



JI-KY-003-001

IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF KENTUCKY

RITA HORN, on behalf of herself,
and as Administratrix of the estate
of Robert Lee Horn, Jr., and

GREG HORN, a minor, by and through
RITA HORN, his mother and legal
guardian, on behalf of himself and
all others similarly situated,

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MAR 3 1983

U. S. DISTRICT COURT
WEST'N DIST. KENTUCKY

Plaintiffs, C- '83-0208-L B
Civil Action No.

v.

OLDHAM COUNTY, KENTUCKY;

JAMES E. SUMMIT, individually and
in his official capacity as Jailer
of Oldham County, Kentucky,

GLENN HANCOCK, individually and in
his official capacity as Deputy
Jailer of Oldham County, Kentucky;

DENNIS A. FRITZ and ROBERT D. HAWKINS,
in their official capacities as
District Court judges of Oldham
County, Kentucky;

WENDELL MOORE, JAMES W. PIKE, MARTHA
R. DAVIS, JOSEPH E. NAY, SHELTON
FENDLEY, SR., GILBERT WINTERS, NANCY
C. DOTY, NORMAN BROWN, L.A. HEDGES,
PHILIP E. PARRISH, EMANUAL McMAHAN
individually and in their official
capacities as members of the Fiscal
Court of Oldham County, Kentucky,

Defendants.

CIVIL RIGHTS COMPLAINT
FOR DECLARATORY,
INJUNCTIVE, AND OTHER
EQUITABLE RELIEF AND
DAMAGES

(CLASS ACTION)

INTRODUCTORY STATEMENT

1. This is a civil rights class action involving the conditions of confinement and policies and practices of defendants regarding juveniles at the Oldham County Jail in LaGrange, Kentucky. Plaintiff RITA HORN brings this action for damages for the wrongful death of her son, Robert Lee Horn, at the Oldham County Jail. Plaintiff GREG HORN, through RITA HORN, his mother and legal guardian, brings this action for declaratory, injunctive, and other equitable relief and damages, on behalf of himself and all other juveniles similarly situated who are, have been, or will be confined in the Oldham County Jail, and thereby subjected by defendants to cruel, unconscionable and illegal conditions of confinement in the jail; illegal incarceration in the jail without adequate separation from confined adult offenders; unlawful secure detention in the jail of juveniles who are charged with or who have committed offenses which would not be criminal if committed by adults ("status offenses"); and denial of adequate and appropriate community placements as alternatives to the jail.

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1 2. Plaintiffs bring this action under the federal Civil
2 Rights Acts, 42 U.S.C. §§1983 and 1988, to redress the
3 violations by defendants, acting under color of state law, of
4 the rights of plaintiffs and plaintiffs' decedent Robert Lee
5 Horn under the Fourteenth Amendment to the United States
6 Constitution, specifically the right to due process of law,
7 right to freedom from cruel and unusual punishments, and right
8 to rehabilitative treatment in the least restrictive setting and
9 under the least restrictive conditions. Plaintiffs also bring
10 this action under 42 U.S.C. §§1983 and 1988 to redress the
11 violations by defendants, under color of state law, of
12 plaintiffs' statutory rights under the Juvenile Justice and
13 Delinquency Prevention Act of 1974, as amended, 42 U.S.C. §5601
14 et seq. ["Juvenile Justice Act"], as more particularly set forth
15 in this complaint.

16 3. Plaintiffs also bring this action under the Juvenile
17 Justice Act to challenge (a) the detention of plaintiffs by
18 defendants in the Oldham County Jail, without adequate
19 separation from confined adult offenders; (b) the detention by
20 defendants, in the jail, a secure facility, of plaintiffs who
21 are charged with or who have committed offenses which would not
22 be criminal if committed by adults; (c) the failure and refusal
23 of defendants to provide and utilize adequate and appropriate
24 placements as alternatives to the jail.

25 4. Plaintiffs also bring this action under Sections 1 and
26 17 of the Constitution of the State of Kentucky, and the

1 Kentucky Code.

2 JURISDICTION

3 5. This Court has jurisdiction of this action under 28
4 U.S.C. §1343(3), this being an action to redress the
5 deprivation, under color of state law, of rights secured by the
6 Constitution of the United States, the Civil Rights Acts, 42
7 U.S.C. §§1983 and 1988, and the Juvenile Justice Act, 42 U.S.C.
8 §§5601 et seq.

