

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEVADA

MAY - 1 1972

WAIN A. [unclear], Clerk
BY *[Signature]* DEPUTY.

ROBBIE CRAIG and CHARLES HAYTER, et al.,
Plaintiffs,

vs.

Civil
No. R-2667

CARL HOCKER, Warden, Nevada State Prison,
EDWIN POGUE, Deputy Warden, Nevada State Prison,
WILLIAM LATPIN, Associate Warden, Nevada State Prison,
CLAYTON PHILLIPS, Board Of Prison Commissioners,
TOM DAVIS,
ROBERT LIST,
MICHAEL FONDI,

Defendants,

COMPLAINT IN EQUITY UNDER PROVISIONS OF
U.S.C. TITLE 42 SECTION 1983 and 1985.
(3), U.S.C. TITLE 28 SECTION 1343 (3)
(4), and FED. RULES OF FEDERAL PROC. RULE
23 (a) and RULE 23 (a)-(2).

Comes Now, ROBBIE CRAIG and CHARLES HAYTER, Plaintiffs in the above-entitled action representing themselves and on behalf of all other inmates of the Nevada State Prison similarly affected by challenged prison disciplinary procedures, under the Federal Rules of Civil Procedure as shown herein, and Plaintiffs citizens of the United States of America and the State of Nevada against the above-named Defendants with their Complaint In Equity and respectfully shows:

JURISDICTION ALLEGATIONS

1. Plaintiffs claim the court has jurisdiction of the Complaint to hear and decide the issues presented herein; Under U.S.C. Title 28 Section 1343 (3) the Court has original jurisdiction of this action because of the fact that Plaintiffs are claiming herein that the named Defendants have deprived, and are continuing to deprive Plaintiffs of their Constitutional rights secured by the due process and equal protection Clauses of the Fourteenth

Craig v. Hocker



PC-NV-001-001

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1 and of their 5th and 14th Amendment rights not to be subjected
2 (2) to double jeopardy and/or double punishment, and of their 8th
3 Amendment right not to be subjected to cruel and unusual punish-
4 ment, and particularly of their 6th and 14th Amendment rights
5 to counsel and procedural due process in the procedures by which
6 the named Defendants charge violations of prison rules and
7 regulations, and in the manner by which such ~~charges of such~~
8 charges of violations are adjudicated; And further, that the rules
9 and regulations do not contain sufficient due process safeguards
10 consistent with the nature of the potential punishment to meet
11 the standards of the 14th Amendment demands, and the named
12 Defendants enforce such constitutionally infirm procedures while
13 acting under color of law, pursuant to the authorization granted
14 to the Warden Defendant et al., by Chapter 209 of the Nevada ^{209, 210}
15 Revised Statutes; Under U.S.C. Title 28 1343 (4) the plaintiffs
16 will claim and seek to recover damages to secure equitable relief
17 because of violations by named Defendants of constitutionally
18 protected rights wherein the Plaintiffs will claim and show such
19 damages which they are entitled to seek under the provisions of
20 U.S.C. Title 42 Sections 1983 and 1985 (3).

21 2. And the action is brought pursuant to U.S.C. Title 42 Section
22 1983 by Plaintiffs seeking relief from the above-mentioned
23 constitutional violations which is more fully shown by the claims
24 made herein.

25 3. And the action is brought pursuant to U.S.C. Title 42 Section
26 1985 (3) in that a conspiracy is claimed in the pleadings against
27 Defendants CARL HOCKER, EDWIN POGUE, ROBERT LIST, MICHAEL FONDI,
28 and TOM DAVIS, to deprive Plaintiffs of their constitutional
29 rights to due process and equal protection as guaranteed by the
30 14th Amendment to the United States Constitution, and to deprive
31 Plaintiffs of their 5th and 14th Amendment rights not to be
32 subjected to double jeopardy and/or double punishment, as more

1 fully appears in the pleadings herein.

2 4. And the Plaintiffs bring this action in their own behalf

3 and pursuant to Rule 23 (a) (1) and Rule 23 (a) (2) of the

4 Federal Rules of Civil Procedure on behalf of all other inmates

5 of the Nevada State Prison affected by the constitutionally

6 infirm disciplinary procedures and practices and constitutionally

7 infirm Nevada State Board of Parole Commissioners procedures

8 and practices challenged by the claims of this complaint; And

9 the members of the class claimed are representative of a minimum

10 of fifty (50) inmate/prisoners, and the Plaintiffs herein will

11 fairly insure adequate representation of all to sue for redress.

