

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ELIZABETH SEITZ; MERSIHA TUZLIC;	:	
RIVA DEPASSE; JILL HENDRICKS;	:	
KIARI DAY,	:	Case No.
	:	
Plaintiffs,	:	
	:	
v.	:	ELECTRONICALLY FILED
	:	
ALLEGHENY COUNTY; ORLANDO	:	
HARPER, Warden of Allegheny County Jail;	:	
SIMON WAINWRIGHT, Deputy Warden;	:	
MONICA LONG, Deputy Warden; SGT.	:	
JESSE ANDRASCIK,	:	
	:	
Defendants.	:	

CLASS ACTION COMPLAINT

Plaintiffs, by their undersigned counsel, bring this complaint for legal and equitable relief. Statements in support are as follows.

Nature of Action

This action is brought to remedy the cruel, unusual and inhumane practice at the Allegheny County Jail (“ACJ”) of placing pregnant women in solitary confinement for extended periods of time and subjecting them to additional punitive conditions without due cause or due process, based upon allegations of minor, non-violent offenses, and knowing full well that such a practice can cause irreparable harm to the health of the women and their pregnancies. Solitary confinement – confining a person in a cell for 23 or more hours a day – is well known to be extreme punishment and the cause of severe and irreparable physical, emotional and mental harm

to individuals subjected to its use, particularly individuals who have existing mental health disorders, juveniles and pregnant women.

Named Plaintiffs Elizabeth Seitz, Mersiha Tuzlic, Riva DePasse, and Jill Hendricks are women who Defendants recently placed in solitary confinement at ACJ while they were pregnant. These named Plaintiffs exemplify the constitutional violations suffered by a class of individuals, namely, other pregnant women at ACJ, now and in the future. Each of these Plaintiffs spent between 6 and 22 days in solitary confinement where they were isolated for 23 to 24 hours per day and frequently denied any opportunity to leave their cells for showers or recreation. Defendants subjected them to these cruel and inhumane conditions for allegedly committing minor, non-violent rule violations or even for investigatory purposes and failed to provide any procedural due process protections, like notice and meaningful opportunity to contest the punishment, until they had spent a week or more in solitary confinement and often provided no due process at all.

Allegheny County's policy, practice, or custom of placing pregnant women in the harsh conditions of solitary confinement for extended periods of time for minor, non-violent offenses violates Plaintiffs' rights under the Fourteenth Amendment to the United States Constitution to due process of law and under the Eighth Amendment to the United States Constitution to be free from cruel and unusual punishment because it improperly and unnecessarily subjects the women to a serious risk of harm to their health and the health of their pregnancies. The Defendants know full well and have been notified that this custom, practice and policy is both unconstitutional and injurious, yet they continue to regularly engage in it and, despite demands to stop, have failed to create and enforce proper practices and procedures to end the unconstitutional treatment.

To remedy the violation of the rights of Plaintiffs and other similarly situated individuals, Plaintiffs seek declaratory relief declaring that the present policy, practice and custom in place at ACJ is unconstitutional. They also seek an injunction – preliminary, if necessary, and final – prescribing proper guidelines for the confinement of pregnant women in ACJ, plus damages, attorneys’ fees, costs and any other relief, legal or equitable in nature, to remedy the existing, intolerable violations of Plaintiffs’ constitutional rights.

Jurisdiction and Venue

1. This case is brought pursuant to 42 U.S.C. § 1983 and the Eighth and Fourteenth Amendments to the United States Constitution, seeking declaratory, injunctive, and monetary relief.

2. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331, 1343(a)(3)-(4).

3. This Court is the appropriate venue pursuant to 28 U.S.C. § 1391(b)(2) because the events and omissions giving rise to this action occurred in Allegheny County, Pennsylvania, within the Western District.

Parties

4. Plaintiff Elizabeth Seitz is a 28-year-old pregnant woman currently incarcerated at the Allegheny County Jail (“ACJ”). She is incarcerated pursuant to an alleged probation violation.

5. Plaintiff Riva DePasse is a 27-year-old pregnant woman currently incarcerated at ACJ. She is incarcerated pursuant to a misdemeanor charge that has not yet been adjudicated.

6. Plaintiff Jill Hendricks is a 38-year-old pregnant woman who until recently was incarcerated at ACJ. She was incarcerated pursuant to an alleged probation violation. She

remains on probation and could be returned to ACJ upon allegation that she has violated the terms of her probation.

