

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

INMATES OF WESTVILLE CORRECTIONAL CENTER)
ROGER W. ANDERSON)

Individually and on behalf of all others)
similarly situated,)

Plaintiff,)

-VS-)

ROBERT ORR, individually and in his)
official capacity as GOVERNOR of the)
State of Indiana)

GORDON H. FAULKNER, individually and in)
his official capacity as Commissioner of)
the Indiana Department of Correction)

G. MICHAEL BPOGLIN, individually and in)
his official capacity as Superintendent)
of the Westville Correctional Center,)
Westville, Indiana,)

Defendants)

CIVIL ACTION NO. 583-6481

COMPLAINT - CLASS ACTION

Anderson v. Bayh



PC-IN-002-001

CLASS ACTION COMPLAINT

I.

Preliminary Statement

1. This is an action for declaratory and injunctive relief, brought by the named plaintiff, who is a prisoner incarcerated in the Westville Correctional Center, Westville, Indiana. Plaintiff brings his requests for injunctive and declaratory relief on behalf of himself and all others similarly situated to redress the deprivation under color of state law of rights and privileges guaranteed to them by the Constitution of the United States, specifically, his right, guaranteed by the Eighth and Fourteenth Amendments, to be free from cruel and unusual punishment.

II.

Jurisdiction

2. Jurisdiction is conferred on the Court by 28 U.S.C. §1343(3) and (4), which provide for original jurisdiction of this court in all suits authorized by 42 U.S.C. §1983 to redress the deprivation under color of state law of any right, privilege, or immunity secured to all persons within the jurisdiction of the United States by the Constitution of the United States or by an Act of Congress providing for equal or civil rights.

3. Plaintiff's action for declaratory relief is authorized by 28 U.S. §2201, 2202, and Rule 56 of the Federal Rules of Civil Procedure.

III.

PLAINTIFF

4. The plaintiff is now and has been incarcerated, at all times relevant to this action, in the Westville Correctional Center, Westville, Indiana, in the custody of the Indiana Department of Correction.

IV.

CLASS ACTION ALLEGATIONS

5. The named plaintiff brings this action on his own behalf and on behalf of all others similarly situated pursuant to Rule 23(a) and (b) (2) of the Federal Rules of Civil Procedure. The members of the class are those prisoners who are, or may be in the future, confined at the Westville Correctional Center, Westville, Indiana, in the custody of the Indiana Department of Correction.

6. The requirements of Rule 23 are met:

- (a) The class consists of at least 2900 persons, the number of prisoners presently confined to the Westville Correctional Center.
- (b) There are questions of law and fact common to the class, specifically, whether the conditions, practices and policies of the Indiana Department of Correction and the Westville Correctional Center deprive plaintiffs and the class of their right to be free from cruel and unusual punishment as guaranteed to them by the Eighth and the Fourteenth Amendments to the United States Constitution;
- (c) the claims of representative party is typical of the class;
- (d) the representative party will fairly and adequately protect the interests of the class inasmuch as he has no interests of other class members and are represented by counsel experienced in this type of litigation; and
- (e) finally, the parties opposing the class have acted or refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive and declaratory relief with respect to the class as a whole.

v.

Defendants

7. Defendant Robert Orr is the Governor of the State of

Indiana and the head of the Executive Branch of government of the State of Indiana. The Westville Correctional Center is operated by the Indiana Department of Correction, a branch of the executive branch. The Governor of Indiana appoints the Commissioner of Correction.

8. Defendant Gordon H. Faulkner is the Commissioner of the Indiana Department of Correction and exercises supervisory power over the correctional institutions of the State of Indiana, including the Westville Correctional Center.

9. Defendant G. Michael Broglin is the Superintendent of the Westville Correctional Center and administers the operation of the Westville Correctional Center, including having custody and control of all prisoners confined there.

VI.

Statement of Facts

10. The Westville Correctional Center is a prison which houses male adult offenders who are committed to the Indiana Department of Correction; it has been rated by the Indiana Department of Correction as having a capacity of 1600, but as of January 1, 1986, the population of the Westville Correctional Center was approximately 3,000 or 88% above its rated bed capacity.

