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**FILED**

MAR 23 1956

**JAMES P. WELSH, Clerk**

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7 UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT  
8 OF CALIFORNIA, SOUTHERN DIVISION  
9

10 ROBERT CHARLES JORDAN, JR.,

11 Plaintiff,

12 vs.

13 STATE OF CALIFORNIA, CORRECTIONAL  
TRAINING FACILITY at SOLEDAD,  
14 CALIFORNIA, RICHARD A. MCGEE, CLETUS  
J. FITZHARRIS, R. H. DONNELLY, C. L.  
15 SWAGGERTY, GEORGE F. JOHNSTON, AL  
DeCARLI, WILLIAM T. KIEPURA, and  
16 EDWARD KUNKEL,

17 Defendants.

No. ~~44786~~

44786

18  
19 AMENDED COMPLAINT FOR INJUNCTION AND  
20 DAMAGES UNDER FEDERAL CIVIL RIGHTS ACTS

21 Plaintiff Robert Charles Jordan, Jr., complains of defendants  
22 State of California, Correctional Training Facility at Soledad,  
23 California, Richard A. McGee, Cletus J. Fitzharris, R. H. Don-  
24 nelly, C. L. Swaggerty, George F. Johnston, Al DeCarli, William  
25 T. Kiepura, and Edward Kunkel as follows:

26 1. Plaintiff Robert Charles Jordan, Jr., is and was  
27 at all times herein relevant incarcerated at the Correctional  
28 Training Facility at Soledad, California (hereinafter referred  
29 to as the "Correctional Training Facility"). Plaintiff is a  
30 citizen of the United States and of the State of California,

1 residing within the Northern District of California. Plaintiff  
2 is a member of the Negro race.

3           2. The Correctional Training Facility is and was at  
4 all times herein relevant a penal institution operated by the  
5 State of California at Soledad, California, within the Northern  
6 District of California. Each individual defendant named herein  
7 is and was at all times herein relevant an employee of the State  
8 of California, employed at the Correctional Training Facility,  
9 except Richard A. McGee is and was at all times herein relevant  
10 an employee of the State of California, employed as Director of  
11 Corrections. Each and every action hereinafter alleged was  
12 taken by one or more defendants under color of the law of the  
13 State of California.

14           3. Defendant Richard A. McGee is and was at all times  
15 herein relevant Director of Corrections of the State of Califor-  
16 nia and resides in the State of California.

17           4. Defendant Cletus J. Fitzharris is and was at all  
18 times herein relevant Superintendent of the Correctional Train-  
19 ing Facility and resides in the Northern District of California.

20           5. Defendant R. H. Donnelly is and was at all times  
21 herein relevant Deputy Superintendent of the Correctional Train-  
22 ing Facility and resides in the Northern District of California.

23           6. Defendant C. L. Swaggerty is and was at all times  
24 herein relevant Associate Superintendent of the Correctional  
25 Training Facility and resides in the Northern District of Cali-  
26 fornia.

27           7. Defendant George F. Johnston is and was at all  
28 times herein relevant Unit Three Program Administrator of the  
29 Correctional Training Facility and resides in the Northern Dis-  
30 trict of California.

1           8. Defendant Al DeCarli is and was at all times  
2 herein relevant Correctional Counselor Grade I at the Correc-  
3 tional Training Facility and resides in the Northern District  
4 of California.

5           9. Defendant William T. Kiepura is and was at all  
6 times herein relevant Correctional Counselor Grade II at the  
7 Correctional Training Facility and resides in the Northern  
8 District of California.

9           10. Defendant Edward Kunkel is and was at all times  
10 herein relevant Chief Medical Officer of the Correctional  
11 Training Facility and resides in the Northern District of  
12 California.

13           11. This action is founded upon claims arising from  
14 violations of 42 U.S.C. §§ 1981, 1983, 1985 and 1986, and this  
15 Court has jurisdiction of this action under 28 U.S.C. §§ 1343  
16 and 1331.

17           12. On or about July 9, 1965, plaintiff was placed  
18 in a special punishment unit at the Correctional Training  
19 Facility, known as a "strip cell" (hereinafter referred to as  
20 "strip cell"). Plaintiff was continuously confined in soli-  
21 tary confinement in said strip cell for twelve consecutive days.

22           13. Said strip cell is approximately 8 feet by 12  
23 feet in size. The front of the cell is barred and faces out  
24 to a wall approximately two feet away. This wall is solid,  
25 with the exception of shutter "flaps" and a solid door which  
26 are beyond the control of anyone confined in the strip cell.  
27 Beyond this second wall is a corridor running between the faces  
28 of the second walls of several strip cells and the outside wall  
29 of the building.

30           14. During plaintiff's confinement in said strip cell,

1 plaintiff was forced to remain in said strip cell with said  
2 flaps and door of the second wall closed. As a result, plain-  
3 tiff was deprived of light and ventilation for twelve days,  
4 except that twice a day the door of the second wall was opened  
5 for approximately fifteen minutes.

6 15. The interior of said strip cell is without any  
7 facilities, except that there is a raised concrete platform  
8 at the rear of the cell containing a hole to receive bodily  
9 wastes. There is no mechanism within the cell for "flushing"  
10 bodily wastes from this hole. "Flushing" is controlled by  
11 personnel of the Correctional Training Facility from the ex-  
12 terior of said strip cell. The hole was only "flushed" at  
13 approximately 8:30 A.M. and 9:00 P.M. on some of the twelve  
14 days plaintiff was confined in said strip cell.