7. Plaintiff Mersiha Tuzlic is a 29-year-old pregnant woman who until recently was incarcerated at ACJ. She is now on house arrest and could be returned to ACJ upon allegation that she has violated the terms of her probation.

8. Plaintiff Kiari Day is a 27-year-old pregnant woman who is currently incarcerated at ACJ pursuant to a criminal conviction.

9. Defendant Allegheny County is a county government organized and existing under the laws of the Commonwealth of Pennsylvania with its principal place of business at 436 Grant Street, Pittsburgh, Pennsylvania 15219. Allegheny County operates the Allegheny County Jail, located at 950 Second Avenue, Pittsburgh, Pennsylvania 15219.

10. Defendant Orlando Harper is the warden at the Allegheny County Jail with his principal place of business being 950 Second Avenue, Pittsburgh, Pennsylvania. Defendant Harper is responsible for the oversight, operation and administration of the ACJ including the implementation and enforcement of all disciplinary and dietary policies. He is sued in his individual capacity.

11. Defendant Simon Wainwright is the deputy warden at ACJ with his principal place of business being 950 Second Avenue, Pittsburgh, Pennsylvania. Defendant Wainwright is also responsible for the oversight, operation and administration of the ACJ. He is sued in his individual capacity.

12. Defendant Monica Long is the deputy warden at ACJ with her principal place of business being 950 Second Avenue, Pittsburgh, Pennsylvania. Defendant Long is also

responsible for the oversight, operation and administration of the ACJ. She is sued in her individual capacity.

13. Defendant Sergeant Jesse Andrascik is employed by Allegheny County and works at ACJ with his principal place of business being 950 Second Avenue, Pittsburgh, Pennsylvania. Defendant Andrascik is sued in his individual capacity.

Statement of Facts

Allegheny County's Custom, Policy, or Practice of Placing Pregnant Women in Solitary Confinement

14. Defendant Allegheny County has a custom, policy, or practice of placing pregnant women – including those suffering from existing mental, emotional and physical disorders – in solitary confinement at the Allegheny County Jail.

15. Defendants have subjected four of the plaintiffs, while pregnant, to conditions of solitary confinement on multiple occasions during their confinement at ACJ. The fifth plaintiff has only recently become incarcerated at ACJ and is at risk of being placed in solitary confinement pursuant to the challenged custom, policy, or practice at issue in this complaint.

16. Solitary confinement, known by many names, refers to the practice of holding an incarcerated person in a cell between 22 and 24 hours per day, isolated from normal social interaction with others and subjected to severe restrictions impacting every aspect of their lives.

17. At ACJ, solitary confinement is frequently a status rather than a physical location, as the punishment of solitary confinement is utilized on different units and applied to certain inmates, regardless of their physical location at ACJ.

18. Accordingly, an individual who is placed on solitary confinement status may be held in a regular cell, a special cell used for solitary confinement, or a cell in the jail infirmary.

19. In addition, individuals on solitary confinement status may share a cell with another individual on solitary confinement status due to space constraints.

20. Regardless of their physical location, pregnant women at ACJ who are placed in solitary confinement spend 23 to 24 hours per day in their cells, are isolated from normal social interaction, and are subject to severe conditions and restrictions that impact every aspect of their lives, including the health of their pregnancies. By way of example, they are frequently:

- a. denied for extended periods any time outside of their cell to bathe or exercise;
- b. denied access to any of their property, including legal documents, books, pens, paper, and other items that prisoners in general population are permitted to keep in their cells;
- c. denied medication they need and have been prescribed; and
- d. denied adequate and necessary nutrition to properly support their health and the health of their pregnancies.

21. For example, in November, Defendants placed Plaintiff Elizabeth Seitz, who was seven-months pregnant, into solitary confinement for ten days. They restricted her to the cell for 24 hours per day, allowing her to shower only twice in 10 days, and forcing her to go six days without any shower.

22. Starting on November 20, Defendants placed Plaintiff Jill Hendricks, who was eight-months pregnant at the time, into solitary confinement for nine days. During the entire nine-day period, Ms. Hendricks was only allowed out of her cell once – for an hour on Thanksgiving Day.

