



PC-MS-003-002

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION

WILLIE RUSSELL, SHERWOOD BROWN, KELVIN JORDAN,
JOHN NIXON, PAUL WOODWARD, and TRACY HANSEN,
on their own behalf and on behalf of those similarly situated,

Plaintiffs,

Case No. _____

v.

ROBERT L. JOHNSON, Commissioner,
Mississippi Department of Corrections,
CHRISTOPHER EPPS, Deputy Commissioner,
Mississippi Department of Corrections,
EMMITT L. SPARKMAN, Superintendent, Mississippi
State Penitentiary, JESSIE STREETER, Warden, Area IV,
Mississippi State Penitentiary, CAPTAIN LARRY HARRIS,
Unit Administrator, Unit 32, Mississippi State Penitentiary,
in their official capacities,

Defendants.

_____ /

COMPLAINT

PRELIMINARY STATEMENT

1. The Plaintiffs, six Death Row prisoners in the custody of the Mississippi Department of Corrections at Mississippi State Penitentiary in Parchman, Mississippi, bring this suit under 42 U.S.C. § 1983, on their own behalf and on behalf of all those similarly situated, seeking a preliminary and permanent injunction and declaratory relief, for violation of their rights under the First, Eighth, and Fourteenth Amendments to the United States Constitution. Plaintiffs allege that Defendants knowingly

subject the Death Row prisoners to barbaric and inhumane conditions, which wantonly inflict unnecessary pain and constitute cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments to the Constitution of the United States. Plaintiffs also allege that the Defendants violate their rights under the First and Fourteenth Amendments by arbitrarily curtailing their rights to communicate with family, friends, loved ones, and legal counsel, without legitimate correctional justification.

JURISDICTION AND VENUE

2. This action arises under 42 U.S.C. § 1983 to redress the deprivation under color of state law of rights, privileges, and immunities secured by the Constitution of the United States. The rights sought to be redressed are guaranteed by the First, Fifth, Eighth, and Fourteenth Amendments to the United States Constitution. The Court has federal question jurisdiction over this controversy under 28 U.S.C. §§ 1331 and 1343.

3. Venue is proper in the Northern District of Mississippi under 28 U.S.C. § 1391. The Plaintiffs are incarcerated there, some of the Defendants are employed there, and the acts complained of occurred there.

PARTIES

4. Plaintiffs Willie Russell, Tracy Hansen, Sherwood Brown, Kelvin Jordan, John Nixon, and Paul Woodward are Death Row inmates in the custody of the Mississippi Department of Corrections, who are incarcerated by the Defendants in Unit 32 of Mississippi State Penitentiary.

5. Defendant Robert L. Johnson is the Commissioner of the Mississippi Department of Corrections.

6. Defendant Christopher Epps is the Deputy Commissioner of Corrections of the Mississippi Department of Corrections.

7. Defendant Emmitt L. Sparkman is the Superintendent of Mississippi State Penitentiary.
8. Defendant Jessie Streeter is Area IV Warden of Mississippi State Penitentiary, over Unit 32.
9. Defendant Larry Harris is Unit Administrator of Unit 32, Mississippi State Penitentiary.

PRELIMINARY STATEMENT

10. The Plaintiffs are prisoners confined to Death Row. Defendants house Death Row prisoners in segregation cells in Unit 32, a maximum-security facility in Mississippi State Penitentiary. Defendants confine the Death Row prisoners adjacent and in close proximity to severely mentally ill prisoners and to prisoners being punished with punitive segregation for serious infractions of prison rules. Death Row prisoners, even those whose institutional conduct would otherwise entitle them to trusty status, may spend many years in Unit 32 while their appeals are pending in the courts.

