

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

NATHANIEL ROBERTS, et al.	)	CASE NO.: 4:03 CV 2329
	)	
Plaintiffs	)	JUDGE DOWD
	)	
vs.	)	
	)	
COUNTY OF MAHONING, et al.	)	<b><u>PLAINTIFF'S PROPOSED</u></b>
	)	<b><u>FINDINGS OF FACT AND</u></b>
Defendants	)	<b><u>CONCLUSIONS OF LAW</u></b>
	)	

**I. PROPOSED FINDINGS OF FACT**

1. This action was commenced on November 14, 2003 by inmates at the Mahoning County Justice Center and the Minimum Security Jail asking this Court to find that conditions of confinement are unconstitutional.
2. In addition, the inmates state that conditions of confinement in November of 2004 are unconstitutional. Staffing is inadequate. A remedial order is necessary to correct this problem.
3. This action was certified as a class action pursuant to Rule 23, Fed. R. Civ. P. and the class was defined as, "All persons who are confined or will be confined at the Mahoning County Justice Center and the Minimum Security Jail.

4. The jail was designed and originally operated as a podular-direct supervision facility. Direct supervision staffing requires officers to provide supervision and security while being in continuous contact with the inmates supervised.
5. The Minimum Security facility has a housing capacity of 96 inmates. The Sheriff uses boats/cots to house additional inmates at the facility. The highest numbers in inmates housed at one time during 2003 was 112.
6. The housing capacity for the Justice Center when it was originally opened was 432 with a holding capacity of 24. In 2003 the Ohio Department of Rehabilitation and Correction permitted the Sheriff to double bunk certain cells. Up to 132 bunks were permitted, increasing the general capacity to 564. The Sheriff installed and utilized all 132 approved bunks. In addition the Sheriff double-bunked 36 other cells and used those 36 bunks to house inmates. Finally, the Sheriff utilized boats/cots to house even more inmates. The boats/cots are placed in single-bunked cells, thus turning them into double-bunked cells.
7. The Bureau of Adult Detention oversaw the opening and operations at the Mahoning County Justice Center and the Minimum Security Jail. Both facilities were opened only after submitting staffing plans for approval to the State, said plan required direct supervision and a security staff of 151 personnel for the Justice Center and 22 personnel for the Minimum Security Jail.
8. In 1998 the Federal Court appointed expert Sheriff Gerry Billy to establish the minimum number of staff to safely and securely operate the facility. The Court ordered correctional staffing of 151, with an administrative staff of 12 for both facilities.
9. Security posts within the jail must be continuously manned when inmates are out of their cells for safety and security purposes. As a general principal, the Defendants lock down ranges

when a staff member is pulled off of a range, or one is not available to man a security post within that range.

10. Floaters, if on duty, are used to fill in vacant security posts, provide back up in emergencies, transport inmates and food.

11. Locking down ranges, denies inmates access to programs including recreation. Lock downs generally last for periods of time of two (2) hours to as much as three (3) days. Lock downs create tension and anxiety in the inmate class. This is especially true as most cells in the Mahoning County Jail are now double-bunked.

12. When inmates are released from lock down, inmates let out steam, get into arguments over use of phones, what they watch on TV and little things normally taken for granted.

13. Pre-trial inmates who are locked down miss programming and are exposed to an environment of danger.

14. Statistics for 2003 indicate that the Mahoning County Jail has a high incidence of violence.

15. Safety and security of guards and inmates for 2003 fell below acceptable levels for this type of institution.

16. Both testimony and records show that during the Fall of 2003 and November of 2004 staffing of security posts in the jail fell below a level, to allow for the safe and secure operation of the facility.

17. Testimony and records for the Fall of 2003 and November of 2004 show that staffing of security posts in the jail caused inmates to be locked down for an unreasonable amount of time, which amounts to punishment for pre-trial inmates.

18. During these lock down periods, pre-trial inmates were forced to forego showers, phone calls, recreation, visitation and other programs, such as anger management, GED classes, alcohol and drug counseling.

