

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

William Suggs, both individually and on
behalf of a Class of others similarly situated,

Plaintiffs,

v.

COUNTY OF CUMBERLAND, CUMBERLAND
COUNTY CORRECTIONAL FACILITY, GLENN
SAUNDERS, both individually and in his official
capacity as the Warden of the Cumberland County
Correctional Facility, LEWIS WALKER, both
individually and in his official capacity as Assistant
Warden of the Cumberland County Correctional
Facility, KEITH LAMCKEN, both individually and
in his official capacity as Captain for Security and
Operations of the Cumberland County Correctional
Facility, CUMBERLAND COUNTY SHERIFF'S
DEPARTMENT, MICHAEL BARRUZZA, both
individually and in his official capacity as Sheriff of
the County of Cumberland, JAMES ELLIOTT, both
individually and in his official capacity as
Under sheriff of the County of Cumberland,

Defendants.

Civil Action

**CLASS ACTION
COMPLAINT**

**JURY TRIAL
DEMANDED**

Plaintiff, for his Complaint herein, alleges the following on information and belief
except as to the allegations concerning himself, which he asserts upon personal
knowledge.

NATURE OF ACTION

1. Plaintiff, William Suggs, bring this class action on behalf of himself, and on
behalf of, as more particularly defined in paragraph 15 below, a class of all persons who
were strip-searched at the Cumberland County Correctional Facility after being charged

with petty crimes and traffic violations in contravention of their rights against unreasonable searches under the Fourth Amendment of the United States Constitution.

2. Plaintiff seeks monetary damages for himself and each member of the proposed class who have suffered from the wrongful actions of the Defendants described herein; a declaration that the Defendants' policies are unconstitutional; and, an injunction precluding the Defendants from continuing to violate the rights of those placed in their custody or detention.

PARTIES

3. Plaintiff, William Suggs ("Suggs") is, and at all times relevant hereto has been, a resident of the State of New Jersey. On or about July 9, 2005 was arrested by Medford City Police Department for a child support warrant and subsequently transported to the Cumberland County Jail with a purge of \$2,0000.00 which two days later was dropped to \$500.00 and Plaintiff was released upon payment. On or about July 9, 2005 Plaintiff was illegally strip searched at the Cumberland County Correctional Facility.

4. Defendant County of Cumberland (the "County") is a county government organized and existing under the laws of New Jersey. At all times relevant hereto, the County, acting through its Sheriff's Department and Correctional Facility, was responsible for the policies, practices, supervision, implementation and conduct of all matters pertaining to the Cumberland County Correctional Facility and was responsible for the appointment, training, supervision and conduct of all Sheriff's Department and Cumberland County Correctional Facility's personnel, including those working in the Cumberland County Correctional Facility. In addition, at all relevant times, the County

was responsible for enforcing the rules of the Cumberland County Correctional Facility and for ensuring that Sheriff's Department and Cumberland County Correctional Facility's employees obey the Constitution and the laws of the United States and New Jersey.

5. Defendant Cumberland County Correctional Facility (the "Correctional Facility") is a political subdivision created through the County of Cumberland, State of New Jersey. At all times relevant hereto, the Correctional Facility, together with the County, was responsible for the appointment, training, supervision and conduct of all Correctional Facility personnel working in the Correctional Facility. In addition, at all times relevant hereto, Defendant Correctional Facility, together with the County of Cumberland, was responsible for enforcing the rules of the Correctional Facility and for ensuring that Correctional Facility personnel employed in the Correctional Facility obeyed the Constitution and the laws of the United States and of the State of New Jersey.

6. The Cumberland County Sheriff's Department (the "Sheriff's Department") is a County of Cumberland political subdivision, organized and existing under the laws of New Jersey. At all times relevant hereto, the Sheriff's Department, together with the County of Cumberland, was responsible for the policies, practices, supervision, implementation and conduct of all matters pertaining to the Sheriff's Department, and was responsible for the appointment, training, supervision and conduct of all Sheriff's Department personnel and that they obey the Constitution and the laws of the United States and of the State of New Jersey.

7. Defendant Glenn Saunders ("Warden Saunders") is the Warden of the Correctional Facility and, as such, is a policy maker with respect to the treatment of

pretrial and other detainees over which the Correctional Facility exercises custodial or other control. Warden Saunders is made a Defendant in this action in both his individual and official capacities.

8. Defendant Lewis Walker ("Assistant Warden Walker") is an Assistant Warden of the Correctional Facility and, as such, is a policy maker with respect to the treatment of pretrial and other detainees over which the Correctional Facility exercises custodial or other control. Assistant Warden Walker is made a Defendant in this action in both his individual and official capacities.

