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U. S. DISTRICT COURT  
DISTRICT OF ARIZONA

ACLU NATIONAL PRISON PROJECT  
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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

CHARLES BLACK, THOMPSON BOONE,  
ELDON ESCALANTE, ALONZO MATA, on  
behalf of themselves and all others  
similarly situated,

Plaintiffs,

v.

JAMES D. RICKETTS, Director of  
Corrections;  
DONALD WAWRZASZEK Superintendent,  
Arizona State Prison at Florence;  
AFRED GRIJALVA, Warden, Cellblock 6,  
Arizona State Prison at Florence,

Defendants.

No. CIV 84-111 CAM

SECOND 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

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approximately three to four hours per week for exercise and showering. Often even this minimal out-of-cell time is denied or curtailed. Exercise is provided in a number of outdoor cage-like, fenced concrete areas. There are no indoor dayrooms, recreation or program areas. No educational or rehabilitative programs are offered. Many of the men in Cellblock 6 have existed in this state of near-total isolation and idleness since Cellblock 6 opened, over four years ago.

4. Conditions of extreme environmental deprivation, along with the forced submission of prisoners to an aversive behavior modification system, have engendered an atmosphere of frustration, hostility and violence. Brutal attacks by guards upon prisoners are common. Rectal body cavity searches are often used as punishment under the guise of security.

5. Prisoners are generally assigned indefinitely to cellblock 6. Prison officials, although aware of the many violations of human and constitutional rights of Plaintiffs, have taken no positive action to alleviate these conditions of confinement. Plaintiffs request declaratory and injunctive relief requiring defendants to cease these constitutional violations, and to provide to plaintiffs the basic necessities of life as required by law.

#### JURISDICTION

6. This Court has jurisdiction of this action under 28 U.S.C. §1343(3) since this is an action to redress the deprivation, under color of state law, regulation, custom or

usage of rights secured by the Constitution of the United States specifically, the Civil Rights Acts, 42 U.S.C. §1983.

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

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

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

#### PARTIES

10. Plaintiffs are citizens and residents of the United States residing in the State of Arizona and are incarcerated in Cellblock 6, Arizona State Prison, Florence, Pinal County, Arizona.

11. Defendants are employees of the Department of Corrections, State of Arizona, and are responsible for the administration of the State Prison at Florence, and Cellblock 6.

12. Defendants are sued individually and in their official capacities.

13. At all relevant times, defendants have acted under color of state law. All acts complained of herein occurred within the state of Arizona.

#### CLASS ACTION

14. Plaintiffs bring this action on behalf of themselves and as a class pursuant to Rule 23 of the Federal Rules of Civil Procedure, for all prisoners classified to administrative segregation and now incarcerated in Cellblock 6, and all persons who may be so incarcerated there in the future. Such persons constitute a class so numerous that joinder of all members is impracticable. There are questions of law or fact common to the class, the claims of the representative parties are typical of the claims of the class, and the representative parties and their counsel will fairly and adequately protect the interests of the class. A class action is appropriate because Defendants have acted or refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the class as a whole. At present the members of the class number approximately 160.

#### FACTUAL ALLEGATIONS

##### Environmental Conditions

15. Prisoners in Cellblock 6 are single-celled. Each cell contains a stainless-steel combination toilet/sink. There is a fluorescent light in each cell, and a concrete slab upon which a

mattress is placed. Some cells contain a desk and chair arrangement which is attached to the wall. Prisoners are locked down approximately 23 1/2 hours per day.

16. Each cell contains a window designed to provide natural light, but most of these have been welded shut and covered over with steel plating. Most of the cells are extremely dark and inappropriate for reading or writing. Many cells have also had steel plating placed over the openings on the front interior wall and door, further restricting the entry of artificial light into the cells. If the lamp inside the cell is dysfunctional, the inmate has no light at all. One plaintiff spent three days in his cell in total darkness.

17. Many of the cells, particularly those that have been enclosed with steel plating, have virtually no measurable ventilation.