9 6. This Court also has jurisdiction of this action under
10 28 U.S.C. §1343(4), this being an action to recover damages and
11 to secure declaratory, injunctive, and other equitable relief
12 under Acts of Congress providing for the protection of civil
13 rights, specifically the Civil Rights Acts, 42 U.S.C. §§1983 and
14 1988, and the Juvenile Justice Act.

15 7. This Court also has jurisdiction of this action under
16 28 U.S.C. §§2201 and 2202, and Rules 57 and 65 of the Federal
17 Rules of Civil Procedure; this being an action for a declaration
18 of the rights of plaintiffs, and for injunctive and other
19 equitable relief based upon said declaratory judgment, under the
20 Civil Rights Acts, 42 U.S.C. §§1983 and 1988, and the Juvenile
21 Justice Act.

22 8. This Court also has jurisdiction of this action under
23 28 U.S.C. §1331(a), this being an action wherein the matter in
24 controversy arises under the Constitution and laws of the United
25 States.

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1 9. This Court has jurisdiction of plaintiffs' state law
2 claims under the doctrine of pendent jurisdiction, which permits
3 federal courts to determine state law claims which form separate
4 but parallel grounds for relief also sought in substantial
5 claims based on federal law.

6 PLAINTIFFS

7 10. Plaintiff RITA HORN is a citizen of the United States.
8 At all times during the events described herein, she resided in
9 Oldham County, Kentucky. She is the surviving mother and
10 administratrix of the estate of her deceased child, Robert Lee
11 Horn. Plaintiff GREG HORN is a juvenile, 14 years of age, and a
12 citizen of the United States. At all times during the events
13 described herein, he resided in Oldham County, Kentucky, with
14 RITA HORN, his mother. At the present time, plaintiff GREG HORN
15 is subject to the jurisdiction of the Oldham County District
16 Court, and can be returned to confinement in the jail with or
17 without notice for violation of conditions imposed by the
18 District Court.

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DEFENDANTS

11. Defendant OLDHAM COUNTY, KENTUCKY is a local government unit in the state of Kentucky. In its capacity as a local government unit, it has implemented, executed, and adopted the policies, practices, acts and omissions complained of herein through formal adoption or pursuant to governmental custom. The policies, practices, acts and omissions complained of herein are customs and usages of defendant OLDHAM COUNTY, KENTUCKY.

12. Defendant JAMES E. SUMMIT is the Jailer of Oldham County, Kentucky. As such, he is responsible under KRS 71.020, 71.030, 71.040 and 71.060 for the custody, rule and charge of the Oldham County Jail and of all persons in the jail; for keeping the jail comfortably warm and clean; for treating all prisoners humanely and furnishing them with proper food and lodging during their confinement; and for appointing and supervising deputy jailers. He is sued individually and in his official capacity.

13. Defendant GLENN HANCOCK is the Deputy Jailer of Oldham County, Kentucky. As such, under KRS 71.060, he has all the powers and is subject to the same penalties as the jailer. He is sued individually and in his official capacity.

14. Defendants DENNIS FRITZ and ROBERT D. HAWKINS are the District Court judges of Oldham County, Kentucky. As such, under KRS 208.010 et seq., they sit as the Juvenile Session of the District Court and exercise jurisdiction over juveniles brought before them, including the plaintiff juveniles. They

1 are sued only in their official capacities.

2 15. Defendants WENDELL MOORE, JAMES W. PIKE, MARTHA
3 R. DAVIS, JOSEPH E. NAY, SHELTON FENDLEY, SR., GILBERT WINTERS,
4 NANCY C. DOTY, NORMAN BROWN, L.A. HEDGES, PHILIP E. PARRISH, and
5 EMANUAL McMAHAN are members of the Fiscal Court of Oldham
6 County, Kentucky. As such, under KRS 208.130, they are
7 responsible for providing for a suitable facility for the
8 custody and care of children held in custody pending disposition
9 of their cases by the District Court, and for employing
10 necessary personnel for the operation of such facility. In
11 addition, under KRS 67.080 and 67.130, they are responsible for
12 appropriating funds for the operation and maintenance of all
13 county buildings, including the Oldham County Jail, and under
14 KRS 67.083, they are authorized to appropriate funds for the
15 provision of corrections facilities and services, and programs
16 for the confinement, care and rehabilitation of juvenile law
17 offenders. These defendants are sued individually and in their
18 official capacities.

