

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS
EAST ST. LOUIS DIVISION

ROBERT WESTEFER, MARK VON PERBANDT,)
ALEJANDRO VILLAZANA, ARMANDO TINAJERO,)
COREY TAYLOR, MICHAEL SPARLING, JOE)
SORRENTINO, MILTON SMITH, ANIBAL)
SANTIAGO, TYSHAWN ROSS, EDWARD)
RODRIGUEZ, VINCENTE RODRIGUEZ, VINCENT)
REYNA, ALEX MULLER, WILLIAM LASLEY, TED)
KNOX, MICHAEL JOHNSON, EUGENE HORTON,)
GEORGE HARPER, TIMOTHY HALL, JOHN GILL,)
LARRY GAMBRELL, LARRY FOUTCH, ROBERT)
FELTON, KENNARD COMBS, MAURICE COLEMAN,)
LAVERNE CLAYTON, GARY CLARK, MARCUS)
CHAPMAN, RONNIE CARROLL, ROOSEVELT)
BURRELL, FINNER BRYANT, LARRY BROWN, and)
ARYULES BIVENS, individually and on behalf of the)
plaintiff class,)

Plaintiffs,)

-vs-)

DONALD SNYDER, ODIE WASHINGTON,)
MICHAEL V. NEAL, GEORGE DeTELLA,)
MICHAEL O'LEARY, and THOMAS PAGE,)

Defendants.)

No. 00-162-GPM

**ANSWER TO COUNT III OF PLAINTIFFS' AMENDED COMPLAINT FOR
INJUNCTION, DECLARATORY JUDGMENT AND DAMAGES**

NOW come the defendants, DONALD SNYDER, ODIE WASHINGTON, MICHAEL V. NEAL, GEORGE DETELLA, MICHAEL O'LEARY, THOMAS PAGE, DWAYNE CLARK, ROGER COWAN and RODNEY AHITOW, by their attorney, Lisa Madigan, Attorney General of the State of Illinois, and for their answer to count III of plaintiffs' amended complaint state as follows:

NATURE OF THE CASE

1. Defendants admit that some of the plaintiffs are confined at the Tamms Correctional Center. Defendants deny the remaining allegations in paragraph 1 of plaintiffs'

amended complaint.

2. Defendants admit that Tamms is intended as a very restrictive institution for those inmates who pose a threat to the safety and security of any correctional facility, the public or any person. Defendants deny that Tamms is intended as a severe form of punishment. Defendants deny the remaining allegations contained in paragraph 2 of plaintiffs' amended complaint.

3. Defendants deny that Tamms is not used for its intended purpose. Defendants further deny the remaining allegations contained in paragraph 3 of plaintiffs' amended complaint.

4. Defendants admit that some inmates were transferred to the Tamms Correctional Center because of gang activities. Defendants deny the remaining allegations in plaintiffs' amended complaint.

5. Defendants admit that this Court has jurisdiction over some of the claims of plaintiffs. Defendants otherwise deny the allegations in paragraph 5 of plaintiffs' amended complaint.

6. Defendants admit that venue is proper in the Southern District of Illinois, but deny that the location of events are related to the question of jurisdiction.

TAMMS CORRECTIONAL CENTER

7. Defendants admit Tamms Correctional Center is the State's highest security level prison and is located in Alexander County, near the town of Tamms. Defendants further admit that Tamms is approximately 360 miles from Chicago. Defendants have insufficient knowledge to either admit or deny the remaining allegations contained in paragraph 7 of plaintiffs' amended complaint.

8. Defendants admit the allegations contained in paragraph 8 of plaintiffs' amended complaint.

9. Defendants admit that Tamms is very restrictive, but deny that it is "extremely

harsh.” Defendants further admit they want these very restrictive conditions known throughout the entire Illinois Department of Corrections (“the Department”) so inmates will follow all the rules and laws to avoid being transferred to Tamms Correctional Center.

10. Defendants admit inmate movement is very restrictive. Defendants deny the remaining allegations contained in paragraph 10 of plaintiffs’ amended complaint.