23. This past May, Defendants placed Plaintiff Mersiha Tuzlic, when she was approximately two-months pregnant, into solitary confinement for 22 days. During the 22 days

in solitary confinement, Defendants allowed Ms. Tuzlic to shower only twice; did not allow her any out-of-cell time for recreation or exercise; and did not permit her to have any personal items, including any materials to occupy herself such as books, magazines, paper, or writing utensils.

24. In late October, Defendants subsequently placed Ms. Tuzlic in solitary confinement once again, this time for 11 days. The conditions were similarly inhumane. Defendants placed her in a cell with another pregnant woman. The cell had bunk beds, but since neither woman was supposed to occupy the top bunk due to their pregnancy, one woman slept on the bottom bunk and the other was forced to sleep on the floor.

25. While in solitary confinement, Defendants do not allow pregnant prisoners to purchase any items from the jail commissary, including food. Consequently, pregnant prisoners in solitary confinement are frequently hungry and undernourished. The so-called ACJ “pregnancy diet,” which is typically given to pregnant inmates, is nutritionally inadequate even for pregnant inmates in general population. In general population, however, those inmates can and typically do supplement their diets with purchases from the commissary. Pregnant prisoners in solitary confinement at ACJ are often denied even the inadequate pregnancy diet given to general population prisoners, and are forbidden access to commissary.

26. Allegheny County and its officials have adopted their custom, policy, or practice of placing pregnant prisoners in solitary confinement, accompanied by other inhumane conditions, despite their knowledge of the well-known and accepted fact that solitary confinement can cause severe psychological suffering and present significant distinctive risks to pregnant women’s physical and mental health. Because of the harms and risks associated with solitary confinement, there is consensus among correctional officials and experts, human rights

organizations, and governmental agencies that vulnerable populations, including pregnant women, should not be housed in these conditions. For example:

- a. The U.S. Department of Justice Report and Recommendations Concerning the Use of Restrictive Housing asserted that “Women who are pregnant, who are post-partum, who recently had a miscarriage, or who recently had a terminated pregnancy should not be placed in restrictive housing.” Only in “very rare situations” may a pregnant woman “be placed in restrictive housing as a temporary response to behavior that poses a serious and immediate risk of physical harm. Even in such cases, this decision must be approved by the agency’s senior official overseeing women’s programs and services, in consultation with senior officials in health services, and must be reviewed every 24 hours.” *See* USDOJ Report and Recommendations Concerning the Use of Restrictive Housing, p. 102.
- b. The National Commission on Correctional Health Care (“NCCHC”), an accrediting agency for prison health care services, has adopted a position statement on solitary confinement, which states that “pregnant women should be excluded from solitary confinement of any duration.”
- c. According to the NCCHC, “[i]nternational standards established by the United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders state that pregnant women should never be placed in solitary confinement as they are especially susceptible to its harmful psychological effects.”

27. As recently observed by the Chief Judge of the United States District Court for the Middle District of Pennsylvania, “Researchers have observed that ‘psychological stressors such as isolation can be as clinically distressing as physical torture.’” *Johnson v. Wetzel*, -- F.Supp.3d, 2016 WL 5118149, *9 (quoting Jeffrey L. Metzner, M.D., et al., *Solitary Confinement and Mental Illness in U.S. Prisons: A Challenge for Medical Ethics*, 38 J. AM. ACAD. Psychiatry & Law 104, 104 (2010)).

28. Despite the existence of national and international standards restricting the use of solitary confinement for pregnant women, Allegheny County and its officials routinely place pregnant prisoners at ACJ in solitary confinement for minor, non-violent rule violations. For example:

- a. ACJ placed Ms. Hendricks in solitary confinement for nine days for possession of a library book that contained pictures and envelopes that had been placed there by another prisoner who had previously borrowed the book; and
- b. ACJ placed Ms. Tuzlic in solitary confinement for 11 days for possessing three pairs of shoes instead of only two pairs.

29. Allegheny County and its officials also place pregnant prisoners at ACJ in solitary confinement on “investigative status,” without due process, for mere suspicion of rule violations and based upon false allegations. For example, ACJ placed Ms. Seitz in solitary confinement for ten days on investigative status with no investigation or hearing, upon false allegations of misconduct by a correctional officer.