9. Defendant Kenneth Lamcken ("Captain Lamcken") is a Captain at the Correctional Facility, and, as such, is a policy maker with respect to the treatment of pretrial and other detainees over which the Correctional Facility exercises custodial or other control. Captain Lamcken is made a Defendant in this action in both his individual and official capacities.

10. Defendant Michael Barruzza ("Sheriff Barruzza") is the Sheriff of Cumberland County and, as such, is a policy maker with respect to the treatment of pretrial and other detainees over which the Sheriff's Department exercises custodial or other control. Sheriff Barruzza is made a Defendant in this action in both his individual and official capacities.

11. Defendant James Elliott ("Undersheriff Elliott") is the Undersheriff of Cumberland County and, as such, is a policy maker with respect to the treatment of pretrial and other detainees over which the Sheriff's Department exercises custodial or other control. Undersheriff Elliott is made a Defendant in this action in both his individual and official capacities.

12. Collectively, Cumberland County, the Correctional Facility, and the Sheriff's Department, will be referred to as the "Municipal Defendants".

13. Collectively, Warden Saunders, Assistant Warden Walker, Captain Lamcken, Sheriff Barruzza, and Undersheriff Elliott, will be referred to as the "Policy Making Defendants".

JURISDICTION

a. This Court has jurisdiction over this action under the provisions of 28 U.S.C. §§1331, 1341 and 1343 because it was filed to obtain compensatory damages, punitive damages and injunctive relief for the deprivation, under color of state law, of the rights of citizens of the United States secured by the United States Constitution and by federal law pursuant to 42 U.S.C. §§1981 and 1983. This Court also has jurisdiction over this action under the provisions of 28 U.S.C. §2201, as it was filed to obtain declaratory relief relative to the Constitutionality of the policies of a local government.

b. Venue is proper under 28 U.S.C. §1391(e)(2) because the events giving rise to the Plaintiff's claims and those of proposed class members occurred in this judicial district.

CLASS ACTION ALLEGATIONS

14. Plaintiff brings this action pursuant to Rules 23(b)(1), 23(b)(2) and 23(b)(3) of the Federal Rules of Civil Procedure on behalf of himself and a class of similarly situated individuals who were arrested for misdemeanors or other petty crimes or minor violations and who were unlawfully detained and strip-searched upon their entry into the Correctional Facility.

15. The Class that Plaintiff seeks to represent is defined of:

All persons who have been or will be placed into custody of the Cumberland County Correctional Facility after being charged and arrested within the County of Cumberland for misdemeanors, violations, traffic infractions, failing to make payment on outstanding traffic violations, failing to make payment on outstanding fines or other minor crimes or violations and were or will be strip-searched upon their transfer and entry into the Cumberland County Correctional Facility.

The Class period commences on or about January 9, 2004 and extends to the date on which the Municipal Defendants are enjoined from, or otherwise cease, enforcing their unconstitutional policy, practice and custom of conducting strip-searches absent reasonable suspicion. Specifically excluded from the Class are Defendants and any and all of their respective affiliates, legal representatives, heirs, successors, employees or assignees.

16. This action may be brought and may properly be maintained as a class action under Federal law and satisfies the numerosity, commonality, typicality and adequacy requirements for maintaining a class action under Fed. R. Civ. P. 23(a).

17. The members of the Class are so numerous as to render joinder impracticable. There are and have been hundreds of people who have been arrested for misdemeanors, violations, traffic infractions, failing to make payment on outstanding traffic violations, failing to make payment on outstanding fines or other minor crimes who were strip-searched under the circumstances described herein.

18. Joinder of all these individuals is impracticable because of the large number of Class members and the fact that Class members are likely dispersed over a large geographical area, with some members, residing outside of Cumberland County and this Judicial District. Furthermore, many members of the Class are low-income persons, may

not speak English, may not know of their rights and likely would have great difficulty in pursuing their rights individually.

19. Common questions of law and fact exist as to all members of the Class that predominate over any questions that affect only individual members of the Class. The predominant common questions of law and fact include, without limitation, the common and predominate question of whether the Defendants' written and/or *de facto* policies of strip-searching individuals who were charged with misdemeanors or violations when transferred to and placed into the custody of the Correctional Facility violate the Fourth and Fourteenth Amendments to the United States Constitution, and whether such a written and/or *de facto* policy existed during the Class period.

