

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

HAROLD STAPLETON, JAMES SPRUILL, )  
LARRY EUGENE BROWN, JR., BRIAN )  
HACKER, DAVID ERIK SORENSEN, GREG )  
APONE, STEVEN JOYNER, MICHAEL W. )  
WILSON, WILLIAM R. SKOTZKE, )  
MICHAEL DEAN JACKSON, and JOHN W. )  
HOKE, individually, and as )  
representatives of a class of )  
persons similarly situated, )

Plaintiffs, )

vs. )

CASE NO. \_\_\_\_\_ )

RICHARD L. DUGGER, in his )  
official capacity as Secretary )  
of the Florida Department of )  
Corrections, W. F. ROUSE, in )  
his official capacity as Super- )  
intendent of Martin Correctional )  
Institution, C. P. WORTHINGTON, )  
in his official capacity as )  
Superintendent of Sumter )  
Correctional Institution, )  
and JERRY WADE, in his official )  
capacity as Superintendent of )  
Hendry Correctional Institution, )

Defendants. )  
\_\_\_\_\_ )

**COMPLAINT - CLASS ACTION**

Plaintiffs, HAROLD STAPLETON, JAMES SPRUILL, LARRY EUGENE BROWN, JR.,  
BRIAN HACKER, DAVID ERIK SORENSEN, GREG APONE, STEVEN JOYNER, MICHAEL W.  
WILSON, WILLIAM R. SKOTZKE, MICHAEL DEAN JACKSON, and JOHN. W. HOKE, individu-  
ally, and as representatives of a class of persons similarly situated, sue  
defendants RICHARD L. DUGGER, in his official capacity as Secretary of the  
Florida Department of Corrections; W.F. ROUSE, in his official capacity as  
Superintendent of Martin Correctional Institution; C.P. WORTHINGTON, in his  
official capacity as Superintendent of Sumter Correctional Institution; and  
JERRY WADE, in his official capacity as Superintendent of Hendry Correctional  
Institution, and allege:

**Introduction**

1. This is a state-wide class action for declaratory and injunctive  
relief alleging that the defendants, as a means of discouraging inmates from

requesting placement in protective confinement, house such inmates under punitive conditions contrary to the Cruel and Unusual Punishments Clause of the Eighth Amendment and deny them privileges and opportunities afforded other inmates contrary to the Equal Protection Clause of the Fourteenth Amendment.

#### **Jurisdiction**

2. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1331 in that this is a civil action arising under the Constitution of the United States.

3. Jurisdiction of the Court is invoked pursuant to 28 U.S.C. § 1343(3) in that this action seeks to redress the deprivation, under color of state law, of rights secured to the plaintiff by the Eighth and Fourteenth Amendments to the Constitution of the United States of America.

4. The Plaintiff's claims for relief are predicated upon 42 U.S.C. § 1983, which authorizes actions to redress the deprivation, under color of state law, of rights, privileges and immunities secured to the plaintiff by the Constitution and laws of the United States and by 42 U.S.C. § 1988 which authorizes the award of attorneys' fees and costs to prevailing plaintiffs in actions brought pursuant to 42 U.S.C. § 1983.

#### **Parties**

5. Plaintiff, HAROLD STAPLETON, is a citizen of the United States currently incarcerated at Martin Correctional Institution, Indiantown, Martin County, Florida.

6. Plaintiff, JAMES SPRUILL, is a citizen of the United States currently incarcerated at Martin Correctional Institution, Indiantown, Martin County, Florida.

7. Plaintiff, LARRY EUGENE BROWN, Jr., is a citizen of the United States currently incarcerated at Martin Correctional Institution, Indiantown, Martin County, Florida.

8. Plaintiff, DAVID ERIK SORENSEN, is a citizen of the United States currently incarcerated at Hendry Correctional Institution, Immokalee, Collier County, Florida.

9. Plaintiff, GREG APONE, is a citizen of the United States currently incarcerated at Sumter Correctional Institution, Bushnell, Sumter County, Florida.

10. Plaintiff, STEVEN JOYNER, is a citizen of the United States currently incarcerated at Hendry Correctional Institution, Immokalee, Collier County, Florida.