11. The conditions to which the Defendants knowingly and deliberately subject the Plaintiffs -- including profound social isolation, unrelieved illness and monotony, lack of exercise, intolerable stench and pervasive filth, grossly malfunctioning plumbing, constant exposure to human excrement, dangerously high ambient cell temperatures and humidity, grossly inadequate ventilation, constant exposure to mosquitoes, gnats, horseflies, and other insects, deprivation of basic medical, dental and mental health care, and constant exposure night and day to the screams, ravings, and hallucinations of severely mentally ill inmates in adjoining cells -- cause the Plaintiffs intense physical and emotional pain and suffering and are likely to cause serious mental illness to emerge in previously healthy prisoners, psychosis, mania, and mental breakdown in less healthy prisoners, and permanent physical injury and illness, and to put the Plaintiffs at high risk of premature death while they exercise their rights of appeal of their sentences.

CONDITIONS OF CONFINEMENT

Permanent enforced idleness and isolation

12. Death Row inmates live in almost total isolation from other human beings and in a state of perpetual forced idleness and monotony. They are locked down 23 or 24 hours a day. Their cells are dimly lit; reading, writing, and any kind of sustained and focused thought are interrupted by the constant screams, moans, curses, animal noises, maniacal laughter, and hallucinatory ravings, night and day, of severely mentally ill prisoners in adjacent cells.

13. Death Row inmates are allowed to exercise only four hours per week, in an outdoor cage scarcely larger than a cell, in which the only exercise possible is walking in small circles. Many Death Row inmates must forego the exercise pen during the heat of summer because the pens are completely exposed to the sun, and inmates are not allowed water or a hat, nor are they entitled to shower when they return from exercise. During cold weather, inmates often must forego the exercise pen because their clothing is inadequate, and by MDOC policy they have no shoes, only plastic thong-type shower sandals. The lack of exercise available to Death Row prisoners who spend years in isolation compounds mental health problems as well as hypertension, diabetes, heart disease, and other chronic illnesses.

14. Visits with family are limited to a one-hour no-contact visit through glass, twice a month, and only on week days, making it difficult if not impossible for working family members and family members at a distance to visit, particularly because Parchman is located in an isolated part of the Delta, to which access by public transportation is costly and limited. Telephone calls with family are prohibitively expensive for most inmates since MDOC imposes charges far higher than the charges for equivalent collect calls in the community. Once a call is placed, MDOC telephone service repeatedly cuts the connection.

15. Prison rules, policies and practices severely curtail Death Row prisoners' right to correspond with family, friends, loved ones, supporters, and legal counsel. Prison rules prohibit Death Row inmates from purchasing more than twenty stamps per week, and prison staff punish Death Row inmates for even minor rule infractions with loss of the privilege of purchasing postage. Mail to Death Row inmates is routinely mis-delivered or returned to the sender for completely arbitrary reasons or for no discernible reason.

16. Death Row inmates have no access whatsoever to educational or vocational programs, prison jobs, or mental health counseling, or even access to such solitary pastimes as playing cards or hobby crafts.

17. Death Row prisoners have no access to any sort of religious services or fellowship. Every other week, a prison chaplain or volunteer passes through the tiers and passes out tracts, but spends no more than five minutes, if that, with inmates seeking religious counseling.

18. Without legitimate penological justification, Defendants hinder communications between Death Row inmates and their counsel. Accommodations for legal visits are so inadequate that visits from counsel who must travel many hours to Parchman to visit Death Row clients are often truncated; legal visits are permitted only in an area which makes it difficult or impossible for Death Row prisoners to communicate confidentially with their counsel; and legal telephone calls are arbitrarily curtailed.

19. The profound and long-term isolation, idleness, and monotony of the inmates' lives cause severe deterioration of their mental health. Prison staff and administrators further intensify this isolation and monotony by punishing even the slightest rule infraction with permanent confiscation of inmates' radios, televisions, and typewriters, and with loss of the privilege of purchasing postage. Such punishments close off the prisoners' only remaining contacts with the outside world and the only means left to them

for mitigating their profound isolation.