19 CLASS ACTION

20 16. Plaintiff GREG HORN, by and through his mother, brings
21 this action on behalf of himself and all others similarly
22 situated, pursuant to Rule 23(a), (b)(1) and (b)(2) of the
23 Federal Rules of Civil Procedure. The class consists of all
24 juveniles who are currently, have been during the past year or
25 in the future will be confined in the Oldham County Jail.

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1 17. The members of the class are so numerous that joinder
2 of all members is impracticable. According to available
3 information, more than 120 juveniles were confined in the Oldham
4 County Jail the first six months of 1982. In addition, there are
5 questions of law and fact common to the members of the plaintiff
6 class regarding practices of the defendants, and the claims of
7 the named plaintiffs are typical of the claims of the members of
8 the plaintiff class. The named plaintiffs and plaintiffs'
9 counsel will fairly and adequately protect the interests of the
10 members of the class.

11 18. The prosecution of separate actions by individual
12 members of the class would create a risk of inconsistent or
13 varying adjudications with respect to individual members of the
14 class which would as a practical matter be dispositive of the
15 interests of the other members not parties to the adjudications
16 or substantially impair or impede their ability to protect their
17 interests.

18 19. By their policies, the defendants have acted and
19 continue to act on grounds and in a manner generally applicable
20 to the class, thereby making appropriate final injunctive relief
21 or corresponding declaratory relief with respect to the class as
22 a whole.

23 20. The injuries suffered by the named plaintiffs and the
24 members of the plaintiff class as a result of the policies and
25 practices of defendants are capable of repetition, yet may evade
26 review, thereby making class relief appropriate.

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1 27. Defendants fail to provide plaintiffs with
2 opportunities or facilities for exercise or recreation.

3 28. Defendants fail to maintain plaintiffs' cells in a
4 clean and sanitary condition.

5 29. Defendants fail to provide any medical or
6 psychological screening or examination for plaintiffs when they
7 are taken into custody. Defendants fail to provide regular
8 medical or mental health services to plaintiffs.

9 30. Defendants fail to provide jail personnel who are
10 trained in identifying and responding to problems of juveniles.
11 Defendants' failure to provide trained staff results in lack of
12 attention to problems of plaintiffs during their confinement,
13 lack of appropriate assessment of plaintiffs' physical and
14 emotional needs, and lack of programs for plaintiffs during
15 their confinement. Such failure subjects plaintiffs to serious
16 danger at the hands of institutional personnel, other inmates,
17 and themselves.

18 31. Defendants fail to supervise and monitor plaintiffs in
19 their cells.

20 32. Defendants fail to insure the safety and well-being of
21 plaintiffs. Defendants fail to employ and maintain an adequate
22 number of trained supervisory personnel to supervise the
23 well-being of plaintiffs, and to protect the physical safety of
24 plaintiffs.

25 33. Defendants fail to equip and maintain an adequate
26 audio or visual monitoring system at the jail.

1 34. Defendants fail to provide plaintiffs with an adequate
2 educational program during their period of confinement.

3 35. Defendants confine and detain plaintiffs in the Oldham
4 County Jail where plaintiffs are not separated by sight and
5 sound from adult inmates confined in the jail. Defendants fail
6 to prevent adult inmates from passing messages and other written
7 communications to plaintiffs.

8 36. Defendants fail to implement and promulgate rules and
9 regulations for the proper handling and treatment of plaintiffs.

10 37. Defendants fail to maintain accurate records on
11 plaintiffs detained in the jail.

12 38. Defendants have confined plaintiff GREG HORN in the
13 Oldham County Jail several times since September, 1982.
14 Defendants have incarcerated him for status offenses, including
15 truancy, and for minor offenses, including petty theft. GREG is
16 presently under the jurisdiction of the Oldham County District
17 Court and will remain under the jurisdiction of that court until
18 the end of the current school year. While he is under the
19 jurisdiction of the District Court, GREG can immediately be
20 taken into custody and incarcerated in the Oldham County Jail,
21 with or without notice, for violation of any condition imposed
22 by the District Court.

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1 39. Defendants confined plaintiff's decedent, Robert Lee
2 Horn, in the Oldham County Jail, beginning on December 12, 1982,
3 for truancy from school and for taking money from his mother.
4 From December 12, 1982, until December 16, 1982, defendants
5 required Robert to spend several hours each day in the male
6 juvenile cell at the jail.