11. Plaintiff, BRIAN HACKER, is a citizen of the United States currently incarcerated at Hendry Correctional Institution, Immokalee, Collier County, Florida.

12. Plaintiff, MICHAEL W. WILSON, is a citizen of the United States currently incarcerated at Martin Correctional Institution, Indiantown, Martin County, Florida.

13. Plaintiff, WILLIAM R. SKOTZKE, is a citizen of the United States currently incarcerated at Sumter Correctional Institution, Bushnell, Sumter County, Florida.

14. Plaintiff, MICHAEL DEAN JACKSON, is a citizen of the United States currently incarcerated at Hendry Correctional Institution, Immokalee, Collier County, Florida.

15. Plaintiff, JOHN. W. HOKE, is a citizen of the United States currently incarcerated at Hendry Correctional Institution, Immokalee, Collier County, Florida.

16. Defendant, RICHARD L. DUGGER, is the Secretary of the Florida Department of Corrections. As such, he bears overall responsibility for the operation of all prisons under the supervision and control of the Florida Department of Corrections. He is sued in his official capacity.

17. Defendant, W. F. ROUSE is the Superintendent of Martin Correctional Institution. As such, he bears overall responsibility for the operation of that prison subject to the supervision and control of the Florida Department of Corrections. He is sued in his official capacity.

18. Defendant, C.P. WORTHINGTON, is the Superintendent of Sumter Correctional Institution. As such, he bears overall responsibility for the

operation of that prison subject to the supervision and control of the Florida Department of Corrections. He is sued in his official capacity.

19. Defendant, JERRY WADE, is the Superintendent of Hendry Correctional Institution. As such, he bears overall responsibility for the operation of that prison subject to the supervision and control of the Florida Department of Corrections. He is sued in his official capacity.

**Class Action Allegations**

20. This action is brought as a class action, pursuant to the provisions of Rule 23(b)(2) of the Federal Rules of Civil Procedure, for injunctive and declaratory relief on behalf of a class of all persons similarly situated.

21. The class of plaintiffs consists of all persons who are currently incarcerated at prisons operated by the Florida Department of Corrections or who will be incarcerated at prisons operated by the Florida Department of Corrections in the future and who are, or will seek to be, placed in protective confinement for their own safety.

22. The plaintiffs' class consists of an unknown but large number of inmates, numbering in the thousands at any given time, so that joinder of all members is impracticable. For example, on information and belief, the typical number of inmates in protective confinement at Union Correctional Institution is approximately 150; at Martin Correctional Institution, in excess of 100; at Hendry Correctional Institution, approximately 50; and at Sumter Correctional Institution, approximately 15.

23. Controlling issues of law and fact are common to all members of the plaintiff class in that protective confinement practices, as alleged in this Complaint, are common at all Florida prisons, and are imposed as a matter of policy, pattern, practice and custom.

24. The claims of the individual plaintiffs are typical of the claims of the members of plaintiffs' class. The named plaintiffs are the victims of cruel and unusual punishment and denial of equal protection solely because of their need for placement in protective confinement.

25. The defendants have acted on grounds generally applicable to the

plaintiff class as a whole thereby making appropriate final injunctive and corresponding declaratory relief with respect to the class as a whole.

26. The policy, pattern, practice and custom of imposing punitive and discriminatory protective confinement conditions presents common questions of law and fact which predominate over any questions affecting only individual members of the class and a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

27. The plaintiffs will fairly and adequately protect the interests of the members of the plaintiffs' class.

#### **Factual Allegations**

28. Protective confinement is the removal of an inmate from the general population of a prison when that inmate, and/or the prison staff, believe that the inmate's personal safety will be in danger if the inmate remains in general population.

29. Typical reasons why an inmate might seek protective confinement include (1) cooperation with Correctional Officers to prevent or report illegal activities by other inmates or by staff, (2) cooperation with law enforcement officials to prosecute other inmates or correctional staff, (3) prior law enforcement or correctional officer employment, (4) testimony against former co-defendants incarcerated at the same prison, (5) disputes with other inmates, (6) fear of sexual assaults, (7) fear of violence from other prisoners, and (8) generalized fear of living in open population, frequently stemming from prior incidents of violence.

