

*no jury cost def'd*  
*no cost to alleg*  
*no fee to alleg*  
*no fee to alleg*  
*Almond*

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND

THOMAS R. ROSS, individually and  
in his capacity as President of  
the National Prisoners Reform  
Association; NICHOLAS A.  
PALMIGIANO; ROMEO GABRIELE;  
DONALD BRANDT; and NATIONAL  
PRISONERS REFORM ASSOCIATION,  
et al

Plaintiffs

vs.

Civil Action No. 75-0032

PHILIP W. NOEL, individually and  
in his official capacity as  
Governor of the State of Rhode  
Island; DONALD TAYLOR, individually  
and in his official capacity as  
Acting Director of the  
Department of Corrections;  
JAMES MULLEN, individually and  
in his official capacity as  
Warden of the Adult  
Correctional Institutions; and  
ROBERT BLACK, individually and  
in his official capacity as  
Senior Classification Officer  
of the Adult Correctional  
Institutions, et al

Defendants

Palmigiano v. Almond



PC-RI-0001-0027

COMPLAINT-CLASS ACTION

JURISDICTION

1. This is a civil action arising under the United States Constitution, particularly under the provisions of the Fifth, Eighth, Ninth and Fourteenth Amendments to the United States Constitution and federal law, more particularly 42 U.S.C. Section 1983, 23 U.S.C. Sections 2201 and 2202, and under certain statutes of the State of Rhode Island.

2. Plaintiffs are inmates of the Adult Correctional Institutions at Cranston, Rhode Island, and an organization representing inmates at the Adult Correctional Institutions.

3. Defendant Philip W. Noel is the Governor of the State of Rhode Island.

4. Defendant Donald Taylor is the Acting Director of the Department of Corrections of the State of Rhode Island.

5. Defendant James W. Mullen is Warden of the Adult Correctional Institutions, Cranston, Rhode Island.

6. Defendant Robert Black is the Senior Classification Officer of the Adult Correctional Institutions.

CLASS ACTION ALLEGATIONS

7. The named plaintiffs bring this action on their own behalf and pursuant to Rule 23(a), (b)(1), and (b)(2) of the Federal Rules of Civil Procedure on behalf of all persons incarcerated in the Adult Correctional Institutions.

8. On information and belief, plaintiffs' class is comprised of approximately 500 persons and is so numerous as to make joinder of all members impractical.

9. Plaintiffs challenge the constitutionality of the conditions of their confinement.

10. The conditions of plaintiffs' confinement affects all members of plaintiffs' class.

COUNT I

11. The purposes for which plaintiffs are confined are enumerated in the Rhode Island General Laws, as set forth with greater particularity herein; the appropriations of the Rhode Island General Assembly for the Department of Corrections, and the terms of various grants awarded to the Department of Corrections pursuant to the Crime Control Act of 1973.

12. A purpose of plaintiffs' incarceration enumerated in the above sources is the rehabilitation of plaintiffs and the preparation of plaintiffs for a meaningful and productive life upon the completion of their period of confinement.

13. Plaintiffs' incarceration does not accomplish this purpose and as a result thereof plaintiffs confinement is in violation of their rights under the Fourteenth Amendment to the United States Constitution and under the Civil Rights Laws of the United States.

COUNT II

14. The allocation of resources to assist prisoners at the Adult Correctional Institutions in Cranston, Rhode Island, is made in an arbitrary and capricious manner, without due process of law and in violation of plaintiffs' Fourteenth Amendment rights. These resources include the resources, services and other aid delineated below.

COUNT III

15. The allocation of resources to assist prisoners at the Adult Correctional Institutions discriminates against certain classes of prisoners in violation of their Fourteenth Amendment right to equal protection of the laws. The classes discriminated against include: prisoners sentenced to life terms; women prisoners; prisoners classified as protective custody; prisoners sentenced to terms of less than one year; and prisoners incarcerated in the Medium Security Facility of the Adult Correctional Institutions.

COUNT IV

16. The cumulative effects of plaintiffs' confinement, as set forth herein, have deprived plaintiffs of their constitutional right to be free from cruel and unusual punishment.

COUNT V

17. Rhode Island General Laws 13-3-26 assigns the educational and vocational training unit of the Department of Corrections the duty of determining the educational and vocational needs and aptitude of each person imprisoned in the Adult Correctional Institutions.