30. Solitary confinement is used as a form of discipline and punishment of pregnant women at ACJ without due process of law, to wit:

- a. ACJ does not provide pregnant women with hearings or any meaningful opportunity to be heard prior to placing them in solitary confinement for rule violations;
- b. ACJ places pregnant women in solitary confinement and typically does not afford them a hearing for a week or more;
- c. ACJ often places pregnant women in solitary confinement without giving them any hearing or any process whatsoever to determine whether they actually violated any rule; and
- d. ACJ frequently denies pregnant women placed in solitary confinement access to an effective grievance process, thereby depriving them of a way to contest unconstitutional and dangerous treatment and conditions.

31. For example, Ms. Tuzlic filed a grievance with Warden Harper in June regarding the unconstitutional conditions of her solitary confinement, informing Warden Harper that she had been in solitary confinement on investigative status for eleven days without a hearing; that her pregnancy was classified as “high-risk”; that she had not been permitted to leave her cell for any recreation; that she was experiencing serious psychological stress, pain, and anxiety as a consequence; and requested the opportunity to go to the gym for recreation for an hour. The Jail’s delayed response, weeks later, summarily dismissed her grievance, stating simply, “If this is a problem don’t come to jail.” (See Inmate’s Request to Staff Member, Form ACJ-135A, attached hereto as **Exhibit “A”**.)

*Allegheny County's Failure to Provide Pregnant Women
with Adequate Nutrition and Dietary Supplements*

32. ACJ's policy regarding pregnant women fails to mandate a diet meeting the nutritional requirements for a healthy pregnancy. The deficient diet is provided to pregnant women even when they are not on restricted status, i.e., when they are in general population.

33. Pregnant women often must request to be placed on the special pregnancy diet, and could go days or weeks without receiving it; otherwise they will receive non-pregnancy diets.

34. Even when placed on the "pregnancy diet," however, the portions allotted to pregnant women are nutritionally inadequate and fail to meet minimal requirements for a healthy pregnancy.

35. Pursuant to ACJ policy, women receiving the pregnancy diet are supposed to be provided with three meals per day plus an evening snack.

36. A typical meal provided for those receiving the pregnancy diet consists of two slices of bread, a thin hamburger with no toppings, less than 1/2 cup of canned fruit, less than 1/2 cup of canned vegetables, and a half-pint of milk. Another meal may consist of sausage, less than 1/2 cup of canned apples, no vegetables, and a dry salad primarily consisting of lettuce. Each meal is supposed to have portions essentially identical to this.

37. Women receiving the pregnancy diet, however, routinely do not even receive these portions. Often there is no serving of fruit, or no serving of vegetables, and they typically receive only one half-pint of milk per day rather than three half pints.

38. Although women receiving the pregnancy diet are supposed to receive a bag containing a snack for them to eat after dinner, such as an egg and a bit of peanut butter, these bags are often not provided.

39. Women routinely wait for several weeks upon arrival at ACJ before receiving even the inadequate pregnancy diet.

40. When pregnant women are moved from one cell block in the prison to another, whether that is to a general population pod, a solitary confinement cell, or a cell in the infirmary, it is common that they stop receiving the pregnancy diet for several days before the issue is corrected.

41. Even when they are receiving the pregnancy diet regularly, pregnant women are constantly hungry and under-nourished.

42. Because of the nutritional and caloric inadequacy of the pregnancy meals, pregnant women at ACJ are forced to find ways to supplement their diet. The jail commissary is one way to do that, but not all pregnant women have access to commissary, and even if they do they may not have the resources to make a purchase.

43. For the pregnant women with ability to purchase food from the commissary, the food is not healthy or nutritional, mostly consisting of processed and junk foods.

44. Women in solitary confinement have no access to the commissary.

45. Although trading or sharing commissary items is prohibited under ACJ policy, pregnant women frequently resort to trading items for food to satiate their constant hunger. Many pregnant women knowingly violate the rules against trading for food and thereby risk placement in solitary confinement in a desperate effort to get enough food.

46. In addition to ACJ's failure to provide adequate nutrition to pregnant women, ACJ often fails to give pregnant women necessary and prescribed medical supplements, such as prenatal vitamins and calcium supplements.

47. As a result of ACJ's failure to ensure that pregnant women are provided with adequate portions of nutritionally sufficient food and their prescribed vitamin and calcium supplements, pregnant women at ACJ and their fetuses are at risk of severe and irreparable harm.