30. The Eighth and Fourteenth Amendments to the Constitution of the United States requires the Department of Corrections to provide inmates whose personal safety is endangered by other inmates appropriate protection. That protection can take the form of protective confinement, transfer to a different prison, transfer to the federal prison system, or transfer to another state. Other alternatives may be available.

31. Inmates who request protective confinement generally are forced to request that status through no fault of their own.

32. According to the regulations of the Department of Corrections, as contained in Chapter 33-3.0082(4) of the Florida Administrative Code, protective confinement is not disciplinary in nature and inmates in protective confinement are not being punished.

33. In order to discourage inmates in need from seeking protective confinement, the policy, pattern, practice and custom of the defendants is to impose punitive and harsh conditions of those inmates housed in protective confinement, including:

A. Inmates in protective confinement do not generally have the opportunity for work assignments. Thus, at Union Correctional Institution, there are six janitorial positions available for the inmates housed in protective confinement inmates. At Martin Correctional Institution there are a similarly limited number of jobs available for the inmates housed in protective confinement. At Hendry Correctional Institution, most of the inmates in protective confinement are assigned to digging ditches between the inner and outer fences. Limited job availability is common for all protective confinement inmates at all Florida prisons. Inmates in general population have the opportunity for both unpaid and, at some prisons, paid employment.

B. Because inmates in protective confinement do not generally have the opportunity to work, they do not have the opportunity to earn incentive gaintime. Inmates in general population can earn up to 20 days per month incentive gaintime as the result of satisfactory performance of work assignments. Thus, through no fault of their own, inmates in protective confinement must serve longer sentences.

C. Because inmates in protective confinement cannot earn incentive gaintime, they are not eligible for administrative gaintime. Administrative gaintime, which is used to control overcrowding, at times averages more than 20 days per month. Through no fault of their own, inmates in protective confinement must serve longer sentences.

D. Inmates in protective confinement do not have the opportunity to participate in vocational, educational or self-betterment programs, other

than by enrolling in correspondence courses if they can pay the cost. Inmates in general population have the opportunity to participate in a wide-range of vocational, educational and self-betterment programs, and can earn incentive gaintime for so doing.

F. Inmates in protective confinement are not permitted to watch television. Inmates in general population have easy access to television.

G. Inmates in protective confinement are not permitted to keep personal property of the same type and amount permitted to inmates in general population.

H. Inmates in protective confinement receive, at most, two hours of out-of-cell recreation per week.

I. Inmates in protective confinement are limited to three showers per week. Inmates in general population have the ability to take showers one or more times each day.

J. Inmates in protective confinement are generally not permitted to visit the law library. They must request specific items from runners or clerks. Frequently, the requested items are never received.

K. Inmates in protective confinement are not permitted to use typewriters. Inmates in general population have access to typewriters for their legal and personal correspondence.

L. Inmates in protective confinement are not permitted to visit the regular library. They may request specific books from runners or clerks. Frequently, the requested items never arrive.

M. Inmates in protective confinement at some institutions are not permitted to possess belts.

N. Inmates in protective confinement are not permitted visitors on a regular basis. Instead, each visit must be specially approved. At Martin Correctional Institution, most inmates in protective confinement have been denied all visiting privileges.

O. Inmates in protective confinement are permitted to utilize the institution's canteen only every two weeks. General population inmates can

use the canteen far more frequently.

P. Inmates in protective confinement are subject to strip searches far more frequently than inmates in general population.

Q. When inmates in protective confinement are escorted from their cells to other places in the prison, they are often handcuffed with their hands behind them, thereby providing a defenseless target.

R. Inmates in protective confinement are not permitted to attend religious services or otherwise participate in group religious activities.

S. Inmates in protective confinement are not permitted to possess hot water heating units to make instant coffee, tea or soup. Inmates in general population may freely possess such equipment.

T. Inmates in protective confinement are permitted to use the telephone only in emergencies or to contact their attorneys about pending matters. Inmates in general population have far broader access to the telephones.

