

UNITED STATES DISTRICT COURT
District of Maine

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GEOFFREY V.V. WOOD,)
Plaintiff)
v.)
HANCOCK COUNTY, WILLIAM)
CLARK, SHERIFF, and LINDA)
HANNAN, JAIL ADMINISTRATOR,)
Defendants)

DEFENDANTS' ANSWER AND
AFFIRMATIVE DEFENSES TO
PLAINTIFF'S COMPLAINT

CV-02-69

NOW COME Defendants, by and through undersigned counsel, and hereby respond to the allegations contained in Plaintiff's Complaint as follows:

AFFIRMATIVE DEFENSES

- A. Plaintiff's Complaint fails to state a proper cause of action against any of the named Defendants.
- B. To the extent that Defendants Clark and Hannan are sued in their individual capacities, said Defendants are entitled to qualified immunity.
- C. Plaintiff's Complaint is barred because Plaintiff has failed to avail himself of, and/or to exhaust, available state remedies, including administrative remedies.
- D. Plaintiff has failed to mitigate his damages as required by law.

ANSWER

- 1. Defendants are without sufficient knowledge or information so as to form a belief as to the truth of the allegations contained in Paragraph 1 of Plaintiff's Complaint and therefore deny same.
- 2. Defendants admit the allegations contained in Paragraph 2 of Plaintiff's Complaint.
- 3. Defendants admit that William Clark is currently the Sheriff of Hancock County, but are without sufficient knowledge or information so as to determine whether "at all times relevant" said

Defendant was acting under color of state law. That allegation is therefore denied. Finally, the Defendants are uncertain as to what "county law" Plaintiff refers to in his Complaint, and this allegation is therefore denied.

4. Defendants admit that Linda Hannan is currently the Jail Administrator for the Hancock County Jail, but are without sufficient knowledge or information so as to determine whether "at all times relevant" said Defendant was acting under color of state law. That allegation is therefore denied. Finally, the Defendants are uncertain as to what "county law" Plaintiff refers to in his Complaint, and this allegation is therefore denied.

5. Paragraph 5 of Plaintiff's Complaint does not require a response.

6. Defendants, upon information and belief, admit that Plaintiff was arrested on or about May 27, 2001, and taken to the Hancock County Jail. Defendants are without sufficient knowledge or information so as to form a belief as to the truth of the remaining allegations in Paragraph 6 of Plaintiff's Complaint and therefore deny same.

7. Defendants are without sufficient knowledge or information so as to form a belief as to the truth of the allegations contained in Paragraph 7 of Plaintiff's Complaint and therefore deny same.

8. Defendants deny the allegations contained in Paragraph 8 of Plaintiff's Complaint.

9. Defendants admit that Plaintiff was required to take a shower before being placed into the general population of the Hancock County Jail, but are without sufficient knowledge or information so as to form a belief as to the truth of the remaining allegations contained in Paragraph 9 of Plaintiff's Complaint, and those allegations are therefore denied.

10. The allegations contained in Paragraph 10 of Plaintiff's Complaint are denied.

11. The allegations contained in Paragraph 11 of Plaintiff's Complaint are admitted, with the exception that the time at which Plaintiff was released may not have been precisely 4:30 a.m.

12. Defendants are without sufficient knowledge or information so as to form a belief as to the truth of Plaintiff's allegations as to his state of mind and therefore deny same. To the extent that "this process", as that phrase is used in Paragraph 12 of Plaintiff's Complaint, attempts to repeat or reassert prior allegations, Defendants, by reference, repeat and reassert each and every prior response to the allegations contained in Plaintiff's Complaint.

13. Defendants admit that Plaintiff was again brought to the Hancock County Jail on or about July 10, 2001, after having been arrested, but are without sufficient knowledge or information so as to form a belief as to the truth of the remaining allegations in Paragraph 13 of Plaintiff's Complaint and therefore deny same.