11. Defendants deny inmates have no human contact. Defendants admit there are nine pods, each pod having six wings except J pod, which has two wings. Defendants admit that a centralized control booth controls the doors and the main shut offs for the power and water supply to each pod. Defendants admit that guards may use an intercom system to communicate with or monitor inmates in their cells and other areas in the pods equipped with intercoms. Defendants deny that guards eavesdrop on inmates. Defendants admit the yard area and portions of the pods are monitored by video camera. Defendants deny that cells are monitored by video camera.

12. Defendants deny movement between pods is through underground tunnels and further deny the satellite law library has only a “few” law books. Defendants deny that a single exercise yard and shower serves each pod. Defendants admit that each pod has a multipurpose room but deny that it is primarily used by medical staff.

13. Defendants admit that most, but deny that all inmates stay in their cell between 23 and 24 hours a day. Defendants deny that inmate cells are 70 square feet in area. Defendants admit that only inmates who reach the appropriate behavioral level in administrative detention status are allowed the use of a television or radio. Defendants also admit that cell doors are constructed of a steel mesh with a food slot which is locked from the outside. Defendants further admit that inmates cannot see each other while in their cells. Defendants deny the remaining allegations contained in paragraph 13 of plaintiffs’ amended complaint.

14. Defendants deny that when inmates are fed in their cells their tray and utensils must be placed in the chuck hole within 30 minutes of being served. Defendants deny there are no educational programs for inmates at Tamms Correctional Center. Defendants admit that due to the heightened security levels at Tamms Correctional Center there are no work assignments for inmates at the Tamms Super Max Correctional Center. Defendants deny that inmate contact with each other is strictly forbidden. Defendants admit that inmates are provided reading materials in their cell and further admit they can exchange those materials for new materials with the library at the Tamms Correctional Center. Defendants deny that only inmates in Administrative Detention behavioral level 3 are allowed to have radio or television privileges. Defendants admit the remaining allegations contained in paragraph 14 of plaintiffs' amended complaint.

15. Defendants deny the allegations contained in paragraph 15 of plaintiffs' amended complaint.

16. Defendants deny that two inmates on the same wing are not allowed out of their cells at the same time. Defendants admit that when medically necessary, inmates are escorted to the main healthcare unit. Defendants deny that Tamms inmates are allowed only a maximum number of 4 showers or 4 periods of yard per week. Defendants admit that when an inmate has a scheduled visit he will be escorted to the visiting room. Defendants admit that Tamms inmates may use the law books located in the satellite law libraries on each pod upon submitting a request. Defendants deny the remaining allegations contained in paragraph 16 of plaintiffs' amended complaint.

17. Defendants deny inmates are given a full "body cavity" search when they leave and return to their cells. Defendants admit the remaining allegations contained in paragraph 17 of plaintiffs' amended complaint.

18. Defendants deny that an inmate is made to lie down on the floor while his ankles are being cuffed. Defendants further deny that correctional officers wear gloves to ensure that inmates have no human contact. Defendants further deny that the cuffing or escorting procedure is punitive or humiliating or that it is the only time inmates have human contact. Defendants admit the remaining allegations contained in paragraph 18 of plaintiffs' amended complaint.

19. Defendants deny the only view an inmate gets of "natural light" or the "outside world" is while he is on the yard. Defendants admit that some inmates may not be permitted to go to the yard due to the disciplinary infractions but deny that "many inmates" are not permitted to go to the yard. Defendants admit the remaining allegations contained in paragraph 19 of plaintiffs' amended complaint.

20. Defendants deny that an inmate's opportunity for a visit is infrequent. Defendants lack knowledge as to plaintiffs' definition of the term "uncomfortable," therefore defendants can neither admit or deny this allegations contained in paragraph 20. To the extent this court requires a response, defendants deny inmate visits are uncomfortable. Defendants admit inmate visits are non-contact and a clear Lexan window separates the inmate and visitor and the inmate and visitor communicate through an intercom system that allows one person at a time to talk. Defendants also admit that inmates are restrained during visits, that non-attorney conversations may be monitored, that Tamms is approximately 360 miles from Cook County and that, absent emergencies, non-attorney visits must be arranged at least two weeks in advance for a specific time. Defendants further admit telephone calls are prohibited except for legal calls or emergencies. Defendants deny the remaining allegations contained in paragraph 20 of plaintiffs' amended complaint.