7 40. On December 16, 1982, at approximately 11:00 p.m.,
8 Robert Lee Horn was again incarcerated in the Oldham County Jail
9 by defendants. Robert was confined in the male juvenile cell on
10 the second floor of the cell. Defendants failed to provide any
11 medical or psychological screening for Robert upon his admission
12 to the jail. Defendants failed to supervise or monitor Robert
13 or to insure his safety and well-being, during his period of
14 confinement in the jail on December 16, 1982.

15 41. Between approximately 11:00 p.m. and 11:30 p.m. on
16 December 16, 1982, Robert Lee Horn committed suicide in his cell
17 at the Oldham County Jail, by tying one sleeve of his shirt
18 around his neck and the other sleeve to the bars of his cell,
19 and jumping from the top of the shower stall.

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1 42. As a result of defendants' policies, practices, acts
2 and omissions, as described herein, plaintiffs' confinement by
3 defendants in the Oldham County Jail is cruel, harsh, punitive,
4 and oppressive.

5 43. The defendants have had actual or constructive notice
6 since at least May, 1981, that conditions in the Oldham County
7 Jail were extremely inappropriate for the detention of juveniles
8 and potentially dangerous for such juveniles, and that other,
9 less restrictive, community-based placements were available for
10 such juveniles. In May, 1981, a representative of Kentucky
11 Youth Advocates, an organization working to remove children from
12 adult jails in Kentucky, discussed such matters with defendant
13 FRITZ. In September, 1981, and again in August, 1982, a
14 representative of the Kentucky Department of Justice discussed
15 such matters with defendant FRITZ. The defendants, and
16 particularly defendant FRITZ, have refused to remedy the
17 conditions in the jail or to utilize available less restrictive
18 alternatives.

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20 II. SECURE DETENTION OF STATUS OFFENDERS

21 44. Since 1977, the State of Kentucky has received funds
22 totalling more than \$5,630,000 from the federal Office of
23 Juvenile Justice and Delinquency Prevention, an agency of the
24 United States Department of Justice. These funds have been
25 granted to the State for implementation of the Juvenile Justice
26 Act.

1 45. Section 223(12) of the Juvenile Justice Act, 42 U.S.C.
2 §5633(12), provides that, in order to receive funding under the
3 Act, a State must comply with the requirement that juveniles who
4 are charged with or who have committed offenses which would not
5 be criminal if committed by an adult ("status offenses"), or
6 offenses which do not constitute violations of valid court
7 orders, and such non-offenders as dependent or neglected
8 children, shall not be placed in secure juvenile detention or
9 correctional facilities. Instead, a State must require that
10 such juveniles, if placed in facilities at all, are placed in
11 facilities which are the least restrictive alternatives
12 appropriate to the needs of the child and the community, are in
13 reasonable proximity to the family and the home community, and
14 provide "community-based" services, as defined in 42
15 U.S.C. §5603(1).

16 46. The defendants regularly confine and detain in the
17 Oldham County Jail juveniles who are charged with or who have
18 committed offenses which would not be criminal if committed by
19 an adult, where such offenses do not constitute violations of
20 valid court orders.

21 47. KRS 208.192(4)(d) provides:

22 In determining detention for offenses provided in KRS
23 208.020(1)(b) and (c), the court shall consider the
24 availability of a parent, guardian or responsible adult,
25 court-appointed supervisory or probation personnel, or
26 foster care or emergency shelter care facilities that would
 insure the control and safety of the child; and the
 availability of adequate and secure detention facilities
 which would provide segregated detention for the child.
 Secure detention for status offenders is to be used in only
 those cases when the court is of the opinion that other

1 alternatives are either not available or cannot provide the
2 degree of control and safety necessary to assure the safety
and security of the child."

3 48. The defendants regularly confine and detain status
4 offenders in the Oldham Counmty Jail, when other less
5 restrictive alternative placements for such juveniles are
6 available and can provide the degree of control and safety
7 necessary to assure the safety and security of the child.

8 49. Similar numbers of status offenders have been confined
9 in the Oldham County Jail in previous years under similar
10 circumstances, and similar numbers will be confined in the
11 future under such circumstances unless plaintiffs are granted
12 the relief requested herein.

