

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION

ANTHONY LA MARCA, MARTIN
SAUNDERS, and EDWIN JOHNSON,
individually and on behalf
of all others similarly
situated, and DAVID ALDRED,
STEVE H. BRONSON, JR.,
EDDIE COBB, RON DURRANCE,
WAYNE EPPRECHT, MICHAEL
GORDON, and BILLY JOE HARPER
individually,

LaMarca v. Turner



PC-FL-007-001

Plaintiffs,

vs.

CASE NO. 82-8196-CIV-PAINE

R. V. TURNER, individually and
in his capacity as Superintendent
of Glades Correction Institution,
and RANDALL MUSIC, individually
and in his official capacity as
Secretary of the Florida Department
of Corrections, and the
STATE OF FLORIDA,

Defendants.

THIRD AMENDED COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF AND FOR DAMAGES

1. The initial three named plaintiffs, Anthony LaMarca, Martin Saunders, and Edwin Johnson, present or former inmates of Glades Correctional Institution (hereinafter, GCI) located in Belle Glades, Florida, and operated by the Florida Department of Corrections, sue for declaratory and injunctive relief on their behalf and on behalf of others similarly situated who are, have been, or will be incarcerated by GCI. They additionally, joined by the other named plaintiffs, sue

for damages. The suit is based on the negligence, gross negligence and deliberate indifference of the defendants, which has resulted in a violent, lawless atmosphere within GCI, in which the plaintiffs and others have suffered physical attacks, robberies, extortion and homosexual rapes. The only refuge that the plaintiffs have from the violence and lawlessness is a protective confinement situation in which conditions fall so far below standards as to constitute cruel and unusual punishment.

JURISDICTION

2. This is a case arising under 42 U.S.C. §§ 1983 and 1988 and the Eighth and Fourteenth Amendments to the United States Constitution. Jurisdiction is founded on 28 U.S.C. §§ 1331(a) and 1343(3) and (4).

CLASS ACTION ALLEGATIONS

3. This action is properly maintainable as a class action for injunctive relief pursuant to Federal Rules of Civil Procedure 23(a)(1)(2)(3) and (4), (b)(1)(B), (b)(2) and (b)(3). An order certifying the class for injunctive relief was entered April 13, 1984.

4. The class for injunctive relief consists of those approximately 800 inmates presently incarcerated in GCI or those inmates within the Florida prison system who may in the future be incarcerated at GCI.

5. The named plaintiffs are representative of the class in that they have suffered attacks, robberies, extortions, and homosexual rapes as a result of the violent atmosphere created

at GCI as a direct, natural and proximate result of the negligence, gross negligence and deliberate indifference of the defendants.

6. The questions of law and fact common to the named plaintiffs and to the other members of the class are:

a. whether the conduct of the defendants constitutes negligence, gross negligence or deliberate indifference to the safety of the plaintiffs and others similarly situated, and

b. whether the conduct of the defendants constitutes negligence, gross negligence or deliberate indifference so as to violate the rights of the plaintiffs under the Eighth and Fourteenth Amendments to the United States Constitution.

7. As to the requirements of Federal Rule of Civil Procedure 23(b)(2) and 23(b)(3):

a. the merits of resolving the claims of the named plaintiffs as a class action outweigh the interest of members of the class in individually controlling the prosecution of separate actions and, in fact, other members and former members of the class now seek to join this suit as co-plaintiffs to resolve similar damage claims;

b. there is no other litigation involving the rights of the members of the class that is advanced as far as this action, which is set for trial in December, 1985;

c. economy of judicial resources will be served by resolving this action before a single forum; and

d. because all of the members of the class are institutionalized, and because all have been given notice,

there are no problems in the management of this action as a class action.

