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T.I. v. Delia



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**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR KING COUNTY**

T.I., a minor, by and through)	CLASS ACTION
his mother and next friend,)	
D.I.; W.F., a minor, by and)	NO. 90-2-16125-1
through his mother and next)	
friend, O.T.; D.I., a minor,)	FIRST AMENDED
by and through his mother and)	COMPLAINT FOR INJUNCTIVE
next friend, C.I., On Behalf)	RELIEF, DECLARATORY RELIEF,
Of Themselves And Others)	AND DAMAGES
Similarly Situated,)	
)	
Plaintiffs,)	
)	
vs.)	
)	
HAROLD DELIA, Director,)	
DEPARTMENT OF YOUTH SERVICES,)	
In His Personal And Official)	
Capacities, TIM HILL, King)	
County Executive, In His)	
Official Capacity, LOVE)	
DENTON, In His Official)	
Capacity, DONALD FELDER, In)	
His Official Capacity, KING)	
COUNTY, and the SEATTLE)	
SCHOOL DISTRICT NO. 1,)	
)	
Defendants.)	

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I. INTRODUCTION

1. This is a class action brought by youth incarcerated at the King County Detention Facility (KCDF) on behalf of themselves and others who are and will be involuntarily confined there. Plaintiffs have been, are, or will be required to live in inhumane and unsafe conditions at the detention center. Plaintiffs seek declaratory and injunctive relief to protect themselves from physical, psychological, and emotional harm, and to stop defendants from continuing to violate their rights protected by the federal and state constitutions, as well as relevant state statutes and regulations. Plaintiff W. F. seeks damages to compensate him for the physical injuries, emotional harm, and pain and suffering that he suffered while detained at the KCDF.

II. PARTIES

A. Plaintiffs

2.1 Plaintiff T. I. was incarcerated at the KCDF in 1990. He could again be incarcerated there. D. I. is his mother and natural guardian.

2.2 Plaintiff W. F. was incarcerated at the KCDF in 1990. He could again be incarcerated there. O. T. is his mother and natural guardian.

2.3 Plaintiff D. I. was incarcerated at the KCDF in 1990. He could again be incarcerated there. C. I. is his mother and natural guardian.

B. Defendants

2.4 Defendant Harold Delia is the Director of the KCDF. As

1 director of the facility, defendant Delia is responsible for the
2 health, safety and treatment of youth detained in the facility, as
3 well as for the staffing and operation of it. He is sued in his
4 official and personal capacities.

5 2.5 Defendant Tim Hill is the County Executive for King
6 County. He has responsibility for the administration of all non-
7 judicial functions at the KCDF pursuant to RCW 13.20.060 and King
8 County Ordinance No. 3699. He is sued in his personal and
9 official capacity.

10 2.6 Defendants Love Denton and Donald Felder are responsible
11 for the administration of the detention school which is operated
12 by the Seattle School District No. 1.

13 2.7 The Seattle School District No. 1 contracts with the
14 KCDF to provide education to youth detained there.

15 2.8 King County is organized under the laws of Washington
16 and operates the KCDF.

17 **III. CLASS ACTION ALLEGATIONS**

18 3.1 The class of youth bringing this lawsuit is comprised of
19 all individuals who are presently confined or who will be confined
20 at the KCDF. The class consists of pre-trial detainees as well as
21 youth who have been sentenced to the facility after adjudication.

22 3.2 This is an appropriate class action because the general
23 class of persons is so numerous that the joinder of all members is
24 impracticable.

25 3.3 The approximate size of the class, i.e., the number of
26 persons presently incarcerated, is 120. The size of the class
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1 fluctuates from day to day depending on the number of youth
2 detained at the facility.

3 3.4 More than approximately 5,000 youth are detained at the
4 KCDF per year. Approximately 1,150 youth per year are sentenced
5 to the KCDF.

6 3.5 The average daily population at the KCDF in 1989 was
7 124.53. The average length of stay for non-sentenced youth in
8 1989 was 9.13 days, and 7.87 days for sentenced youth.