21. Defendants deny the allegations contained in paragraph 21 of plaintiffs' amended

complaint.

22. Defendants admit that attorney/client communication usually takes place in a specialized non-contact visiting room designed solely for attorney/client communication. Defendants deny these communications are severely restricted and not confidential. Defendants further deny those communications are audibly monitored. Defendants admit that inmate cells are searched for contraband but deny inmates confidential correspondence is examined by correctional staff.

23. Defendants deny that inmates being transferred under disciplinary segregation status are not told why they are being transferred. Defendants also deny that inmates do not have an opportunity to contest their placement at Tamms. Defendants admit the remaining allegations contained in paragraph 23 of plaintiffs' amended complaint.

24. Defendants deny that an inmate on administrative detention status cannot have witnesses interviewed or present documents to support his contention he should not be transferred to Tamms. Defendants further deny the 90 days reviews do not take place. Defendants deny the remaining allegations contained in paragraph 24 of plaintiffs' amended complaint.

PARTIES

25. Defendants admit that Donald Snyder was the Director of the Department of Corrections on January 19, 1999, but deny that he is currently the Director, however, as such Director, he had at that time overall responsibility for the administration of all correctional facilities within the State. Defendants further admit that plaintiffs purport to sue him in his individual and official capacities. Defendants deny the remaining allegations contained in paragraph 25 of plaintiffs' amended complaint.

26. Defendants admit that Odie Washington was the Director of the Department of

Corrections from January 16, 1995, until January 18, 1999, and during that period he had overall responsibility for the administration of all correctional facilities within the State. Defendants further admit that plaintiffs purport to sue him in his individual capacity only. Defendants deny the remaining allegations contained in paragraph 26 of plaintiffs' amended complaint.

27. Defendants admit that at some point each of the Defendants listed in paragraph were in the position of Deputy Director or Assistant Deputy Director during the period when the plaintiffs were selected for transfer to Tamms Correctional Center. Defendants deny that Defendants Neal, Detella, Clark , Carter or Page were in those positions during that entire period. Defendants admit the Plaintiffs are attempting to sue Defendants O'Leary, Detella, Neal, Snyder, Carter, Clark and Page in their official and individual capacities. Defendants admit the plaintiffs are attempting to sue Defendant Washington in his individual capacity. Defendants deny the remaining allegations contained in paragraph 27 of plaintiffs' amended complaint.

28. Defendants admit that at some point each of the Defendants listed in paragraph were in the position of Warden during the period when the plaintiffs were selected for transfer to Tamms Correctional Center. Defendants deny that Defendants listed in paragraph 28 were in that position during that entire period. Defendants admit the plaintiffs are attempting to sue the Defendants listed in paragraph 28 in their official and individual capacities.

29. Defendants admit the allegations contained in paragraph 29 of plaintiffs' amended complaint.

30. Defendants admit the allegations contained in paragraph 30 of plaintiffs' amended complaint.

31. Defendants deny that inmate Von Perbandt was transferred to Tamms on April 22, 1998. Defendants admit that inmate Von Perbandt has remained at Tamms continuously from April 20, 1998, to the date of the Complaint and that he has been in Administrative Detention

status the entire time he has been incarcerated at Tamms. Defendants admit that prior to his transfer to Tamms, inmate Von Perbandt was housed at a medium security prison in Virginia and that prior to that inmate Von Perbandt was previously incarcerated in the State of Utah, but Defendants have insufficient knowledge to admit or deny if inmate Von Perbandt was assigned as a cook while incarcerated in the State of Utah. Defendants have insufficient knowledge to admit or deny inmate Von Perbandt's entire litigation history, whether there was a case pending at the time of his transfer or the nature of such case, but admit he has filed at least one lawsuit while incarcerated within the Department.