18. The educational and vocational training unit does not determine the educational and vocational needs and aptitude of each person imprisoned in the Adult Correctional Institutions.

COUNT VI

19. Rhode Island General Laws 13-3-1 creates a receiving and orientation unit of the Department of Corrections.

20. The receiving and orientation unit is charged with certain responsibilities to all persons sentenced to the Adult Correctional Institutions for more than one year. These responsibilities include the study and evaluation of all such persons to develop a program of rehabilitation, education, and medical and other care as is necessary and appropriate to prepare such persons to become useful members of society.

21. The development of a program of rehabilitation for each person is to be predicated upon information from a variety of sources, to wit, medical, psychometric, and psychological exams; the criminal record of the individual; the person's case history; the record of the Department of the Attorney General; and the record of the sentencing court.

22. The receiving and orientation unit of the Adult Correctional Institutions does not study and evaluate all persons sentenced thereto for more than one year, <sup>nor</sup> does it prepare a program of rehabilitation, education, medical, and other care for all such persons, with the goal of preparing such persons to become useful members of society.

23. Programs of rehabilitation which are developed for some persons sentenced to the Adult Correctional Institutions for more than one year are not formulated on the basis of the information Rhode Island General Laws 13-3-1 mandates be used as the basis for the construction of programs of rehabilitation.

#### COUNT VII

24. Rhode Island General Laws 13-2-23 requires the Warden of the Adult Correctional Institutions to see that all prisoners therein are actively engaged in the work, education, vocational training, or other activity prescribed for them.

25. There is no program of work, education, vocational training, or other activity prescribed for each prisoner.

26. Each prisoner is not actively engaged in a program of work, education, vocational training, or other activity prescribed for him or her.

27. In those cases in which there is a program of work, education, vocational training, or other activity prescribed for an inmate the program is deficient in that it fails to meet minimally acceptable professional standards for such programs, it fails to meet the standards for such programs required by the Rhode Island General Laws as set forth elsewhere in the complaint, and it fails to meet the standards for such programs required by the terms of various grants awarded to the Department of Corrections pursuant to the Crime Control Act of 1973.

COUNT VIII

28. Rhode Island General Laws 13-2-25 requires that all newly incarcerated prisoners be set to labor.

29. All newly incarcerated prisoners in the Adult Correctional Institutions are not set to labor.

COUNT IX

30. Rhode Island General Laws 13-2-27 requires that all persons sentenced to imprisonment in the Adult Correctional Institutions for more than one year shall be placed in employment.

31. All persons sentenced to a term of more than one year in the Adult Correctional Institutions are not placed in employment.

COUNT X

32. Rhode Island General Laws 13-3-1 requires the receiving and orientation unit of the Adult Correctional Institutions to segregate for a period not to exceed 30 days all persons sentenced to a term in excess of one year during which period various evaluations, studies, and classifications of such persons are to be conducted.

33. The receiving and orientation unit does not segregate all persons sentenced to a term in excess of one year.

34. The receiving and orientation unit does not evaluate, study, and classify all persons sentenced to a term in excess of one year.

35. In those instances in which the receiving and orientation unit does evaluate, study, and classify an inmate sentenced to a term in excess of one year, this evaluation, study, and classification is not completed within a period of 30 days.

36. In those instances in which there is an evaluation, study, and classification of an individual, it is deficient in that it fails to meet the standards for the same required by the Rhode Island General Laws as set forth elsewhere in the complaint and it fails to meet the standards for the same required by the terms of various grants awarded to the Department of Corrections pursuant to the Crime Control Act of 1973.

COUNT XI

37. Rhode Island General Laws 13-3-1 requires the receiving and orientation unit of the Adult Correctional Institutions to classify all person sentenced to a term in

excess of one year as maximum, medium, or minimum security risks. Such classifications are to be completed during the initial 30 days of incarceration.

33. All persons sentenced to a term in excess of one year at the Adult Correctional Institutions are initially classified as maximum security risks.

39. All persons sentenced to a term in excess of one year at the Adult Correctional Institutions are not initially classified as a type of security risk, but are incarcerated in a maximum security facility.

40. There is no medium security security facility at the Adult Correctional Institutions, nor is there any classification of inmates in a medium security status.

#### COUNT XII

41. Plaintiffs incarcerated in the Maximum Security Facility are housed in individual cells which provide inadequate living space.