13 III. DETENTION OF JUVENILES IN JAIL WITHOUT
14 ADEQUATE SEPARATION FROM ADULT OFFENDERS.

15 50. Section 223(13) of the Juvenile Justice Act, 42 U.S.C.
16 §5633(13), provides that, in order to receive funding under the
17 Act, a State must comply with the requirement that juveniles
18 alleged to be or found to be delinquent shall not be detained or
19 confined in any institution in which they have regular contact
20 with adult persons incarcerated because they have been convicted
21 of a crime or are awaiting trial on criminal charges.

22 51. The defendants regularly confine and detain juveniles
23 alleged to be or found to be delinquents, as well as juveniles
24 alleged to be or found to be status offenders, in the Oldham
25 County Jail, where such juveniles have regular contact with
26 adult persons incarcerated because they have been convicted of a

1 crime or are awaiting trial on criminal charges.

2 52. KRS 208.120 provides that no child under sixteen shall
3 at any time be detained in any police station, lockup, jail or
4 prison, except that, on the basis of a hearing for that purpose,
5 by the juvenile court judge, a child whose conduct or condition
6 is such as to endanger his safety or welfare or that of others
7 in the detention facility for children, may be placed
8 in a jail or other place of detention for adults, but in a room
9 or ward separate by sight and sound from adult prisoners.

10 53. The defendants regularly confine children under the
11 age of sixteen in the Oldham County Jail when the conduct or
12 condition of such children is not such as to endanger their
13 safety or welfare or that of others.

14 54. The defendants regularly confine children under the
15 age of sixteen in the Oldham County Jail where such children are
16 not separated by sight and sound from adult prisoners.

17 55. Similar numbers of children have been confined in the
18 Oldham County Jail in previous years under similar
19 circumstances, and similar numbers will be confined in the
20 future under such circumstances unless plaintiffs are granted
21 the relief requested herein.

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23 IV. FAILURE AND REFUSAL TO PROVIDE AND UTILIZE
24 APPROPRIATE COMMUNITY-BASED ALTERNATIVES TO
25 PLACEMENT OF JUVENILES IN THE OLDHAM COUNTY JAIL

26 56. Section 223(12) of the Juvenile Justice Act, 42
U.S.C. §5633(12), requires States receiving funding under the

1 Act to provide non-secure placements for status offenders and
2 non-offenders as alternatives to placement in jails and other
3 secure facilities. Such non-secure placements must be the least
4 restrictive alternative appropriate to the needs of the children
5 and the community, must be in reasonable proximity to the
6 children's families and the home communities, and must provide
7 "community-based" services. Section 103(1) of the Juvenile
8 Justice Act, 42 U.S.C. §5603(1), defines "community based"
9 facility, program or service as "a small, open group home or
10 other suitable place located near the juvenile's home or
11 family and programs of community supervision and service which
12 maintain community and consumer participation in the planning,
13 operation, and evaluation of their programs which may include,
14 but are not limited to, medical, educational, vocational,
15 social, and psychological guidance, training, counseling,
16 alcoholism treatment, drug treatment, and other rehabilitative
17 services."

18 57. The defendants fail and refuse to provide and utilize
19 appropriate, less restrictive, community-based placements as
20 alternatives to detention of plaintiffs in the Oldham County
21 Jail. Defendants will continue to fail and refuse to provide
22 and utilize such alternatives unless plaintiffs are granted the
23 relief requested herein.

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1 V. CRUEL, UNCONSCIONABLE AND ILLEGAL CONDITIONS
2 OF CONFINEMENT

3 58. Defendants regularly subject plaintiffs to the cruel,
4 unconscionable and illegal conditions of confinement described
5 above. Defendants have similarly confined and detained
6 juveniles in the Oldham County Jail under such conditions in
7 previous years, and defendants will continue to confine
8 juveniles under such conditions in the future unless plaintiffs
9 are granted the relief requested herein.
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11 VI. KNOWLEDGE AND INTENT OF DEFENDANTS
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13 59. Defendant JAMES E. SUMMIT, as the Jailer of Oldham
14 County, Kentucky, is responsible for the custody, rule and
15 charge of the jail and of all persons in the jail; for keeping
16 the jail comfortably warm and clean; for treating all prisoners
17 humanely and furnishing them with proper food and lodging during
18 their confinement; and for appointing and supervising deputy
19 jailers. As such, he knew or should have known of the
20 conditions and circumstances alleged herein and should have
21 taken steps to correct said conditions and circumstances.
22 Having failed to do so, he is in violation of the federal laws
23 and Kentucky statutory sections listed above.