11. The totality of the conditions of confinement at the Westville Correctional Center constitute cruel and unusual punishment.

12. Members of the plaintiff class are housed in dormitories at the Westville Correctional Center, which includes the Maximum Security Unit (MSU), that is made up of individual cells that

house special status inmates.

13. The dormitories at the Westville Correctional Center are severely overcrowded, all being double-bunked and not capable of housing their present number of inmates under contemporary sanitary standards.

14. The heating and ventilation in the dormitories at the Westville Correctional Center is not sufficient due to the overcrowded conditions within said dormitories, special units, and thus creates a health hazard for plaintiff and the class.

15. There is an insufficient number of shower-heads to accommodate the number of persons assigned to the individual dormitories at the Westville Correctional Center.

16. There is an insufficient number of toilets to accommodate the number of persons assigned to the individual dormitories at the Westville Correctional Center.

17. There has been a decline in the general sanitary conditions at the Westville Correctional Center due to the increased population.

18. The dormitories at the Westville Correctional Center are infested with insects, mice and other vermin which impacts on the environmental health of the institution.

19. The inadequate sanitary conditions due to the overcrowded population at the Westville Correctional Center have created an environmental health hazard for the inmates incarcerated there.

20. The overcrowded conditions at the Westville Correctional Center have led to an increased tension level and physical and verbal assaults between both inmates and staff.

21. The medical care delivery system at the Westville Correctional Center has inadequate staffing to meet the medical

needs of the inmates at the Westville Correctional Center.

22. The professional health care providers at the Westville Correctional Center consist of one (1) consulting doctor who is scheduled to be physically present one hour a day, five days a week; one (1) physician's assistant; and one (1) registered nurse.

23. Overpopulation at the Westville Correctional Center has caused an increase in idleness at that institution and a large number of inmates being assigned meaningless and menial tasks.

VII.

Claim for Relief

24. The named plaintiff and the class have been deprived and will continue to be deprived of the right to be free from cruel and unusual punishment guaranteed to them by the Eighth and Fourteenth Amendments to the United States Constitution by their confinement in the Westville Correctional Center under the conditions set forth in this complaint.

INJURY

25. Plaintiff and the class have suffered and will continue to suffer irreparable and immediate harm and injury until such time as the court requires the defendants to operate the Westville Correctional Center so as not to deprive plaintiff and the class of the rights guaranteed to them by the Eighth and Fourteenth Amendments to the United States Constitution.

PRAYER FOR RELIEF

WHEREFORE, plaintiff prays, on behalf of himself and on behalf of all other persons similarly situated, that the Court:

1. Assume jurisdiction of this action and set this cause down promptly for a hearing.

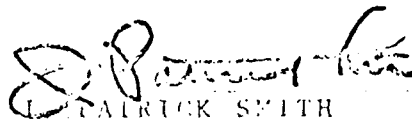
2. Determine by order as soon as practicable, pursuant to rule 23(c) (1) of the Federal Rules of Civil Procedure, that this action may be maintained as a class action.

3. Enter a preliminary injunction, to be later made permanent, prohibiting defendants, their employees, agents, successors in office, and all other persons in active concert with them from continuing to deprive plaintiffs and the class as set forth in this complaint of the right to be free from cruel and unusual punishment as guaranteed to them by the Eighth and Fourteenth Amendments to the United States Constitution;

4. Enter a final judgment, pursuant to 28 U.S.C. §2201 and §2202 and Rule 54 of the Federal Rules of Civil Procedure declaring that the confinement of plaintiffs and the class in the Westville Correctional Center constitutes cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments to the United States Constitution;

5. Grant plaintiff the costs of this action, attorney's fees, and such other and further relief as is just and proper in the premises.

DATED: 13 Feb 1986


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ATTORNEY FOR PLAINTIFF

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing was on the 13 day of February, 1986, deposited in the United States Mail, postage prepaid, and addressed to Linley Pearson, Attorney General, State of Indiana, and Michael Schoening, Deputy Attorney General, State of Indiana, 219 State House, Indianapolis, Indiana 46204.


J. Patrick Smith