Deprivation of basic sanitation and personal hygiene

20. Defendants expose the Death Row inmates to grossly unsanitary living conditions, depriving them of the means to maintain basic personal hygiene and human dignity, and contributing to mental illness. The plumbing is dysfunctional throughout Unit 32: almost every cell has a “ping-pong” toilet, which, when flushed, pushes excrement and waste into the bowl in the adjoining cell. The cells, hallways and showers are chronically filthy. An overwhelmingly strong stench pervades the Unit, some of it from filth on the tier, some of it from a cesspool adjacent to the Unit, some of it from the defective plumbing and ping-pong toilets, some of it caused by flooding which drenches inmates’ cells and soaks their mattresses and bedding with filthy water that is allowed to stand for days at a time. Severely mentally ill inmates throw food and excrement on the floor of their cells and the hallways, which prison staff allow to decompose for days or even weeks. Correctional staff allow severely mentally ill patients to go without showers and to leave their toilets unflushed for weeks at a time, subjecting all other inmates to the stench.

21. The Unit is never disinfected or given any kind of meaningful cleaning. The showers and halls are filthy; correctional staff do not supervise the inmates assigned to clean them. Staff provide inmates with cleaning supplies to clean their cells only about twice a month, but even then provides only filthy water (the same bucket of water for 26 cells) and only one bottle of disinfectant to clean the toilets for several tiers.

22. Death Row inmates are served unclean food. The carts where food trays are stacked are filthy; the trays on which the food is served are cracked and encrusted with the residue from other inmates’ previous meals. If food arrives when the sewage is backing up, correctional staff simply roll the food

carts through the raw sewage. In some cells, inmates cannot eat a meal without flinging away roaches, and cannot set down their food trays without roaches swarming over them.

23. The air in Unit 32 is dank. Water pours into the cells from the outside when it rains, and from cells above when mentally ill inmates flood their toilets, a frequent occurrence. When this occurs, inmates' beds and clothing in cells below are soaked with foul water and waste. There are no drains in the floor, and the inmates are not given supplies to clean up the waste water, so they must remain in foul standing water for prolonged periods, and must live with their filthy soaked bedding and clothing until the next laundry day. Even when bedding and clothing is sent to the laundry, it comes back stained, damp, and foul-smelling. Death Row inmates are not provided a change of sheets or bedding when their bedding is at the laundry, they must sleep on a bare dirty plastic mattress.

24. Death Row inmates are routinely denied access to showers for 4 or even 5 consecutive days every week, even in summer months. The showers are so filthy that some inmates cannot bear to use them, even for the opportunity of leaving their cells or cooling down in the summer.

25. Not infrequently, the sewage system breaks down entirely. Beginning on June 23, 2002, there was no water in Unit 32 for six or seven days. Inmates were not able to wash or flush their toilets and sewage backed up into all of the cells. The air was intolerably humid and foul. Despite the punishing heat in the cells, prison staff allowed inmates only a six-ounce cup of water with each meal.

Lack of Adequate Shelter From Extreme Heat, Cold, Rain, and Vermin

26. The cells in Unit 32 where the Death Row inmates are housed provide inadequate shelter. In wet weather rain floods many of the cells, and in freezing weather the cells are very cold. From May to October, when the air temperature at Parchman routinely exceeds 90 degrees Fahrenheit for days at a time, often accompanied by extremely high humidity, the cells where Plaintiffs are confined for 23 or 24

hours a day become dangerously hot and airless.

27. Ventilation in the cells is grossly inadequate. Fans in the hallways provide little or no ventilation to the cells. The most fortunate of the Death Row inmates have a small electric fan in their cells, purchased from the canteen, but others cannot afford a fan, and still others have had their fans permanently confiscated for rules infractions -- including exceedingly minor infractions. Those inmates who do have fans find that the fans are useless in the hottest weather.