24 60. Defendant GLENN HANCOCK, as the Deputy Jailer of
25 Oldham County, Kentucky, has all the powers and is subject to
26 the same penalties as the jailer. As such, he knew or should

have known of the conditions or circumstances alleged herein and should have taken steps to correct those conditions and circumstances. Having failed to do so, he is in violation of the federal laws and Kentucky statutory sections listed above.

61. Defendants, WENDELL MOORE, JAMES W. PIKE, MARTHA R. DAVIS, JOSEPH E. NAY, SHELTON FENDLEY, SR., GILBERT WINTERS, NANCY C. DOTY, NORMAN BROWN, L.A. HEDGES, PHILLIP E. PARRISH, and EMANUAL McMAHAN, as members of the Fiscal Court of Oldham County, Kentucky, are responsible for providing a suitable facility for the custody and care of children held in custody pending disposition of their cases by the District Court; for employing necessary personnel for the operation of such facility; for appropriating funds for the operation and maintenance of all county buildings; and for appropriating funds for the provision of correction facilities and services, and programs for the confinement, care and rehabilitation of juvenile law offenders. As such, they knew or should have known of the conditions or circumstances alleged herein and should have taken steps to correct those conditions and circumstances. Having failed to do so, they are in violation of the federal laws and Kentucky statutory sections listed above.

62. Plaintiff, GREG HORN, plaintiff's decedent, ROBERT LEE HORN, JR., and the members of the Plaintiff class have been and continue to be subjected by defendants to the conditions of confinement and policies and practices of defendants complained of herein.

1 63. As a proximate result of the policies, practices,
2 acts, and omissions of defendants complained of herein,
3 plaintiffs have suffered and continue to suffer serious
4 physical, psychological, and emotional injuries.

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1 confinement and detention in Oldham County Jail of status
2 offenders and other juveniles presenting no danger to themselves
3 or others, violate plaintiffs' rights under the Juvenile Justice
4 Act, 42 U.S.C. §5633(12); subject plaintiffs to denial of due
5 process of law, guaranteed by the Fourteenth Amendment to the
6 United States Constitution and the Kentucky Constitution;
7 subject plaintiffs to cruel and unusual punishments, in
8 violation of the Eighth and Fourteenth Amendments to the United
9 States Constitution and the Kentucky Constitution; violate
10 plaintiffs' right to receive treatment in the least restrictive
11 setting and under the least restrictive conditions, guaranteed
12 by the Fourteenth Amendment to the United States Constitution
13 and Kentucky statutes; violate plaintiffs' rights under 42
14 U.S.C. §1983; and violate plaintiffs' rights under the Kentucky
15 statutory sections cited herein.

16 THIRD CLAIM

17 67. Defendants' policies, practices, acts and omissions
18 complained of herein, and specifically defendants' detention and
19 confinement of juveniles in the Oldham County Jail without
20 adequate separation from adult offenders, violate plaintiffs'
21 rights under the Juvenile Justice Act, 42 U.S.C. §5633(13);
22 subject plaintiffs to denial of due process of law, guaranteed
23 by the Fourteenth Amendment to the United States Constitution
24 and the Kentucky Constitution; subject plaintiffs to cruel and
25 unusual punishments, in violation of the Eighth and Fourteenth
26 Amendments to the United States Constitution and the Kentucky

1 Constitution; violate plaintiffs' right to receive treatment in
2 the least restrictive setting and under the least restrictive
3 conditions, guaranteed by the Fourteenth Amendment to the United
4 States Constitution and the Kentucky statutes; violate
5 plaintiffs' rights under 42 U.S.C. §1983; and violate
6 plaintiffs' rights under the Kentucky statutory sections cited
7 herein.

8 FOURTH CLAIM

9 68. Since at least 1981, defendants have had actual notice
10 that the Oldham County Jail was not operated in a manner
11 consistent with the safety and well-being of juveniles detained
12 therein.

