

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

LUANN BRUNNER, on her
own behalf and on behalf of
all others similarly situated

: CLASS ACTION

Plaintiff

Brunner v. Carter



Jl-PA-001-011

vs.

: CIVIL ACTION NO. 77- 4286.

Mrs. Frances C. Carter, individ-
ually and in her official capa-
city as Chairman of the Board of
Managers of the Montgomery
County Youth Center;

Mrs. Lucy M. Sayre, Mr. Robert
Varner, Mr. Henry R. Gally, Mrs.
Alma R. Jacobs, and Mr. James H.
Corum, Jr., individually and in
their official capacities as
members of The Board of Managers
of the Montgomery County Youth
Center;

Mr. Don DeVore, individually and
in his official capacity as
Director, Montgomery County Youth
Center;

Joseph H. Stanziani, individually
and in his official capacity as
Judge, Court of Common Pleas,
Juvenile Division, Montgomery
County,

Frank Beal, individually and in
his official capacity as Secre-
tary of the Department of Public
Welfare, Commonwealth of Penn-
sylvania

Defendants

: COMPLAINT

I. PRELIMINARY STATEMENT

1. This is a civil rights action seeking declaratory and in-
functive relief, and damages. Plaintiff brings this suit as a
class action, on her own behalf and on behalf of all past, present

and future residents of the Montgomery County Youth Center. Its purpose is to redress the deprivation, under color of State law, of rights secured to plaintiff and the plaintiff class by the equal protection and due process clauses of the Fourteenth Amendment to the United States Constitution, the Eighth Amendment to the United States Constitution, Article I, Section 9 of the Pennsylvania Constitution, and the Juvenile Act of Pennsylvania.

2. Specifically, plaintiff challenges the disciplinary practice at Montgomery County Youth Center, pursuant to which she and other members of her class have been confined to their locked rooms for twenty-four (24) hours a day for several days at a time, required to eat all of their meals in their rooms, denied access to writing materials, and permitted out only to use bathroom facilities.

3. Plaintiff further requests that this Court declare invalid and enjoin current Pennsylvania Department of Public Welfare Regulations, Title 6400, regarding Juvenile Detention Facilities, insofar as they permit the use of disciplinary procedures and isolation of juveniles in violation of the above stated constitutional and statutory provisions.

II. JURISDICTION

4. Jurisdiction is conferred on this Court by 28 U.S.C. §1343 (3), (4), which provides for original jurisdiction in this Court of all suits authorized by 42 U.S.C. §1983 to redress the deprivation, under color of state law, of any right, privilege, or immunity secured by the Constitution of the United States or by an Act of Congress. Jurisdiction is also conferred on this Court by 28 U.S.C. §1331, in that the amount in controversy exceeds \$10,000, exclusive of interest and costs.

5. Plaintiff's action for injunctive and declaratory relief is authorized by 28 U.S.C. §§2201, 2202, and 42 U.S.C. §1983.

6. Independent of any statutory cause of action, this Court has pendent jurisdiction over claims asserted pursuant to the statutes and constitution of the Commonwealth of Pennsylvania.

7. The named and class plaintiffs have no adequate remedy at law and have suffered and will continue to suffer immediate and irreparable harm from the course of conduct of which they complain unless defendants are preliminarily and permanently enjoined.

III. PARTIES

8. Named plaintiff, Luann Brunner, is sixteen (16) years old, a resident of Pennsylvania, and a citizen of the United States. Her home address is 428 King Street, Pottstown, Pennsylvania. At the time of the filing of this complaint, she is in detention at the Montgomery County Youth Center, awaiting re-disposition.

9. Defendant Mrs. Frances C. Carter is the Chairman and member of the Board of Managers of the Montgomery County Youth Center. Defendants Lucy M. Sayre, Robert Varner, Henry R. Gally, Alma R. Jacobs, and James H. Corum, Jr., are all members of the Board of Managers of the Montgomery County Youth Center. They are all sued in their individual and official capacities.

10. The duties of the members of the Board of Managers are set forth at 11 P.S. §443:

"The duties of the board of managers shall be to provide a house purchased by the city for the reception of children to be placed therein under the provisions of this act, to alter said house for such purpose, to keep the same in repair, and generally to fit and furnish said house so that a separate room (so far as possible) may be provided for the accomodation of each child who may be received therein, and generally to supervise and oversee the management of said house."

11. Defendant Don DeVore is the Director and head administrative officer of the Montgomery County Youth Center. As such, he is directly responsible for the daily operations of the Center, including but not limited to the operations of the Center as they relate to internal disciplinary procedures and decisions regarding residents at the Center. He is sued in his individual and official capacity.

12. Defendant Joseph H. Stanziani is a Judge of the Court of Common Pleas of Montgomery County, and at all times pertinent hereto was sitting as Juvenile Court Judge. Defendant Stanziani is also the Juvenile Court Liason Judge. As such, he is directly involved in the administrative operation of the Montgomery County Youth Center.