15 16. During plaintiff's confinement in said strip cell,  
16 the strip cell was never cleaned. As a result of the continuous  
17 state of filth to which plaintiff was subjected, plaintiff was  
18 often nauseous and vomitted, and the vomit was never cleaned  
19 from plaintiff's cell. When plaintiff was first brought to the  
20 strip cell, the floor and walls of the strip cell were covered  
21 with the bodily wastes of previous inhabitants of the strip cell.  
22 Plaintiff is informed and believes and on that basis alleges  
23 that said strip cell had not been cleaned for at least thirty  
24 days before plaintiff was confined therein.

25 17. Plaintiff was forced to remain in said strip cell  
26 for twelve days without any means of cleaning his hands, body  
27 or teeth. No means was provided which could enable plaintiff  
28 to clean any part of his body at any time. Plaintiff was forced  
29 to handle and eat his food without even the semblance of clean-  
30 liness or any provision for sanitary conditions.

1        ~~18.~~ For the first eight days of plaintiff's confine-  
2        ment in said strip cell, plaintiff was not permitted clothing  
3        of any nature and was forced to remain in said strip cell ab-  
4        solutely naked. Thereafter, plaintiff was given a pair of rough  
5        overalls only.

6        ~~19.~~ Plaintiff was forced to remain in said strip cell  
7        with no place to sleep but upon the cold concrete floor of the  
8        strip cell, except that a stiff canvass mat approximately 4 1/2  
9        feet by 5 1/2 feet was provided. Said mat was so stiff that  
10       it could not be folded to cover plaintiff without such conscious  
11       exertion by plaintiff that sleep was impossible. Plaintiff is  
12       six feet and one inch tall and could not be adequately covered  
13       by said stiff canvass mat even when holding said mat over him-  
14       self. The strip cell was not heated during the time that  
15       plaintiff was forced to remain there.

16       ~~20.~~ Plaintiff is informed and believes and on that  
17       basis alleges that plaintiff has been and may be subjected to  
18       confinement in said strip cell without the authorization of the  
19       Superintendent, the Deputy Superintendent, the Associate Super-  
20       intendent, or anyone of comparable administrative rank; that  
21       lower-rank personnel of the Correctional Training Facility pur-  
22       port to have exercised and intend to exercise in the future  
23       broad discretion in confining plaintiff in said strip cell;  
24       that said lower-rank personnel purport to have the discretion  
25       to confine plaintiff in said strip cell for 60 consecutive  
26       days; and that there are no standards for the proper exercise  
27       of such discretion.

28       ~~21.~~ On many occasions prior to July 9, 1965, plain-  
29       tiff has been confined in said strip cell, plaintiff is con-  
30       tinually living under the threat of repeated confinement in

1 said strip cell, and plaintiff is constantly subject to confine-  
2 ment in said strip cell pursuant to purported disciplinary pro-  
3 cedures as they presently exist and will continue to exist un-  
4 less enjoined by this Court.

5 ~~22.~~ Plaintiff has been denied adequate medical care  
6 prior to, during, and subsequent to said confinement in said  
7 strip cell, despite repeated oral and written requests for same  
8 made in good faith by or on behalf of plaintiff.

9 ~~23.~~ Prior to and subsequent to said confinement in  
10 said strip cell, plaintiff has been forced to endure confine-  
11 ment in "O Wing" of the Correctional Training Facility with-  
12 out adequate protection from the raw outdoor elements, in that  
13 plaintiff's cell front offers no protection from the elements,  
14 being only bars, there are no window panes for the large win-  
15 dow openings in the outside wall of the corridor which is di-  
16 rectly outside plaintiff's cell, and there is insufficient  
17 artificial heat, if any, to combat the outdoor climatic con-  
18 ditions which prevail in plaintiff's cell.

19 24. Defendants have jointly and severally taken each  
20 action hereinabove alleged in violation of 42 U.S.C. §§ 1981,  
21 1983, 1985 and 1986.

22 25. Beginning at least as early as July 1, 1965, de-  
23 fendants entered into a conspiracy to take each action herein-  
24 above alleged, and each action hereinabove alleged was taken  
25 pursuant to said conspiracy in violation of 42 U.S.C. §§ 1981,  
26 1983, 1985 and 1986.

27 26. As a result of the actions hereinabove alleged,  
28 plaintiff has suffered damage to his person and pain and suf-  
29 fering in the amount of at least \$25,000 to date, and will  
30 unless defendants be restrained by this Court from taking such

1 actions in the future suffer irreparable damage.

2 27. Defendants, and each of them, have had knowledge  
3 that the wrongs conspired to be done as hereinabove alleged  
4 were about to be committed, and have had the power to prevent  
5 or aid in preventing the commission of said wrongs by the  
6 exercise of due diligence, but have neglected or refused to  
7 do so.

8 28. As a result of said neglect or failure herein-  
9 above alleged plaintiff has suffered damage to his person and  
10 pain and suffering in the amount of at least \$25,000 to date.

11 WHEREFORE plaintiff prays as follows:

12 1. That defendants be enjoined permanently from  
13 subjecting plaintiff to violations of 42 U.S.C. §§ 1981, 1983,  
14 1985 and 1986;

15 2. That plaintiff be awarded damages against all  
16 defendants jointly and severally in the sum of \$25,000 for  
17 injury to his person and pain and suffering;

18 3. That plaintiff be awarded damages against all  
19 defendants jointly and severally in the sum of \$75,000 as and  
20 for exemplary damages;

21 4. That plaintiff be awarded his costs of suit in-  
22 curred and such other and further relief as may be proper.

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26 Charles B. Cohler  
27 Charles B. Cohler  
28 Attorney for plaintiff  
29 Robert Charles Jordan, Jr.  
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