

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF MISSOURI  
SOUTHEASTERN DIVISION

FILED

FEB 10 1982

EYVON MENDENHALL  
U. S. DISTRICT COURT  
E. DISTRICT OF MO.

LARRY GRAY, RONALD ARTIS, )  
ALONZO PATTERSON, and GLEN )  
AVERY, )

Plaintiffs, )

vs. )

BILL FERRELL, Sheriff of Scott )  
County and his agents, subor- )  
dinates and employees; LOUIS )  
HIRSCHOWITZ, ELDON ZIEGENHORN, )  
and DEWAINE SHAFFER, Judges of )  
the County Court of Scott )  
County, Missouri, )

Defendant. )

Case No. S81-18C  
Case No. S81-0026C

MOTION FOR ORDER THAT FACTS BE TAKEN AS ESTABLISHED

Comes now the plaintiffs and moves the Court, pursuant to Rule 37(b)(2)(i),(ii) of the Federal Rules of Civil Procedure, for an order that the following facts be taken to be established for the purposes of this action for the time period from June 23, 1980 to April 1, 1981, said time period encompassing the dates of the plaintiffs' incarceration in the Scott County Jail:

1. Inmates in the Scott County Jail are confined in twelve (12) four-person cells. Each cell contains a toilet and sink. The cells have approximately ninety (90) square feet of floor space. Each cell has four beds; however, on occasion, five persons have been temporarily housed in one cell.

2. Inmates are provided with totally inadequate hygiene facilities. They receive a small hotel-size bar of soap upon admission. They cannot receive shampoo, deodorant or toothpaste from visitors, but must purchase these if they have the money. Inmates who are being punished are frequently not allowed to shower, or to shower only once a week.

3. The mattresses are filthy and crawling with lice and other vermin. Inmates are permitted only one change of clothes and are required to wear their clothes for an excessively

lengthy period of time without the opportunity to have their clothing washed or laundered.

4. Inmates are required to clean their cells, but are not provided with adequate cleaning supplies. At times, inmates must clean the toilets with their hands because defendants failed to provide a toilet brush or other supplies.

5. Each cell contains an open toilet. Due to the lack of cleaning supplies previously mentioned, and the fact that inmates are often required to eat their meals in their cells, they are exposed to infection, contamination and unsanitary conditions.

6. An extremely dangerous condition exists if there would be a fire in the jail. There are no smoke detectors or sprinklers. There are an insufficient number of fire extinguishers. There are no fire drills and no fire evacuation plan.

7. Inmates are under a regime of enforced idleness, being locked in their cells each evening at about 4:00 p.m. until the following morning. At other times, they are only allowed to pace in a common "bull pen" area. Although an outside, secure yard is available, inmates are given virtually no opportunity for outdoor recreation or exercise. This lack of recreation leads to increased tensions among prisoners and mental and physical deterioration.

8. There is no library of any sort in the jail. The only reading materials which inmates are allowed consists of paperback books and magazines.

9. There is no psychological counselling program at the jail for inmates.

10. There is no alcohol or drug counselling at the jail.

11. Meals served to inmates are inadequate in quality and quantity and are far below the minimum daily nutritional requirements of adult inmates. The same weekly menu has been used since June, 1979. It contains no milk or eggs at all. Inmates do not receive any fresh fruits or vegetables. In addition, the meat is often spoiled, the rolls stale and the

food generally repetitious and unsavory.

12. There is no employed cook at the jail and no regular planning of menus to provide a nutritional, balanced diet. Meals are prepared by the inmates themselves. These inmates are not checked for contagious diseases, thus creating a serious health risk to the entire jail population.

13. When an inmate enters the Scott County Jail, there is no medical screening for contagious disease or special medical requirements. There is no medical history taken or procedure to determine if an inmate is on prescribed medication.

14. An inmate entering the jail is not informed of the procedure to get medical attention if needed. Jail personnel have no procedure for routinely checking with inmates to see who needs medical attention and they do not in fact do so.

15. Due to the lack of supervision and structure of the jail, it is difficult for inmates to get help in an emergency. Even when an inmate succeeds in communicating a medical or other emergency to someone, there is frequently an unreasonable and dangerous delay before the inmate is taken to a hospital.