19. Close to one half of the inmates incarcerated at any one time in the Mahoning County Jail are pre-trial inmates.

20. Both inmates and guards fear for their safety in the Mahoning County Justice Center due to insufficient staff. Many incidents of violence go unreported due to a lack of staff presence or lack of time to fill out reports.

21. Inmates housed in the Minimum Security facility cannot be locked down. The Minimum Security facility must use direct supervision to safely and securely house inmates in the facility. Staff in the facility must provide proper backup for responding to fights and emergency situations.

22. The Defendants have chosen to operate the Minimum Security facility with, at most times, two (2) guards, who provide indirect supervision, no proper back up for responding to fights. In many instances as few as one (1) guard is left at the facility, creating an extremely dangerous situation.

23. Intercom systems, elevators, touch screen computer control systems and the toilet systems for the Mahoning County facility are often broken down.

24. Inmates are double-celled with toilets that often do not flush, exposing those inmates to Hepatitis. Inmates are double-bunked in cells with intercoms that do not work, on ranges with indirect supervision, providing no opportunity to call for help.

25. Up until August of 2003, Mahoning County employed the University of Akron Legal Clinic to provide legal access for inmates.

26. The Legal Clinic stopped visiting the facility after 13 years of service when their bills went unpaid. Mahoning County is violating the constitutional rights of inmates by failure to provide for their legal access needs.

## II. CONCLUSIONS OF LAW

1. The Fourteenth Amendment governs the conditions of confinement relating to pre-trial detainees. Since pre-trial detainees have not yet been convicted of a crime, they have a due process right not to be punished. Bell v. Wolfish, 441 U.S. 520 (1979). If the condition complained of amounts to punishment, it constitutes a violation of the inmate's constitutional rights. Condition of confinement amounts to punishment if there is direct proof of an expressed intent to punish. Courts may infer a punitive purpose if the challenged condition or restriction is not reasonably related to a legitimate governmental objective.
2. The Eighth Amendment, which applies to the states through the Due Process Clause of the Fourteenth Amendment, prohibits the infliction of cruel and unusual punishment on those convicted of crimes. Wilson v. Seiter, 501 U.S. 294, 296 (1991). The prohibition of cruel and unusual punishment applies to deprivations not only relating to sentence, but also to conditions of confinement. Estelle v. Gamble, 429 U.S. 97 103 (1976).
3. When the state restrains an individual's liberty through incarceration, the state has an affirmative obligation to provide for the basic human needs of the individual including food, clothing, shelter, medical care and reasonable safety. The United States Constitution imposes a duty on the state to assume responsibility for the safety and general well-being of persons taken into custody and detained against their will. Deshaney v. Winnebago County Social Services Department, 489 U.S. 189, 200 (1989).

4. At least one of the conditions of confinement, in and of itself, must arise to a constitutional violation. Thompson v. County of Medina, Ohio 29 F. 3d 238, 242 (6<sup>th</sup> Cir. 1994). However, a constitutional violation may exist when multiple conditions, viewed together, have a “mutually enforcing effect that produces the deprivation of a single, identifiable human need,” such as food, warmth, exercise, medical care and reasonable safety. Wilson v. Seiter supra at 304.

5. Prison officials must take reasonable measures to guarantee the safety of inmates. Farmer v. Brennan 511 U.S. 825, 832 (1994). The Constitution protects against current, as well as, future harm to inmates. Helling v. McKinney 509 U.S. 25 (1993).

6. To establish liability under the Eighth Amendment, it must be demonstrated that prison officials acted with deliberate indifference to a substantial risk of serious harm to a prisoner. Farmer v. Brennan supra at 834.

7. The concept of deliberate indifference encompasses both a subjective and an objective component. The objective component requires that the deprivation be sufficiently serious, i.e. that the inmate is incarcerated under conditions posing a substantial risk of harm. Farmer v. Brennan, supra. To satisfy the subjective component, plaintiff must show that prison officials have a sufficiently culpable state of mind. A sufficiently culpable state of mind is one in which the official knows of and disregards an excessive risk to inmate health or safety. The official must both be aware of facts from which the inference can be drawn that a substantial risk exists and he must also draw the inference. The fact finder may infer actual knowledge through circumstantial evidence. Farmer v. Brennan, supra.