28. From May through September, Unit 32 swarms with clouds of mosquitoes, gnats, horseflies, and many other kinds of insects which breed in the cesspool outside the Unit, and harass the inmates every moment of the day and night. In many cells, swarms of beetles, mosquitoes and other insects cover the inmates' bodies and the inmates' food and water. The mosquito and insect infestation is so severe that inmates are forced to close their window and cover themselves up as much as possible with clothes and bedding despite the sweltering heat.

29. Even with cell temperatures routinely reaching well above 90 degrees Fahrenheit during the summer months, the prisoners are permitted to shower only three times per week and are routinely denied access to showers for 4 or even 5 consecutive days. In their desperation to find relief from the intense heat, some prisoners use the toilet bowl for drinking water and to wet down their bodies.

30. Conditions such as these, which subject the prisoners to prolonged exposure to high ambient temperatures and humidity, pose a life-threatening health risk as well as a significant risk to the prisoners' mental health. Heat-related illnesses seriously exacerbate respiratory, circulatory, and many other chronic illnesses. Sleep deprivation, resulting from prolonged exposure to high temperatures, compounds other emotional stressors that lead to mental breakdown. Heat stroke is a life-threatening emergency and, unless promptly and energetically treated, can result in convulsions, renal failure,

circulatory collapse, and permanent brain damage.

31. The primary risk factors for heatstroke during heat waves include prolonged stay in non-air-conditioned places; age (the risk increases with age); and a number of interactive medical conditions and medications. These conditions and medications cause hyperthermia, heat stroke or heat death by incapacitating a person's ability to control body temperature during periods of high ambient temperatures. Among the many medical conditions that diminish the body's ability to regulate its temperature are hyperthyroidism, heart disease, kidney disease, vascular insufficiency, obesity and mental illness. Among the many medications that impede the body's ability to adjust to high ambient temperatures are most psychiatric medications, many anti-hypertensive medications, diuretics, antihistamines, and several heart medications.

32. All of the Plaintiffs have one or more of these high-risk characteristics; many of the prisoners have multiple high-risk characteristics for heat-stroke and are at acute risk.

Noise Level and Sleep Deprivation

33. Death Row inmates are chronically sleep-deprived. They are exposed night and day to the pandemonium created by seriously mentally ill inmates; who express their suffering and hallucinations in ceaseless raving, screaming, cursing, animal noises, moans, and shrieks; during the summer months, the Death Row inmates are exposed around the clock to intense heat and humidity, lack of ventilation, and lack of protection from mosquitoes; during freezing weather, they have inadequate bedding when it rains, water pours onto their beds, especially in Plaintiff Willie Russell's "punishment cell." The inmates sleep fitfully when they fall unconscious from exhaustion. Sleep deprivation results in cognitive problems, memory deficits, confusion, and anxiety, and intensifies psychiatric symptoms.

Access to Medical, Mental Health and Dental Care

34. Inmates with serious medical, mental health and dental needs have grossly inadequate access to care. Correctional and medical staff routinely ignore requests for urgent, dangerous and extremely painful medical, dental and mental health problems of Death Row inmates, for weeks at a time. A nurse walks through the tier each day, but never carries any equipment to check vital signs and if an inmate has a medical complaint the nurse merely says to fill out a sick-call slip. Usually inmates must submit several forms before actually going to the health services, and they seldom receive meaningful care. Mental health treatment is nonexistent except for prescription of medications; no counseling of any kind is provided.

Abuse of severely mentally ill inmates

35. A number of the Death Row inmates, as well as other inmates housed in Unit 32, are severely mentally ill. Inmates who come to Death Row in relatively sound mental health are at high risk of developing serious mental illness as a result of the near-total isolation, idleness and barbarous conditions on Unit 32; those who come to Unit 32 with serious mental illness are at high risk of being reduced to psychosis, mania, or compulsive acts of self-abuse. Correctional staff taunt and abuse severely mentally ill inmates and neglect their basic human needs, allowing them to go without showers for months at a time, and without food for days at a time.