12 And the rights sought to be enforced for the claimed class are

13 their primary right to procedural due process when appearing

14 before prison disciplinary committees and the Board of Parole

15 Commissioners upon charges of violations of prison rules and

16 regulations which rights are denied and infringed as a matter

17 of general practice by said committees and commissioners which

18 denial and infringements are common acts of the Defendants

19 against all indigent inmate/prisoners who appear before said

20 committees and commissioners for violations of prison rules and

21 regulations; And the denial of such rights are several as claimed

22 in paragraph 1 herein, and the object of the action is for the

23 adjudication of the claims which do affect specific property

24 rights in the nature of loss of statutory good time credits,

25 wages, potential wages which are arbitrarily and capriciously

26 forfeited by the named Defendants by and through the various

27 constitutionally infirm procedures claimed as shown in the instant

28 complaint. And the Plaintiffs seeks Declaratory relief pursuant to

29 Fed. Rules Civ. Proc. Rule 57 and U.S.C. Title 28 Section 2201

30 on matters of rights to procedural due process, as appears in the

31 alternative to other relief sought; And Plaintiffs in the instant

32 matter will seek in the alternative to other relief preliminary

1 injunctive relief pursuant to Fed. Rules Civ. Proc. Rule 65 as
2 will appear in the prayer therefor. And Plaintiffs will seek
3 particular and specific damages pursuant to the claims of paragraph
4 1 herein.

5 COUNT 1

6 ISSUES OF FACT INVOLVING THE CLAIMED CLASS WHICH IS
7 COMMON TO ALL INMATE/PRISONERS APPEARING BEFORE THE
8 NEVADA STATE PRISON DISCIPLINARY COMMITTEE

8 5. That there is no form and procedure of a notice provided by
9 prison disciplinary procedures.

10 6. That there are no guidelines for deciding which punishment
11 should be imposed for any particular violation of prison rules
12 and regulations.

13 7. That prisoners are denied the right to call witnesses in
14 their own behalf and to be confronted by witnesses against them
15 in prison disciplinary proceedings.

16 8. That prisoners are not allowed to produce evidence before
17 the prison disciplinary committee.

18 9. That prisoners are denied legal counsel to represent them
19 before the prison disciplinary committee, hired or otherwise,
20 regardless of the seriousness of alleged violation(s) of prison
21 rules and regulations.

22 10. That evidence used by prison officials against prisoners is
23 arbitrarily applied in that prisoners seldom, if ever, knows
24 what evidence is being used against them, and especially the
25 "informer" type information, oral or written.

26 11. Procedures employed by the prison disciplinary committee
27 when a prisoner is charged with an offence which may be referred
28 to the district attorney denies prisoners procedural due process,
29 in that even if "Miranda Warnings" are given to the prisoners,
30 the disciplinary committee do ask for statements in mitigation,
31 then the plea to the charges, and then adjudicate the case.

32 12. That grievous losses have been, and are being suffered by

advised

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Find the
of counsel
in hearing*

1 plaintiffs and all other prisoners similarly situated as a
2 result of constitutionally infirm disciplinary procedures and
3 attendant punishments assessed by the prison disciplinary
4 committee.

5 13. That there is no prescription in the Nevada State Prison
6 rules and regulations against the participation in disciplinary
7 decisions by prison personnel involved in an incident leading
8 to a prison disciplinary action.

9 COUNT 11

10 ISSUES OF FACT INVOLVING PLAINTIFFS IN THE INSTANT MATTER
11 14. Plaintiffs claim and incorporate the facts of COUNT 1 in
12 this their Fourteenth claim.

13 15. Plaintiffs are prisoners of the Nevada State Prison.

14 16. Plaintiff ROBBIE CRAIG was committed to the Nevada State
15 Prison on/or about the 3rd day of August, 1967, by the Eighth
16 Judicial District Court of Nevada, into the custody of the Warden.

17 17. Plaintiff CHARLES HAYTER was committed to the Nevada State
18 Prison on/or about the 16th day of January, 1967, by the Second
19 Judicial District Court of Nevada, into the custody of the Warden.

20 18. The Defendants are state officials acting under color of law
21 regards all claims made against them made herein.

22 19. That on the 3rd day of April, 1970, Plaintiffs ROBBIE CRAIG
23 and CHARLES HAYTER were arrested by prison officials of which
24 Defendant EDWIN POGUE and other individuals were acting upon the
25 orders of Defendant CARL HOCKER to make such arrest, and subse-
26 quently placed Plaintiffs in the isolation "hole" cells in the
27 maximum security unit of said prison without notice or hearing
28 for the crime of attempted escape.

