

MAGISTRATE JUDGE DAVID E. WILSON

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AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
BY DEPUTY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

SHANNON HALLETT, YVONNE)
WOOD, GAIL RAY, CINDY STEWART,)
and RENA SKILTON,)

No. C93-5496(T)D

Plaintiffs,

PLAINTIFFS' FIRST AMENDED
COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF

vs.

CLASS ACTION

ALICE PAYNE, Superintendent,)
Washington Corrections for Women, in)
her official and individual)
capacities, and DONNA MORGAN,)
Health Care Manager, in her official)
and individual capacities, and their)
officers, agents, employees, and)
successors,)

Defendants.

Hallett v. Payne



PC-WA-002-001

I. INTRODUCTION

1. This is a class action brought on behalf of women incarcerated at the Washington Corrections Center for Women (WCCW) to redress the harm caused by the State's failure to provide them with adequate health care, including medical, dental and

PLAINTIFFS' FIRST AMENDED
COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF - 1

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1 mental health care.

2 II. JURISDICTION AND SUPPLEMENTAL JURISDICTION

3 2. This Court has jurisdiction. Jurisdiction is invoked under 28 U.S.C. §
4 1343(a)(3) and (4). This Court has jurisdiction over plaintiffs' pendant state law claim under
5 28 U.S.C. §1367.

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7 3. Venue is in the Western District of Washington since this case concerns parties
8 residing in Pierce County in the State of Washington.

9 III. PARTIES

10 DEFENDANTS

11 4. Defendant Alice Payne is the Superintendent at WCCW. The Superintendent
12 has the statutory duty to manage WCCW. RCW 72.02.045. She has deprived plaintiffs of
13 their constitutional rights under color of state law. She is sued in her official and individual
14 capacity.

15
16 5. Defendant Donna Morgan is the Health Care Manager at WCCW. She is the
17 designated health authority responsible for planning, organizing, directing, coordinating and
18 controlling all health care at WCCW. She has deprived plaintiffs of their constitutional
19 rights under color of state law. She is sued in her official and individual capacity.

20
21 PLAINTIFFS

22 6. Plaintiff Shannon Hallett is incarcerated at WCCW.

23 7. Plaintiff Yvonne Wood is incarcerated at WCCW.

24 8. Plaintiff Gail Ray is incarcerated at WCCW.

25 9. Plaintiff Cindy Stewart is incarcerated at WCCW.

26 10. Plaintiff Rena Skilton is incarcerated at WCCW.
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1 IV. CLASS ACTION ALLEGATIONS

2 11. Class - All Prisoners. Plaintiffs seek to maintain this action as a class action.
3 They ask this court to define one class. That class is all prisoners currently, or in the future,
4 incarcerated at WCCW.

5 12. Class - Common Allegations and Relief: CR 23(a)(2) and (b)(2). Defendants
6 have acted or refused to act on grounds applicable to all prisoners currently incarcerated in,
7 or in the future transferred to, WCCW. There are questions of law and fact common to all
8 members of the class. All class members are subjected to a constitutionally inadequate health
9 care system by defendants, making declaratory and injunctive relief appropriate.
10

11 13. Class - Numerosity: CR 23(a)(1). The class is so numerous that joinder of all
12 members is impracticable. There are currently more than 300 prisoners incarcerated at
13 WCCW.
14

15 14. Class - Typicality: CR 23(a)(3). The claims of the representative plaintiffs
16 are typical of those of the class. All class members are subject to the constitutionally
17 deficient health care system at WCCW and will continue to be subject to this system absent
18 the prayed for relief.
19

20 15. Class - Adequacy and Fairness: CR 23(a)(4). The representative plaintiffs
21 will adequately and fairly protect the interests of the class because they have been subjected
22 to the conditions challenged by the class as a whole. The named plaintiffs seek declaratory
23 and injunctive relief that would assure relief for the class. They have available capable and
24 experienced counsel in the areas of civil rights and prisoners' rights.
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26 V. FACTUAL ALLEGATIONS

27 A. General Factual Allegations
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1 16. WCCW is located in Gig Harbor, Washington. It houses minimum, medium
2 and maximum security women prisoners.

3 17. Health care as referred to herein include dental, medical and mental health
4 services. Health care services are provided both at the prison and "off-site" by private health
5 care providers under contract with the Department of Corrections (DOC), except that mental
6 health services are provided only at WCCW.

7 18. The DOC does not provide the same or comparable mental health services to
8 women under DOC's jurisdiction as are provided to men under DOC's jurisdiction. The
9 Special Offenders Center (SOC), located at Monroe, Washington, is DOC's primary mental
10 health treatment facility. Women are not eligible for placement there. SOC provides men
11 housed there with more mental health treatment than is available to women within DOC.

12 19. The health care system at WCCW is disorganized and the health care staff
13 there are inadequately trained and supervised.