18. Plumbing is often inoperable, leaving inmates without water or toilet facilities for periods of weeks. On occasion, water is turned off prior to shakedowns, then not turned back on for long periods of time.

19. Prisoners are not provided with adequate cleaning supplies to sanitize their cells. Cells are rodent and insect infested. Cells are designed in such a way that thorough cleaning is impossible.

20. Bedding and clothing are infrequently changed and improperly laundered. Clothing and bedding are on occasion removed as punishment. Mattress covers are filthy and torn, making them impossible to sanitize.

21. Common areas, including shower facilities, are not properly cleaned, are filthy, unsanitary and often in varying states of disrepair. Food and other waste are left to rot on the floors adjacent to the cell areas. In Wing II, prisoners were not allowed to clean for over six weeks.

22. Plexiglass windows throughout the interior of the facility are cracked or broken, and left in a dangerous state of disrepair.

23. Prisoners are not provided with adequate supplies to keep themselves clean. Hygiene supplies are not distributed regularly. Many prisoners, because they are not indigent and have had store privileges revoked under the MAP program, will be without toothpaste, deodorant, shampoo and other supplies for a period of months.

24. Kitchen and food service facilities are uniformly unsanitary. Food is prepared, stored and served in an unhealthy, unsafe manner, endangering the lives of those prisoners who eat the food served to them. Food is often served at improper temperatures. Rodent infestation is evident in food preparation areas. Some prisoners eat only two or three times per week in an effort to avoid illness.

25. Prisoners are not provided with an adequately nutritious diet. Proper provisions are not made for medical, vegetarian or religious diets. Prisoners in Cellblock 6 do not get either the same quantity or quality of food as general population inmates. Denial of food is used as punishment.

26. Fire hazards exist throughout the facility. No provision is made for rapid evacuation of prisoners in the event of fire. There is no sprinkler system in the unit. Property is stored in cardboard boxes piled from floor to ceiling in one small room in a manner constituting an extreme fire hazard. On several occasions, small fires have occurred and plaintiffs have been forced to remain in smoke-filled cells.

MAP Program

27. On or about January 6, 1984, Defendant Grijalva announced to the plaintiff class the inauguration of a new disciplinary program in Cellblock 6, to be known as the Management Adjustment Program (MAP). Although, by the announcement, MAP was to be effective on February 6, 1984, it was, in fact imposed upon a group of approximately 16 of the class on January 6, 1984, without notice. A true copy of the MAP outline and notice are attached to Plaintiff Bishop's original complaint on file herein, and to the Defendants' Objection to Preliminary Injunction on file herein.

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

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

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

31. Because of fundamental defects in design and implementation of the MAP system, it cannot, and in fact does not, address the specific behavior problems of specific individuals. The results of these defects is a system that is so arbitrary and unfair that it lacks any rational purpose.

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

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

34. Penalties under this system in regard to personal hygiene, food, exercise and personal integrity are intentionally degrading and dehumanizing and serve no legitimate purpose. Prohibition of all food except unidentifiable food-stuff, denial of appropriate clothing and hygiene materials and other provisions contribute not to the improvement, but to the destruction of the human being.

35. Prohibition of all food except unidentifiable food-stuff violates the rights of inmates whose religious beliefs prohibit



the eating of certain foods. Prohibition of the possession of religious material infringes upon religious freedom.

36. Penalties imposed under the MAP system include restrictions of access to counsel and to the courts by using, as punishment, severe restrictions on telephone calls, visits, and access to legal materials. Criteria for "approval" of attorney visits or phone calls is unspecified.

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

#### Communications

38. Contact visits are arbitrarily denied to all prisoners in Cellblock 6, regardless of their involvement in or suspicion of disciplinary infractions. Often even non-contact visits are arbitrarily denied. Visiting rooms are inadequate. Because of the design of the visiting room, private visits are impossible. Denial of adequate time and facilities for visiting is counter-rehabilitative. Visitors and prisoners are forced to submit to strip searches, and even body cavity searches, prior to non-contact visits.

39. Prisoners are effectively cut off from their families, friends and the outside world. Telephone privileges are

virtually non-existent. Ostensibly one phone call per month is allotted to each prisoner in level III, but even this is often denied.

