



JI-NC-001-001

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
RALEIGH DIVISION

NOV 10 '94

DAVID W. DANIEL, CLERK  
U.S. DISTRICT COURT  
RALEIGH, N.C.

ANDRE LAW, *et al.*, by their next friend )  
Jeffrey M. Seigle, )  
 )  
 ) Plaintiffs, )  
 )  
 )  
 ) v. )  
 )  
 ) C. ROBIN BRITT, Secretary of Human )  
Resources, *et al.*, )  
 )  
 ) Defendants. )

NO. 93-300-CRT-BR

Consolidated with

ANTWAN SIMPSON, Cumberland Regional Juvenile )  
Detention Center, SHAUNE KIMBROUGH, Cumberland )  
Regional Juvenile Detention Center, STEPHANIE HALL, )  
Pitt Regional Juvenile Detention Center, JAIME )  
PATTERSON, Cumberland Regional Juvenile Detention )  
Center, KRIS SHONTEE DAVIS, Buncombe Regional )  
Juvenile Detention Center, EDWARD WILLIAMS, New )  
Hanover Regional Juvenile Detention Center, ALPHONS )  
MITCHELL, New Hanover Regional Juvenile Detention )  
Center, by their next friend Kathryn L. VandenBerg )  
 )  
 ) Plaintiffs, )  
 )  
 )  
 ) v. )  
 )  
 ) C. ROBIN BRITT, Secretary of Human )  
Resources, *et al.*, )  
 )  
 ) Defendants. )

NO. 5:94-CT-581-BR2

SUBSTITUTE  
SECOND AMENDED  
CLASS ACTION COMPLAINT

Pursuant to Rule 15 of the Federal Rules of Civil Procedure, with permission of the court,  
plaintiffs amend their complaint to state, as follows:

### Preliminary Statement

1. This is a suit in equity for injunctive relief by juveniles detained by the New Hanover, Pitt, Cumberland, Leonard, Gaston, Buncombe and Wilkes Juvenile Detention Centers based on overcrowding, understaffing, inadequate medical care, lack of legally required programs and other conditions of confinement which deprive plaintiffs of their constitutional rights. It is brought by the named individuals as a class action on behalf of all persons confined at the detention centers.

### Jurisdiction

2. This court has jurisdiction under 28 U.S.C. Sections 1331 and 1343 for a cause of action under 42 U.S.C. Section 1983.

### Parties

3. Antwan Simpson, Shaune Kimbrough and Stephanie Hall are United States citizens under the age of sixteen who, as of the date when the original complaint was filed, were detained at detention centers operated by the Division of Youth Services (DYS) of the North Carolina Department of Human Resources (DHR).

4. Jaime Patterson is a United States citizen under the age of sixteen who is being detained at the Cumberland Regional Juvenile Detention Center, operated by the Division of Youth Services of the North Carolina Department of Human Resources.

5. Kris Shontee Davis is a United States citizen under the age of sixteen who is being detained at the Buncombe Regional Juvenile Detention Center, operated by the Division of Youth Services of the North Carolina Department of Human Resources.

6. Edward Williams is a United States citizen under the age of sixteen who is being detained at the New Hanover Regional Juvenile Detention Center, operated by the Division of Youth Services of the North Carolina Department of Human Resources.

7. Alphons Mitchell is a United States citizen under the age of sixteen who is being detained at the New Hanover Regional Juvenile Detention Center, operated by the Division of Youth Services of the North Carolina Department of Human Resources.

8. C. Robin Britt is Secretary of the North Carolina Department of Human Resources and is responsible for the activities of the Department, including the detention of juveniles. He is sued in his official capacity only.

9. Gwendolyn C. Chunn is Director of the Division of Youth Services and is responsible for the care of juveniles committed to her custody by the courts. She is sued in her official capacity only.

10. Tommie Clark is the Manager of Detention with supervisory responsibility over the DYS detention centers. He is sued in his official capacity only.

#### Facts Supporting Claim

11. These six detention centers operated by DYS are designed to house no more than 103 children. Within the past year these centers have often had a population in excess of capacity, at times more than double their capacity. Although the detention centers are designed to house each child in an individual room, due to overcrowding many children have to sleep on mattresses on the floor of rooms. Confinement of more than one child to a room leads to conflicts and fights which are contrary to the goals and purposes of the detention centers and create a danger of serious injury to detained children.

12. Staffing is inadequate for the number of children detained. Inadequate staffing causes a reduction in services, such as curtailment of exercise periods and the educational programs, and causes children to be locked in their rooms for longer periods of time to facilitate security and control, all of which are contrary to the goals and purposes of the detention centers.

13. Because of the vast overcrowding and understaffing, the medical care provided to plaintiffs is inadequate, posing a serious and substantial health hazard.

14. The detention centers are used to house juveniles with a variety of different backgrounds and problems, from undisciplined children who have merely run away from home, to juveniles accused of serious or deadly felonies, both those who will be adjudicated by the juvenile court and some who may be bound over for trial as adults. The mixture of these groups in one facility, in combination with understaffing and overcrowding, creates a danger of assaults and other victimization of some juveniles by others. Although DYS officials have attempted to alleviate this problem by creating the Leonard Center especially for bound-over youth, the Leonard facilities are insufficient to house all bound-over youth.

15. The lack of spaces in state training schools and other youth facilities and an overload of cases in the juvenile courts means that juveniles are often detained at the detention centers for longer periods of time than is consistent with purposes for which the juveniles are detained.

#### Class Action Allegations

16. Although the impact of conditions on different children may vary, all juveniles at these detention centers suffer from the same conditions creating common questions of law and

fact for all putative class members. The population and identity of the detained children is constantly changing, and it would be impracticable to join each child in the lawsuit. The claims of the named plaintiffs are typical of the claims of the class, and the named plaintiffs will adequately protect the interests of the class. The defendants have acted or refused to act on grounds generally applicable to the class, and prosecution of separate actions would create a risk of inconsistent adjudications or of individual adjudications which would as a practical matter be dispositive of other class member claims.

#### Claims

17. Plaintiffs and the plaintiff class are being deprived of liberty without due process of law in violation of the Fourteenth Amendment of the United States Constitution. The purposes of incarceration of juveniles are to provide for their welfare and protection. Where those purposes are not served, the state has no justification for detaining juveniles, and their detention thus violates due process guarantees.

18. Plaintiffs and the plaintiff class are subjected to unreasonable seizure, punishment, and to cruel and unusual punishment, in violation of their rights under the Fourth, Eighth, and Fourteenth Amendments of the United States Constitution.

#### Relief

WHEREFORE, plaintiffs request:

- a) That the court enjoin defendants from detaining any greater number of juveniles at each Detention Center than it is designed to house;
- b) That the court enjoin defendants to employ adequate staff to provide a safe and secure environment for members of the class;

c) That the court enjoin defendants from detaining any juveniles unless and until defendants provide all legally required services, such as education, which provide the justification for detention of juveniles;

d) That the court award costs and attorneys fees to plaintiffs, and provide such other relief as is just and proper.

*Marvin Sparrow*

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**CERTIFICATE OF SERVICE**

I certify service of the foregoing pleading by mailing a copy of same, postage prepaid, to all attorneys of record and unrepresented parties.

This 10th day of November, 19 99

*Marvin Sparrow*  
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