STATEMENT OF DEFENDANTS' WRONGFUL PRACTICES

8. a. Defendants, R. V. TURNER, and now RANDALL MUSIC, have operated GCI negligently, grossly negligently and with deliberate indifference to the safety of the plaintiffs, and of other inmates, in violation of 42 U.S.C. § 1983 and of the Eighth and Fourteenth Amendments to the United States Constitution.

b. The STATE OF FLORIDA is a party to this lawsuit solely for purposes of any potential attorney fee and litigation expenses award pursuant to 42 U.S.C. § 1988, (Civil Rights Attorney's Fees Awards Act of 1976) as provided in Leggett v. Badger, 759 F2d 1556 (11th Cir. 1985). Any other reference to "Defendants", other than matters relating to attorney fees/litigation expenses, in this Complaint expressly does not relate to the STATE OF FLORIDA.

FACTS GENERAL TO THE CLASS

9. GCI is a Florida state prison housing inmates of various custody classifications, from minimum to close custody, which inmates all bunk in common barracks-type areas without any segregation of inmates according to either criminal histories, length of sentences, custody classifications, or known propensities for violence and/or aggressive homosexual behavior.

10. Defendants, at all times material acting under color of state law as superintendants of GCI, have failed, either through negligence, gross negligence or deliberate indifference

to:

- a. adequately staff the barracks with guards to prevent attacks, robberies, homosexual rapes and extortions;
- b. report to superiors within the Florida Department of Corrections the level of attacks, robberies, homosexual rapes and extortions;
- c. punish and or prosecute those engaged in attacks, robberies, homosexual rapes and extortions;
- d. provide adequate protection to inmates in legitimate fear of attacks, robberies, homosexual rapes and extortions;
- e. segregate from other inmates those inmates known to have a propensity to commit attacks, robberies, homosexual rapes and extortions;
- f. keep weapons out of the hands of those inmates with a propensity to commit attacks, robberies, homosexual rapes and extortions;
- g. adequately train correctional officers;
- h. and/or otherwise provide adequate security to those inmates incarcerated at GCI.

FACTS SPECIFIC TO THE NAMED CLASS PLAINTIFFS

11. Plaintiff, Anthony LaMarca, initially arrived at GCI in 1980. Although subsequently released, he has been reincarcerated within the Florida prison system and there is a real and concrete possibility that he will be transferred back to GCI.

12. After his initial arrival at GCI, plaintiff, LaMarca was approached by other inmates who insisted he participate in homosexual acts. When he refused, he was physically attacked. Defendant, Turner, knew or should have known of the plight of plaintiff, Anthony LaMarca, but did nothing to protect him from attacks, robberies, homosexual rapes and extortions. Rather, plaintiff, Anthony LaMarca was forced to defend himself, the defenses being considered fights that resulted in disciplinary confinement and a loss of good-behavior time.

13. Plaintiff, Martin Saunders was an inmate at GCI since February, 1983. He is presently incarcerated at South Florida State Hospital, but there is a real and concrete possibility that he will be transferred back to GCI.

14. After his initial arrival at GCI, plaintiff, Martin Saunders was extorted for protection money by two inmates who attacked him when he refused payment. He additionally was beaten, robbed at knifepoint, stabbed in his face and raped at knifepoint by other inmates.

15. Plaintiff, Edwin Johnson, was an inmate at GCI beginning in February 1983. He is presently incarcerated at Hollywood Community Center, but there is a real and concrete possibility that he will be transferred back to GCI.

16. Upon his initial arrival at GCI, plaintiff, Edwin Johnson, had begun to be solicited by other inmates to engage in a homosexual act with other inmates, which solicitation continued and resulted in plaintiff's being physically attacked and threatened with a knife.

17. When plaintiff, Edwin Johnson, sought protective custody, he was placed with two other inmates in a cell that was six-by-nine feet, was unventilated, insect infested, foul smelling and filthy. During his period of protective custody, plaintiff, Edwin Johnson was not permitted to shower more than three three-minute periods a week, to sleep on a bed, to change his clothing, or to leave his cell for any purpose. Further, he was not permitted to participate in any educational, cultural, religious or rehabilitative activities. He was not permitted to withdraw money from his account, to purchase cigarettes or toilet articles from the canteen, or to exercise. He was so confined and restricted for a protracted period of time.