Particularized Allegations Exemplifying Overarching Unconstitutional Conduct

Elizabeth Seitz

48. Elizabeth Seitz was incarcerated at the ACJ on August 23, 2016, for an alleged probation violation and pending new criminal charges. She was incarcerated in ACJ prior to a court adjudication of the alleged violation of the terms of her probation and disposition of the new charges.

49. Ms. Seitz was pregnant at the time of her incarceration, and is now approximately eight-months pregnant. Her due date is January 18, 2017.

50. Ms. Seitz's pregnancy is considered high-risk because she experienced pre-term labor during a previous pregnancy and suffered cervical cancer that resulted in the removal of 3/4 of her cervix.

51. Ms. Seitz is diagnosed with Bipolar Disorder, Depression, Post-Traumatic Stress Disorder, and Anxiety Disorder.

52. Since her incarceration at ACJ in August, Ms. Seitz has been placed in solitary confinement twice.

53. In October, Ms. Seitz spent 21 days in solitary confinement in a cell in the infirmary based on a false allegation of a non-violent rule violation.

54. During that time, she was permitted out of her cell for one hour per day on weekdays to shower or get exercise. She was not permitted out of her cell at all on weekends.

55. Defendants placed Ms. Seitz in solitary confinement for 21 days even though she posed no risk of harm.

56. Defendants did not give Ms. Seitz a hearing prior to placing her in solitary confinement.

57. Defendants gave Ms. Seitz a hearing only after she had been held in solitary confinement for 14 days. At the hearing, ACJ officials told her she would have to remain in solitary for another week.

58. Defendants did not allow Ms. Seitz to access commissary during this period despite being pregnant, resulting in her being hungry and under-nourished.

59. Ms. Seitz experienced hunger, deprivation of exercise, severe stress and emotional suffering because of her twenty-one days of solitary confinement.

60. Defendants again placed Ms. Seitz in solitary confinement in November for 10 days. This time the basis for the detention was investigative, based on suspicion of a non-violent rule violation.

61. While in solitary confinement, Ms. Seitz had a fever of 101 degrees and her ankles became very swollen.

62. Ms. Seitz, who was unable to communicate with her four children or their father while in solitary confinement, became depressed, despondent, hungry, and anxious.

63. Despite posing no risk of physical harm, Ms. Seitz spent 10 days in solitary confinement without a hearing.

64. Ms. Seitz was released from solitary confinement on November 14 after her attorney submitted a letter to Defendants Harper, Wainwright, and Long demanding her release from solitary confinement.

65. Ms. Seitz remains incarcerated at ACJ and is subject to the same customs, policies, and practices pertaining to solitary confinement of pregnant women and the inadequate pregnancy diet.

Riva DePasse

66. Riva DePasse was incarcerated at ACJ on October 4, 2016, for an alleged probation violation and pending a new criminal charge. She is currently approximately seven-months pregnant. Her due date is February 6, 2017.

67. Ms. DePasse was incarcerated in ACJ prior to a court adjudication of the alleged violation of the terms of her probation and disposition of a new criminal charge.

68. In October, Defendants placed Ms. DePasse in solitary confinement on investigative status for approximately six days.

69. Ms. DePasse did not pose a risk of harm to anyone in the jail.

70. During her six days in solitary confinement, Ms. DePasse spent 24 hours per day in her cell. She was offered recreation only once during those six days, and that was at 2:00 a.m.

71. Defendants did not permit Ms. DePasse access to the commissary while in solitary confinement, resulting in her being hungry and under-nourished.

72. Ms. DePasse experienced hunger, deprivation of exercise, severe stress and emotional suffering because of her placement in solitary confinement.

73. Defendants failed to give Ms. DePasse a hearing before, during or after her six days in solitary confinement.

74. On or about Thursday, December 1, 2016, Defendants once again placed Ms. DePasse in solitary confinement. Defendants did not officially inform her why she was placed in solitary confinement.

75. On Friday, December 9, Ms. DePasse's lawyer sent a letter to Defendants Harper, Wainwright, and Long demanding the Ms. DePasse be removed from solitary confinement. They removed her from solitary confinement that same day.

76. Ms. DePasse remains incarcerated at ACJ and is subject to the customs, policies, and practices pertaining to solitary confinement of pregnant women and the inadequate pregnancy diet.

Jill Hendricks

77. Jill Hendricks was incarcerated at ACJ on September 28, 2016, for an alleged probation violation. She is currently eight-months pregnant. She is due on January 7, 2017.

