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Alice L. Bendheim
Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

STEPHEN BISHOP, on behalf)
of himself and all others)
similarly situated,)
)
Plaintiffs,)
)
v.)
)
JAMES D. RICKETTS, Director)
of Corrections; State of)
Arizona: DONALD WAWRZASZEK,)
Superintendent Arizona State)
Prison at Florence; ALFRED)
GRIJALVA, Warden, Cellblock 6,)
Arizona State Prison at)
Florence,)
)
Defendants.)

NO: CIV 84-111 CAM
AMENDED COMPLAINT

Plaintiffs allege as follows:

1. This is a civil action for declaratory and injunctive relief seeking redress for deprivations, under color of state law, of the rights, privileges and immunities secured by the Constitution of the United States, and, in particular, those secured by the First, Sixth, Eighth and Fourteenth Amendments thereof. Plaintiffs specifically seek relief from their involuntary subjugation to a repressive, arbitrary and irrational system

1 of behavior modification by the defendants. Forced submission to
2 this system, which is so poorly designed and implemented that it
3 can serve no rational or legitimate purpose, results in psycho-
4 logical and physical cruelty in violation of the aforementioned
5 fundamental constitutional guarantees.

6 JURISDICTION

7 2. This Court has jurisdiction of this action under 28
8 U.S.C. § 1343(3) since this is an action to redress the depri-
9 vation, under color of state law, regulation, custom or usage of
10 rights secured by the Constitution of the United States speci-
11 fically, the Civil Rights Acts, 42 U.S.C. § 1983.

12 3. This Court also has jurisdiction of this action under
13 28 U.S.C. § 1343(4) since this is an action to secure declaratory,
14 injunctive and other equitable relief under acts of Congress
15 providing for the protection of civil rights, specifically the
16 Civil Rights Acts, 42 U.S.C. § 1983.

17 4. This Court also has jurisdiction of this action under
18 28 U.S.C. §§ 2201 and 2202, and Federal Rules of Civil Procedure
19 57 and 65 since this is an action seeking a judgment declaring the
20 rights of plaintiffs and for injunctive and other equitable relief
21 based upon that declaratory judgment under § 1983.

22 5. This Court has further jurisdiction of this action
23 under 28 U. S. C. § 1331(a) since it is a civil action arising
24 under the Constitution and laws of the United States.

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1 class. A class action is appropriate because Defendants have
2 acted or refused to act on grounds generally applicable to the
3 class, thereby making appropriate final injunctive relief or
4 corresponding declaratory relief with respect to the class as a
5 whole. At present the members of the class number approximately
6 160.

7 FACTUAL ALLEGATIONS

8 12. On or about January 6, 1984, Defendant Grijalva
9 announced to the plaintiff class the inauguration of a new dis-
10 ciplinary program in ASU, to be known as the Management Adjust-
11 ment Program (MAP). Although, by the announcement, MAP was to
12 be effective on February 6, 1984, it was, in fact imposed upon a
13 group of approximately 16 of the class on January 6, 1984, without
14 notice. A true copy of the MAP outline and notice are attached to
15 Plaintiff Bishop's original complaint on file herein, and to the
16 Defendants' Objection to Preliminary Injunction on file herein.

17 13. MAP provides for three "levels" of housing, an "Entry/
18 Adjustment" level, and "Intermediate" level and an "Advanced
19 Housing" level. It also provides for a "Progressive Privilege
20 Forfeiture Schedule", by which inmates lose the benefits of a
21 level in a progressive fashion, dependent upon the number of
22 "offenses" which they allegedly commit.

23 14. Movement through the MAP system is based upon time
24 tables which are vague, inconsistent and ill-defined.

25 15. Behavior which may result in punishment, or for that
26 matter behavior which may result in reward, is unspecified.

1 16. Because of fundamental defects in design and imple-
2 mentation of the MAP system, it cannot, and in fact does not,
3 address the specific behavior problems of specific individuals.
4 The result of these defects is a system that is so arbitrary and
5 unfair that it lacks any rational purpose.

6 17. Neither staff members who must adminster this system,
7 nor prisoners who must respond to it, are trained or educated in
8 its myriad complex provisions. Its administration is haphazard,
9 without regulation or certainty, at the whim of individual
10 officers.

11 18. The MAP system is counter-rehabilitative. Penalties
12 imposed under this system, particularly in areas including means
13 of contact with the outside world and programmatic self-improve-
14 ment, not only do not encourage the legitimate state goals of
15 rehabilitation and reintegration, but deny prisoners who attempt
16 to rehabilitate themselves that opportunity.