13 69. Defendants were responsible for the following acts or
14 omissions regarding plaintiff's decedent Robert Lee Horn:

15 a. Negligently, carelessly and recklessly failing to
16 provide adequate staffing at the facility;

17 b. Negligently, carelessly and recklessly failing to
18 equip and maintain an adequate audio or visual monitoring
19 system;

20 c. Negligently, carelessly and recklessly failing to
21 provide jail personnel who are trained in identifying and
22 responding to problems of juveniles;

23 d. Negligently, carelessly and recklessly failing to
24 develop rules and regulations which would ensure the safety of
25 juveniles at the jail;

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e. Negligently, carelessly and recklessly failing to provide adequate medical or psychological care, including screening at admission, for juveniles confined at the jail;

f. Negligently, carelessly and recklessly failing to make reasonable and periodic inspections of decedent's cell to ascertain his safety and well-being.

69A. On or about December 16, 1982, the Defendant, GLEN HANCOCK, individually and in his official capacity as Deputy Jailer of Oldham County, Kentucky, willfully, deliberately, maliciously and wrongfully arrested and incarcerated Plaintiff's decedent, ROBERT LEE HORN, JR., in the Oldham County Jail without any legal right to do so and in violation of the constitutional rights of said juvenile under the United States and Kentucky Constitutions.

70. The acts of Defendant, GLEN HANCOCK alleged in paragraph 69A were committed by him within the scope and course of his employment as the Deputy and agent of JAMES E. SUMMIT, the jailer of Oldham County, Kentucky, and upon this account said JAMES E. SUMMIT is liable in damages for the death of ROBERT LEE HORN, JR.

71. The acts of the Defendant, GLEN HANCOCK, alleged in paragraph 69A in addition constitute and constituted the implementation, execution and adoption of policy, practices, acts and omissions of Oldham County, Kentucky, through formal adoption or governmental custom and upon this account, Oldham County, Kentucky is liable in damages for the death of ROBERT LEE HORN, JR.

72. As a direct and proximate result of the Defendants willful and deliberate wrongful arrest and incarceration of ROBERT LEE HORN, JR. and their failure to properly maintain and supervise ROBERT LEE HORN, JR. and all juveniles at the Oldham County Jail, ROBERT LEE HORN, JR. died in his cell at the jail on December 16, 1982.

73. Defendants engaged in a course of conduct with respect to ROBERT LEE HORN which was willful, wanton and grossly negligent, and so blatantly indifferent and deliberate as to evidence intentional maltreatment.

74. The acts and omissions of the defendants, in failing to provide for the proper care and treatment of the decedent, resulted in the death of ROBERT LEE HORN. These actions and omissions constituted a clear violation of his rights under the Constitution of the United States, federal statutes, and Kentucky law.

75. By reason of the death of ROBERT LEE HORN, JR., plaintiff RITA HORN has become liable for funeral costs and other final expenses of the decedent in the amount of \$1,500.00.

76. By reason of the death of ROBERT LEE HORN, plaintiff RITA HORN has suffered severe emotional and physical distress, anxiety and anguish. She has also been deprived of decedent's care, support, comfort, society,, counsel and services, and has further lost a kind and loving relative and been deprived of his guidance, protection and company, all to her damage in the amount of \$500,000.00.

77. By reason of the death of ROBERT LEE HORN, JR., the estate of said decedent has been deprived of future earnings of said decedent in the amount of \$1,500,000.00.

78. As a result of the actions and omissions of the defendants, plaintiff is entitled to punitive damages in the amount of \$1,500,000.00 for the willful, wanton, deliberate and callous disregard of the rights of ROBERT LEE HORN, JR. Such punitive damages are necessary to deter defendants and their agents from such conduct in the future, and to deter others from similar conduct.

FIFTH CLAIM

79. Defendants' policies, practices, acts and omissions complained of herein, and specifically defendants' failure and refusal to provide and utilize appropriate community-based alternatives to placement of juveniles in the Oldham County Jail, violate plaintiff's rights under the Juvenile Justice Act, 42 U.S.C. §5633 (12), 5603 (1); subject plaintiffs to denial of due process of law, guaranteed by the Fourteenth Amendment to the United States Constitution and the Kentucky Constitution; subject plaintiffs to cruel and unusual punishments, in violation of the Eighth and Fourteenth Amendments to the United States Constitution and the Kentucky Constitution; violate plaintiff's right to receive treatment in the least restrictive setting and under the least restrictive conditions, guaranteed by the Fourteenth Amendment to the United States Constitution, and the Kentucky statutes; violate plaintiffs' rights under 42

U.S.C. §1983; and violate plaintiffs' rights under the Kentucky statutory sections cited herein.