18. The injuries and deprivations experienced by plaintiffs, Anthony LaMarca, Martin Saunders and Edwin Johnson, and similar injuries and deprivations experienced by others similarly situated, are the direct, natural, foreseeable and proximate result of the actions of defendants, R.V. Turner and Randall Music, as more particularly alleged in Paragraphs 8 and 10, and of the conditions alleged in Paragraph 9.

FACTS SPECIFIC TO THE ADDITIONAL NAMED PLAINTIFFS

19. Plaintiff, David Aldred, was on or about July 21, 1984, hit on the head and raped twice as he took a shower in Dormitory B. A guard, whose identity is presently unknown, could have prevented the attack, but instead remained inside a cage-like device known as a wicket. Plaintiff ALDRED had requested protective custody before the attack. A Lieutenant denied the request.

20. a. This assault resulted from Defendant TURNER'S failure to provide:

- (i) an adequate number of security staff personnel;
- (ii) adequately trained security staff;
- (iii) a system for staff communication channels, accountability, supervision;
- (iv) sufficient security for inmate safety;
- (v) sufficient constructive activities when in protective custody to avoid the violence and threat of violence rampant in Belle Glades' population;
- (vi) separation of violent and inappropriate inmates from the general population when an incident occurs;
- (vii) protection to inmates who report personal assaults and extortion attempts to staff members;
- (viii) consideration of vulnerable inmates' needs upon transfer to Glades Correctional Institution;
- (ix) correction for classification errors upon transfer to Glades Correctional Institution by providing appropriate housing or arranging the transfer of such inmates
- (x) housing based on inmate need, not work assignment;
- (xi) adequate response to inmates' requests for protective confinement;
- (xii) adequate investigation of inmates' reports of assault or extortion attempts;

(xiii) control of contraband;
xiv) inmate transfer to alternative housing
because of threats;

(xv) adequate notification to his superiors
concerning:

- (a) racial imbalance among the inmate
population;
- (b) the preponderance of high risk
inmates in the population;
- (c) aggressive inmates, inappropriate
to Belle Glade

b. As a direct, natural, proximate and foreseeable result of the incident, the occurrence of which was a direct, natural, proximate and foreseeable result of the actions of defendants alleged with particularity in Paragraphs 8 and 10, and the conditions alleged in Paragraph 9, plaintiff, David Aldred, has been damaged, to wit: he has suffered injuries to his lower back, mental anguish, and psychiatric disturbances that have manifested themselves in his attempted suicide, which injuries are continuing and permanent in nature.

21. Plaintiff, Steve H. Bronson, Jr., also known as Nancy Sue Bronson, in or about June 1982, was held down by a group of inmates in B Dormitory while one, known as "Mack," inserted the handle of a baseball bat in his rectum as punishment for plaintiff, Steve H. Bronson, Jr.'s refusing to work for Mack as a male prostitute. Plaintiff Bronson, a homosexual, required special protection within the prison compound because of his

vulnerability to inmate attacks. Because of the lack of security, he was extorted and ultimately assaulted.

22. a. This assault resulted from Defendant TURNER'S failure to provide:

- (i) an adequate number of security staff personnel;
- (ii) adequately trained security staff;
- (iii) a system for staff communication channels, accountability, supervision;
- (iv) sufficient security for inmate safety;
- (v) sufficient constructive activities when in protective custody to avoid the violence and threat of violence rampant in Belle Glades' population;
- (vi) separation of violent and inappropriate inmates from the general population when an incident occurs;
- (vii) protection to inmates who report personal assaults and extortion attempts to staff members;
- (viii) consideration of vulnerable inmates' needs upon transfer to Glades Correctional Institution;
- (ix) correction for classification errors upon transfer to Glades Correctional Institution by providing appropriate housing or arranging the transfer of such inmates
- (x) housing based on inmate need, not work assignment;
- (xi) adequate response to inmates' requests for protective confinement;
- (xii) adequate investigation of inmates' reports of assault or extortion attempts;

(xiii) control of contraband;

(xiv) inmate transfer to alternative housing

because of threats;

(xv) adequate protests to his superiors concerning:

(a) racial imbalance among the inmate population;

(b) the preponderance of high risk
inmates in the population;

(c) aggressive inmates, inappropriate
to Belle Glade

b. As a direct, natural, proximate and foreseeable result of the incident alleged in paragraph 21, which incident was the direct, natural proximate and foreseeable result of the conduct by defendant, R. V. TURNER alleged particularly in Paragraphs 8 and 10 and the conditions alleged in Paragraph 9, plaintiff, Steve H. Bronson, Jr., was damaged, to wit: he suffered rectal bleeding and mental anguish, which injuries are continuing and permanent in nature.

