



5. The named plaintiffs bring this action on their own behalf and on behalf of a class of persons similarly situated, consisting 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.

6. This action satisfies all the prerequisites for maintenance of a class action, as set forth in Rule 23(a), Federal Rules of Civil Procedure, to wit:

A. The class is so numerous as to make joinder of all members impracticable. As of November 9, 1988, the number of inmates in protective confinement, according to defendants' Answers to Interrogatories, totalled 543.

B. The questions of law or fact relevant to this matter are common to the class.

C. Plaintiffs' claims are typical of those of the class. Each named plaintiff, at the time this action was filed, was in protective confinement. Each named plaintiff lacked a significant job assignment. Each named plaintiff was earning little or no incentive gain time. Each named plaintiff was subjected to deprivation of rights and privileges afforded inmates in general population, as made evident by defendants' response to plaintiffs' Request for Admissions.

D. Plaintiffs, who are represented by competent counsel, will fairly and adequately protect the interests of the class.

7. Class certification is sought pursuant to Rule 23(b)(2), Federal Rules of Civil Procedure, defendants having acted on grounds generally applicable to the class, thereby making appropriate final injunctive relief with respect to the class as a whole.

8. Plaintiffs rely on the following materials, to be filed with the Court:

A. The defendants' Answers to Plaintiffs' First Set of Interrogatories.

B. Defendants' Response to Plaintiffs' Requests for Admissions.

C. The affidavits of several of the named plaintiffs as well as the affidavits of the applicants for joinder or intervention.

9. Plaintiffs request that this Motion be set for an evidentiary hearing.

10. Plaintiffs request the opportunity to file at a later date motions for habeas corpus ad testificandum to permit the named plaintiffs to appear at the evidentiary hearing on this Motion.

WHEREFORE, plaintiffs pray that the Court certify this proceeding as a class action.

Respectfully submitted,

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By: Peter M. Siegel, Esq.

**Certificate of Service**

I hereby certify that a copy of the foregoing has been furnished to Arthur Wallberg, Esq., Assistant Attorney General, Department of Legal Affairs, The Capitol - Suite 1501, Tallahassee, FL 32301 by U.S. Mail this 30th day of March, 1989.

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Peter M. Siegel, Esq.