32. Defendants admit that inmate Von Perbandt is classified as a member of the Latin King security threat group and that he was recommended by defendant Carter and approved for transfer to Tamms by Defendant O'Leary. Defendants have insufficient knowledge to admit or deny if inmate Von Perbandt served only 90 days in segregation in the two years prior to his transfer to Tamms.

33. Defendants admit that Alejandro Villazana was transferred to the Tamms Correctional Center on investigations status on September 3, 1998. Defendants deny the remaining allegations contained in paragraph 33 of plaintiffs' amended complaint.

34. Defendants are without knowledge sufficient to admit or deny the allegation that plaintiff Alejandro Villazana has never been charged with certain offenses. Defendants admit that is a member of the Ambrose STG and that defendant Neal approved the transfer. Defendants deny the remaining allegations contained in paragraph 34 of plaintiffs' amended complaint.

35. Defendants admit that Armando Tinajero was transferred to the Tamms Correctional Center he remained there through the date of his complaint, that he was transferred to administrative detention status from segregation status on April 15, 1999, and that he has

been in such status since that date. Defendants are without knowledge sufficient to admit or deny the allegations that plaintiff offered to take a polygraph examination and that he was not given such an examination. Defendants deny the remaining allegations contained in paragraph 35 of plaintiffs' amended complaint.

36. Defendants deny that none of Tinajero's assaults resulted in serious injury. Defendants otherwise admit the allegations contained in paragraph 36 of plaintiffs' amended complaint.

37. Defendants admit that inmate Taylor was transferred to Tamms from Pontiac on September 2, 1998, and that inmate Taylor has remained in segregation status at Tamms continuously through the date of the Complaint. Defendants admit that prior to his transfer to Tamms, inmate Taylor was involved in a hunger strike but lack knowledge to admit or deny whether he was protesting alleged conditions. Defendants admit that defendant Gilmore recommended Taylor's placement at Tamms. Defendants have insufficient knowledge to either admit or deny inmate Taylor's entire litigation history, but admit he has filed at least one lawsuit while incarcerated within the Department. Defendants deny the remaining allegations in paragraph 37 of plaintiffs' amended complaint.

38. Defendants admit that inmate Sparling was transferred to Tamms from Menard on August 25, 1998, and has remained in Administrative Detention status at Tamms continuously through the date of the Complaint. Defendants have insufficient knowledge to either admit or deny whether inmate Sparling is an "active" litigator or "writ writer" or the substance of such litigation or "writ writing," but admit he has filed at least one lawsuit while incarcerated within the Department.

39. Defendants deny that inmate Sparling has been violated out of the Northsider security threat group. Defendants admit the remaining allegations contained in paragraph 39

of plaintiffs' amended complaint.

40. Defendants admit that inmate Sorrentino was transferred to Tamms from Menard on March 12, 1998, and remained in Administrative Detention status at Tamms continuously through the date of the Complaint. Defendants have insufficient knowledge to either admit or deny whether inmate Sorrentino is an "active" litigator or "writ writer" or the substance of such litigation or "writ writing," but admit he has filed at least one lawsuit while incarcerated within the Department.

41. Defendants deny inmate Sorrentino was classified as minimum security prior to his transfer to Tamms. Defendants admit the remaining allegations contained in paragraph 41 of plaintiffs' amended complaint.

42. Defendants admit that inmate Santiago was transferred to Tamms from Pontiac on August 4, 1999, and has remained in Tamms continuously through the date of the Complaint. Defendants deny the remaining allegations contained in paragraph 42 of plaintiffs' amended complaint.

43. Defendants have insufficient knowledge to either admit or deny inmate Santiago's entire litigation history, or that he is an "active" grievance writer or the substance of such litigation or grievances, but admit he has filed grievances and at least one lawsuit while incarcerated within the Department. Defendants have insufficient knowledge to either admit or deny the remaining allegations contained in paragraph 43 of plaintiffs' amended complaint.