U. Inmates in protective confinement are not permitted to attend regular sick call. Instead, they must rely on the services of a non-physician to relay their complaints to the prison doctor.

34. As an example of the punitive purposes of the Regulations governing inmates in protective confinement, Chapter 33-3.0082(9)(j) imposes a set of restrictions on inmates in protective confinement if those inmates refuse to accept a work assignment. The restrictions include:

A. Reading materials limited to four books, including library books.

B. Even more limited visiting privileges.

C. Limited bank transactions.

D. Limited canteen privileges.

E. Limited library privileges.

F. Limited ability to receive and possess periodicals.

G. Limited telephone privileges.

35. Most prisons do not have work available for all or even a small



portion of the inmates in protective confinement. The additional restrictions specified in the above paragraph are applied to inmates in protective confinement who do not have jobs even though no jobs are available. At some institutions, the additional restrictions appear to be applied to all protective confinement inmates, regardless of work status.

36. Inmates in protective confinement are frequently subjected to ridicule and abuse by correctional officers, as well as by other inmates.

37. Inmates in protective confinement must live in overcrowded cells. For example, at Belle Glade Correctional Institution and Tomoka Correctional Institution, cells originally designed for one inmate now hold three. At Martin Correctional Institution, cells originally designed to house one inmate now house two.

38. At Martin Correctional Institution inmates in administrative confinement and disciplinary confinement have been housed in the same building as inmates in protective confinement. So too, have inmates in close management status. The inmates who are not in protective confinement have access to the inmates in protective confinement because many of the cell door locks do not work.

39. Inmates in protective confinement are generally confined to their cells 24 hours per day, seven days per week, except for limited recreation and shower time. During the warm months, the heat and humidity is unrelenting.

40. The policy, pattern, practice and custom of the defendants is to refuse to transfer inmates in protective confinement to other prisons until they have spent a substantial period of time, often a year or more in protective confinement while offering to return them to general population upon request.

41. The policy, practice and custom of the defendants is to offer to return protective confinement inmates to general population on request, apparently because protective confinement housing is more staff intensive, and thus more costly, than general population housing.

**Plaintiff Harold Stapleton**

42. Plaintiff Stapleton has been in protective confinement since 1983. He first requested protective confinement because of prior cooperation with correctional staff concerning illegal activities by others and because of a resulting fear of violence from other inmates.

43. Plaintiff Stapleton was transferred to Martin Correctional Institution in the fall of 1986. He was housed in open population for about three months. Thereafter, he was forced to again request protective confinement because two inmates attempted to stab him. He has been housed in protective confinement at Martin Correctional Institution since December, 1986.

44. Plaintiff Stapleton was offered a work assignment while in protective confinement. The assignment offered, however, would have brought him into regular contact with general population inmates.

45. While in protective confinement, plaintiff Stapleton is not permitted to possess or watch television.

46. While in protective confinement, plaintiff Stapleton is not permitted to use the law library or regular library. Requests for specific books had to be requested from runners or clerks. Plaintiff Stapleton's requests were usually not filled.

47. While in protective confinement, plaintiff Stapleton is not allowed to wear a belt.

48. While in protective confinement, plaintiff Stapleton is not permitted to attend religious services at the prison chapel. The prison chaplain does not conduct separate services for inmates in protective confinement.

49. Whenever plaintiff Stapleton is escorted to a place outside the building housing inmates in protective confinement, he is handcuffed with his hands behind his back.

50. On many occasions when plaintiff Stapleton leaves the confinement building, he is strip-searched.

51. Plaintiff Stapleton requested a transfer to another prison. He was told that he must remain in protective confinement at Martin Correctional

Institution for at least a year, that he must earn the transfer, and that in order to earn the transfer he must identify the inmates from whom he was in need of protection.

52. While in protective confinement, plaintiff Stapleton is limited to two hours per week out of cell recreation and is permitted showers three times per week. In general, with these exceptions, he is confined to his cell 24 hours per day, seven days per week, including being fed in his cell.