29 20. That Plaintiffs were subsequently taken before a prison
30 disciplinary committee conducted by Defendant Edwin Pogue and
31 other prison personnel, on/or about the 5th day of April, 1970.

32 21. That on/or about the 5th day of April, 1970, said disciplinary

1 committee called Plaintiffs before them for a hearing upon
2 charges stemming from the above-mentioned arrest claimed in
3 paragraph 19, Defendant EDWIN POGUE acting as biased fact-finder.
4 22. That during said hearings above-claimed in paragraph 21,
5 Defendant EDWIN POGUE read the so-called "Miranda Warnings" to
6 the Plaintiffs and told each Plaintiff he had a right to an
7 attorney before proceeding with said hearings.
8 23. That during said hearings above-claimed in paragraph 21,
9 Plaintiffs asked defendant EDWIN POGUE to provide them with an
10 attorney, which the defendant refused to provide.
11 24. That during said hearings above-claimed in paragraph 21,
12 Defendant EDWIN POGUE proceeded to read off, by number, charges
13 of alleged violations of prison rules and regulations, and then
14 did ask each Plaintiff to plead to the numbered charges, and
15 then asked each Plaintiff if they had anything to say.
16 25. Subsequently, during said hearings above-claimed in paragraph
17 21, Plaintiff ROBBIE CRAIG made a qualified and limited state-
18 ment, not in mitigation, after pleading not guilty to the charges,
19 in an attempt to speak in behalf of another inmate.
20 26. Plaintiff ROBBIE CRAIG during said hearing above-claimed in
21 paragraph 21, did realize that there was an unfamiliar person
22 setting behind Defendant EDWIN POGUE during the course of said
23 hearing, and then asked said Defendant to identify said unfamiliar
24 person, to which said Defendant replied and identified such
25 person as Defendant TOM DAVIS from the Carson City, Nevada,
26 District Attorney's office.
27 27. That during said April 6th, 1970, hearing Defendant TOM DAVIS
28 did attempt to ask Plaintiff ROBBIE CRAIG questions to which
29 Plaintiff refused to answer.
30 28. That upon refusing to answer any further questions as claimed
31 in paragraphs 26 and 27 above, Defendant EDWIN POGUE found
32 Plaintiff ROBBIE CRAIG guilty of the numbered charges previously

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isolation
section

1 claimed, and sentenced him to twenty-nine (29) days in the
2 isolation "hole", and to an "indefinite" maximum housing isolation
3 and recommendation of the case to the Department of parole and
4 Probation for loss of all statutory good time credits earned and
5 to be earned, and referral to the Carson City, Nevada, District
6 Attorney's office for prosecution.

7 29. Subsequently, during the hearing above-claimed in paragraph 21
8 through 24, Plaintiff CHARLES HAYTER made a qualified statement
9 after pleading not guilty and not guilty by reason of insanity to
10 the charges by number, in an attempt to speak in behalf of two
11 other inmates.

12 30. Plaintiff CHARLES HAYTER upon realizing that an unfamiliar
13 person was in the disciplinary hearing room writing down every-
14 thing Plaintiff was saying, asked Defendant EDWIN POGUE who the
15 unfamiliar person was and said Defendant identified said unfamilia
16 person as Defendant TOM DAVIS investigator for the Carson City,
17 Nevada, District Attorney's office, at which time Plaintiff
18 refused to answer any more questions or make any further state-
19 ments.

20 31. That upon refusing to make any further statements as claimed
21 in paragraph 30 above, Defendant EDWIN POGUE found Plaintiff
22 CHARLES HAYTER guilty of the numbered charges previously claimed,
23 and sentenced him to twenty-nine (29) days in the isolation
24 "hole", and to an "indefinite" maximum housing isolation and
25 recommendation of the case to the Department of parole and
26 Probation for loss of all statutory good time credits earned and
27 to be earned, and referral to the Carson City, Nevada, District
28 Attorney's office for prosecution.

29 32. Plaintiffs claim and incorporate the facts of COUNT 1 and
30 COUNT 11 in this their 32nd claim, and further claim that upon
31 all of the acts perpetrated by the Defendants as shown herein-
32 above, that said Defendants have denied Plaintiffs their rights

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1 to procedural due process causing them grievous losses as claimed
2 in paragraphs 28 and 31 above, and damages of loss of wages in
3 prison pay, potential wages from prison pay, and income and
4 potential income, on behalf of Plaintiff HAYTER, from prison
5 hobbycraft sales of personal manufactured goods.