Nonfunctional Administrative Remedy Program

36. Prisoners' efforts to seek administrative redress through the Administrative Remedy Program (ARP) are ignored, and the ARP is barely functional. There is a huge backlog of RARs (Request for Administrative Remedies), yet prison officials process no more than one RAR at a time. Although it is supposed to take no more than 90 days to complete on RAR, it commonly takes a year. Prison officials routinely ignore the RAR for several months or longer; or, once the process begins, they simply ignore

the time periods required by the ARP guidelines for their responses. An "Emergency Request" is supposed to be processed immediately when a delay might compromise an investigation or when a person will suffer ongoing, adverse conditions. However, regardless of the urgency of the request and the need for an emergency remedy, prison officials backlog emergency requests and take years to process them

WILLIE RUSSELL

37. Plaintiff Willie Russell has been on Death Row for more than 11 years and has been confined for two years to Cell 225, one of four "punishment" cells. He is locked down 23 or 24 hours a day. His cell is stripped bare. He exists in almost total isolation from other human beings and in a state of perpetual forced idleness. He is allowed one hour of exercise, four times a week, in an outdoor pen scarcely larger than his cell where the only exercise possible is walking in small circles. His television and radio were permanently confiscated two years ago, under a forfeiture policy that was implemented only after the rule violation with which he was charged. He is not allowed stamps so he cannot write letters to family, friends, or supporters. The metal barred door of his cell has been overlaid with a solid Plexiglas door, which plunges him into nearly total and permanent isolation; he cannot talk with anyone or hear what anyone is saying outside his cell. Almost the only voices to reach him are those of severely mentally ill prisoners in nearby cells, who create a pandemonium of screams and raving day and night. He is not allowed any phone calls with friends or family. His only activities are reading and sleeping. A dim light burns in Mr. Russell's room 24 hours a day; the light is so low that he must strain his eyes to read, and at night it disturbs his sleep. Every day he strains to read books until he falls asleep, because he cannot communicate with anyone.

38. The heat during the summer in Mr. Russell's special "punishment" cell is particularly unbearable.

The Plexiglas door closes off cross-ventilation and holds heat in the cell, creating a hot-box. The only provision for "ventilation" is a series of tiny holes the diameter of a pencil drilled into the Plexiglas door near the ceiling. MDOC officials permanently confiscated his fan two years ago. The window in his cell, a western exposure, only makes it hotter since the sun shines directly onto his bed during the afternoon and he is forbidden to hang a towel over the window as a shade. He often lies down on the concrete floor close to the door seeking relief from the heat but is subject to discipline for lying on the floor. During the summer, it is often difficult for Mr. Russell to breathe. When he manages to doze off, he awakes drenched in sweat.

39. Mosquitoes and many other insects pour into Mr. Russell's cell through the broken window frame. During the summer months, the insect infestation is so intolerable that he is forced to keep his window closed despite the intense heat. Even with the window closed, insects swarm around his face and body. Because he cannot turn off the light in his cell, the insects are especially drawn to it. The only defense he has against the insects is to cover himself with a sheet, no matter how intense the heat; for nearly two years, however, until recently, he was denied a sheet, and even a mattress or pillows or any kind of normal bedding and slept on a concrete slab with a single blanket.

40. Inmates who are being held in Unit 32 for disciplinary reasons are housed on the floor above Mr. Russell; they often flood their toilets when they want to get the guards' attention and the water floods down the walls into Mr. Russell's cell. He has no way to get rid of the standing water. When it rains, water pours down the walls of Mr. Russell's cell, soaks his bed and collects on the floor.

Because of the constant dampness in his cell, there is a smell of sour mildew and mold. Mr. Russell's cell is always dirty. He cannot use his own soap to clean the cell because he gets only one bar a week which lasts only through three five-minute showers.

41. The window in Mr. Russell's cell does not completely close, so that in freezing weather cold air flows onto his bed .