44. Defendants admit that inmate Santiago received only one disciplinary violation while incarcerated at Menard and admit that inmate Santiago filed grievances concerning the conditions of his incarceration. Defendants deny that Santiago was taken to Assistant Warden Cowan's office to be crossed examined. Defendants admit that inmate Santiago was transferred to Pontiac on July 18, 1999 and that two weeks later he was transferred to Tamms. Defendants

admit defendant Cowan recommended and Defendant Clark approved Santiago's placement at Tamms. Defendants deny the remaining allegations contained in paragraph 44 of plaintiffs' amended complaint.

45. Defendants admit the allegations contained in paragraph 45 of plaintiffs' amended complaint.

46. Defendants deny that Tyshawn Ross has had no disciplinary reports in the last five years. Defendants otherwise admit the allegations contained in paragraph 46 of plaintiffs' amended complaint.

47. Defendants deny that inmate Vincente Rodriguez was in Administrative Detention status at Tamms from October 28, 1999, until January 29, 2000. Defendants admit the remaining allegations in paragraph 47 of plaintiffs' amended complaint.

48. Defendants deny that on July 2, 1996, inmate Vincente Rodriguez was savagely beaten by the Tactical Unit at Stateville Correctional Center. Defendants admit the remaining allegations in paragraph 48 of plaintiffs' amended complaint.

49. Defendants admit the allegations contained in paragraph 49 of Plaintiffs' Complaint.

50. Defendants admit that inmate Edward Rodriguez was transferred to Tamms from Menard on March 27, 1998, and has remained at Tamms continuously through the date of the Complaint. Defendants deny the remaining allegations contained in paragraph 50 of plaintiffs' amended complaint.

51. Defendants have insufficient knowledge to either admit or deny whether inmate Edward Rodriguez is an "active" litigator or the substance of such litigation but admit he has filed at least one lawsuit while incarcerated within the Department. Defendants also have insufficient knowledge to either admit or deny whether inmate Rodriguez assisted other inmates in filing

lawsuits. Defendants admit that inmate Rodriguez has filed numerous grievances. Defendants deny the remaining allegations contained in paragraph 51 of plaintiffs' amended complaint.

52. Defendants deny that inmate Edward Rodriguez has had no major disciplinary reports written against him since 1992. Defendants admit the remaining allegations contained in paragraph 52 of plaintiffs' amended complaint.

53. Defendants admit the allegations contained in paragraph 53 of plaintiffs' amended complaint.

54. Defendants admit the allegations contained in paragraph 54 of plaintiffs' amended complaint.

55. Defendants admit the allegations contained in paragraph 55 of plaintiffs' amended complaint.

56. Defendants admit the allegations contained in paragraph 56 of plaintiffs' amended complaint.

57. Defendants have insufficient knowledge to either admit or deny whether inmate Lasley is an "active" litigator or the substance of such litigation, but admit he has filed grievances and at least one lawsuit while incarcerated within the Department. Defendants also have insufficient knowledge to either admit or deny that inmate Lasley has assisted other inmates with their complaints. Defendants admit the remaining allegations contained in paragraph 57 of plaintiffs' amended complaint.

58. Defendants deny that inmate Lasley's only other ticket in the two years prior to being transferred to Tamms was for refusing to take a tuberculosis test administered through the bars of his cell. Defendants admit the remaining allegations contained in paragraph 58 of plaintiffs' amended Complaint.

59. Defendants admit that inmate Knox was transferred to Tamms from Menard on

August 24, 1998, and remained at Tamms continuously through the date of the Complaint. Defendants deny that inmate Knox has been in Administrative Detention status during his entire stay at Tamms. Defendants have insufficient knowledge to admit or deny the remaining allegations contained in paragraph 59 of plaintiffs' amended complaint.

60. Defendants deny that during the entire period of his incarceration since 1990, inmate Knox has received no segregation time other than 15 days for having what were alleged to be gang documents and deny plaintiffs' allegation that the documents were from his criminal case. Defendants admit the remaining allegations contained in paragraph 60 of plaintiffs' amended complaint.