40. Prisoners, partly because of MAP program restrictions, are denied stamps and writing materials for correspondence. Receipt and sending of mail is arbitrarily restricted.

#### Violence

41. Because of the generalized conditions of isolation and idleness, coupled with the aversive behavior modification program, prisoners live in an atmosphere characterized by fear and brutality. The lack of adequately trained supervisors and guards exacerbates these problems. Prisoners are restrained each time they leave their cells, even for visiting or showers. Guards respond to even relatively minor acts of misbehavior with force, including beating, use of mechanical restraints and gassing. Many prisoners, even while restrained, have been beaten, or thrown head first into plexiglass windows with such force that the windows were cracked.

42. Forced rectal body cavity searches are often used as punishment or retribution. On March 22 and 23, 1984, over one hundred prisoners were forced to submit to rectal searches that were conducted in a degrading and abusive manner. Prisoners have been forced to submit to rectal searches by surgical instruments, and to repeated forced enemas. One prisoner was forced to submit to six rectal searches in one day.

Staffing

43. Inadequacy of staff, both in numbers and training, contributes to problems of violence. Overreaction by guards often escalates minor problems into major incidents. Guards are not properly trained to deal with the specialized problems of Cellblock 6 prisoners. Numbers of direct contact staff are inadequate. Often one or two guards are responsible for supervision of an entire wing, making provision of necessary services, such as showering, exercise, and visiting difficult or impossible. Numbers of trained guards are totally inadequate to assure the safety of the guards or the prisoners.

Medical Care

44. Delivery of routine and emergency medical care services in Cellblock 6 is so deficient as to amount to deliberate indifference to the medical needs of prisoners. Requests for services are often delayed or ignored. Medication is not provided as prescribed. Medical personnel are called upon to participate in abusive body cavity searches. Prisoners remain in a chronic life-threatening situation due to inadequacies in delivery of medical services.

45. Psychiatric services are virtually non-existent. Although some prisoners in Cellblock 6 clearly evidence psychiatric problems, therapy to alleviate those problems is not provided.

Recreation

46. No recreational activities are provided in Cellblock 6 to alleviate the idleness, boredom and sensory deprivation

resulting from extended periods of isolation. Outdoor exercise for most prisoners is limited to three hours per week, and occurs in concrete-floored, fenced cages located at the rear of the unit. Prisoners are placed in individual cages, occasionally with a basketball or weight machine, often with no equipment. No facilities are provided for indoor recreation.

Programming

47. No provision is made to Cellblock 6 residents for effective educational, vocational or any other rehabilitative programming. Psychological and sociological counselling are virtually non-existent. Counselors primarily provide case management and often sit on disciplinary and classification committees. Prisoners are not permitted to participate in any group activities of any kind.

Access to Courts

48. Prisoners in Cellblock 6 are denied access to courts. Severe restrictions on visiting, correspondence and telephone calls prohibit effective contact with lawyers. Prisoners have no access to inmate law clerks. Access to law library facilities is totally inadequate or non-existent.

*Outlined*

Religion

49. Prisoners are effectively denied the right to practice their religious beliefs due to unreasonably severe security restrictions. Religious restrictions on food are ignored by prison personnel, particularly with regard to the MAP program.

Classification

50. Operating policies in Cellblock 6 deny prisoners due process in classification. There is no objective, risk-based system in operation, resulting in over-classification of many prisoners. Reviews of classification are inadequate. Many prisoners have been assigned to administrative segregation for more than four years, and have no hope of ever being returned to general population. Most are classified to administrative segregation based on unsupported allegations of gang-related activities. Lack of due process in classification further exacerbates tension, frustration and hostility of Cellblock 6 prisoners.

Disciplinary Due Process

51. Policies relating to disciplinary procedure of the Arizona Department of Corrections are ignored in Cellblock 6. Because of the MAP program, prisoners are punished without benefit of notice, hearing, or review. Punishment is administered at the discretion of guards.