20. Plaintiff Sugg's claims are typical of the claims of the members of the Class. Plaintiff and all members of the Class have sustained damages arising out of Defendants' course of conduct. The harms suffered by the Plaintiff are typical of the harms suffered by the Class.

21. The representative Plaintiff has the requisite personal interest in the outcome of this action and will fairly and adequately protect the interests of the Class. Plaintiff has no interests that are adverse to the interests of the members of the Class.

22. A class action is superior to other available methods for the fair and efficient adjudication of this controversy, since joinder of all of the individual members of the Class is impracticable given the large number of Class members and the fact that they are dispersed over a large geographical area. Furthermore, the expense and burden of individual litigation would make it difficult or impossible for individual members of the Class to redress the wrongs done to them. The cost to the federal court system of

adjudicating thousands of individual cases would be enormous. Individualized litigation would also magnify the delay and expense to all parties and the court system. By contrast, the conduct of this action as a class action in this District presents far fewer management difficulties, conserves the resources of the parties and the court system, and protects the rights of each member of the Class.

23. The named Plaintiff has retained counsel with substantial experience and success in the prosecution of class action and civil rights litigation. Plaintiff Suggs is being represented by William Riback; Jonathan W. Cuneo and Charles J. LaDuca of Cuneo Gilbert & LaDuca, LLP; Elmer Robert Keach, III; and Seth Lesser and Fran Rudich of the Locks Law Firm, PLLC.

24. William Riback is an experienced civil rights and class action attorney who has successfully litigated class actions in both state and federal courts in a number of jurisdictions across the country.

25. Jonathan W. Cuneo and Charles J. LaDuca of Cuneo Gilbert & LaDuca, LLP, have extensive experience in state and federal trial and appellate courts, before law enforcement authorities and in proceedings before the United States Congress. Cuneo and LaDuca have successfully prosecuted complex class actions, including cases involving securities fraud, antitrust violations, consumer protection and products liability in state and federal courts throughout the United States. In addition to this experience, Cuneo and LaDuca are co-counsel in several strip-search class actions, with Mr. Keach, one of which was recently certified in the United States District Court for the Northern District of New York against the County of Schenectady and other related Defendants.

26. Mr. Keach is an experienced civil rights and class action attorney who has litigated a wide variety of civil rights actions and has litigated class action lawsuits in state and federal courts in five states. Mr. Keach has successfully litigated strip search cases against the Troy City Police Department and the Schenectady City School District, and was lead counsel in the Rensselaer County Jail strip search class action that recently settled in the United States District Court for the Northern District of New York.

27. Seth Lesser and Fran Rudich of the Locks Law Firm with offices in Cherry Hill and New York City, are both experienced civil rights and class action attorneys. Mr. Lesser is one of this country's premier class action attorneys having successfully litigated civil rights, consumer protection and products liability class actions against Fortune 500 companies in courts across the country, including both New Jersey state and federal courts. Ms. Rudich has litigated scores of individual and class action civil rights cases against a number of Defendants in over ten jurisdictions throughout the United States.

28. In short, Plaintiff's counsel have the resources, expertise and experience to successfully prosecute this action against the Defendants. Counsel for the Plaintiff is not aware of any conflicts among members of the Class, or between counsel and members of the Class.

29. Upon information and belief, there are no other actions pending to address the Defendants' flagrant violation of the civil rights of thousands of individuals, even though the Defendants have maintained their illegal strip-search regimen for at least the past several years.

30. This action, in part, seeks declaratory and injunctive relief. As such, Plaintiff seeks class certification under Fed. R. Civ. P. 23(b)(2), in that all Class members were subject to the same policy requiring the illegal strip-searches of individuals charged with misdemeanor or minor crimes that were transported to and placed into the custody of the Correctional Facility. In short, the Municipal Defendants and the Policy Making Defendants acted on grounds generally applicable to all Class members.

31. In addition to, and in the alternative, Plaintiff seeks certification under Rule 23(b)(3) or seek partial certification under Fed. R. Civ. P. 23(c)(4).

FACTS

Facts Applicable to the Class Generally

32. The Fourth Amendment of the United States Constitution prohibits state officials, such as the Policy Making Defendants in this action and the employees they supervise, from performing strip searches of arrestees who have been charged with misdemeanors or other minor crimes or violations unless there is reasonable suspicion to believe that the arrestee is concealing a weapon or contraband.

33. Cumberland County, the Sheriff's Department, the Correctional Facility, and the Policy Making Defendants have, nonetheless, instituted a written and/or *de facto* policy, custom or practice of strip-searching all individuals who enter the custody of the Correctional Facility regardless of the nature of their charged crime and without the presence of reasonable suspicion to believe that the individual was concealing a weapon or contraband.