13. Defendant Frank Beal is the Secretary of the Department of Public Welfare, Commonwealth of Pennsylvania (hereinafter DPW). As such, he has ultimate supervisory authority and responsibility for all regulations published by the DPW. He is sued in his individual and official capacity.

14. All actions taken by the above-named defendants as alleged in this complaint were and are done under color of state law, custom, and practice.

IV. CLASS ACTION ALLEGATIONS

15. The above-named plaintiff brings this action on her own behalf and on the behalf of all past, present, and future residents of the Montgomery County Youth Center, pursuant to 23(a) and 23(b)(2) of the Federal Rules of Civil Procedure.

16. The requirements of Rule 23(a) are met in that:

- a. the members of the class are so numerous that joinder of all members would be impractical. Although the exact number is unknown, the Montgomery County Youth Center has bed-space available for (36) thirty-six youth at any given time. Futhermore,

on information and belief, there were approximately (500) five-hundred different children detained at the Youth Center in 1976.

b. the following questions of law and fact are common to all members of plaintiff's class and predominate over any questions affecting only individual members: 1) whether class members may be disciplined and confined to their locked rooms for approximately twenty-four hours per day, several days at a time, without regard to their rights to procedural and substantive due process, or their rights to be free from cruel and unusual punishment.

c. the claims of the representative party are typical of the members of the class, and,

d. the representative party will fairly and adequately represent the interests of the members of the class. The representative party has no interests that conflict with other members of the class she represents.

17. The requirements of Rule 23(b)(2) are met in that the defendants have acted or refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive and declaratory relief for the class as a whole.

V. STATEMENT OF FACTS

18. Named Plaintiff Luann Brunner was taken to the Montgomery County Youth Center (hereinafter "Youth Center") on Monday evening, December 5, 1977, after escaping from the Youth Center a few days previously.

19. Plaintiff Brunner had been placed in the Youth Center

on or about November 1977 by Defendant Stanziani, to await re-disposition on charges of delinquency for which she was adjudicated on or about May, 1977.

20. Immediately upon her return to the Youth Center, plaintiff Brunner was permitted to shower.

21. Immediately following her shower, plaintiff was taken to her room and told she would be permitted out only to shower and use the bathroom facilities.

22. The door to plaintiff's room was locked from the outside .

23. Since the evening of Monday, December 5, 1977, and continuing until Friday, December 16, 1977, plaintiff remained locked in her room for approximately twenty-four (24) hours per day.

24. The above confinement of plaintiff in her locked room has been expressly authorized by Defendant DeVore, and has continued with full knowledge by Defendant Stanziani.

25. During the entire course of her confinement in the above manner, plaintiff has only been permitted out of her room to shower and use the bathroom facilities which only lasts about fifteen minutes each day.

26. The locked room in which plaintiff has been confined has the following physical characteristics:

- a. the room measures approximately nine (9) by twelve (12) feet.
- b. furniture in the room consists of a bed, a desk-like table, a metal stool, and a small triangular-shaped table.
- c. there is a window on one wall, and a window on the door.

27. There is a one-way intercom system in plaintiff's room, which permits staff to hear her but which does not permit plaintiff to communicate with staff.

28. Control of the one-way intercom rests entirely with the staff of the Youth Center.

29. Plaintiff's only means of communication with the staff of the Youth Center is to bang on her door.

30. Plaintiff is not permitted to wear clothes during the period of her confinement, but rather must wear pajamas.

31. Plaintiff is required to eat all of her meals in her room.

32. Plaintiff is not permitted to have any toilet articles in her room.

33. Plaintiff is not permitted to have any writing materials in her room.

34. Plaintiff has not been permitted to attend school during the entire period of her confinement in the above manner.

35. Plaintiff has not been permitted out of her room to participate in any physical activities or exercise during the entire period of her above confinement.

36. Plaintiff has not been permitted to go out of doors during the entire period of her above confinement.

37. Plaintiff is not permitted to have any other residents visit with her, in her room or otherwise; during her confinement in the above manner.

38. Plaintiff has not been visited by a psychiatrist or psychologist during the entire period of her confinement in the above manner.

39. On information and belief, plaintiff avers that there is no published set of disciplinary rules or procedures distributed to residents of the Youth Center regarding disciplinary lock-ins

and isolation.

40. Plaintiff has had no hearing, before or after her confinement, to determine whether she violated any rules, regulations or policies of the Youth Center, or whether her confinement in the above manner was necessary and appropriate.

41. Defendant DeVore's confinement of plaintiff in the above manner is punitive in nature, and is not based on any therapeutic or treatment needs of plaintiff.

42. At all times pertinent hereto, all defendants knew of or should have known that the isolation and confinement of plaintiff in the above manner was done in violation of the statutory and constitutional rights of plaintiffs, or that it was done with the malicious intention of causing a deprivation of plaintiffs statutory and constitutional rights.