78. Ms. Hendricks' pregnancy is considered high risk due to her age, her history of pre-term labor, and a previous episode of placenta previa.

79. Ms. Hendricks suffers from severe, chronic depression, post-traumatic stress disorder, and high anxiety disorder.

80. Upon reception at ACJ she was sent to West Penn Hospital because of her physical condition.

81. Upon returning to ACJ from the hospital, Defendants placed her in solitary confinement for 48 hours. The cell had no mattress. ACJ did not give her any hygiene products, such as soap or toilet paper. ACJ gave her nutrition that was inadequate for a pregnant woman.

82. Ms. Hendricks experienced hunger, deprivation of exercise, severe stress and emotional suffering because of her 48 hours of solitary confinement.

83. In November, Defendants once again placed Ms. Hendricks in solitary confinement for nine days based on a false allegation of a non-violent rule violation.

84. During her nine days in solitary confinement, ACJ permitted Ms. Hendricks to leave her cell for only one-hour – on Thanksgiving Day – so she could take a shower and call her family.

85. Despite posing no risk of physical harm, Defendants forced Ms. Hendricks to spend nine days in solitary confinement.

86. Defendants failed to afford Ms. Hendricks a hearing before, during or after her nine-day stint in solitary confinement.

87. Defendants released Ms. Hendricks from solitary confinement on November 29, one day after her counsel sent a letter to Defendants Harper, Wainwright, and Long demanding her release from solitary confinement.

Mersiha Tuzlic

88. Mersiha Tuzlic was incarcerated at the Allegheny County Jail on May 11, 2016, for an alleged probation violation and pending new criminal charges.

89. At the time of her arrest, Ms. Tuzlic was approximately two-months pregnant, suffered from physical and mental disorders, and informed the intake nurse that she was pregnant, which was verified by a pregnancy test administered by ACJ officials. Her due date is December 19, 2016.

90. Shortly after her admission to ACJ, Defendants placed Ms. Tuzlic in solitary confinement for seven days based on a false allegation of a non-violent rule violation.

91. Defendants placed Ms. Tuzlic in solitary confinement despite the fact she posed no risk of physical harm.

92. During her seven-day confinement, Ms. Tuzlic spent nearly 24 hours per day in her cell.

93. During her solitary confinement, Defendants did not allow Ms. Tuzlic access to commissary, causing her to be constantly hungry and under-nourished.

94. The conditions of her solitary confinement caused Ms. Tuzlic to suffer severe stress, anxiety, and feelings of depression.

95. Ms. Tuzlic did not receive a hearing until she had been in solitary confinement for seven days.

96. At her hearing, ACJ officials determined that she had not violated any rule and thereby released her from solitary confinement.

97. During the following six months, Defendants held Ms. Tuzlic in solitary confinement on three other occasions for periods of 22 days, 11 days, and for her final 2 days at ACJ.

98. Defendants placed Ms. Tuzlic in solitary confinement on these occasions without a hearing and even though she did not pose a risk of physical harm.

Kiari Day

99. Kiari Day was incarcerated at ACJ following a criminal conviction on federal charges in early December 2016. She is awaiting transfer to a federal institution.

100. Ms. Day is five-months pregnant.

101. Ms. Day has suffered from constant hunger since her arrival at ACJ.

102. During her first week at ACJ, she lost three pounds.

103. Ms. Day has repeatedly complained about inadequate food, including not receiving the pregnancy diet, not receiving the proper portions, and being served inedible food.

104. Ms. Day is not receiving medications for her psychiatric diagnoses despite ACJ being aware of her conditions.

105. Ms. Day is especially vulnerable to the health risks posed by solitary confinement of pregnant women because of her history of pulmonary embolism, which renders her susceptible to blood clots. Increased stress and the deprivation of exercise or the ability to move in solitary confinement could lead to serious health complications.

106. As ACJ frequently subjects pregnant women to solitary confinement without due cause or due process, Ms. Day is at risk of suffering the same conditions experienced by the other plaintiffs.

Role of Defendants in Constitutional Violations

107. As the ACJ Warden, Defendant Harper is responsible for all policies and practices at the jail, including those pertaining to the use of solitary confinement and the imposition of other restrictions and constraints on pregnant inmates.