53. On or about May 23, 1988, plaintiff Stapleton was assaulted in his cell by two administrative confinement inmates who were housed in the same building as protective confinement inmates. The incident happened because the cell door locks do not work, thus permitting inmates to open their own cell doors.

54. Martin Correctional Institution staff were well-aware of the fact that the door locks did not work, yet they continued to house administrative custody inmates with protective confinement inmates. At least four other protective confinement inmates have been assaulted by administrative custody inmates as the result of the failure of the door locks.

55. On information and belief, plaintiff Stapleton did not receive a favorable institutional recommendation for parole because of his protective confinement status.

**Plaintiff James Spruill**

56. Plaintiff Spruill has been in protective confinement at several prisons, including Baker Correctional Institution from May, 1986 to April, 1987, Union Correctional Institution from April, 1987 to September, 1987, and Martin Correctional Institution from September, 1987 to the present.

57. Plaintiff Spruill first requested protective confinement because of threats of violence and robbery at the hands of other inmates.

58. The conditions plaintiff Spruill has encountered have been similar at all those institutions where he has been in protective confinement.

59. At Baker and Union Correctional Institutions, no work was available. At Martin Correctional Institution, the work assignment brought

plaintiff into regular contact with general population inmates.

60. At Baker and Union Correctional Institutions, plaintiff was unable to earn incentive gain time. At Martin Correctional Institution, he is only awarded two days incentive gain time per month for his work efforts. Inmates in general population receive far more incentive gain time for satisfactory work performance.

61. While in protective confinement at Union Correctional Institution, plaintiff Spruill was not permitted to possess a radio or television. At Baker and Martin Correctional Institutions, plaintiff was able to have a radio, but not watch television.

62. While in protective confinement at Baker, Union and Martin Correctional Institutions, plaintiff Spruill was refused permission to use the law library or regular library. Requests for specific books had to be requested from runners or clerks. Plaintiff's requests were usually not filled.

63. While in protective confinement, plaintiff Spruill is not allowed to wear a belt.

64. While in protective confinement, plaintiff Spruill is not permitted to attend religious services at the prison chapel. The prison chaplain does not conduct separate services for inmates in protective confinement.

65. Whenever plaintiff Spruill is escorted to a place outside the building housing inmates in protective confinement, he is handcuffed with his hands behind his back.

66. On many occasions when plaintiff Spruill leaves the confinement building, he is strip-searched.

67. While in protective confinement, plaintiff Spruill is limited to two hours per week out of cell recreation and is permitted showers three times per week. In general, with these exceptions, he is confined to his cell 24 hours per day, seven days per week, including being fed in his cell.

**Plaintiff Larry Eugene Brown, Jr.**

68. Plaintiff Brown is housed in protective confinement at Martin Correctional Institution, and has been so housed since April, 1988.

69. Plaintiff Eugene requested protective confinement status because of fear of sexual assaults by other prisoners, fear of violence by other prisoners, and a general fear of living in open population.

70. Plaintiff's fears stemmed from the fact that he had been sexually assaulted while incarcerated at Glades Correctional Institution.

71. Plaintiff was offered and accepted a job on a confinement work squad. However, the job he accepted brought him into regular contact with inmates in general population.

72. Plaintiff requested to be enrolled in a GED program. He was told that there were no educational programs for protective confinement inmates at Martin Correctional Institution.

73. While in protective confinement at Martin Correctional Institution, plaintiff Brown is not permitted to watch television, is only permitted two hours of out of cell recreation per week, is fed in his cell, is not permitted to possess a razor, is not permitted to visit the law or regular library, is not permitted to use a typewriter, is not permitted to wear a belt, is not permitted to have visitors on a regular basis, and is otherwise denied rights and privileges afforded inmates in open population.

74. After placement in protective confinement at Martin Correctional Institution, plaintiff Brown requested a transfer and was informed he would have to "earn it," that he would not be transferred for at least a year, and that he would be expected to identify the inmates he was in need of protection from.

**Plaintiff Brian Hacker**

75. Plaintiff, Brian Hacker, is housed in protective confinement at Hendry Correctional Institution, and has been so housed since July, 1988.