14. Defendants admit the allegations contained in Paragraph 14 of Plaintiff's Complaint, with the exception of the allegation that the Plaintiff was "surveilled" during his intake shower. Defendants are without sufficient knowledge or information so as to form a belief as to the truth of that specific allegation and therefore deny same.

15. Although Defendants generally believe the allegations contained in Paragraph 15 of Plaintiff's Complaint to be true, they are without sufficient specific knowledge or information so as to form a belief as to the truth of those allegations and therefore deny same.

16. Although Defendants generally believe the allegations contained in Paragraph 16 of Plaintiff's Complaint to be true, they are without sufficient specific knowledge or information so as to form a belief as to the truth of those allegations and therefore deny same.

17. Defendants are without sufficient knowledge or information so as to form a belief as to the truth of the allegations contained in Paragraph 17 of Plaintiff's Complaint and therefore deny same.

18. Defendants deny that either Defendant Hannan or Defendant Clark have ever stated that there is a "confidential" official jail policy and that such a policy is exempt from Freedom of Access laws. These Defendants further and specifically aver that any statements made have been made in writing and that Plaintiff's counsel is in possession of such writings. Such writings speak for themselves. Further, official jail policies are set forth in writing, and those policies speak for themselves. To the extent that any of the allegations contained in Paragraph 18 of Plaintiff's Complaint deviate from the official jail policies or the written correspondence from Sheriff Clark, such allegations are denied.

19. Defendants deny that any searches of the Plaintiff were in violation of the standards referred to in Paragraph 19 of Plaintiff's Complaint.

20. Defendants deny that there is no record of the clothing search or booking that occurred on May 27, 2001, and further and specifically deny that a strip search occurred on said date. Defendants are without sufficient knowledge or information so as to form a belief as to whether a "visual body cavity strip search" occurred on July 11, 2001, but admit that if such a search occurred, it should have been documented as required by state statute and/or regulation and that no such documentation can be located at the present time.

Count I

21. Defendants repeat and reassert each and every response provided to the allegations contained in Paragraphs 1 through 20 of Plaintiff's Complaint as if fully set forth herein.

22. Defendants deny the allegations contained in Paragraph 22 of Plaintiff's Complaint and further and specifically aver that, if a visual body cavity search was conducted, it was conducted in compliance with all applicable laws.

23. Defendants deny the allegations contained in Paragraph 23 of Plaintiff's Complaint.

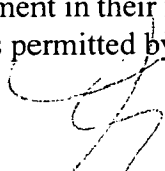
24. The allegations contained in Paragraph 24 of Plaintiff's Complaint state legal conclusions to which no response is required. To the extent that a response is required, Defendants deny the allegations contained in Paragraph 24 of Plaintiff's Complaint.

25. Defendants deny that any searches of the Plaintiff's person were performed in retaliation against Plaintiff for any reason, and therefore deny each and every allegation contained in Paragraph 25 of Plaintiff's Complaint.

26. Defendants deny the allegations contained in Paragraph 26 of Plaintiff's Complaint.

WHEREFORE, Defendants pray for judgment in their favor against Plaintiff on Plaintiff's Complaint, plus their costs and interest thereon as permitted by law.

Dated: May 21, 2002



Peter T. Marchesi, Esq.
Wheeler & Arey, P.A.
Attorney for Defendants
27 Temple Street, P.O. Box 376
Waterville, ME 04903-0376

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CERTIFICATE OF SERVICE

I, Peter T. Marchesi, Esq., attorney for Defendants hereby certify that Defendants' Answer to Plaintiff's Complaint has been served this day on Plaintiff by mailing a copy thereof via United States Postal Service, postage prepared, to Plaintiff's attorney, Sandra Hylander Collier, 121 Main Street, P.O. Box 1391, Ellsworth, ME 04605.

Dated: May 21, 2002



Peter T. Marchesi, Esq.
Wheeler & Arey, P.A.
Attorney for Defendants
27 Temple Street, P.O. Box 376
Waterville, ME 04903-0376

CC: Malcolm Ulmer
Linda Hannan, Jail Administrator
Sheriff William Clark