42. Mr. Russell is taking Remeron for depression and anxiety and Neurontin for seizure disorder. At times his body shakes uncontrollably. His medication puts him at high risk for heat stroke during hot weather. Eating causes him pain; he is nauseated most of time and it is becoming increasingly difficult for him to swallow food or even water. MDOC has not provided testing and treatment or medication for pain for this condition.

JOHN NIXON

43. Plaintiff John Nixon is 74 years old. He has asthma and emphysema. In the summer, the temperature in his cell becomes unbearably hot and he has great difficulty breathing. He is without a fan and as the ventilation system is broken no air circulates through his cell. MDOC rules forbid him from placing a towel over his window to deflect the heat. He has to keep the window in his cell closed; when it is open, mosquitoes and gnats swarm in and hover around his eyes and nose and crawl into his ears. During cold winter weather, he is always cold since prison officials took away Death Row inmates' shoes, most of their clothes, and most of their bedding. Mr. Nixon is sickened by the waste from neighboring cells flushing into the toilet in his cell.

44. Mr. Nixon has been suffering from a severe oozing rash on his arms and legs for over seven years. When he asked doctor for help, saying, "Please help me, doctor, this rash is killing me," the doctor laughed and said, "Well John, that's what they sent you down here for, isn't it?"

45. Mr. Nixon is very weak and has difficulty walking. He has chronic problems with his feet and has a prescription for special shoes, but has not been allowed to wear them since MDOC prohibited all Death Row inmates from wearing shoes. Therefore he leaves his bunk only to eat and to shower.

46. Mr. Nixon used to go outside to the exercise pen when permitted, but six years ago when he was out on the yard during winter it started raining, and the guards kept him locked there for two hours in a storm. He fears that if the same thing happened again, he would not survive it.

47. Mr. Nixon spends his days in almost complete idleness and isolation. He used to read, but after years in the dim light of his cell, it is becoming increasingly difficult for him to see. His eyesight also makes writing difficult. He leaves his cell a total of 30 minutes a week in order to shower. The showers are filthy and he does not like to use them, but does so in order to break the otherwise completely unrelieved monotony of his days.

48. Mr. Nixon witnessed Mr. C., another long-time Death Row inmate, turn from an intelligent, respectful man with good bearing when he arrived at Death Row to a man possessed, who screams and plays in his own excrement.

TRACY HANSEN

49. Plaintiff Tracy Hansen has been on Death Row since 1987. In that time he has suffered intense, often ongoing pain, and near mental collapse. He has asthma and respiratory problems, which are aggravated by the extreme heat, humidity and lack of ventilation in the cells during the summer months; he has great difficulty breathing during the hot weather but is not permitted to have a fan. He suffers from extreme anxiety, for which he takes psychiatric medications. Prison staff frequently withhold his prescription medications from him. Over the years, he has been forced to go without his psychiatric medication for long periods of time whenever the guards decide to punish him for complaining about conditions on the Unit. On other occasions, the guards have beaten him for complaining about his medications.

50. Mr. Hansen has over a period of years repeatedly requested, to no avail, to have a doctor

examine a growth on his back. He has had many serious dental problems for which he has been denied timely and appropriate treatment; in all cases, he has had to wait many months to see a dentist even when in extreme pain.

51. Mr. Hansen's television, radio and typewriter were confiscated over a year ago. The lack of activity and mental stimulation seriously affects Mr. Hansen's state of mind, as does the pandemonium created by severely mentally ill inmates in nearby cells

52. Mr. Hansen has repeatedly attempted over the years to seek redress concerning all the conditions alleged in this Complaint through MDOC's Administrative Remedy Program, to no avail. He presently has an active RAR regarding being denied recreation that is over 3 years old. He has had an "Emergency Request," regarding deprivation of his prescribed medications, pending for 3 years when it was finally processed. When Mr. Hansen complained that water was flooding from the ceiling into his cell on a constant basis, the First Step Response came back as, "there is no flooding in your cell." When he filed his appeal saying that the response to his RAR was incorrect, no member of the ARP checked to see what the true situation was in his cell. Years later, nothing has been done. Mr. Hansen's most recent appeal was of a disciplinary conviction. His appeal was returned to him unprocessed. He was told that because he had 10 RARs pending, they would not process his request for an appeal.