23. Plaintiff, Eddie Cobb, was on or about January 27, 1984, stabbed in the arm by inmate Larry Pryor, who, upon information and belief, was acting upon the instructions of a "Lt. Barrett," of whom defendant, R.V. Turner, was the supervisor. No criminal charges were instigated against the inmate, Larry Pryor, notwithstanding the knowledge of his identity by defendant, R.V. Turner. Plaintiff COBB was attacked and stabbed several times with a knife by a known violent prisoner. This incident was investigated; however, Plaintiff COBB was given no opportunity to bring criminal

charges against his assailant. Plaintiff COBB was placed into administrative confinement for several weeks after the attack and was not informed of the reason for his confinement. His assailant was released into the general population.

24. a. This assault and the subsequent confinement without informing the inmate of the reasons for his confinement resulted from Defendant TURNER'S failure to provide:

- (i) an adequate number of security staff personnel;
- (ii) adequately trained security staff;
- (iii) a system for staff communication channels, accountability, supervision;
- (iv) sufficient security for inmate safety;
- (v) sufficient constructive activities when in protective custody to avoid the violence and threat of violence rampant in Belle Glades' population;
- (vi) separation of violent and inappropriate inmates from the general population when an incident occurs;
- (vii) protection to inmates who report personal assaults and extortion attempts to staff members;
- (viii) consideration of vulnerable inmates' needs upon transfer to Glades Correctional Institution;
- (ix) correction for classification errors upon transfer to Glades Correctional Institution by providing appropriate housing or arranging the transfer of such inmates
- (x) housing based on inmate need, not work assignment;

(xi) adequate response to inmates' requests for protective confinement;

(xii) adequate investigation of inmates' reports of assault or extortion attempts;

(xiii) control of contraband;

(xiv) inmate transfer to alternative housing because of threats;

(xv) adequate protests to his superiors concerning:

(a) racial imbalance among the inmate population;

(b) the preponderance of high risk inmates in the population;

(c) aggressive inmates, inappropriate to Belle Glade

b. As a direct, natural, proximate and foreseeable result of the conduct of inmate Pryor and Lt. Barrett, which conduct was the direct, natural, proximate and foreseeable result of the conduct by defendant, R.V. Turner alleged particularly in Paragraphs 8 and 10, and the conditions alleged in Paragraph 9, plaintiff, Eddie Cobb, has been damaged, to wit: he suffered injuries to his head and right arm, which injuries are continuing and permanent in nature.

25. As a direct, natural, proximate and foreseeable result of the conduct of inmate Pryor and Lt. Barrett, which conduct was the direct, natural, proximate and foreseeable result of the conduct by defendant, R.V. Turner alleged particularly in Paragraphs 8 and 10, and the conditions alleged in Paragraph 9, plaintiff, Eddie Cobb, further has been damaged, to wit: he suffered a deprivation of his rights under the Eighth and

Fourteenth Amendments to the United States Constitution to be free from punishment without due process of law.

26. Plaintiff, Ron Durrance, was in or about March, 1984 raped at knifepoint in the shower of B dormitory by inmates whose identities, upon information and belief, are Willie Dock, Sr., "Bull" Williams, and "Bone." Although the identities of the assailants were reported to prison officials, no punishment or criminal prosecution ensued. After the attack, Plaintiff DURRANCE requested protective confinement from a security staff member. The officer refused to believe that he was attacked and neither investigated Plaintiff DURRANCE'S charges nor granted him protection.