16. There is no sick call by a nurse or other qualified person. No inmate is allowed to see a doctor unless a jailor or sheriff's deputy thinks it is important and necessary. There is no adequate space in the jail to use for a treatment room. Inmates with serious injuries are required to sit on a chair in the front corridor until the trustee or dispatcher can contact the sheriff or a deputy for instructions.

17. There is no set procedure for obtaining medication already prescribed by a private physician.

18. There is no organized method of medical record keeping at the jail for each inmate.

19. There are numerous policies which restrict and arbitrarily limit visits between inmates and family and friends. Visitation hours are limited to one hour each Tuesday and two hours on Saturday for up to forty-eight (48) inmates. Visits are often limited to five or ten minutes per inmate; visits

are limited to blood relatives, although this is not clearly defined and is selectively enforced by jail personnel. Contact visits are not allowed. Visitation takes place in four booth-like areas that separate the inmate from the visitor with a small mesh screen through which conversation is difficult. Acoustics in the visiting area make it difficult or impossible to have any meaningful communication.

20. In order to receive any mail, inmates are required to sign a "mail inspection authorization" upon admission to the jail which gives jail personnel permission to open inmates' mail, and this is done even for letters from an inmates' lawyer.

21. Inmates' incoming and outgoing mail is often read by deputies and trustees and the private contents of said letters are often discussed loudly between the deputies or trustees and other inmates.

22. Inmates are allowed, or prohibited from making telephone calls at the whim of the person on duty at the time. Recently promulgated rules restrict inmates to make one telephone call at their expense at the time of incarceration. The only other calls that are allowed are to obtain a lawyer or to post bond, "then only one call for each." Thus, if an inmate does not have money, or his lawyer is out of the office when the call is made, the inmate is effectively denied access to telephone contact with family or lawyers.

23. The telephone calls take place in the jail office/dispatcher area, so that the conversation can be easily overheard by jail personnel. If an inmate is calling his attorney, he is denied the confidentiality of the attorney-client relationship.

24. Inmates are not provided with a copy of any written rules or jail policies. Rules are selectively enforced, or changed at the whim of whoever is in charge at the time. Punishment is imposed summarily and depends totally on the whim of jail personnel.

25. Inmates are subjected to verbal and physical intimidation, assaults and threats by jail personnel.

26. There is no established procedure for registering inmate complaints.

27. Inmates are subject to being placed in "the hole" or "on deadlock" without any due process whatsoever. "The hole" is a separate cell in which inmates may be confined without opportunity for showers or access to the "bull pen" for limited exercise. "Deadlock" is the confinement of an entire cell block (as many as 16 inmates) to their cells for as long as several weeks. Inmates who are on deadlock cannot leave their cells for exercise or meals.

28. There is no procedure for the classification of inmates. Pre-trial detainees, misdemeanants and felons are all housed together. No classification procedures exist based upon inmates' size, crime, or experience with the criminal justice system. No attempt is made to screen inmates with propensities for violence and separate them. Indeed, violence-prone inmates appear to be frequently used to assist in maintaining discipline or for punishment of other inmates.

29. Those persons utilized as correctional officers for the Scott County Jail are not given training to prepare them for their duties at a detention facility.

30. Adequate supervision of the inmates is impeded by the structure of the jail itself and the limited number of correctional officers employed to run the jail. Jail personnel are ill-trained and isolated in the front office room so that requests for medical attention or assistance go unheard. Violence and sexual assault of inmates by other inmates is a continuing and serious problem at the jail.

This motion is made on the ground that, after conferring with the parties in this suit, the Court on December 23, 1981 entered an order requiring defendant Bill Ferrell comply with

the plaintiffs' request for production of documents, as limited to the time period of plaintiffs' incarceration and as limited through the plaintiffs' withdrawing several of their requests for production of documents. That the order was reduced to writing on January 5, 1982 and mailed to all the parties, but that defendant Bill Ferrell has failed and refused, and continues to fail and refuse, to obey such order, as is more fully shown in the attached Affidavit of Francis J. Siebert.

Dated the 5th day of February, 1982.

*Francis J. Siebert*

---

Francis J. Siebert  
912 Main Street, P.O. Box 156  
Scott City, Missouri 63780  
(314) 264-2182  
ATTORNEY FOR PLAINTIFFS

**PROOF OF SERVICE**

The undersigned certifies that a complete copy of this instrument was mailed to the attorneys of each party to the above action, addressed to said attorneys at their business address, on the 9th day of Feb, 1982

Connie Workman