SHERWOOD BROWN

53. Plaintiff Sherwood Brown has been on Death Row for nine years. He has high blood pressure, a heart condition, and severe migraines. He takes medications for all of these conditions. These medical conditions, and the medications he takes to control them, put him at high risk for heat-related illness and serious physical injury. Although he has a history of good institutional behavior, MDOC

confiscated his fan, radio, television and typewriter for wearing an earring.

KELVIN JORDAN

54. Kelvin Jordan has been on Death Row for nearly six years. He has seen inmates deteriorate mentally and lose their sanity on Death Row, and he tries to maintain his own but on some days is too depressed to get out of bed. Mr. Jordan has no radio because the canteen does not sell them, and has no television because he cannot afford one. He likes writing letters but no longer does so since he is barred from buying stamps as punishment for participating in the January 2002 hunger strike. 55. Mr. Jordan has chronic severe headaches. The constant screaming and slamming of trays by the seriously mentally ill inmates triggers his headaches. He also has a chronic rash. The extreme heat in his cell also triggers his migraine headaches, and occasionally causes him to get dizzy and black out. He seldom sees a doctor because it takes several days or weeks to get an appointment, inmates are charged for every clinic visit, and the doctors seldom provide any treatment.

PAUL WOODWARD

56. Paul Woodward has been on Death Row for eleven years and five months. He is obese and has high blood pressure, respiratory problems, and poor circulation; his feet and ankles are constantly swollen and painful. He takes clonidine, aspirin, zaxoxolyn, and zestril. Mr. Woodward's medical conditions and medications put him at great risk for heat stroke during the hot weather. He routinely experiences delays of a week or longer in receiving refills of his prescription medications, even though he submits sick call forms and pleads with the nurse on rounds for assistance. When his medication lapses, he feels his chest tighten, and he lives in constant fear that he is about to have a heart attack.

57. Although the walls in his cell radiate the heat like a stove, Mr. Woodward cannot keep his window open because mesh screen on the window is too large, and lets in clouds of mosquitoes, and

tiny black insects that crawl all over his skin. Even with the window closed, mosquitoes enter his cell; during the summer he spends much of the day swatting at the swarming mosquitoes.

58. Mr. Woodward's chronic medical conditions make it difficult for him to breathe, and these conditions are severely exacerbated by the poor ventilation and filth in Unit 32. In late June 2002 he had a severe asthma attack. He was not seen by a doctor.

59. Since MDOC confiscated all Death Row inmates' shoes and made them wear "flip-flops" (plastic thong-sandals), Mr. Woodward's circulatory problems have worsened. The plastic sandals cut off his circulation, his feet and toes have turned purple and numb, he can scarcely walk, and the pain is excruciating. When he has to walk, blood blisters form on his feet along the sides of the plastic thongs. He has had a lesion on his buttocks for years for which he has received no treatment 60.

The showers are so filthy that Mr. Woodward has stopped using them. He bathes in the sink in his cell. There is a ping-pong toilet in his cell: when he flushes the toilet, the waste ends up in the bowl of the neighboring inmate's cell, and vice versa.

61. Mr. Woodward spends all his time watching television as there is nothing else to do and he feels it is the only way he can hope to maintain his sanity. Mr. Woodward has witnessed the mental deterioration of an inmate on Death Row: Ten years ago, Mr. Woodward found Mr. C. to be a courteous, likeable, quiet and clean person, who talked of his family and his hometown; now, Mr. C. screams constantly, neither bathes nor flushes the toilet, throws his feces everywhere, and looks, smells, and acts like a frightened animal.