108. Defendant Harper is fully aware that ACJ's solitary confinement of pregnant women causes serious risks and harm to their health, which were described in the letters sent to him by counsel for Seitz, Hendricks, and DePasse.

109. Defendant Harper has authorized and participated in depriving pregnant women of due process. Despite demands from Plaintiffs and their lawyer, Defendant Harper has refused to alter the arbitrary policies and practices that permit ACJ staff to place pregnant women in solitary confinement.

110. Defendant Wainwright is the Deputy Warden of ACJ and as such is responsible for overseeing security operations in the jail, including the use of solitary confinement. Defendant Wainwright knows that ACJ's solitary confinement policies and practices do not contain proper safeguards for the health of pregnant women, including those with serious

psychiatric diagnoses. Defendant Wainwright oversees and enforces the policies and practices which deprive pregnant women of due process at ACJ.

111. Defendant Long is the Deputy Warden of ACJ and as such is responsible for overseeing security operations in the jail, including the use of solitary confinement. She knows that ACJ's solitary confinement policies and practices do not contain proper safeguards for the health of pregnant women, including those with serious psychiatric diagnoses. Defendant Long oversees and enforces the policies and practices of not providing hearings prior to the imposition of punishment or punishment-like conditions in violation of the due process clause of the Fourteenth Amendment.

112. Defendant Andrascik is responsible for holding hearings for pregnant women who are issued rule violations or placed in solitary confinement on investigative status. Defendant Andrascik routinely permits individuals to spend days or weeks in solitary confinement without any hearing, including people accused of trivial infractions, non-violent infractions, and those who have been placed on investigative status without any evidence of wrongdoing.

CLASS ACTION ALLEGATIONS

113. Plaintiffs bring this action pursuant to Fed. R. Civ. P. 23(a) and 23(b)(2) on their own behalf and on behalf of a class of others similarly situated.

114. Plaintiffs seek to represent the following class only on claims for declaratory and injunctive relief:

All pregnant and post-partum women who are currently or in the future will be incarcerated at the Allegheny County Jail.

115. The requirements of Rule 23(a) and 23(b)(2) are all satisfied by this class action.

116. The information as to the size of the class and the identity of the individuals who are in the class is in the exclusive control of Defendants.

117. The number of persons who are members of the class described above are so numerous that joinder of all members in one action is impractical. Although the precise size of the class at any one time is not known, the *Pittsburgh Post-Gazette* recently reported that there were as many as 34 pregnant women in the ACJ in October 2016 and 38 in July 2016. The lower end of the monthly range was 13 pregnant women held in ACJ during February and March 2016.¹ The identity of future class members is not, and cannot be, known, thereby making appropriate treatment of the case as a class action.

118. Questions of law or fact that are common to the entire class predominate over individual questions because the actions of Defendants complained of herein are generally applicable to the entire class. These legal and factual questions include but are not limited to:

- a. the nature, scope, and operation of Defendants' solitary-confinement practices and policies as applied to pregnant women incarcerated at ACJ;
- b. the nature and type of injury caused by Defendants' solitary confinement practices and policies on pregnant women;
- c. the nature and type of relief appropriate for the class of pregnant women;
- d. whether Defendants have acted with deliberate indifference and objective unreasonableness by placing pregnant women into solitary confinement, and whether those practices violate the eighth and fourteenth amendments to the U.S. Constitution; and
- e. whether Defendants' failure to provide pre- or timely due process protections violates the Fourteenth Amendment.

¹ "Allegheny County Jail report notes issues with nursing shortage," Kate Giammarise, *Pittsburgh Post-Gazette*, December 2, 2016, accessible at: <http://www.post-gazette.com/local/city/2016/12/02/Allegheny-County-Jail-visit-report-notes-issues-with-nursing-shortage/stories/201611040231>.

119. Plaintiffs' claims are typical of the members of the class because Plaintiffs and all class members were injured by the same wrongful policies and practices of Defendants as described in this Complaint. Plaintiffs' claims arise from the same practices and courses of conduct that give rise to the claims of the class members, and are based on the same legal theories.

120. The representative Plaintiffs will fairly and adequately assert and protect the interests of the class. There are no conflicts between the representative Plaintiffs and the class as a whole.

121. The representative Plaintiffs have retained counsel with substantial experience in the conduct of class actions, including actions raising constitutional violations under 42 U.S.C. § 1983.