42. There is inadequate ventilation and circulation of air for plaintiffs incarcerated in cells in the Maximum Security Facility.

43. There is inadequate heat regulation in the cells of the Maximum Security Facility.

44. Sanitary conditions in the Maximum Security Facility of the Adult Correctional Institutions are inadequate because of the prevalence of rodents.

45. There are inadequate shower facilities for persons incarcerated in the Maximum Security Facility of the Adult Correctional Institutions.

46. Plaintiffs incarcerated in the Medium Security Facility of the Adult Correctional Institutions who are



housed in large dormitories are deprived of any privacy.

47. Plaintiffs incarcerated in the Medium Security Facility of the Adult Correctional Institutions who are housed in individual cells are provided inadequate living space.

48. There are inadequate laundry facilities for inmates at the Adult Correctional Institutions.

49. Plaintiffs incarcerated in the Adult Correctional Institutions are subjected to conditions of confinement which are monotonous, oppressive, and unhealthy.

#### COUNT XIII

50. The defendants, and each of them as aforesaid, are responsible for the health, safety, and well-being of all persons incarcerated at the Adult Correctional Institutions.

51. During the past few years there have been numerous assaults upon prisoners in the Adult Correctional Institutions by other prisoners in the Adult Correctional Institutions.

52. Plaintiffs incarcerated in the Adult Correctional Institutions are unprotected from physical assaults and batteries against their bodies by other inmates.

#### COUNT XIV

53. Each year during the period of plaintiffs' incarceration, the Rhode Island General Assembly has appropriated monies for the rehabilitation of plaintiffs, for the education of plaintiffs, and for the provision of medical and other care for plaintiffs.

54. Plaintiffs were and are the intended beneficiaries of said monies.

55. The defendants and each of them as aforesaid, were and are responsible for the administration of these monies in accordance with the dictates of the Rhode Island General Assembly.

56. The monies appropriated by the Rhode Island General Assembly for the benefit of plaintiffs, as set forth above, have not been used for plaintiffs' benefit or in accordance with the mandate of the Rhode Island General Assembly.

COUNT XV

57. Pursuant to the Crime Control Act of 1973, the Department of Corrections has been awarded various grants to assist in the rehabilitation of individuals incarcerated at the Adult Correctional Institutions. These grants have been designed to assist the educational administration unit of the Adult Correctional Institutions, the treatment team of the Adult Correctional Institutions, the staff services unit of the Adult Correctional Institutions, the central registry of the Adult Correctional Institutions, the medical services of the Adult Correctional Institutions, the food services department of the Adult Correctional Institutions, and the Training Academy for employees of the Adult Correctional Institutions.

58. Plaintiffs were and are the intended beneficiaries of said grants.

59. The defendants and each of them as aforesaid were and are responsible for the administration of these monies in accordance with the terms of the grants.

60. The monies provided by these grants have not been used for plaintiffs' benefit or in accordance with the terms of the grants.

COUNT XVI

61. Plaintiffs incorporate, with like effect as if herein fully repeated, each and all of the allegations contained in Nicholas A. Palmigiano vs. Philip Noel, et al, Civil Action No. 74-172.

RELIEF

62. By reason of the above, plaintiffs and members of their class have suffered and will continue to suffer immediate and irreparable injury for which there is no adequate remedy at law.

WHEREFORE, plaintiffs respectfully pray that this Court:

1. Certify this action as a class action pursuant to Rule 23(a) and (b) of the Federal Rules of Civil Procedure on behalf of all persons incarcerated in the Adult Correctional Institutions.

2. Declare the conditions, customs, practices, and usages described herein as in violation of the Constitution and laws of the United States and the laws of Rhode Island.

3. Permanently enjoin defendants from continuing the conditions, customs, practices, and usages described herein and found to be in violation of the Constitution and laws of the United States and the laws of Rhode Island.

4. Award plaintiffs damages in the amount of 25 million dollars for the injuries they have suffered.

5. Such other and further relief as the Court deems just and proper.

Respectfully submitted  
Thomas R. Ross, et al  
By their attorney,

---

Robert B. Mann, Esquire  
231 Wickenden Street  
Providence, Rhode Island

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

I hereby certify that an exact copy of the within Complaint was hand delivered to the Department of the Attorney General, Attn: Ronald A. Dwight, 250 Benefit Street, Providence, Rhode Island, on the \_\_\_ day of June, 1975.

---