General Factual Allegations

62. The conditions described in this Complaint result in gratuitous pain and suffering and pose an imminent danger of serious physical and mental illness, injury, or death to Plaintiffs.

63. In imposing the conditions described in this Complaint, Defendants have acted with deliberate indifference to plaintiffs' serious medical, health, and safety needs, and to the risk that plaintiffs will suffer serious illness, injury, or death. The conditions described herein are not reasonably related to legitimate penological objectives.

64. The conditions described in this Complaint are likely to persist unless enjoined by this Court.

Exhaustion of Administrative Remedies

65. The Plaintiffs have exhausted all administrative remedies available to them on the matters alleged above. The Plaintiffs, through counsel, submitted a request for an administrative remedy on January 31, 2002, and pursued the request through discussions and correspondence with Commissioner Johnson on February 13, 2002, February 21, 2002, March 8, 2002, March 12, 2002, April 1, 2002, April 15, 2002, June 7, 2002, and June 14, 2002. Administrative remedies were exhausted on or before June 14, 2002, which was more than ninety days after the original request.

CLASS ACTION FACTS

66. Plaintiffs bring this action on behalf of themselves and all others similarly situated, pursuant to Fed. R. Civ. P. 23(a) and (b)(2).

67. Plaintiffs seek to represent a class consisting of all Death Row prisoners who are now, or will in the future be, confined at Mississippi State Penitentiary in Parchman, Mississippi.

68. There are currently approximately 65 Death Row prisoners confined at Unit 32. The members of the class are too numerous, and the membership of the class too fluid, to permit joinder of all members. Common questions of law and fact exist as to all class members. All class members are equally subject to the unconstitutional and unlawful conditions described in this Complaint. These common questions include, but are not limited to, whether conditions of confinement for Death Row

prisoners at Parchman violate the First, Eighth, and Fourteenth Amendments to the United States Constitution; and whether the systemically inadequate medical, mental health, and dental care provided to the Death Row inmates violates the Eighth and Fourteenth Amendments to the United States Constitution.

69. The claims of the named plaintiffs are typical of those of the class.

70. Plaintiffs will fairly and adequately represent the interests of the class. The interests of plaintiffs are consistent with those of the class, and they are represented by counsel who are experienced in class action, civil rights, and prison conditions litigation.

71. Defendants have acted and 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.

CAUSES OF ACTION

72. By subjecting Plaintiffs to the conditions of confinement set forth herein, with full knowledge of those conditions, defendants have acted, and continue to act, with deliberate indifference to plaintiffs' serious health and safety needs, and have violated their rights under the Eighth and Fourteenth Amendments to the United States Constitution.

73. By subjecting Plaintiffs to the systemically inadequate medical, mental health, and dental care described herein, Defendants have acted, and continue to act, with deliberate indifference to plaintiffs' serious medical needs, and have violated their rights under the Eighth and Fourteenth Amendments to the United States Constitution.

74. By arbitrarily, capriciously, and without any legitimate penological justification subjecting the Plaintiffs to extreme abridgements of their right to communicate with family, friends, and legal counsel, Defendants have violated the Plaintiffs' rights under the First and Fourteenth Amendments to the

United States Constitution.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs respectfully request that the Court:

1. Issue a judgment declaring that the actions of defendants described herein are unlawful and violate plaintiffs' rights under the Constitution and laws of the United States;

2. Preliminarily and permanently enjoin defendants, their subordinates, agents, employees, and all others acting in concert with them, from subjecting plaintiffs to the conditions set forth in this Complaint;

3. Grant plaintiffs their reasonable attorney fees and costs pursuant to 42 U.S.C. § 1988 and other applicable law; and

4. Grant such other relief as the Court considers just and proper.

JULY 12, 2002 WILLIE RUSSELL, TRACY HANSEN, SHERWOOD BROWN, KELVIN
JORDAN, JOHN NIXON, and PAUL WOODWARD, Plaintiffs.

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