14 20. There is an inadequate number of staff to provide needed health care services
15 to women at WCCW. There are no physicians available on-site at WCCW during the
16 evenings or weekends. There is currently no female staff physician available to women at
17 WCCW.

18 21. Routine gynecological and dental care is not systematically provided to women
19 at WCCW.

20 22. Non-physician staff at WCCW override the professional judgment and medical
21 orders of physicians. A physician treating a prisoner does not control whether and when a
22 prisoner will be given health care that is only available off-site. Instead, it is the "Utilization
23 Review Committee" at WCCW, which includes non-medical staff, which makes this
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1 determination.

2 23. Defendants or their agents often do not timely respond to prisoners' requests
3 for health care. Financial considerations, not medical ones, often determine whether or when
4 a prisoner will receive requested health care.

5 24. The medical records at WCCW are in disarray. Health record entries are
6 incomplete and health care information and requests for health care are not recorded in
7 accordance with professional standards.

8 25. Follow-up care and diagnostic testing prescribed by treating physicians is
9 sometimes not given at all or not provided in a timely manner.

10 26. Defendants or their agents improperly dispense medications.

11 27. The dentist at WCCW fails to take sanitary precautions when delivering dental
12 services to women. The dentist has failed to use latex gloves or change them between
13 patients.

14 28. Conditions in the infirmary at WCCW are often unclean and unsanitary. Bed
15 linen is sometimes not changed between patients.

16 29. Defendants have knowledge of these practices and conditions but have failed to
17 adequately remedy them.

18 30. The disorganized health care system and health care conditions and practices at
19 WCCW described above demonstrate a deliberate indifference to the serious medical needs of
20 women incarcerated there and cause WCCW prisoners to suffer unnecessary pain.
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1 B. Specific Factual Allegations

2 Shannon Hallett

3 31. On January 17, 1992, Shannon Hallett injured herself when she fell off the top
4 bunk of a bunk-bed in her cell.

5 32. The bunk from which she fell is like all other bunk-beds at WCCW. The
6 bunk beds are smaller than twin-size, about the size of a cot. These beds pose a risk to the
7 safety of prisoners. Other women have fallen from top bunks and injured themselves.
8

9 33. After her fall Shannon experienced constant headaches, pain in her arm,
10 shoulder and hand. The fall aggravated a degenerative disc problem Shannon suffered from
11 before the fall.

12 34. WCCW staff were deliberately indifferent to Shannon's serious medical needs
13 by failing to timely provide her with needed follow-up medical care after her fall despite her
14 repeated requests for tests and treatment.
15

16 35. Shannon also suffers from a chronic peptic ulcer disease. WCCW staff
17 discontinued the medication she was prescribed by a physician to take for this problem.
18 Shannon has also been prescribed anti-inflammatory medication for her disc problem. Her
19 prescriptions were discontinued or not filled without the authority of the treating physician.
20

21 36. Shannon does not receive routine gynecological or dental exams or care.

22 37. Through the actions described above, Defendants or their agents cause
23 Shannon to suffer unnecessary pain.

24 Yvonne Wood

25 38. Yvonne Wood has been incarcerated at WCCW since 1987. She has had
26 frequent seizures since before her arrival at WCCW. Yvonne now has seizures about once
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1 every two weeks.

2 39. Yvonne fell from a top bunk on June 24, 1990, while having a seizure.

3 40. In 1990 she was given tests by a neurologist, including a Magnetic Resonance
4 Imaging (MRI). The neurologist asked that further tests, including a MRI, be given in one
5 year. In 1991 the neurologist again requested a repeat MRI.
6

7 41. Yvonne was not given another MRI as ordered by the doctor despite her
8 repeated requests to be returned to the neurologist for testing and the fact that the cause of
9 her seizures has not been determined.

10 42. The "Utilization Review Committee" made the decision to "defer" her MRI.

11 43. Through the actions described above, Defendants or their agents cause Yvonne
12 to suffer unnecessary pain.
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14 Gail Ray

15 44. Gail Ray suffers from multiple medical problems including severe coronary
16 obstructive pulmonary disease and Talc lung. She has very limited use of her lungs. Gail
17 has chronic severe headaches and near syncopal or seizure-like episodes.

18 45. A physician specialist she was referred to by the prison strongly recommended
19 that she be given a 24 hour Holter monitor to check for arrhythmia. The "Utilization
20 Review Committee" refused to approve performance of this test.
21

22 46. The "Utilization Review Committee" refused to allow Gail to see her
23 pulmonary specialist for a follow-up exam requested by the specialist.

24 47. Gail had a cyst excision performed on her elbow in December of 1992 by an
25 off-site physician. Eight months after the surgery Gail continues to suffer pain, infection,
26 swelling and draining from her elbow wound. The "Utilization Review Committee" has
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1 refused to approve her to see the physician off-site. The doctor comes to WCCW generally
2 once a month. Gail has not been seen by this physician since early May of 1993.