6 COUNT 111

Parole Allegation

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7 33. Plaintiffs did serve twenty-nine (29) days in the isolation
8 "hole" from the 3rd day of April, 1970, to the 2nd day of May,
9 1970, upon the sentences claimed in paragraphs 28 and 31 herein.

A + D

10 34. Plaintiffs were placed in the maximum security unit isolation
11 on the 2nd day of May, 1970, where they remain housed to the date
12 of the filing of this complaint.

A + D

13 35. Plaintiff CHARLES HAYTER was taken before the Department of
14 Parole and Probation, Board of Parole Commissioners for hearing
15 upon the recommendation of the disciplinary committee as claimed
16 in paragraph 31 above, on/or about the 16th day of March, 1971,
17 wherein the Defendant CLAYTON PHILLIPS, Chairman, did not inform
18 Plaintiff of any reports made against him nor explain the nature
19 of the charges against him.

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A

20 36. That on the 16th day of March, 1971, Plaintiff HAYTER asked
21 Defendant PHILLIPS for an attorney to represent him before at
22 the Board hearing which request was denied by Defendant PHILLIPS.

(1)

23 37. Plaintiff HAYTER informed Defendant PHILLIPS that any action
24 taken against Plaintiff would be illegal and in violation of
25 Plaintiff's 5th, 6th, and 14th Amendment rights as guaranteed by
26 the United States Constitution because of the fact that Defendant
27 PHILLIPS was aware that Plaintiff had already been prosecuted
28 and convicted by the State of Nevada upon the same acts for
29 which Plaintiff was referred to both the district attorney and
30 the State Board of Parole Commissioners.

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31 38. That Defendant CLAYTON PHILLIPS told Plaintiff HAYTER to
32 leave the board hearing room and Plaintiff would be notified

1 of the board results.

2 39. That on/or about the 17th day of March, 1971, Plaintiff
3 HAYTER received a "Certification of Parole Commissioners Action"
4 wherein the action noted thereon was "Statutory Hearing loss
5 of stat time earned and to be earned, 5 years and 7 mos."

6 40. Plaintiff ROBBIE CRAIG reclaims the same set of acts and
7 circumstances happened to him as happened to Plaintiff HAYTER
8 in paragraphs 35 through 38, with exception as to the dates, as
9 Plaintiff CRAIG appeared before said board and Defendant PHILLIPS
10 on/or about the 4th day of May, 1971.

11 41. That on/or about the 6th day of May, 1971, Plaintiff CRAIG
12 received a "Certification of Parole Commissioners Action" wherein
13 the action noted thereon was "Statutory Hearing loss of all stat
14 time earned and to be earned."

15 42. Plaintiffs claim that the action against them by the prison
16 disciplinary committee and CLAYTON PHILLIPS denied them their
17 rights protected and guaranteed by 5th, 6th, and 14th Amendments
18 to the United States Constitution, and more particularly denied
19 them procedural due process, causing them grievous loss of
20 statutory good time credits, wages, and extreme mental anguish.

21 COUNT IV

22 43. Plaintiffs claim that on the 3rd day of April, 1970, Defend-
23 ants CARL HOCKER, EDWIN POGUE, and ROBERT LIST, were all present
24 in the Nevada State Prison and discussed the arrest of Plaintiff
25 and the possible charges to be brought against Plaintiffs.

26 44. Plaintiffs claim that on/or about the 5th day of April, 1970
27 Defendant EDWIN POGUE with the approval of Defendant TOM DAVIS
28 and Defendant CARL HOCKER did in fact refer Plaintiffs case to
29 Defendant ROBERT LIST then District Attorney of Carson City,
30 Nevada, for prosecution of charges stemming out of the arrest
31 made as claimed in paragraph 19 hereinabove.

32 45. Plaintiffs claim that Defendants CARL HOCKER, EDWIN POGUE,

1 ROBERT LIST, and TOM DAVIS conspired together to deprive the
2 Plaintiffs of their 5th, 6th, and 14th Amendment rights as
3 guaranteed by the United States Constitution, and particularly
4 their right to procedural due process, before and during the
5 disciplinary proceedings as claimed in paragraphs 20 through 32
6 in the manner and under the circumstances described therein,
7 culminating in grievous losses, extreme mental anguish and
8 double punishments by two different arms of government deriving
9 their power from the same Constitution of Nevada.