76. Plaintiff Hacker sought protective confinement because of fear of sexual assault from other inmates.

77. While in protective confinement, plaintiff Hacker has been required to work between the fences or receive a disciplinary report. However, the amount of gaintime awarded inmates in protective confinement is far less than

the amount of gain time awarded inmates with job assignments housed in open population.

78. While in protective confinement plaintiff Hacker is not permitted to watch television, is only permitted two hours per week of out of cell recreation, is limited to three showers per week, is not permitted to visit the library, and is otherwise afforded fewer rights and privileges than those afforded inmates in open population.

79. While in protective confinement plaintiff Hacker is handcuffed, with his hands behind him, whenever he is taken from his cell to another location at the prison.

80. While in protective confinement plaintiff is usually strip-searched whenever he leaves the confinement building.

81. After placement in protective confinement at Hendry Correctional Institution, plaintiff Hacker requested a transfer and was informed that he would have to earn it and that he would not be transferred for at least a year.

**Plaintiff David Erik Sorensen**

82. Plaintiff, David Erik Sorensen, is housed in protective confinement at Hendry Correctional Institution, and has been so housed since January, 1988.

83. Plaintiff Sorensen sought protective confinement because of fear of violence from other inmates.

84. While in protective confinement, plaintiff Sorensen was offered a job assignment which he accepted in order to earn gaintime. However, the amount of gaintime awarded inmates in protective confinement is far less than the amount of gain time awarded inmates with job assignments housed in open population.

85. While in protective confinement plaintiff Sorensen is unable to participate in vocational, educational or self-betterment programs.

86. While in protective confinement plaintiff Sorensen is not permitted to watch television, is only permitted two hours per week of out of cell

recreation, is limited to three showers per week, is not permitted to visit the library, and is otherwise afforded fewer rights and privileges than those afforded inmates in open population.

87. While in protective confinement plaintiff Sorensen is handcuffed, with his hands behind him, whenever he is taken from his cell to another location at the prison.

88. While in protective confinement plaintiff is usually strip-searched whenever he leaves the confinement building.

89. After placement in protective confinement at Hendry Correctional Institution, plaintiff Sorensen requested a transfer and was told that he would have to earn it and should not expect to be transferred for at least a year.

#### **Plaintiff Greg Apone**

90. Plaintiff Apone has been in protective confinement at Sumter Correctional Institution since on or about April 20, 1988. He requested protective confinement because of prior cooperation with correctional staff concerning illegal activities resulting in fear of violence from other inmates.

91. Inmates in protective confinement and administrative confinement at Sumter Correctional Institution are housed in the same building. As a result, protective confinement inmates are subjected to continual verbal abuse.

92. Plaintiff Apone was not offered a work assignment while in protective confinement. As a result he was unable to earn incentive gaintime and, therefore, is not eligible for administrative gaintime.

93. While in protective confinement, plaintiff Apone is not permitted to possess or watch television.

94. While in protective confinement, plaintiff Apone is not permitted to use the law library or regular library. Requests for specific books must be requested from runners or clerks. Plaintiff Apone's requests are usually not filled.

95. While in protective confinement, plaintiff Apone is not permitted

to attend religious services at the prison chapel. The prison chaplain does not conduct separate services for inmates in protective confinement.

96. Whenever plaintiff Apone is escorted to a place outside the building housing inmates in protective confinement, he is handcuffed with his hands behind his back.

97. On most occasions when plaintiff Apone leaves the confinement building, he is strip-searched.

98. Plaintiff Apone requested a transfer to another prison. He was told that he must remain in protective confinement at Sumter Correctional Institution until he identified the inmates from whom he was in need of protection.

99. While in protective confinement, plaintiff Apone is limited to two hours per week out of cell recreation and is permitted showers three times per week. In general, with these exceptions, he is confined to his cell 24 hours per day, seven days per week, including being fed in his cell. Food is delivered on open carts; it is frequently cold. Salt, pepper and other condiments are usually not provided.

**Plaintiff William R. Skotzke**

100. Plaintiff Skotzke has been in protective confinement at Sumter Correctional Institution since on or about May 19, 1988. He requested protective confinement because of prior assaults and threats on his life by other inmates.