17 19. Penalties under this system in regard to personal
18 hygiene, food, exercise and personal integrity are intentionally
19 degrading and dehumanizing and serve no legitimate purpose.
20 Prohibition of all food except unidentifiable food-stuff, the
21 denial of minimally adequate clothing and hygiene supplies, the
22 use of mechanical restraints and other provisions contribute not
23 to the improvement, but to the destruction of the human being.

24 20. Prohibition of all food except unidentifiable food-stuff
25 violates the rights of inmates whose religious beliefs prohibit
26 the eating of certain foods. Prohibition on the possession of
religious material infringes upon religious freedom.

1 21. Penalties imposed under the MAP system include restric-
2 tions of access to counsel and to the courts by using, as punish-
3 ment, severe restrictions on telephone calls, visits, and access
4 to legal materials. Criteria for "approval" of attorney visits
5 or phone calls is unspecified.

6 22. Punishments are imposed within the program without
7 regard to procedural due process. If, in the opinion of a
8 corrections officer, an inmate has not, for example, swept the
9 floor properly, and the officer writes this in a report, the
10 privilege forfeiture goes into effect immediately upon approval
11 of the shift commander. The inmate can write a letter protesting
12 the action but the penalty is imposed before any review takes
13 place.

14 CAUSES OF ACTION

15 First Claim: Denial of Due Process

16 23. Plaintiffs reallege and incorporate by reference
17 paragraphs 12-22.

18 24. The involuntary subjugation of plaintiffs to the MAP
19 system by the defendants, who designed, implemented and are
20 presently enforcing such system deprives plaintiffs of their
21 rights to due process of law as guaranteed by the Fourteenth
22 Amendment to the United States Constitution, and the Constitution
23 and laws of the State of Arizona.

24 Second Claim: Cruel and Unusual Punishment

25 25. Plaintiff reallege and incorporate by reference
26 paragraphs 12-22.

1 26. The involuntary subjugation of the plaintiffs to the
2 MAP system violates their constitutionally guaranteed right to be
3 free from cruel and unusual punishment. By use of this system,
4 defendants intentionally and without rational justification subject
5 plaintiffs to psychological and physical suffering that is incon-
6 sistent with evolving standards of decency. The individual,
7 discrete punishments authorized by way of this system, as well as
8 subjugation to the system as a whole, cause plaintiffs to suffer
9 the unnecessary and wanton infliction of pain, in violation of the
10 Eighth and Fourteenth Amendments to the United States Constitution.

11 Third Claim: Access to Courts

12 27. Punishment authorized by the MAP system includes vague
13 and unspecified restrictions upon attorney-client phone contact
14 and visiting. Accumulation of legal materials is unnecessarily
15 restricted. Access to counsel and the courts is impeded by
16 defendants, in violation of the Sixth and Fourteenth Amendments
17 to the United States Constitution.

18 Fourth Claim: Religious Freedom

19 28. Punishment authorized by the MAP system includes the
20 forced ingestion of unidentifiable food-stuff, restrictions on
21 visiting and phone calls, and restriction of the possession of
22 religious materials. Defendants, by use of this system, deny
23 plaintiffs their right to the free exercise of their religious
24 beliefs as guaranteed by the First and Fourteenth Amendments to
25 the United States Constitution.

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NO ADEQUATE REMEDY AT LAW

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2 29. As a proximate result of the defendants' policies,
3 practices, procedures, acts and omissions, plaintiffs have
4 suffered, do suffer and will continue to suffer immediate and
5 irreparable injury, including physical, psychological and emo-
6 tional injury. Plaintiffs physical and psychological health and
7 well-being will continue to deteriorate during the course of
8 their confinement under the conditions described in this complaint.
9 Plaintiffs have no plain, adequate or complete remedy at law to
10 redress the wrongs described herein. Plaintiffs will continue to
11 be irreparably injured by the policies, practices, procedures,
12 acts and omissions of the defendants unless this court grants the
13 injunctive relief that plaintiffs seek.

PRAYER FOR RELIEF

14
15 WHEREFORE plaintiffs and the class they represent pray this
16 court:

17 1. Determine by order pursuant to Rule 23, Federal Rules
18 of Civil Procedure that this action may be maintained as a class
19 action.

20 2. Issue a declaratory judgment stating that defendants'
21 policies, practices, acts and omissions described in this complaint
22 violate plaintiffs' rights, guaranteed to them by the First,
23 Sixth, Eighth and Fourteenth Amendments to the United States Con-
24 stitution and the constitution and laws of the State of Arizona.

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