10 COUNT V

11 46. Plaintiffs claim that Defendants CARL HOCKER, ROBERT LIST,
12 and MICHAEL FONDI conspired together to deprive Plaintiffs of
13 their constitutionally guaranteed rights protected by the 5th
14 and 14th Amendments to the United States Constitution, in that
15 each Defendant was aware of punishments already meted out to
16 Plaintiffs by the prison disciplinary committee by and through
17 reports made and reduced to writing by said committee and
18 Defendant TOM DAVIS' report of said disciplinary action to
19 Defendant LIST and Defendant FONDI, which disciplinary action
20 is claimed in paragraphs 21, 26, and 30, and incorporated in this
21 their 46th claim.

22 47. That on/or about the 5th day of April, 1970, Defendant CARL
23 HOCKER through Defendant EDWIN FOGUE did refer the Plaintiffs' cases,
24 as claimed in paragraph 44, to the District Attorney's
25 office of Carson City, Nevada, for prosecution.

26 48. That on/or about the 14th day of June, 1970, an Indictment
27 was returned by the Grand Jury of Carson City, Nevada, against
28 Plaintiffs and signed by Defendant ROBERT LIST, in part alleging
29 the crime of attempted escape.

30 49. Subsequently, on/or about the 2nd day of October, 1970, the
31 aforesaid Indictment was dismissed, and on the same date the
32 Defendant CARL HOCKER filed a Criminal Complaint against the

1 Plaintiffs for attempted escape.
2 50. Subsequently, on/or about the 2nd day of November, 1970,
3 Defendants LIST and POND1 filed a Criminal Information against
4 Plaintiffs for the crime of attempted escape.
5 51. Subsequently, Plaintiffs were convicted in the First Judicial
6 District Court of Nevada, and sentenced to ten (10) years in the
7 Nevada State Prison on/or about the 8th day of February, 1971,
8 and probated into the custody and control of the Department of
9 Parole and Probation on the same date.
10 52. Plaintiffs claim that in paragraphs 46 through 51 of COUNT V
11 a conspiracy is shown perpetrated by the Defendants named
12 therein, to subject Plaintiffs Craig and Hayter to dual punish-
13 ments as claimed and described in paragraphs 19, 28, 31 of COUNT
14 ll herein, and paragraphs 39 and 41 of COUNT lll herein, and
15 paragraph 51 of COUNT V above, causing grievous loss of statutory
16 good time credits earned and which could have been earned, and
17 loss of wages which could have been earned by Plaintiffs from
18 the 2nd day of May, 1970, to the present date of filing this
19 action, and causing Plaintiffs extreme mental anguish all of
20 which is continuing damages by said Defendants.

21 COUNT VI

22 53. That Plaintiffs were put in the isolation "hole" on the 3rd
23 day of April, 1970, naked for a period of 8 hours from about
24 2:45 a.m. o'clock to 10 a.m. o'clock wherein it was extremely
25 cold inside of the "hole", and below freezing temperature outside
26 while most of the maximum security unit windows were opened and
27 wherein the "hole" is situated.
28 54. Plaintiffs were subsequently given coveralls, towel, tooth-
29 paste, toothbrush, and a small amount of toilet tissue at about
30 10:00 a.m. o'clock on the 3rd day of April, 1970.
31 55. Plaintiffs were not given tongs to wear on their feet while
32 in the isolation "hole" cells for a period of twenty-nine days

*ADDITIONS
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1 from the 3rd day of April, 1970, to the 2nd day of May, 1970,
2 and were forced to wear only a pair of socks while walking or
3 standing on the cold concrete floor of said "hole".
4 56. While in the "hole" between the above-mentioned dates, the
5 Plaintiffs were given two (2) dirty plastic jugs of almost
6 identical appearance of about a 3 pint capacity, which had been
7 cut-down soap or bleach containers, one for the purpose of a
8 drinking container and the other for the purpose of a washing
9 container, which had been left in the isolation "hole" cells
10 by previous occupants.
11 57. Plaintiffs were forced to drink from the dirty plastic jugs
12 aforementioned without knowing which jug was or had been used
13 for a washing container by previous occupants of said "hole"
14 cells.
15 58. Plaintiffs were not given a wash basin out of which to wash
16 their bodies for a period of twenty-nine (29) days while in the
17 isolation "hole" cells between the dates claimed in paragraph 56.
18 59. While the Plaintiffs were in the "hole" cells between the
19 dates claimed in paragraph 55 above, they were subjected to
20 extreme mental torture of the automatic flush toilets which
21 flushed very loud every (3) to (5) minutes thereabouts, for
22 twenty-four (24) hours each day.
23 60. While Plaintiffs were in the "hole" cells between the dates
24 claimed in paragraph 55 above, they were fed cold or barely
25 warm food and they are informed and believe that said food is
26 not served from a hot-cart, but rather from a utility wagon.
27 61. While Plaintiffs were in the "hole" cells between the dates
28 claimed in paragraph 56, they were deprived of adequate and
29 proper ventilation, in that the cells in the maximum security
30 unit, wherein the "hole" cells are situated do not have fresh
31 air ducts leading into them, but rather all of the cells in said
32 unit have only a vent in the back wall of said cells consisting