CAUSES OF ACTION

First Claim: Denial of Due Process

52. Plaintiffs reallege and incorporate by reference paragraphs 27-40; 48; 50-51.

53. The involuntary subugation of plaintiffs to the MAP system by the defendants, who designed, implemented and are presently enforcing such system deprives plaintiffs of their rights to due process of law as guaranteed by the Fourteenth

Amendment to the United States Constitution, and the Constitution and laws of the State of Arizona.

54. Defendants' interference with plaintiffs access to courts prevents their unimpeded exercise of the right to procedural due process of law as guaranteed by the Fourteenth Amendment to the United States Constitution.

55. Defendants failure to provide plaintiffs with minimal procedures to assure fairness in disciplinary and classification decisions violates plaintiffs' rights to due process of law as guaranteed by the Fourteenth Amendment to the United States Constitution, and the laws and Constitution of the State of Arizona.

Second Claim: Cruel and Unusual Punishment

56. Plaintiffs reallege and incorporate by reference paragraphs 15-51.

57. Defendants, by their failure to provide plaintiffs with the basic necessities of life, including adequate food, shelter, clothing, sanitation, medical care and personal safety; by their overt acts of abusive and inhumane treatment; and by their imposition of sanctions so totally without penological justification that they amount to the gratuitous infliction of suffering have denied plaintiffs their right to be free from cruel and unusual punishment, as guaranteed by the Eighth and Fourteenth Amendments to the United States Constitution.

Third Claim: Freedom of Speech and Religion

58. Plaintiffs reallege and incorporate by reference paragraphs 38-40; 49.

59. Defendants, by their policies and practices which unreasonably restrict visiting, phone calls and correspondence; and by their interference with plaintiffs' free exercise of religious beliefs, violate plaintiffs' rights to freedom of speech and religion as guaranteed by the First and Fourteenth Amendments to the United States Constitution.

Fourth Claim: Freedom from Unreasonable Searches and Seizures

60. Plaintiffs reallege and incorporate by reference paragraph 42.

61. Defendants, by their policy and practice of forcing plaintiffs to submit to brutal, abusive and degrading searches of their persons and property, violate plaintiffs' rights to be free from such searches and seizures, as guaranteed by the Fourth and Fourteenth Amendments to the United States Constitution.

Fifth Claim: Access to Courts

62. Plaintiffs reallege and incorporate by reference paragraphs 38-40; 48.

63. Defendants, by their policies and practices which unreasonably restrict plaintiffs' communication with lawyers and the courts, and by their interference with the lawyer-client relationship, and by their failure to provide adequate law library, clerks and other necessary legal materials have denied plaintiffs their rights to counsel and access to the courts as guaranteed by the Sixth and Fourteenth Amendments to the United States Constitution.

NO ADEQUATE REMEDY AT LAW

64. As a proximate result of the Defendants' policies, practices, procedures, acts and omissions, plaintiffs have suffered, do suffer and will continue to suffer immediate and irreparable injury, including physical, psychological and emotional injury. Plaintiffs' physical and psychological health and well-being will continue to deteriorate during the course of their confinement under the conditions described in this complaint. Plaintiffs have no plain, adequate or complete remedy at law to redress the wrongs described herein. Plaintiffs will continue to be irreparably injured by the policies, practices, procedures, acts and omissions of the defendants unless this Court grants the injunctive relief that plaintiffs seek.

PRAYER FOR RELIEF

WHEREFORE plaintiffs and the class they represent pray this court:

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

2. Issue a declaratory judgment stating the Defendants' policies, practices, acts and omissions described in this complaint violate plaintiffs' rights, guaranteed to them by the First, Fourth, Sixth, Eighth and Fourteenth Amendments to the United States Constitution and the Constitution and laws of the State of Arizona.



3. Permanently enjoin Defendants, their officers, agents, employees and successors in office as well as those acting in concert and participating with them from engaging in the unlawful practices described in this complaint.

4. Retain jurisdiction of this matter until this Court's order has been carried out.

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

6. Grant such other relief as may be just and equitable.

RESPECTFULLY SUBMITTED this 7 day of May, 1984.

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