101. Inmates in protective confinement and administrative confinement at Sumter Correctional Institution are housed in the same building. As a result, protective confinement inmates are subjected to continual verbal abuse.

102. Plaintiff Skotzke was not offered a work assignment while in protective confinement. As a result he is unable to earn incentive gaintime and, therefore, is not eligible for administrative gaintime.

103. While in protective confinement, plaintiff Skotzke is not permitted to possess or watch television.



104. While in protective confinement, plaintiff Skotzke is not permitted to visit the law library or regular library. Requests for specific law books must be requested from runners or clerks. Plaintiff is unable to request books from the regular library.

105. While in protective confinement, plaintiff Skotzke is not permitted to attend religious services at the prison chapel. The prison chaplain does not conduct separate services for inmates in protective confinement.

106. Whenever plaintiff Skotzke is escorted to a place outside the building housing inmates in protective confinement, he is handcuffed with his hands behind his back.

107. While in protective confinement, plaintiff Skotzke is limited to two hours per week out of cell recreation and is permitted showers three times per week. In general, with these exceptions, he is confined to his cell 24 hours per day, seven days per week, including being fed in his cell. Food is delivered on open carts; it is frequently cold. Salt, pepper and other condiments are usually not provided.

**Plaintiff Steven Joyner**

108. Plaintiff, Steven Joyner, is housed in protective confinement at Hendry Correctional Institution, and has been so housed since on or about June 14, 1988.

109. Plaintiff Joyner sought protective confinement because of cooperation with correctional authorities concerning improper activities by others and a resulting fear of violence from other inmates.

110. While in protective confinement, plaintiff Joyner was offered a job assignment in the protective confinement area, which he accepted in order to earn gaintime. However, the amount of gaintime awarded inmates in protective confinement is far less than the amount of gain time awarded inmates with job assignments housed in open population.

111. While in protective confinement plaintiff Joyner is not permitted to watch television, is only permitted two hours per week of out of cell recreation, is limited to three showers per week, is not permitted to visit

the library, and is otherwise afforded fewer rights and privileges than those afforded inmates in open population.

112. While in protective confinement plaintiff Joyner is handcuffed, with his hands behind him, whenever he is taken from his cell to another location at the prison.

113. While in protective confinement plaintiff Joyner is usually strip-searched whenever he leaves the confinement building.

**Plaintiff Michael W. Wilson**

114. Plaintiff Wilson has been in protective confinement at Martin Correctional Institution since December, 1987. He requested protective confinement because of fear of sexual assaults and violence by other inmates.

115. Plaintiff Wilson was not offered a work assignment while in protective confinement.

116. While in protective confinement, plaintiff Wilson is not permitted to possess or watch television.

117. While in protective confinement, plaintiff Wilson is not permitted to use the law library. Specific books must be requested from runners or clerks. Plaintiff's requests are usually not filled.

118. While in protective confinement, plaintiff Wilson is not allowed to wear a belt.

119. While in protective confinement, plaintiff Wilson is not permitted to attend religious services at the prison chapel. The prison chaplain does not conduct separate services for inmates in protective confinement.

120. Whenever plaintiff Wilson is escorted to a place outside the building housing inmates in protective confinement, he is handcuffed with his hands behind his back.

121. Plaintiff Wilson requested a transfer to another prison. He was told that he must earn the transfer, that he must identify the inmates who caused him to seek protective confinement and that he must remain in protective confinement at Martin Correctional Institution for at least a year prior to any transfer.

122. While in protective confinement, plaintiff Wilson is limited to two hours per week out of cell recreation and is permitted showers three times per week. In general, with these exceptions, he is confined to his cell 24 hours per day, seven days per week, including being fed in his cell.

**Plaintiff Michael Dean Jackson**

123. Plaintiff Jackson is housed in protective confinement at Hendry Correctional Institution, and has been so housed since April, 1988.

124. Plaintiff sought protective confinement because of fear of violence from other inmates.

125. While in protective confinement, plaintiff was offered a work assignment on a protective confinement work squad; a work assignment that brought him into contact with inmates in open population. However, the amount of gaintime he received is far less than the amount of gain time awarded inmates with job assignments housed in open population.