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SHAVE
NO BATH
TOILETS
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1 of (16) 2 inch holes covered by about No. 9 screen wire, which
2 (16) holes and screen wire are further covered with an open ended
3 steel box of about 14" x 14" from the backside of the "hole"
4 cell wall, which vent opens out into the sewer pipe chase.

5 62. Plaintiffs reclaim all of the facts and circumstances of the
6 paragraphs of COUNT VI and incorporate the same herein, and
7 further claim that the Warden, Defendant CARL HOCKER condones
8 such treatment and conditions to exist which amounts to cruel
9 and unusual punishment, causing Plaintiffs to suffer extreme
10 mental anguish and physical damage to their nerves and bodies,
11 and marked mental deterioration and regression.

12 COUNT VII

13 63. Plaintiffs claim that while housed in the maximum security
14 unit as of the dates claimed in COUNT III paragraph 34 and under
15 conditions and circumstances of the sentence that such sentence
16 is a continuing violation of their civil and constitutional
17 rights and because thereof they reclaim and incorporate the
18 damages claimed in paragraph 52.

19 64. Plaintiffs reclaim and incorporate the allegations made in
20 paragraph 61 of COUNT VI regards inadequate and improper
21 ventilation which identical conditions exist in their maximum
22 isolation housing, and they suffer the same mental and physical
23 damages claimed in COUNT VI paragraph 62; and in addition
24 Plaintiff CRAIG has suffered more than fifty (50) nose bleedings
25 because such conditions are condoned by Defendant CARL HOCKER.

26 65. Plaintiffs claim that while being housed in the maximum
27 unit isolation upon the dates in COUNT III paragraph 34 and unde:
28 the conditions and circumstances therein, they further claim
29 that Defendant CARL HOCKER has, and is, denying them adequate
30 exercise to maintain good health in that Plaintiffs are only
31 allowed approximately four (4) hours of walking time per week in
32 an indoor cage of approximately 18' x 24' with nothing therein

l. b. l. e.
Cruel and Unusual

Admin Segregation Conditions

Medical

Exercise

1 provided for exercise and recreation.
2 66. Pursuant to paragraph 65 above, plaintiffs claim that they
3 have never been allowed to have outdoor exercise, fresh air,
4 and sunshine since being sentenced to maximum housing isolation.

*Other activities
H to see
good time
Scheduling?
how generally*

5 67. Plaintiffs claim that while being housed in the maximum
6 isolation unit upon the dates heretofore claimed, that Defendant
7 CARL HOCKER has not provided, and has denied them athletic
8 equipment, movies, television, outside entertainment group
9 viewing, or any of the recreational equipment provided for the
10 general population of said prison, all of which is provided and
11 purchased in part by the Prisoner's Store fund created by state
12 statute (NRS 209.195) to be expended for the welfare and benefit
13 of all prisoners, including Plaintiffs, which denial by defendant
14 HOCKER deprives them of intellectual attainment and progress,
15 entertainment fulfillment, and good and necessary physical
16 health and fitness.

As

17 68. Plaintiffs claim that while housed in the aforesaid maximum
18 housing they are fed cold or barely warm food and coffee twice
19 each day from a utility cart rather than a "hot-cart" and are
20 forced to eat such food in their 5' x 9' ^{45 35 ft} cells wherein a toilet
21 is without a cover and emits a bad odor, which is the same as
22 eating meals every day of every year inside of a toilet, causing
23 Plaintiffs extreme mental anguish.

24 69. Plaintiffs claim that while housed in the aforesaid housing
25 unit of maximum isolation, that such housing unit is infested
26 with various bugs, black widow spiders and rodents, causing
27 Plaintiffs extreme mental anguish.

