of this complaint. As such he was responsible for providing protection for the plaintiff at the time the incidents in question occurred. Defendant Yowell is sued in both his official and his individual capacity. His office address is at the Jail Annex, Upper Marlboro, MD.

12. Officer David Robinson, a defendant, was an employee of the Prince George's County Jail at all times relevant to the incidents which are the subject of this complaint. Officer Robinson as on duty and responsible for providing protection for the plaintiff at the time the incident in question occurred. Defendant Robinson is sued in both his official and his individual capacity.

13. Clifford Hollaway, a defendant, was an officer in charge of security at the, Prince George's County Jail at the time the incidents in question occurred. Defendant Hollaway is sued in both his individual and his official capacity.

14. At all times relevant hereto, defendants were acting under color of state law and all individual defendants were acting within the scope of their employment by Prince George's County.

STATEMENT OF FACTS

15. On January 24, 1980, plaintiff, an 18 year old male, was arrested in Prince George's County and as a result of the arrest was placed in the Prince George's County Jail awaiting trial.

16. On March 18, 1980, plaintiff was confined in Dorm 3C of the new wing of the Jail. Prior to being assigned the plaintiff underwent little, if any, classification. The same was true for

the other prisoners assigned to this and other living areas.

17. Plaintiff is only five feet two inches tall but was not separated from stronger, more predatory or aggressive prisoners.

18. At the time Gerald Mohler was assigned to Dorm 3C it was dangerously overcrowded; double bunking and the placement of obstructions made it impossible for guards to adequately observe what was occurring in the cells; guards toured infrequently and were not in a position to observe, protect or assist prisoners housed therein.

19. Shortly after 6:00 AM on March 18, 1980, Gerald Mohler was surrounded by three prisoners while he was on or near his bed in his cell. One of the prisoners told Mr. Mohler that he wanted a "piece of ass". Mr. Mohler refused and hit one of the threatening prisoners. The three prisoners jumped on Mr. Mohler, beating him with their fists, forced his jumpsuit down, and then pushed him down on the lower bunk in the cell.

20. No guard responded to this physical altercation. Upon information and belief, John Doe and James Roe were not in their guard stations, or if they were, were not able to see into the cell, where the assault had occurred. In addition, the guard station consisted of an enclosed booth which made it difficult, if not impossible, for them to hear prisoners fighting or yelling.

21. After Mr. Mohler was forced down on the bunk, two of the prisoners pinned him down while the third sodomized him; then the

other two took their turns. Mr. Mohler was repeatedly threatened not to call for help or tell anyone about this or he would be killed.

22. After this brutal multiple rape and assault, one of the prisoners went out of the cell and called in another prisoner. The two came back into the cell, beat Mr. Mohler again with their fists, and then the fourth prisoner forcibly sodomized Mr. Mohler while the others held him down.

23. Despite the fact that the torture of Mr. Mohler lasted for more than half an hour, no guard responded and no one came to his assistance. During this entire time, there was no guard in sight and no guard provided any help.

24. Later that day, Mr. Mohler gave a note to a guard in the control booth which stated "I was raped and I want to go to PC [protective custody]." One of his assailants observed this and again threatened Mr. Mohler's life. It was fully half an hour before Mr. Mohler was taken out of dorm 3C and taken to Prince George's General Hospital.

25. When Mr. Mohler came back from the hospital he found several letters from his fiancée missing from his cell. About a week later he received a phone call from a person who refused to identify herself. This person told Mr. Mohler that if he pressed any charges, people at the address where his fiancée lived would be hurt. No one except Mr. Mohler knew the address of his fiancée, whose address was on the missing letters.

26. After the sexual assault described above, Mr. Mohler was repeatedly threatened with further sexual assaults by other

prisoners who had heard about the incident. On several occasions, he had to defend himself physically from sexual attack by other prisoners. On one such occasion, he was assaulted in Dorm 3A and his left shoulder was injured. As a direct result of that attack, Mr. Mohler has only limited range of motion in that shoulder, and still suffers pain upon movement.

27. Prior to the incidents which are the subject of this case, incidents of violence against prisoners at the Jail occurred with more than sufficient frequency to put prisoners in reasonable fear for their safety and to reasonably apprise the defendants of the existence of the problem and the need for protective measures. In fact, defendants had been aware for years of the threat of violence and sexual assault and the pervasive risk of harm at the Jail, but failed to exercise reasonable care and to take steps within their power to prevent prisoners from inflicting harm upon other prisoners and despite repeated warnings, failed to take adequate corrective steps to prevent the existence of the pervasive risk of harm at the Jail.