27. a. This assault resulted from Defendant TURNER'S failure to provide:

- (i) an adequate number of security staff personnel;
- (ii) adequately trained security staff;
- (iii) a system for staff communication channels, accountability, supervision;
- (iv) sufficient security for inmate safety;
- (v) sufficient constructive activities when in protective custody to avoid the violence and threat of violence rampant in Belle Glades' population;
- (vi) separation of violent and inappropriate inmates from the general population when an incident occurs;
- (vii) protection to inmates who report personal assaults and extortion attempts to staff members;

(viii) consideration of vulnerable inmates' needs upon transfer to Glades Correctional Institution;

(ix) correction for classification errors upon transfer to Glades Correctional Institution by providing appropriate housing or arranging the transfer of such inmates

(x) housing based on inmate need, not work assignment;

(xi) adequate response to inmates' requests for protective confinement;

(xii) adequate investigation of inmates' reports of assault or extortion attempts;

(xiii) control of contraband;

(xiv) inmate transfer to alternative housing because of threats;

(xv) adequate protests to his superiors concerning:

(a) racial imbalance among the inmate population;

(b) the preponderance of high risk inmates in the population;

(c) aggressive inmates, inappropriate to Belle Glade

b. As a direct, natural, proximate and foreseeable result of the rape alleged in Paragraph 26, which rape was the direct, natural, proximate and foreseeable result of the conduct by defendant, R.V. Turner alleged particularly in Paragraphs 8 and 10, and the conditions alleged in Paragraph 9, plaintiff, Ron Durrance was damaged, to wit: he has suffered from an aggravation of hemorrhoids and mental anguish, which

injuries are continuing and permanent in nature.

28. Plaintiff, Wayne Epprecht, was in or about February 1982 robbed and beaten with a lead pipe by unknown inmate assailants at GCI. The guard on duty was not present. The inmates who had attacked him were known to be violent as they had assaulted others.

29. a. This assault resulted from Defendant TURNER'S failure to provide:

- (i) an adequate number of security staff personnel;
- (ii) adequately trained security staff;
- (iii) a system for staff communication channels, accountability, supervision;
- (iv) sufficient security for inmate safety;
- (v) sufficient constructive activities when in protective custody to avoid the violence and threat of violence rampant in Belle Glades' population;
- (vi) separation of violent and inappropriate inmates from the general population when an incident occurs;
- (vii) protection to inmates who report personal assaults and extortion attempts to staff members;
- (viii) consideration of vulnerable inmates' needs upon transfer to Glades Correctional Institution;
- (ix) correction for classification errors upon transfer to Glades Correctional Institution by providing appropriate housing or arranging the transfer of such inmates

- (x) housing based on inmate need, not work assignment;
- (xi) adequate response to inmates' requests for protective confinement;
- (xii) adequate investigation of inmates' reports of assault or extortion attempts;
- (xiii) control of contraband;
- (xiv) inmate transfer to alternative housing because of threats;
- (xv) adequate protests to his superiors concerning:
 - (a) racial imbalance among the inmate population;
 - (b) the preponderance of high risk inmates in the population;
 - (c) aggressive inmates, inappropriate to Belle Glade

b. As a direct, natural, proximate and foreseeable result of the robbery and beating alleged in Paragraph 28, which robbery and beating were the direct, natural, proximate and foreseeable result of the conduct by Defendant, R.V. Turner alleged particularly in Paragraphs 8 and 10, and the conditions alleged in Paragraph 9, plaintiff Wayne Epprecht, has been damaged, to wit: he suffered a broken left cheek bone, which required surgery and still requires further surgery and continues to experience pain and suffering, all of which injuries are continuing and permanent in nature.

30. Plaintiff, Michael Gordon, in or about 1984, was beaten on one occasion; beaten and robbed on another; and set

on fire on another.