28 COUNT VIII

Mail

29 70. Plaintiffs CRAIG and HAYTER claim that Defendant CARL HOCKER
30 personally opens and reads all of their incoming court mail, and
31 is informed and believes that said Defendant xerox copies or
32 otherwise photo copies all such mail, thereby depriving plaintiff

OPMS
CENSORS

1 of privacy between them and the courts.
2 71. Plaintiffs claim that Defendant CARL HOCKER invades their
3 privacy with both state and federal courts in that Defendant
4 censors and passes on to third parties private communications
5 between Plaintiffs and the Courts and Court's staff.

6 COUNT IX

D.M.C.

7 72. Plaintiffs claim that Defendant CARL HOCKER and other John
8 Doe members of his staff have created extreme mental insecurity
9 in Plaintiffs' minds by subjecting other inmate/prisoners to
10 illegal and unconstitutional disciplinary actions; in that
11 Defendant CARL HOCKER and certain other John Doe members of his
12 staff accused inmate William Seward of attempted escape on/or
13 about the 26th day of March, 1971, and subsequently was taken
14 before a prison disciplinary committee and sentenced to the
15 isolation "hole" and to maximum security isolation housing for
16 a number of months, when in fact Plaintiffs upon information
17 and belief claim that the charges made against inmate William
18 Seward was a pretense and sham by Defendant CARL HOCKER solely
19 for the purpose of discrediting and otherwise creating false
20 evidence against Lieutenant Elmer Davis of the prison staff who
21 was at the time doing his duty as a gun tower guard, which
22 illegal actions by Defendant CARL HOCKER has created fear and
23 extreme mental insecurity and mental anguish in Plaintiffs'
24 minds.

25 73. Plaintiffs claim that Defendant CARL HOCKER has created
26 extreme mental insecurity and mental anguish in the minds of the
27 Plaintiffs by coming into the prison intoxicated ~~****~~ under
28 the influence of alcohol on/or about the 15th day of August, 1970
29 and on/or about the 30th day of June, 1971, in the presence of
30 Plaintiffs in the maximum security isolation unit, causing the
31 Plaintiffs extreme mental insecurity and mental anguish.

32 COUNT X

Law Library
Books
Plaintiffs

1 74. Plaintiffs claim that while being housed in the heretofore
2 claimed maximum housing, that they are being denied full and
3 complete use of the prison law library and its books to have
4 sufficiently reasonable access to the courts, in that they are
5 allowed only one law book per day in compliance with and because
6 of an administrative memo by Defendant WILLIAM LATTIN which is
7 discriminatory between indigent and affluent prisoners as the
8 latter are able to hire outside counsel, whereas, Plaintiffs are
9 indigent and unable to hire counsel for such legal research
10 necessary to properly gain access to the courts.

11 75. Plaintiffs reclaim and incorporate paragraph 74 above, and
12 further claim that the said prison law library is wholly
13 insufficient to provide them with the very necessary tools and
14 materials to receive adequate hearings in the courts, in that
15 said law library is either without important text on law or is
16 without a complete or up to date set of the following law books;
17 Nevada Reports, Federal Supplements, Federal Reporters, American
18 Law Reports 2nd and 3rd, Federal Rules Decisions, West Key
19 System Digest, General Digest, United States Code Anno., Supreme
20 Court Reporters, which further denies Plaintiffs access to the
21 courts.

22 WHEREFORE, Each Plaintiff demands judgment against all
23 Defendants as follows:

- 24 1. Each Plaintiff demands judgment against Defendant CARL HOCKER
25 in the sum of fifty thousand dollars (\$50,000) in exemplary
26 damages, and the sum of one hundred thousand dollars (\$100,000)
27 in general damages;
- 28 2. Plaintiffs against Defendant CARL HOCKER in the first
29 alternative, prays the Honorable Court ORDER said Defendant, his
30 agents and all guards and employees working under him and subject
31 to his supervision and control, be permanently enjoined and
32 restrained from conducting any further disciplinary procedures

1 that are constitutionally infirm that violate the due process
2 and equal protection Clauses of the 14th Amendment to the United
3 States Constitution by failing to provide for adequate notice
4 of charges, the calling of favorable witnesses and cross-
5 examination of accusing witnesses, counsel or counsel-substitute,
6 a decision by a fact finder uninvolved with the alleged incident,
7 a written finding of facts, or uniform notice of any right to
8 appeal the decision, when such a disciplinary hearing may result
9 in a grievous loss to the prisoner, and be further permanently
10 enjoined and restrained from confining Plaintiffs in any of
11 the isolation status¹, and that the Court ORDER Plaintiffs
12 restored to the status of confinement they enjoyed prior to the
13 institution of such constitutionally infirm disciplinary
14 proceedings against them and that such decisions be expunged
15 from all their records; and ORDERED to restore to them all, any
16 and all statutory good time credits lost as a result of such
17 proceedings, and accredited with any and all good time credits
18 which could have been otherwise earned while in such confinement
19 status derived from such disciplinary proceedings.