28. The defendants failed to provide Gerald Mohler with reasonably adequate protection against assault. The Jail was overcrowded and poorly designed. Classification proceedings were grossly inadequate. All types of prisoners were mixed together without regard for their safety and without regard to whether the prisoner was convicted or awaiting trial, aggressive or predatory. The number of staff was inadequate and those staff who were on duty were inadequately trained, placed and supervised by defendants. Staff at all levels were insensitive to and acted

with total disregard for the safety and welfare of prisoners. The guard staff failed to keep prisoners under continuous observation, to adequately patrol the living areas, to respond to calls for help or to take adequate corrective action when notified that a prisoner was in danger. As the proximate result of all of the above, prisoners, such as Gerald Mohler, faced a constant and pervasive threat of violence and sexual assault.

29. As a result of the defendants acts and omissions which are the subject of this complaint, Gerald Mohler suffered physical injuries, excruciating physical and emotional pain, psychological injury, humiliation, embarrassment and constant fear.

CAUSES OF ACTION

30. With respect to each of the following counts, plaintiff re-alleges and incorporates by reference all of the allegations in Paragraphs 1 through 29.

31. With respect to each of the following counts, the defendants knew or should have known that their actions and omissions created a substantial risk of injury to the plaintiff and that they owed the plaintiff a legal obligation to provide him with reasonably adequate protection from assault and sexual attack.

Count I

32. Defendants, by their acts and omissions, acted with negligence, gross negligence and/or deliberate indifference to the personal safety of the plaintiff and failed to exercise reasonable care to provide Gerald Mohler reasonable protection

from such unreasonable risk of harm in violation of plaintiff's rights under the Fourth, Fifth and Fourteenth Amendments to the United States Constitution and 42 U.S.C. §1983.

33. As a result of the acts and omissions of defendants which are the subject of this complaint, Gerald Mohler suffered severe physical injuries, excruciating physical and emotional pain, psychological injury, humiliation, embarrassment and never ending fear.

Count II

34. Defendant Prince George's County's, policies with regard to, acceptance of, acquiescence in, and failure to take corrective action to remedy the long continuing pattern of sexual violence, inadequate security and the pervasive risk of harm to prisoners at the Jail after repeated notice of these problems, amounted to the establishment and maintenance of a policy, custom, practice, and/or usage by Prince George's County, of permitting, encouraging, and condoning violent sexual assaults by inmates against other inmates.

35. As a direct and proximate result of the negligence, gross negligence, and deliberate indifference of the defendant Prince George's County, plaintiff suffered an unnecessary and wanton infliction of severe physical injuries, excruciating physical and emotional pain, psychological injury, humiliation, embarrassment, and constant fear, in violation of his rights under the Fourth, Fifth and Fourteenth Amendments to the United States Constitution and 42 U.S.C. §1983.

Count III

36. By their acts and omissions in this case the defendants each acted with negligence, gross negligence and reckless disregard for the personal safety of the plaintiff and their obligation to provide the plaintiff with reasonably adequate protection against assault, sexual attack and the constant threat of violence in violation of the plaintiff's rights under the laws of the State of Maryland, including but not limited to Art. 87, §45, and Art. 24 (Due Process).

37. As a result of the incidents which are the subject of this complaint, Gerald Mohler suffered severe physical injuries, excruciating physical and emotional pain, psychological injury, humiliation, embarrassment and never ending fear.

RELIEF REQUESTED

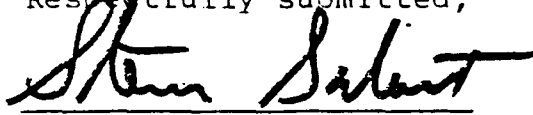
WHEREFORE, the plaintiff asks the following relief:

1. Compensatory damages against the defendants, jointly and severally, in the amount of \$175,000.00;
2. Punitive damages against each defendant excluding Prince George's County, jointly and severally, in the amount of \$250,000.00;
3. A declaratory judgment that the practices complained of herein are illegal and unconstitutional;
4. The costs of this action, including reasonable attorney's fees; and
5. Such further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

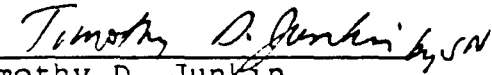
The plaintiff hereby requests a jury trial.

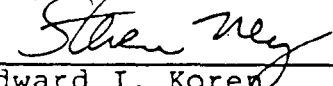
Respectfully submitted,



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Date: March 7, 1983