8. A subjective approach to deliberate indifference does not require a prisoner seeking a remedy for unsafe conditions to await a tragic event, such as an actual assault, before obtaining

relief. Farmer v. Brennan, supra at 845. It is enough that a substantial risk of serious harm exists and the official knows of and disregards the risk.

9. The Justice Center and the Minimum Security Jail are significantly understaffed. As a result of the understaffing, the inmates are not properly supervised, emergencies can not be properly responded to, and there is a substantial risk that inmates may not be evacuated in case of fire.

With respect to the Justice Center, the understaffing results in inmates being locked in their cells on a frequent basis and when locked down, they have often been deprived of visitation, recreation and other inmate programs. They are often locked in cells with toilets that do not work.

10. Even though the Defendant Sheriff has not been able to maintain sufficient staff, he has added permanent bunks to several cells and utilizes boats at both the Justice Center and the Minimum Security Jail. The population of the jail has significantly increased while staffing levels have decreased.

There is a high degree of violence at the Justice Center and at the Minimum Security Jail. There is both inmate-on-inmate violence and inmate-on-guard violence.

The violence is unreasonably high and constitutes a substantial risk of serious harm to inmates incarcerated at the Justice Center and the Minimum Security Jail.

The violence is the direct result of inadequate staff.

11. The Defendants are aware of the facts giving rise to the substantial risk of harm and are aware that those facts create the substantial risk of harm to the inmates incarcerated at the Justice Center and the Minimum Security Jail.

12. With respect to pre-trial detainees, the acts of the Defendants amount to punishment in violation of the Due Process Clause of the Fourteenth Amendment. With respect to convicted inmates, the acts of the Defendants constitute a violation of the Eighth Amendment, in that the Defendants are acting with deliberate indifference to the safety of the inmates incarcerated at both facilities.

13. Prisoners have a fundamental right to access to the Courts, which requires prison officials to provide prisoners with access to the Courts that is adequate, effective and meaningful. Bounds v. Smith, 430 U.S. 817, 822 (1977). Prison authorities must assist inmates in preparing and filing meaningful legal papers and provide inmates with adequate law libraries or adequate assistance from persons trained in the law. Inmates must be provided with the tools required in order to attack their sentences, directly or collaterally, and in order to challenge the conditions of their confinement. Lewis v. Casey, 518 U.S. 343 (1995).

14. Defendants do not maintain a legal access program which complies with the requirements of the law.

15. As a result of the foregoing findings and conclusions, this Court determines that prospective relief is necessary. The Court finds that prospective relief is necessary to correct the constitutional violations that are found. The Court also finds that the prospective relief ordered is narrowly drawn, extends no further than necessary to correct the violation of the federal right, and is the least intrusive means necessary to correct the violated right. Title Eighteen U.S.C. §3626 (a)(1).

16. The Defendants shall hire and maintain 150 personnel to staff security posts essential to the safety and security of the Justice Center and Minimum Security Jail. The 150 staff persons are exclusive of administrative and certain supervisory positions. The posts are identified in

Exhibit 1, attached hereto, and they shall be staffed in accordance to the requirements set forth in Attachment 1. In addition to the 150 staff, the Defendants shall hire 12 staff for administrative positions, including inmate classification and records.

17. Within thirty (30) days of the entry of this Order, the Defendants shall submit to the Court a plan outlining a program that the Defendants will implement to provide constitutionally sufficient legal access to the inmates.

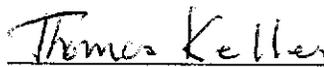
18. The Court hereby appoints a special master, who shall monitor the Defendants' compliance with the terms of this Order and who shall file periodic reports with the Court.

Respectfully submitted,



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ROBERT ARMBRUSTER #0011623  
159 South Main Street, Suite 720  
Akron, Ohio 44308  
(330) 434-2113



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THOMAS KELLEY #0016820  
159 South Main Street, Suite 720  
Akron, Ohio 44308  
(330) 434-2113