122. Defendants have acted and refused to act on grounds generally applicable to the Class, thereby making final injunctive relief or corresponding declaratory relief appropriate with respect to the class as a whole and making certification of the class under Rule 23(b)(2) proper.

Causes of Action

COUNT I – Solitary Confinement of Pregnant Women in Violation of the Eighth and Fourteenth Amendments to the U.S. Constitution

(All Plaintiffs Against All Defendants)

123. Plaintiffs hereby incorporate by reference the allegations contained in the above paragraphs 1 to 122 of this Complaint as if fully set forth herein.

124. Defendants have acted with deliberate indifference to conditions of solitary confinement that cause an excessive risk of harm to the health of pregnant women – including each named plaintiff and other members of the class of pregnant women who are or shall be

incarcerated at the Allegheny County Jail – and their fetuses in violation of the Eighth and Fourteenth Amendments to the U.S. Constitution.

125. Defendants have imposed conditions of solitary confinement upon pregnant women plaintiffs and class members that are objectively unreasonable.

126. Plaintiffs have suffered injury and damages as a result of Defendants' unconstitutional conduct, including but not limited to severe emotional distress, harm to their health and the health of their pregnancies, and probable future health issues and medical expenses.

127. Individual defendants' conduct as described above is outrageous.

**COUNT II – Deprivation of Adequate Nutrition for Pregnant Women
in Violation of the Eighth and Fourteenth Amendments to the U.S. Constitution**
(All Plaintiffs Against All Defendants)

128. Plaintiffs hereby incorporate by reference the allegations contained in the above paragraphs 1 to 127 of this Complaint as if fully set forth herein.

129. Defendants have acted with deliberate indifference to the serious medical and nutritional needs of pregnant women to receive adequate food, supplements, vitamins and medicine, thereby causing excessive risks to the health of pregnant women – including each named plaintiff and other members of the class of pregnant women who are or will be incarcerated at the ACJ – and their fetuses in violation of the Eighth and Fourteenth Amendments to the U.S. Constitution.

130. Defendants have acted with objective unreasonableness in depriving pregnant women incarcerated at the Allegheny County Jail of adequate nutrition, including the provision of a pregnancy diet that lacks adequate calories and the failure to provide prenatal vitamins and dietary supplements as prescribed.

131. Plaintiffs have suffered injury and damages as a result of Defendants' unconstitutional misconduct, including but not limited to severe emotional distress, harm to their physical, mental and emotional health, harm to their pregnancies, and probable future health issues and medical expenses.

132. Individual defendants' conduct as described above is outrageous.

**COUNT III – Failure to Provide Procedural Due Process Protections in Violation
of the Fourteenth Amendment to the U.S. Constitution**
(All Plaintiffs Against All Defendants)

133. Plaintiffs hereby incorporate by reference the allegations contained in the above paragraphs 1 to 132 of this Complaint as if fully set forth herein.

134. Defendants have failed to provide timely due process protections of a hearing and a meaningful opportunity to be heard when imposing solitary confinement and other unduly restrictive and penal conditions on pregnant women incarcerated at ACJ, including pre-trial detainees, all in violation of the Plaintiffs' and class members' Fourteenth Amendment procedural due process rights.

Prayer for Relief

WHEREFORE, Plaintiffs request that the Court grant the following relief:

- A. a declaratory judgment that the practices, procedures and actions of the Defendants have violated and continue to violate Plaintiffs' rights under the Eighth and Fourteenth Amendments to the United States Constitution;
- B. an injunction that orders Defendants to immediately cease and desist placing pregnant women in conditions of solitary confinement;
- C. an injunction that orders Defendants i) to adopt disciplinary policies that adhere to constitutional obligations to provide for the health and safety of pregnant women in their

custody; ii) to provide a diet, including prenatal vitamins and calcium supplements, that meets the medical requirements for pregnant women; and iii) to provide hearings and a meaningful opportunity to be heard prior to the imposition of punishment or punishment-like conditions of solitary confinement for pregnant inmates, whether pre-trial detainees or accused or convicted individuals;

- D. award compensatory and punitive damages to individual plaintiffs;
- E. grant attorneys' fees and costs; and
- F. grant such other relief as the Court deems just and proper.

Respectfully submitted,

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General Information

Court	United States District Court for the Western District of Pennsylvania; United States District Court for the Western District of Pennsylvania
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