61. Defendants admit that Michael Johnson was transferred to the Tamms Correctional Center on April 1, 1998, and that he has remained at the Tamms Correctional Center. Defendants deny the remaining allegations contained in paragraph 61 of plaintiffs' amended complaint.

62. Defendants deny that plaintiff Johnson received only four minor tickets during the ten years prior to his transfer to the Tamms Correctional Center. Defendants admit that Johnson is a member of the Gangster Disciples.

63. Defendants deny that inmate Horton was transferred to Tamms from Illinois River on March 16, 1998. Defendants admit that he has remained at Tamms continuously from March 17, 1998, through the date of the Complaint. Defendants admit he was initially placed in segregation at Tamms, and has been in Administrative Detention status since February of 1999. Defendants have insufficient knowledge to either admit or deny whether inmate Horton is an "extremely active" litigator, on behalf of himself or other inmates, or the substance of such litigation but admit he has filed at least one lawsuit while incarcerated within the Department. Defendants admit that inmate Horton was a law clerk while at Stateville. Defendants have

insufficient knowledge to either admit or deny whether he has testified in cases brought by other inmates. Defendants deny that inmate Horton has suffered a history of retaliation from Department officials as a result of his litigation.

64. Defendants deny that inmate Horton was housed in minimum security “Honor Dorm” at Stateville in February of 1997. Defendants admit the remaining allegations contained in paragraph 64 of plaintiffs’ amended complaint.

65. Defendants admit the allegations contained in paragraph 65 of plaintiffs’ amended complaint.

66. Defendants admit that plaintiff Harper was transferred to the Tamms Correctional Center in investigative status on April 27, 1999, and that he has remained at the Tamms Correctional Center since that date. Defendants further admit that plaintiff filed a civil rights action entitled Harper v. Albert, in which he is represented by his same counsel as in the instant case. Defendants deny the remaining allegations contained in paragraph 66 of plaintiffs’ amended complaint.

67. Defendants admit the allegations contained in paragraph 67 of plaintiffs’ amended complaint.

68. Defendants admit the allegations contained in paragraph 68 of plaintiffs’ amended complaint.

69. Defendants admit the allegations contained in paragraph 69 of plaintiffs’ amended complaint.

70. Defendants admit the allegations contained in paragraph 70 of plaintiffs’ amended complaint.

71. Defendants admit that defendant Neal approved the transfer of Gill and that he is a member of the Black Souls. Defendants deny the remaining allegations contained in

paragraph 71 of plaintiffs' amended complaint

72. Defendants admit the allegations contained in paragraph 72 of plaintiffs' amended complaint.

73. Defendants admit the allegations contained in paragraph 73 of plaintiffs' amended complaint.

74. Defendants admit the allegations contained in paragraph 74 of plaintiffs' amended complaint.

75. Defendants deny that Larry Foutch was classified as minimum security when transferred to the Tamms Correctional Center. Defendants otherwise admit the allegations contained in paragraph 75 of plaintiffs' amended complaint.

76. Defendants have insufficient knowledge to either admit or deny whether inmate Felton is an "active" litigator or grievance filer, or the substance of such litigation or grievances, but admit he has filed grievances and at least one lawsuit while incarcerated within the Department. Defendants have insufficient knowledge to either admit or deny whether inmate Felton assisted numerous other inmates in pursuing such claims. Defendants deny that defendant Michael Neal approved inmate Felton's transfer to Tamms. Defendants admit the remaining allegations contained in paragraph 76 of plaintiffs' amended complaint.

77. Defendants deny that inmate Combs was transferred to Tamms from Menard on September 2, 1998. Defendants admit inmate Combs has continuously remained at Tamms through the date of the Complaint and has been in Administrative Detention status during his entire stay at Tamms. Defendants have insufficient knowledge to either admit or deny whether inmate Combs is an "active" litigator or grievance filer or the substance of such litigation or grievances, but admit he has filed grievances and at least one lawsuit while incarcerated within the Department. Defendants have insufficient knowledge to either admit or deny whether inmate

Combs assisted numerous other inmates in pursuing such claims. Defendants admit defendant Neal approved inmate Combs' transfer to Tamms.