9 3.6 The questions of law and fact presented here are typical
10 of the class.

11 3.7 The claims of the named plaintiffs are typical of those
12 of the class.

13 3.8 Plaintiffs will fairly and adequately protect the
14 interests of the other members of the class because they have been
15 subjected to the conditions challenged as illegal by the class as
16 a whole. These plaintiffs have available competent counsel
17 willing and able to protect the interests of the class who have
18 experience in civil rights and prisoners' rights litigation.

19 3.9 The defendants have acted and refused to act with respect
20 to the violation of legal rights on grounds generally applicable
21 to the class, thereby making appropriate final class-wide
22 injunctive and corresponding declaratory relief.

23 **IV. FACTUAL ALLEGATIONS**

24 **A. Overcrowding and Understaffing**

25 4.1 All youth currently incarcerated at the KCDF are
26 confined in one unit, called Alder, originally designed to house
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1 64 youth.

2 4.2 More than 115 youth are being routinely confined in the
3 Alder Unit, and will be confined there, until construction of a
4 new detention facility is completed on the same site in not less
5 than two years.

6 4.3 Alder living units which were designed to house 17-18
7 youth are and will be used to confine as many as 26-27 detainees.

8 4.4 Before construction began, the KCDF consisted of two
9 buildings, Alder and Spruce. Both buildings contained programming
10 and sleeping areas for detained youth.

11 4.5 The Spruce Unit has been demolished in preparation for
12 the construction of the new detention facility.

13 4.6 All youth who were previously housed in the Spruce Unit
14 were transferred to Alder.

15 4.7 Before Spruce was demolished, it had at least 94
16 sleeping spaces.

17 4.8 More than half the living unit space available before
18 construction was located in the now demolished Spruce Unit.

19 4.9 During 1990 the population in the Alder unit alone has
20 risen as high as 133.

21 4.10 Defendants Harold Delia and Tim Hill have plans to
22 house as many as 159 youth, if necessary, in the Alder Unit during
23 construction.

24 4.11 Some youth detained in Alder are forced to reside in
25 locked dormitory-style cells that house six youth which have no
26 toilets, windows, or sinks.

27 4.12 Others at KCDF are forced to live in single rooms that

1 have been double-bunked.

2 4.13 Youth who are double-bunked in rooms designed as single
3 occupancy rooms share one toilet and sink which are located in the
4 cell. There are no privacy dividers or curtains, so youth in
5 these rooms must use the toilet in front of each other.

6 4.14 In addition to the living units all medical,
7 educational, recreational and other program services are located
8 in the Alder Unit. The dining room where youth are fed is also
9 located there.

10 4.15 It is unsafe and inhumane, as well as counter-
11 therapeutic, for youth to be required to live in the amount of
12 space available in the Alder Unit.

13 4.16 Defendants Delia and Hill fail to employ, train,
14 maintain and adequately supervise a sufficient number of staff to
15 insure the safety and well-being of youth who reside in Alder.

16 4.17 There are insufficient numbers of staff to insure that
17 youth are provided with minimum treatment resources and
18 recreational opportunities, and reasonable contact with friends,
19 family and other members of the community.

20 4.18 The understaffing and overpopulation of the Alder unit
21 at the KCDF are due to the policy decisions of defendants Delia
22 and Hill.

23 4.19 Defendants Delia and Hill acted with wanton and
24 reckless disregard of and deliberate indifference to the legal
25 rights and safety of plaintiffs by closing Spruce and by placing
26 all youth who are detained by the KCDF into Alder.

27 4.20 There is no legitimate state objective served by the

1 overcrowding at KCDF.

2 **B. Physical Plant And Other Conditions**

3 4.21 The KCDF is not adequately ventilated. In the summer,
4 it is often unbearably hot in the living units, school, and other
5 locations at the facility.

6 4.22 Youth have fainted from the excessive heat.

7 4.23 The KCDF does not meet minimum standards for fire
8 safety within a juvenile correctional facility.