34. Further, Cumberland County, the Sheriff's Department, the Correctional

Facility, and the Policy Making Defendants have also instituted a written and/or *de facto* policy, custom or practice of conducting visual body cavity searches (visual inspection of the vaginal and rectal cavities) on all individuals who enter the custody of the Correctional Facility, regardless of the individual characteristics or the nature of their charged crime. For purposes of this Complaint, strip and visual cavity searches are collectively referred to as “strip-searches.”

35. Cumberland County, the Sheriff’s Department, the Correctional Facility, and the Policy Making Defendants know or should know, that they may not institute, enforce or permit enforcement of a policy or practice of conducting strip-searches without particularized, reasonable suspicion

36. The Defendants’ written and/or *de facto* policy, practice and custom mandating wholesale strip-searches of all misdemeanor and violation arrestees has been promulgated, effectuated and/or enforced in bad faith and contrary to clearly established law.

37. Reasonable suspicion to conduct a strip-search may only emanate from the particular circumstances antecedent to the search, such as the nature of the crime charged, the particular characteristics of the arrestees, and/or the circumstances of the arrest.

38. Cumberland County, the Sheriff’s Department, the Correctional Facility, and Policy Making Defendants have promulgated, implemented, enforced, and/or failed to rectify a written and/or *de facto* policy, practice or custom of strip-searching **all** individuals placed into the custody of the Cumberland County Correction Facility without any requirement of reasonable suspicion, or indeed suspicion of any sort. This written and/or *de facto* policy made the strip-searching of pre-trial detainees routine;

neither the nature of the offense charged, the characteristics of the arrestee, nor the circumstances of a particular arrest were relevant to the enforcement of the policy, practice and custom of routine strip-searches.

39. Pursuant to this written and/or *de facto* policy, each member of the Class, including the named Plaintiff was the victim of a routine strip-search upon their entry into the Correction Facility. These searches were conducted without inquiry into or establishment of reasonable suspicion, and in fact were not supported by reasonable suspicion. Strip-searches are conducted for individuals arrested for, among other innocuous offenses such as, traffic violations, outstanding traffic fines and other minor fines.

40. As a direct and proximate result of the unlawful strip-search conducted pursuant to this written and/or *de facto* policy, the victims of the unlawful strip-searches – each member of the Class, including the named Plaintiff – has suffered or will suffer psychological pain, humiliation, suffering and mental anguish.

Facts Applicable to the Named Plaintiff

41. Mr. Suggs' experience is representative of the Class.

42. On or about July 9, 2005 at approximately 6:00 p.m. Plaintiff was transported to the Cumberland County Correctional Facility and detained on a child support warrant.

43. Plaintiff was immediately brought to a holding cell with other detainees. Plaintiff was called out of said cell at approximately 6:30 p.m. by a male Correctional Officer. Plaintiff was brought to private room in direct vicinity of the holding cell. Plaintiff was directed to pull his pants down, and at that

time a visual cavity search was conducted. Plaintiff was then visually inspected from the front by said Correctional Officer.

CAUSES OF ACTION

AS AND FOR A FIRST CAUSE OF ACTION AGAINST ALL DEFENDANTS

Violation of Constitutional Rights Under Color of State Law

(Unreasonable Search and Failure to Implement Municipal Policies To Avoid Constitutional Deprivations Under Color of State Law)

44. Plaintiff incorporates by reference and reallege each and every allegation stated in paragraphs 1 through 42.

45. The Fourth Amendment of the United States Constitution protects citizens from unreasonable searches by law enforcement officers, and prohibits officers from conducting strip-searches of individuals arrested for misdemeanors or violations absent some particularized suspicion that the individual in question has either contraband or weapons.

46. The actions of all Defendants as detailed above, violated Plaintiff's and the Class' rights under the United States Constitution. Simply put, it was not objectively reasonable for Correctional Facility personnel to strip-search Plaintiff and the members of the Class based on their arrests for misdemeanor/violation charges. It was also not objectively reasonable for the Policy Making Defendants to order/direct Correctional Facility personnel to conduct such searches or to have a policy or practice permitting such searches.

47. These strip-searches were conducted pursuant to the policy, custom or practice of Cumberland County, the Sheriff's Department, and the Correctional Facility. As such, these Defendants are directly liable for the damages of the Class.