31. a. This assault resulted from Defendant TURNER'S failure to provide:

- (i) an adequate number of security staff personnel;
- (ii) adequately trained security staff;
- (iii) a system for staff communication channels, accountability, supervision;
- (iv) sufficient security for inmate safety;
- (v) sufficient constructive activities when in protective custody to avoid the violence and threat of violence rampant in Belle Glades' population;
- (vi) separation of violent and inappropriate inmates from the general population when an incident occurs;
- (vii) protection to inmates who report personal assaults and extortion attempts to staff members;
- (viii) consideration of vulnerable inmates' needs upon transfer to Glades Correctional Institution;
- (ix) correction for classification errors upon transfer to Glades Correctional Institution by providing appropriate housing or arranging the transfer of such inmates
- (x) housing based on inmate need, not work assignment;
- (xi) adequate response to inmates' requests for protective confinement;
- (xii) adequate investigation of inmates' reports of assault or extortion attempts;

(xiii) control of contraband;

(xiv) inmate transfer to alternative housing

because of threats;

(xv) adequate protests to his superiors concerning:

(a) racial imbalance among the inmate population;

(b) the preponderance of high risk

inmates in the population;

(c) aggressive inmates, inappropriate

to Belle Glade

b. As a direct, natural, proximate and foreseeable result of the incidents alleged in Paragraph 30, which incidents were the direct, natural, proximate and foreseeable result of the conduct by defendant, R.V. TURNER alleged particularly in Paragraphs 8 and 10, and the conditions alleged in Paragraph 9, plaintiff, Michael Gordon, has been damaged, to wit: he suffered pain and suffering, dental fractures, and mental anguish, resulting in hypertension, which injuries are continuing and permanent in nature.

32. Plaintiff BILLY JOE HARPER was an inmate at Glades Correctional Institution in 1982. On the night he was transferred to Glades Correctional Institution on December 31, 1981, Plaintiff HARPER was raped and beaten. During his 12 month incarceration at Glades Correctional Institution he was continually extorted. Because of his age (22) and background, plaintiff HARPER should have been protected by the prison staff during his incarceration.

33. a. Plaintiff HARPER'S assault, subsequent extortion and lack of protection resulted from Defendant TURNER'S failure to provide:

- (i) an adequate number of security staff personnel;
- (ii) adequately trained security staff;
- (iii) a system for staff communication channels, accountability, supervision;
- (iv) sufficient security for inmate safety;
- (v) sufficient constructive activities when in protective custody to avoid the violence and threat of violence rampant in Belle Glades' population;
- (vi) separation of violent and inappropriate inmates from the general population when an incident occurs;
- (vii) protection to inmates who report personal assaults and extortion attempts to staff members;
- (viii) consideration of vulnerable inmates' needs upon transfer to Glades Correctional Institution;
- (ix) correction for classification errors upon transfer to Glades Correctional Institution by providing appropriate housing or arranging the transfer of such inmates
- (x) housing based on inmate need, not work assignment;
- (xi) adequate response to inmates' requests for protective confinement;
- (xii) adequate investigation of inmates' reports of assault or extortion attempts;

(xiii) control of contraband;

(xiv) inmate transfer to alternative housing

because of threats;

(xv) adequate protests to his superiors concerning:

(a) racial imbalance among the inmate population;

(b) the preponderance of high risk
inmates in the population;

(c) aggressive inmates, inappropriate
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b. As a direct, natural, proximate and foreseeable result of the attack on plaintiff HARPER alleged in Paragraph 32 which attached was the direct natural, proximate and foreseeable result of the conduct of Defendant, R.V. Turner alleged particularly in Paragraphs 8 and 10 and those conditions alleged in Paragraph 8, Plaintiff BILLY JOE HARPER has been damaged, to wit: severe psychiatric and emotional disturbances.

CLAIMS FOR RELIEF

34. Defendants' conduct, as more particularly alleged in Paragraphs 8 and 10, and the conditions at GCI, as alleged in Paragraph 9, constitutes cruel and unusual punishment of the named plaintiffs and others similarly situated, and thereby violates the Eighth and Fourteenth Amendments to the United States Constitution.

35. Defendants' conduct irreparably injures plaintiffs and their class and will continue to irreparably injure them unless enjoined by this court. Plaintiffs have no adequate remedy at



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DATED: 07 November, 1985

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION

ANTHONY LA MARCA, MARTIN
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of Corrections, and the STATE OF
FLORIDA,


Defendants.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that Plaintiffs' Third Amended Complaint
has been mailed to the following counsel of record:

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DATED: 07 NOVEMBER, 1985
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