43. At all times pertinent hereto, Defendant Beal knew, or should have know, that he was authorizing the use of disciplinary procedures and isolation of juveniles, through the publication of DPW Regulations Title 6400, in violation of the statutory and constitutional rights of plaintiffs.

VI. CAUSES OF ACTION

44. The factual allegations set forth in paragraphs 1 through 43 are realleged and incorporated by reference herein.

45. The actions of the named defendants, as set forth above, violate the legally secured rights of plaintiff and the plaintiff class as follows:

COUNT ONE

46. In confining and isolating plaintiff in her locked room as a disciplinary measure without providing her with a hearing before or after her confinement therein to determine whether plaintiff violated any policies, rules, or regulations of the Detention

Center, and whether such isolation was necessary and appropriate, and without providing plaintiff with any written set of disciplinary rules or procedures regarding the use of lock-ups and isolation at the Youth Center, defendants have violated the rights of plaintiff and the class she represents to due process and equal protection of the laws, as guaranteed by the Fourteenth Amendment to the United States Constitution, and their right to treatment and to custody therein the least restrictive alternative manner, as guaranteed by the due process clause of the Fourteenth Amendment to the United States Constitution, Article I Section 9 of the Pennsylvania Constitution, and the Juvenile Act of Pennsylvania.

COUNT TWO

47. Paragraphs 1 through 46 are realleged and incorporated by reference herein.

48. In restricting plaintiff to her locked room in the punitive and anti-therapeutic manner set forth above, for days to weeks at a time, defendants have violated the rights of plaintiff and the class she represents to be free from cruel and unusual punishment, and their right to treatment and to care and custody in the least restrictive alternative manner, in violation of the Eighth and Fourteenth Amendments to the United State Constitution, the Pennsylvania Constitution and the Juvenile Act of Pennsylvania.

COUNT THREE

49. Paragraphs 1 through 48 are realleged and incorporated herein by reference.

50. Section 6434.9 of DPW Regulations, Title 6400, relating generally to Juvenile Detention Facilities, and specifically to discipline and privileges, provides in paragraph F., in its en-

tirety, that "isolation of a child shall require the approval of the superintendent or his designee. In all instances the Superintendent shall be notified of the child's isolation. At any time a child is confined to his quarters, he shall not be without means of communicating with staff."

51. Insofar as Section 6434.9F fails to set forth any meaningful guidelines or limits on the use of isolation, and fails to provide for procedural due process for children placed in isolation, and fails to provide for the use of isolation only where it is found to be appropriate and suitable to the child's treatment needs, the regulation is violative of plaintiffs' rights to due process and equal protection of the laws and their right to be free from cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments to the United States Constitution, and their right to treatment and custody in the least restrictive alternative manner, in violation of the Fourteenth Amendment to the United States Constitution, the Pennsylvania Constitution, and the Juvenile Court Act of Pennsylvania.

VII. PRAYER FOR RELIEF

WHEREFORE, plaintiff and the members of the class on whose behalf this action is brought, respectfully pray:

52. That this Court assume jurisdiction of this matter;

53. That this court order that this action be maintained as a class action, pursuant to Rule 23 (a) and 23 (b) (2), Fed. R. Civ. P.;

54. That this Court grant declaratory relief pursuant to 28 U.S.C. §§2201 and 2202 that the defendants in this action, by engaging in the acts and practices set forth above, are in violation of the constitutional and statutory rights of plaintiff and the class she represents, as set forth in Section VI, above.

55. That this Court declare invalid and enjoin Section 6434.9 of DPW Regulations Title 6400, relating to Juvenile Detention Facilities, as unconstitutional and violative of plaintiffs' rights to substantive and procedural due process, and their right to be free from cruel and unusual punishment.

56. That this Court order permanent injunctive relief as follows:

- a. that defendants be enjoined from continuing to confine plaintiff and the plaintiff class in isolation under the conditions set forth above;
- b. that defendants be enjoined from continuing to use isolation or confinement in locked rooms as a disciplinary measure without providing residents with procedural due process, but not limited to notice, hearing before an impartial tribunal the right to counsel, the right to confrontation and cross-examination of witnesses, the right to present witnesses, and the right to a written statement of reasons stating the exact duration of the locked confinement, and why it is deemed necessary and appropriate;
- c. that defendants be enjoined from using isolation or confinement in locked rooms for periods in excess of one or two hours, and only in cases involving imminent danger to life or property;
- d. that defendants be enjoined from the use of "restriction" to limit privileges for periods in excess of two days, and only when its use has therapeutic value;

57. That this Court award named plaintiff sums of compensa-

tory and punitive damages commensurate with the injuries suffered by her, but not less than \$10,000.

58. That this Court allow recovery of reasonable attorneys fees and costs;

59. Grant such further relief as is necessary and appropriate.

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