9 4.24 The KCDF is dirty and unsanitary. There is often grime
10 on the walls. The Alder unit is infested with mice. The holding
11 cells located in the courtroom area smell of urine.

12 4.25 Youth frequently find hair in the food.

13 4.26 Youth are required to handle dirty and blood-stained
14 laundry with their bare hands.

15 **C. Lack of Adequate Educational, Recreational, And Treatment-
16 Oriented Programming And Services.**

17 4.27 Defendants Delia and Hill fail to provide plaintiffs
18 with a reasonable opportunity for regular outdoor recreation and
19 large muscle exercise.

20 4.28 Defendants fail to provide plaintiffs with adequate
21 educational assessments, opportunities and programs appropriate
22 for their respective levels of development.

23 4.29 Defendants Delia and Hill fail to provide plaintiffs
24 with minimally adequate counseling, social service and
25 rehabilitative services.

26 4.30 Substance abuse treatment is not provided to all youth
27 who need it.

1 4.31 Defendants Delia and Hill fail to provide plaintiffs
2 with a reasonable opportunity to visit with and to telephone
3 relatives or friends.

4 4.32 Some youth are confined to their rooms for up to 23
5 hours per day.

6 4.33 Defendants punish plaintiffs by denying them
7 educational, recreational, and other activities.

8 4.34 Defendants do not provide plaintiffs with a meaningful
9 opportunity to be heard prior to the imposition of punishment.

10 4.35 There is no legitimate justification for depriving
11 plaintiffs an adequate opportunity for education, recreation and
12 treatment services.

13 4.36 The lack of adequate education, recreation, visitation
14 and treatment services, and resulting idleness, harm plaintiffs.

15 **D. Violence And Safety**

16 4.37 The total number of incidents of violent and unsafe
17 episodes occurring at the KCDF, including the use of physical
18 force and aggression, physical violence resulting in injuries to
19 staff and youth, suicide attempts and gestures, and escapes and
20 attempted escapes, have significantly increased as a direct result
21 of the closure of Spruce and consequent overcrowding in the Alder
22 living unit.

23 4.38 Named plaintiff W. F. was assaulted in Lower Alder by
24 another resident. The resident broke his jaw on both sides, and
25 W. F. was hospitalized for three days as a result of the assault.
26 The assault occurred in a six-person cell located in lower Alder.

27 4.39 On June 23, 1990, two youth residing in a six-man cell

1 in Lower Alder sexually assaulted another youth by forcing one of
2 their penises into the victim's mouth.

3 4.40 The electronic audio monitoring devices located in each
4 cell are broken or not used by staff so that youth are not
5 properly monitored while in their cells. Staff do not adequately
6 visually monitor the activities of youth.

7 4.41 Defendants fail to provide reasonably adequate
8 protection from harm. Such failure subjects plaintiffs to serious
9 danger and harm. As a result of the increase in violence at the
10 KCDF, plaintiffs suffer unnecessary pain and anguish. Plaintiffs
11 fear for their safety.

12 **E. Inappropriate Classifications And Less Restrictive**
13 **Alternatives to Detention**

14 4.42 Youth are inappropriately mixed together by age,
15 offense category and adjudication status: Younger, more
16 vulnerable detainees are housed with older youth; pre-trial
17 detainees are mixed with youth sentenced to the facility, and
18 detainees charged with or found guilty of more serious violent
19 offenses are housed with youth charged with or found guilty of
20 non-violent offenses.

21 4.43 These classification practices result in or contribute
22 to excessive and unreasonable levels of violence within the KCDF.

23 4.44 Alternatives to detention are not appropriately used to
24 keep unadjudicated youth who are safe to be in the community free
25 from secure confinement at the KCDF.

26 4.45 Defendants have failed to fund and provide plaintiffs
27 with sufficient alternatives in the community to confinement in

1 secure detention.