126. While in protective confinement plaintiff Jackson is not permitted to watch television, is only permitted two hours per week of out of cell recreation, is limited to three showers per week, is not permitted to visit the law or regular library, is not permitted to attend religious services, and is otherwise afforded fewer rights and privileges than those afforded inmates in open population.

127. While in protective confinement plaintiff is handcuffed, with his hands behind him, whenever he is taken from his cell to another location at the prison.

128. While in protective confinement plaintiff is usually strip-searched whenever he leaves the confinement building.

129. After placement in protective confinement at Hendry Correctional Institution, plaintiff Jackson requested a transfer and was informed that he would have to earn it and that he would not be transferred for at least a year.

**Plaintiff John. W. Hoke**

130. Plaintiff, John W. Hoke, is housed in protective confinement at

Hendry Correctional Institution, and has been so housed since on or about May 13, 1988.

131. Plaintiff Hoke sought protective confinement because of cooperation with correctional authorities leading to fear of violence from other inmates.

132. Plaintiff Hoke is classified as a Medical Grade IV. As a result, he is forced to spend nearly the entire day in his protective confinement cell, save only for meal times.

133. While in protective confinement plaintiff Hoke is not permitted to watch television and is limited to three showers per week. He is not permitted to visit the law library and is otherwise afforded fewer rights and privileges than those afforded inmates in open population.

134. Although entitled by the defendants' own regulations to two hours of out of cell recreation per week, plaintiff Hoke has received less than two hours of out of cell recreation per month.

135. While in protective confinement plaintiff Hoke is handcuffed, with his hands behind him, whenever he is escorted from his cell to another location at the prison.

136. While in protective confinement plaintiff Hoke is usually strip-searched whenever he leaves the confinement building.

#### Cause of Action

137. The restrictions imposed on inmates in protective confinement, as alleged in this Complaint, are not imposed for reasons of security, order and effective management of the institution. Instead, they are imposed solely to make conditions so harsh and uncomfortable that inmates will not request protective confinement or will request removal from protective confinement in the face of real threats to their personal safety, and are designed to lessen the costs of meeting the defendants' constitutional duty to protect inmates from other inmates.

138. If the harsh conditions imposed on inmates in protective confinement are imposed for reasons of security, they constitute an exaggerated

response to the problems created by inmates in need of protective confinement and bear no rational relationship to any legitimate state interest.

139. The housing of inmates in protective confinement, as herein alleged, for long periods of time, and with limited opportunities for exercise and participation in rehabilitative programs, results in the physical and mental deterioration of inmates so housed.

140. The policy, pattern, practice and custom of the defendants, as alleged in this complaint, violates the Cruel and Unusual Punishments Clause of the Eighth Amendment and the Equal Protection Clause of the Fourteenth Amendment.

WHEREFORE, plaintiffs request that this Court:

A. Certify this action as a class action pursuant to Rule 23(b)(2) of the Federal Rules of Civil Procedure.

B. Declare that Chapter 33-3.0082, Florida Administrative Code, to the extent it imposes restrictions on inmates in protective confinement which are more restrictive than those imposed on inmates in general population, violates the Eighth and Fourteenth Amendments to the Constitution of the United States.

C. Declare that the conduct of the defendants, as alleged, violates plaintiffs' federal constitutional rights.

D. Require the defendants to submit a plan to this Court for approval which will remedy the unconstitutional conditions experienced by inmates in protective confinement.

E. Enter preliminary and permanent injunctive relief enjoining the defendants, their successors in office, and their servants, agents and employees, and those acting in concert with them, from engaging in punitive and discriminatory conduct directed at inmates needing protective confinement, and specifically enjoin the defendants to adopt policies, procedures and practices which will have the immediate impact of treating inmates in protective confinement in the same manner as inmates in general population.

F. Award attorneys' fees and costs pursuant to 42 U.S.C. § 1988.

G. Grant plaintiffs such other and further relief as the Court may deem just and equitable.

Respectfully Submitted,

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