78. Defendants admit the allegations contained in paragraph 78 of plaintiffs' amended complaint.

79. Defendants admit the allegations contained in paragraph 79 of plaintiffs' amended complaint.

80. Defendants admit that inmate Clayton was transferred to Tamms from Menard on July 20, 1998, and has remained at Tamms continuously through the date of the Complaint. Defendants deny that inmate Clayton was originally in segregation status, and has been in Administrative Detention status since January, 1999. Defendants have insufficient knowledge as to either admit or deny whether inmate Clayton is an "active" litigator or grievance filer or the substance of such litigation or grievances, but admit he has filed grievances and at least one lawsuit while incarcerated within the Department. Defendants admit defendant Neal approved inmate Clayton's transfer to Tamms.

81. Defendants admit the allegations contained in paragraph 81 of plaintiffs' amended complaint.

82. Defendants deny that Gary Clark received only one minor ticket during the two years prior to Tamms and that he served less than 18 months in segregation in 15 years of incarceration. Defendants otherwise admit the allegations contained in paragraph 82 of plaintiffs' amended complaint.

83. Defendants admit the allegations contained in paragraph 83 of plaintiffs' amended complaint.

84. Defendants admit that defendant Gilmore recommended and defendant O'Leary approved inmate Chapman's transfer to Tamms. Defendants admit plaintiff received a verdict

in his favor based on a default judgment. As that case did not pertain to these defendants, they have insufficient knowledge to either admit or deny the remaining allegations contained in paragraph 84 of plaintiffs' amended complaint.

85. Defendants have insufficient knowledge to either admit or deny whether inmate Carroll is an "extremely active" litigator or the substance of such litigation but admit he has filed at least one lawsuit while incarcerated within the Department. Defendants deny that inmate Carroll was threatened with retaliation or retaliated against for his litigation activities. Defendants admit the remaining allegations contained in paragraph 85 of plaintiffs' Complaint.

86 Defendants have insufficient knowledge to either admit or deny whether inmate Burrell has been "extremely active" in complaining about alleged Department staff misconduct or racial discrimination or that inmate Burrell regularly assisted other inmates with grievances and litigation. Defendants admit the remaining allegations contained in paragraph 86 of plaintiffs' amended complaint.

87. Defendants admit the allegations contained in paragraph 87 of plaintiffs' amended complaint.

88. Defendants deny that plaintiff had been transferred to the Danville Correctional Center in violation of Department of Corrections procedures. Defendants lack knowledge of the allegation that plaintiff spent "virtually no" time in segregation since 1993. Defendants otherwise admit the allegations contained in paragraph 88 of plaintiffs' amended complaint.

89. Defendants admit the allegations contained in paragraph 89 of plaintiffs' amended complaint.

90. Defendants lack knowledge sufficient to admit or deny the allegation that plaintiff was in general population while housed in another state. Defendants otherwise admit the allegation contained in paragraph 90 of plaintiffs' amended complaint.

91. Defendants admit that inmate Bivens was assigned as a law clerk while at Menard. Defendants have insufficient knowledge to either admit or deny whether, in such capacity, inmate Bivens assisted inmates in preparing lawsuits and what claims were contained in said lawsuits. Defendants admit to the remaining allegations in paragraph 91 in plaintiffs' amended complaint.

92. Defendants admit that inmate Bivens is classified as a member of the Black Disciple security threat group. Defendants have insufficient knowledge to either admit or deny inmate Bivens received only 43 days of segregation placement over the 15 years he was incarcerated within the Department. Defendants admit the remaining allegations contained in paragraph 92 of plaintiffs' amended complaint.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

93. Defendants deny the fact of transfer to Tamms Correctional Center is not grievable.

94. Defendants admit that the following inmates have grieved their transfer to Tamms on the date listed in parenthesis after their names: Von Perbandt (9-22-98), Sorrentino (7-27-98), E. Rodriguez (4-24-98), Harper (7-29-99), Clayton (9-22-98) , Chapman (12-17-98). Defendants deny that any of the plaintiffs have grieved that their transfer to Tamms was based on retaliation by the Defendants for litigation, grievance or "writ writing." The Defendants deny the remaining allegations contained in paragraph 94 of plaintiffs' Complaint.