3 48. Through the actions described above, Defendants or their agents cause Gail to
4 suffer unnecessary pain.

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6 Cindy Stewart

7 49. Cindy Stewart suffers from severe mental health problems. She was evaluated
8 by both the prison psychiatrist and psychologist in June of 1992. Both determined that Cindy
9 needed intensive long-term psychotherapy.

10 50. Cindy has never been allowed to see the psychiatrist or psychologist for
11 psycho-therapy. She sees the psychiatrist periodically only to obtain prescriptions for
12 medications for her mental health problems.

13
14 51. Cindy has received only intermittent counseling from social workers at
15 WCCW. From June 1992 to September 1992, she was given counseling by a social worker.
16 She did not get anymore counseling until January of 1993 when she began seeing a social
17 worker intern. After May of 1993 she got no counseling until late August 1993.

18 52. Cindy takes Pinequan, Prozac, and Desyrel. In June of this year, Cindy's
19 prescriptions expired and she believed that she was sexually harassed in prison which evoked
20 memories of the physical and sexual abuse she has suffered in the past.

21
22 53. Subsequently, Cindy became increasingly disassociated from reality. She
23 requested to be seen by the psychiatrist on July 2, 1993, July 9, 1993, and July 16, 1993.
24 She was not receiving any counseling during this time.

25 53. Cindy was placed in segregation between July 8, 1993, and July 14, 1993.
26 During the period of segregation confinement she injured her wrist by biting it and cutting on
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1 it with a toothbrush.

2 55. Cindy was placed again in segregation on July 15, 1993. In segregation she
3 repeatedly beat her head against the wall, bit herself and pulled out her hair. She had
4 nightmares and generally did not sleep.

5 56. Despite her requests and behavior Cynthia was not counseled by a psychiatrist
6 or other mental health professional during these episodes.

7 57. Cindy also fell off an upper bunk in approximately February of 1993.

8 58. Through the actions described above, Defendants or their agents cause Cindy
9 to suffer unnecessary pain.
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11 Rena Skilton

12 59. Rena began to complain to WCCW medical staff of severe abdominal pain
13 beginning in approximately April of 1990. In May of 1990 Rena was diagnosed with a left
14 ovarian cyst and multiple cysts on her right ovary.
15

16 60. Over the course of the next five months, Rena experienced severe pain,
17 dizziness, unusual vaginal discharge and fainting spells which she reported to WCCW
18 medical staff. In August of 1990 a gynecologist ordered surgery to be performed on Rena.
19

20 61. Finally, in October of 1990, a partial hysterectomy was performed on Rena.

21 62. Very soon after her surgery Rena again experienced and complained about
22 severe abdominal pain. It was not until November of 1992 that her left ovary was removed.

23 63. Beginning in December of 1992, Rena again began feeling pain in her
24 abdomen. Rena still suffers from abdominal pain and vomiting.

25 64. Rena does not receive routine gynecological check-ups or exams.

26 65. Rena has been disciplined and punished for not "programming" (being at work
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1 or in school) even when she has valid medical excuses for her inability to "program".

2 66. Through the actions described above, Defendants or their agents cause Rena to
3 suffer unnecessary pain.

4 VI. CAUSES OF ACTION

5 67. The health care system at WCCW for which defendants are responsible
6 subjects named plaintiffs and the class they represent to cruel and unusual punishment in
7 violation of the Eighth Amendment to the U.S. Constitution and 42 U.S.C. §1983.

8 68. The failure of the DOC to provide women prisoners with the same or
9 comparable mental health services as are provided to men violates the equal protection clause
10 of the Fourteenth Amendment to the United States Constitution and 42 U.S.C. §1983.

11 69. The failure of DOC to provide women prisoners with the same or comparable
12 mental health services as are provided to men violates Article 31, section 1 of the
13 Washington State Constitution (the Equal Rights Amendment).

14 70. Defendants subject plaintiffs to cruel and unusual punishment in violation of
15 the Eighth Amendment to the U.S. Constitution and 42 U.S.C. §1983 by requiring them to
16 sleep on bunk-beds that are unsafe.

17 VII. PRAYER FOR RELIEF

18 The plaintiffs ask this Court for the following relief:

19 (1) A declaration stating that the health care system at WCCW is constitutionally
20 inadequate;

21 (2) An injunction to prevent defendants from failing to provide women at WCCW
22 with adequate health services and to prevent the defendants from requiring women to sleep
23 on unsafe bunk beds.

1 (3) An award of attorneys fees and costs pursuant to 42 U.S.C. §1988 and such
2 other relief as the court deems necessary.

3 DATED: October 12, 1993.

4
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