2 F. Injury To Plaintiffs

3 4.46 The conditions of confinement described herein inflict
4 pain on the plaintiffs. The plaintiffs have suffered physical,
5 emotional, and mental harm and deterioration as a direct and
6 proximate result of the actions and inactions of the defendants
7 described herein.

8 4.47 The conditions to which plaintiffs are subjected are
9 demoralizing, dehumanizing, debilitating and depressing. The
10 impact of these conditions threaten the health and well-being of
11 youth at the KCDF, and creates a probability of recidivism and
12 future incarceration.

13 G. Damages (W. F. Only)

14 4.48 Named plaintiff W. F. was incarcerated in the lower
15 Alder unit on approximately June 12, 1990. He was placed in a
16 cell with five other residents. Defendant Delia and King County
17 had a duty to treat plaintiff W. F. humanely and to protect him
18 from harm while he was incarcerated at Lower Alder.

19 4.49 For his first four to five days of residence in the
20 cell, W. F. was psychologically intimidated and "hassled" by
21 another resident, whose name, on information and belief, is D.B.

22 4.50 In the evening of his fourth or fifth day of residence
23 in the cell, W. F. was assaulted by resident D.B. During the
24 assault, W. F. was hit multiple times in the face causing both
25 sides of his jaw to be broken. No staff person responded to the
26 assault and W. F. did not receive medical attention until the next

1 day (approximately 12 hours later) when his face had visibly
2 swollen.

3 4.51 W. F. was hospitalized at Harborview Hospital for three
4 days as a result of the assault. He was then returned to Lower
5 Alder and placed in a single dirty room near the staff station for
6 approximately another ten days until his release.

7 4.52 W. F.'s injuries (both physical and emotional) were the
8 proximate result of the negligence, callous disregard, and
9 deliberate indifference of defendants Delia and King County and
10 their agents. In particular, the assault occurred because of the
11 conditions described in Section IV of this complaint.

12 4.53 W. F. did not provoke his assault nor was he
13 contributorily negligent in causing the assault.

14 4.54 The conditions in the KCDF were dangerous to the health
15 and safety of plaintiff W. F. while he was incarcerated there.

16 4.55 W. F. has or will soon file a claim for damages with
17 the Clerk of the King County Council contemporaneous with the
18 filing of this lawsuit.

19 **H. Under Color Of State Law**

20 4.56 At all times relevant herein defendants were acting
21 under color of state law.

22 **V. CAUSES OF ACTION**

23 **FIRST CAUSE OF ACTION**

24 Plaintiffs have been, are being, and will in the future be
25 subjected to assaults, physical injuries, and unsafe, unsanitary
26 and inhumane conditions in violation of the due process clause of
27

1 the Fourteenth Amendment to the United States Constitution,
2 Article 1, §§3 and 14 of the Washington Constitution, and 42
3 U.S.C. §1983. These harms and violations are the proximate result
4 of the negligence, recklessness and/or deliberate indifference of
5 defendants.

6 **SECOND CAUSE OF ACTION**

7 Defendants have denied, and will again in the future deny,
8 plaintiffs' their right to treatment and rehabilitation in
9 violation of the due process clause of the Fourteenth Amendment to
10 the U.S. Constitution and Article 1, §3 of the Washington
11 Constitution, 42 U.S.C. §1983, and RCW 13.40.038.

12 **THIRD CAUSE OF ACTION**

13 Defendants have deprived plaintiffs of their right to an
14 education in violation of the due process clause of the Fourteenth
15 Amendment to the United States Constitution, Article 9, §1 of the
16 Washington Constitution, 42 U.S.C. §1983, and RCW 13.04, RCW 13.40
17 and RCW 28A.

18 **FOURTH CAUSE OF ACTION**

19 By failing to provide plaintiffs with a reasonable
20 opportunity for exercise and outdoor recreation defendants have
21 violated the due process clause of the Fourteenth Amendment to the
22 United States Constitution, Article 1, §§3 and 14 of the
23 Washington Constitution, 42 U.S.C. §1983, RCW 13.16.040, and RCW
24 13.40.038.