20 3. Each Plaintiff demands judgment against Defendant EDWIN POGUE
21 in the sum of fifty thousand dollars (\$50,000) in exemplary
22 damages, and the sum of one hundred thousand dollars (\$100,000)
23 in general damages.

24 4. Each Plaintiff demands judgment against Defendant WILLIAM
25 LATTIN in the sum of ten thousand dollars (\$10,000) in exemplary
26 damages, and the sum of twenty thousand dollars (\$20,000) in
27 general damages.

28 5. Each Plaintiff demands judgment against Defendant CLAYTON
29 PHILLIPS in the sum of ten thousand dollars (\$10,000) in
30 exemplary damages, and the sum of twenty thousand dollars
31 (\$20,000) in general damages.

32 6. Each Plaintiff demands judgment against Defendant TOM DAVIS

1 in the sum of fifty thousand dollars (\$ 50.000) in exemplary
2 damages, and the sum of one hundred thousand dollars (\$100.000)
3 in general damages.

4 7. Each Plaintiff demands judgment against Defendant ROBERT
5 LIST in the sum of fifty thousand dollars (\$50.000) in exemplary
6 damages, and the sum of one hundred thousand dollars (\$100.000)
7 in general damages.

8 8. Each Plaintiff demands judgment against Defendant MICHAEL
9 FONDI in the sum of fifty thousand dollars (\$50.000) in
10 exemplary damages, and the sum of one hundred thousand (\$100.000)
11 in general damages.

12 DECLARATORY RELIEF

13 9. Plaintiffs ROBBIE CRAIG and CHARLES HAYTER prays that this
14 Honorable Court will declare their constitutional rights to
15 procedural due process, due process and equal protection of law
16 as guaranteed by the 14th Amendment to the United States
17 Constitution, in the matters of the following issues:

18 (a) That that the Court declare the procedures employed by
19 disciplinary committees at the Nevada State Prison violates the
20 due process and equal protection Clauses of the 14th Amendment
21 by failing to provide for adequate notice of charges, the calling
22 of favorable witnesses and cross-examination of accusing
23 witnesses, counsel or counsel-substitute, a decision of a fact-
24 finder uninvolved with the incident, a written finding of facts,
25 uniform notice of any right to appeal the decision when such
26 disciplinary hearing may result in grievous loss to the prisoner;
27 and that certain disciplinary punishment, including but not
28 necessarily limited to (1) indefinite confinement in the maximum
29 security unit, administrative segregation, institutional lock-up,
30 or isolation situations of housing; (2) possible increase in a
31 prisoners sentence by reason of referral of the disciplinary
32 action to the Nevada State Board of Parole Commissioners;-----

1 (3) a fine or forfeiture of accumulated or future earnings; (4)
2 a forfeiture of accumulated or future statutory good time credits
3 earned or to be earned; (5) isolation confinement longer than
4 ten days; or (6) referral to the district attorney for criminal
5 prosecution, constitute such a grievous loss to prisoners.

6 Respectfully submitted by

7
8 Robbie Craig
9 Robbie Craig, Plaintiff
10 Box 607 Carson City, Nevada

11 Charles Hayter
12 Charles Hayter, Plaintiff
13 Box 607 Carson City, Nevada

14 State of Nevada)

15 Carson City)^{ss}

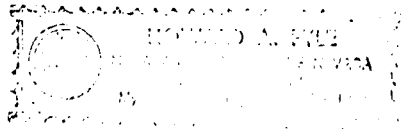
V E R I F I C A T I O N

16 We, the undersigned state that we are Plaintiffs in the
17 above-entitled action; that we have read the contents thereof
18 and know of our own knowledge that the material claims and facts
19 are true, except to those claims and facts are alleged upon
20 information and belief, and we believe them to be true.

21 Executed on this 26 day of April 1972, at
22 Carson City, Nevada.

23 Robbie Craig
24 Robbie Craig

25 Charles Hayter
26 Charles Hayter



27 SUBSCRIBED AND SWORN TO before me
28 this 26 day of April 1972.

29
30 Howard A. White
31 Notary Public for Carson City, Nev.