48. Upon information and belief, Cumberland County, the Sheriff's Department, and the Correctional Facility are responsible for establishing the policies and procedures to be utilized in the operation of the Correctional Facility and are responsible for the implementation of the strip-search policy questioned in this lawsuit. As such, Cumberland County, the Sheriff's Department, and the Correctional Facility are each individually responsible for the damages of the named Plaintiff and members of the Class.

49. Cumberland County, the Sheriff's Department, and the Correctional Facility knew that the above-described strip-search policy was illegal, and acted willfully, knowingly, and with specific intent to deprive Plaintiff and members of the Class of their Constitutional rights.

50. This conduct on the part of all Defendants represents a violation of 42 U.S.C. § 1983, given that their actions were undertaken under color of state law.

51. As a direct and proximate result of the unconstitutional acts described above, Plaintiff and the Class have been irreparably injured.

**AS AND FOR A SECOND CAUSE OF ACTION
FOR PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS**

Demand for Declaratory Judgment

52. Plaintiff incorporates by reference and reallege each and every allegation stated in paragraphs 1 through 50.

53. The policy, custom and practice of the Defendants is unconstitutional, in that these entities and individuals are directing/conducting the strip-searches of all individuals placed into the Correctional Facility without particularized suspicion that the individuals in question have either contraband or weapons.

54. Plaintiff and members of the Class request that this Court issue a declaratory judgment, and that it declare the strip-search policies of the Defendants to be unconstitutional.

**AS AND FOR A THIRD CAUSE OF ACTION
FOR PLAINTIFF AND THE CLASS AGAINST ALL DEFENDANTS**

Demand for Preliminary and Permanent Injunction

55. Plaintiff incorporates by reference and realleges each and every allegation stated in paragraphs 1 through 53.

56. The policy, custom and practice of the Defendants are unconstitutional, in that these entities and individuals are directing/conducting the strip-searches of all individuals placed into the Correctional Facility without particularized suspicion that the individuals in question have either contraband or weapons.

57. This policy is currently in place at the Correctional Facility, with new and/or prospective members of the Class subjected to the harms that have already been inflicted upon the named Plaintiff.

58. The continuing pattern of strip-searching individuals charged with minor crimes or violations will cause irreparable harm to the new and/or prospective members of the Class and an adequate remedy does not exist at law.

59. Plaintiff demands that the Defendants immediately desist from strip searching

individuals placed into the custody of the Correctional Facility absent any particularized suspicion that the individuals in question have either contraband or weapons, and seek both a preliminary and permanent injunction from this Court ordering as much.

DEMAND FOR PUNITIVE DAMAGES

60. The actions of the Defendants detailed herein are outrageous, in that they continue to propagate an illegal strip-search policy even though they know for a fact that their actions are unconstitutional.

61. It is clear that the Policy Making Defendants have no respect for the civil rights of individual citizens or for the rule of law. Consequently, an award of punitive damages is necessary to punish the Policy Making Defendants, and to send a message to them that the requirements of the United States Constitution also apply to government officials in Cumberland County.

DEMAND FOR TRIAL BY JURY

62. The Plaintiff hereby demands a trial by jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff William Suggs, on behalf of himself and on behalf of a Class of others similarly situated, request that this Honorable Court grant them the following relief:

- A. An order certifying this action as a class action pursuant to Fed. R. Civ. P. 23 with Mr. Suggs as Class representative.
- B. A judgment against all Defendants, jointly and severally on Plaintiff's First Cause of Action detailed herein, awarding Compensatory Damages to

named Plaintiff Suggs and each member of the proposed Class in an amount to be determined by a Jury and/or the Court on both an individual and a class wide basis.

C. A judgment against Policy Making Defendants on Plaintiff's First Cause of Action for punitive damages in an amount to be determined at trial.

D. A declaratory judgment against Cumberland County, the Sheriff's Department, and the Correctional Facility declaring their policy, practice and custom of strip and visual cavity searching all detainees entering the Correctional Facility, regardless of the crime charged or suspicion of contraband, to be unconstitutional and improper.

E. A preliminary and permanent injunction enjoining Defendants Cumberland County, the Sheriff's Department, and the Correctional Facility from continuing to strip and visual cavity search individuals charged with misdemeanors or minor crimes and violations absent particularized, reasonable suspicion that the arrestee subjected to the search is concealing weapons or other contraband.

F. A monetary award for attorney's fees and the costs of this action, pursuant to 42 U.S.C. § 1988 and Fed. R. Civ. P. 23.

Respectfully submitted by:

Dated: January 9, 2006
Camden, New Jersey

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