25 **FIFTH CAUSE OF ACTION**

26 By failing to provide plaintiffs with a safe, humane and
27 rehabilitative environment defendants have violated RCW 13.40.038.

28 **FIRST AMENDED
CLASS ACTION COMPLAINT - Page 11**

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SIXTH CAUSE OF ACTION

Defendants have violated the Fourteenth Amendment to the United States Constitution, Article 1, §§3 and 14 of the Washington Constitution, 42 U.S.C. §1983 and RCW 13.40.038 by confining at the KCDF unadjudicated youth who could safely remain in the community.

SEVENTH CAUSE OF ACTION

Defendants have failed to provide adjudicated youth with access to consolidated juvenile services funds and programs in violation of RCW 13.06 and WAC 275-35 et seq.

EIGHTH CAUSE OF ACTION

Defendants' restriction on plaintiffs' access to telephone communications and visits with family, friends and other members of the community violates the First and Fourteenth Amendments of the United States Constitution, and Article 1, §5 of the Washington Constitution and 42 U.S.C. §1983.

NINTH CAUSE OF ACTION
(Plaintiff W. F. only)

The acts and omissions of Defendants' Delia, King County, and their agents with respect to W. F. constitute negligence, gross negligence, and callous disregard, and deliberate indifference for the welfare of W. F., which acts and omissions were the proximate cause of physical and emotional harm and pain and suffering to plaintiff W. F.

TENTH CAUSE OF ACTION
(Plaintiff W. F. only)

Defendants Delia and King County and their agents have unlawfully committed acts and omitted to perform duties with

1 respect to the KCDF that constitute a public nuisance, to wit:
2 these defendants acts and omissions created a public nuisance by
3 permitting the conditions described in Section IV this complaint
4 to persist, which conditions proximately caused physical and
5 emotional harm and pain and suffering to plaintiff W. F.

6
7 **VII. PRAYER FOR RELIEF**

8 **WHEREFORE**, plaintiffs on their own behalf and on behalf of
9 all others similarly situated, ask this court to:

10 A. Issue an order certifying this action to proceed as a
11 class action pursuant to CR 23;

12 B. Issue a judgment declaring that by subjecting plaintiffs
13 to the conditions of confinement described in this complaint,
14 defendants have violated plaintiffs' rights guaranteed by the
15 First and Fourteenth Amendments to the United States Constitution,
16 Articles 1, §§3 and 14, and Article 9, §1 of the Washington
17 Constitution, 42 U.S.C. §1983, and RCW 13.04, 13.06, 13.16, 13.40
18 and Title 28A.

19 C. Issue preliminary and permanent injunctions enjoining the
20 defendants, their agents, employees, successors in office and
21 assigns from engaging in unconstitutional and unlawful acts and
22 practices including, but not limited to:

- 23 1) Confining plaintiffs in an unsafe, overcrowded,
24 unsanitary and unhealthy facility;
- 25 2) Failing to provide plaintiffs with a reasonable
26 opportunity for exercise including outdoor
recreation and for personal and telephone contact
with family and other members of the community;
- 27 3) Failing to provide adequate numbers of staff with

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appropriate training, experience and supervision to insure plaintiffs' safety and to provide plaintiffs with rehabilitative treatment;

- 4) Failing to adequately screen and evaluate plaintiffs to insure that they are not inappropriately confined at the KCDF;
- 5) Failing to provide plaintiffs with appropriate less restrictive community-based alternatives to confinement;
- 6) Failing to provide plaintiffs with appropriate educational services including academic, vocational and special education;
- 7) Failing to provide plaintiffs with appropriate rehabilitative services and programming.

D. Award plaintiff W. F. damages for his physical and emotional injuries in an amount to be proved at trial.

E. Award plaintiffs reasonable attorneys' fees and costs pursuant to 42 U.S.C. §1988.

F. Award such other and further relief as this Court may

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deem necessary.

DATED: September 7, 1990

Respectfully submitted,

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