CLASS ACTION

95. Defendants deny plaintiffs are seeking class certification based on the subclasses named.

96. Defendants deny the allegations contained in paragraph 96 of plaintiffs' amended complaint.

97. Defendants deny the allegations contained in paragraph 97 of plaintiffs' amended complaint.

98. Defendants admit there are approximately 274 inmates at the Tamms Correctional Center. Defendants otherwise deny the allegations contained in paragraph 98 of plaintiffs' amended complaint.

99. Defendants deny the allegations contained in paragraph 99 of plaintiffs' amended complaint.

100. Defendants deny the allegations contained in paragraph 100 of plaintiffs' amended complaint.

101. Defendants deny the allegations contained in paragraph 101 of plaintiffs' amended complaint.

102. Defendants deny the allegations contained in paragraph 102 of plaintiffs' amended complaint.

103. Defendants deny the allegations contained in paragraph 103 of plaintiffs' amended complaint.

COUNT I

104-112. Defendants have previously answered paragraphs 104 through 112 of plaintiffs' amended complaint.

COUNT II

113-119. Count II is no longer in this litigation.

COUNT III

120. Defendants deny the allegations contained in paragraph 120 of plaintiffs' amended complaint.

121. Defendants deny the allegations contained in paragraph 121 of plaintiffs' amended complaint.

122. Defendants deny the allegations contained in paragraph 122 of plaintiffs' amended complaint.

123. Defendants deny the allegations contained in paragraph 123 of plaintiffs' amended complaint.

124. Defendants deny the allegations contained in paragraph 124 of plaintiffs' amended complaint.

125. Defendants deny the allegations contained in paragraph 125 of plaintiffs' amended complaint.

126. Defendants deny the allegations contained in paragraph 126 of plaintiffs' amended complaint.

COUNT IV

127-134. Count IV is no longer in this litigation.

RELIEF

Defendants deny any of their conduct violates plaintiffs' rights in any way. Defendants deny that plaintiffs are entitled to the relief requested or any relief whatsoever.

AFFIRMATIVE DEFENSES

1. Plaintiffs have failed to file their complaint against Defendants, Clark and Cowan within the appropriate time allowable by law.

2. Several of the plaintiffs have failed to fully exhaust their administrative remedies in relation to the allegations of the case at bar.

3. At all times relevant herein, defendants acted in good faith in the performance of

their official duties and without violating plaintiffs' clearly established statutory or constitutional rights of which a reasonable person would have known. Defendants are therefore protected from suit by the doctrine of qualified immunity.

4. To the extent plaintiffs claim that they are not guilty of offenses for which plaintiffs lost good time, the claim is barred by *Heck v. Humphrey*, 512 U.S. 477 (1994).

5. To the extent plaintiffs seek to challenge the validity of a hearing for which a loss of good conduct credit was imposed the claim is barred by *Heck v. Humphrey*.

6. Defendants asserts the defense of *res judicata* and collateral estoppel as bars to any claims or actions previously litigated by the plaintiffs.

WHEREFORE, defendants pray that this honorable Court deny the relief sought in plaintiffs' amended complaint.

Respectfully submitted,

DONALD SNYDER, ODIE WASHINGTON, MICHAEL V. NEAL, GEORGE DETELLA, MICHAEL O'LEARY, THOMAS PAGE, DWAYNE CLARK, ROGER COWAN and RODNEY AHITOW,

Defendants,

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By: /s/Terence J. Corrigan
TERENCE J. CORRIGAN
Assistant Attorney General

Of Counsel.

CERTIFICATE OF SERVICE

I hereby certify that on May 5, 2006, I electronically filed Defendants' Answer to Count III of Plaintiffs' Amended Complaint with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

Alan Mills
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