SIXTH CLAIM

80. Since at least 1981, defendants have had actual notice that the Oldham County Jail was not operated in a manner consistent with the safety and well being of juveniles detained therein.

81. Defendants were responsible for the following acts or omissions with regard to plaintiffs, GREG HORN and

a. Negligently, carelessly and recklessly failing to provide adequate staffing at the facility;

b. Negligently, carelessly and recklessly failing to equip and maintain an adequate audio or visual monitoring system;

c. Negligently, carelessly and recklessly failing to provide jail personnel who are trained in identifying and responding to problems of juveniles;

d. Negligently, carelessly and recklessly failing to develop rules and regulations which would ensure the safety of juveniles at the jail;

e. Negligently, carelessly and recklessly failing to provide adequate medical or psychological care, including screening at admission, for juveniles confined at the jail;

f. Negligently, carelessly and recklessly failing to make reasonable and periodic inspections of plaintiffs' cell to ascertain their safety and well-being;

82. Defendants and their agents engaged in a course of conduct with respect to plaintiffs which was willful, wanton and grossly negligent, and so blatantly indifferent and deliberate as to evidence intentional maltreatment.

83. The acts and omissions of the defendants in failing to provide for the proper care and treatment of the plaintiffs, constituted a clear violation of their rights under the Constitution of the United States, federal statutes, and Kentucky law.

84. By reason of the medical and psychological injuries sustained by plaintiff, GREG HORN, he is entitled to compensation for his pain, suffering and mental anguish in the amount of \$25,000.00.

85. As a result of the actions and omissions of the defendants, plaintiff, GREG HORN is entitled to punitive damages in the amount of \$100,000.00, for the willful, wanton, deliberate and callous disregard of his rights. Such punitive damages are necessary to deter defendants from such conduct in the future, and to deter others from similar conduct.

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1 Constitution and the Kentucky Constitution;

2 (3) subject plaintiffs to cruel and unusual
3 punishment, in violation of the Eighth and Fourteenth Amendments
4 to the United States Constitution and the Kentucky Constitution;

5 (4) violate plaintiffs' right to receive treatment in
6 the least restrictive setting and under the least restrictive
7 conditions, guaranteed by the Fourteenth Amendment to the United
8 States Constitution, and Kentucky statutes;

9 (5) violate plaintiffs' rights under 42 U.S.C. §1983;

10 (6) violate plaintiffs' statutory rights under the
11 Kentucky Code, as indicated above.

12 D.. Issue preliminary and permanent injunctions sufficient
13 to rectify the unconstitutional acts and omissions and statutory
14 violations alleged herein, as follows:

15 (1) Restraining and prohibiting defendants from
16 failing to provide plaintiffs with any of the following during
17 their period of confinement:

18 (a) basic supplies necessary to maintain personal
19 hygiene;

20 (b) regular opportunities for exercise and
21 recreation;

22 (c) cells which are maintained in a clean and
23 sanitary condition;

24 (d) medical and psychological screening when
25 plaintiffs are taken into custody, and regular medical and
26 mental health services during plaintiffs' periods of

1 confinement;

2 (e) personnel trained in identifying and
3 responding to problems of juveniles;

4 (f) supervision and monitoring of plaintiffs in
5 their cells;

6 (g) an adequate number of trained supervisory
7 personnel to supervise the well-being of plaintiffs, and to
8 protect the physical safety of plaintiffs;

9 (h) an adequate audio or visual monitoring system
10 in plaintiffs' cells;

11 (i) an adequate educational program;

12 (j) complete separation by sight and sound from
13 adult inmates;

14 (k) rules and regulations for the proper handling
15 and treatment of plaintiffs;

16 (l) accurate records on plaintiffs detained in
17 the jail.

18 (2) Restraining and prohibiting defendants from
19 confining or detaining in the Oldham County Jail or in any other
20 secure facility any juvenile who is charged with or who has
21 committed an offense which would not be criminal if committed by
22 an adult, where such offense does not constitute a violation of
23 a valid court order.

24 (3) Restraining and prohibiting all defendants from
25 confining and detaining any juvenile in the Oldham County Jail.

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1 (4) Restraining and prohibiting all defendants from
2 failing to provide and utilize appropriate community-based
3 alternatives to placement of juveniles in the Oldham County
4 Jail.

5 E. Issue preliminary and permanent injunctions restraining
6 and prohibiting all defendants from transferring any plaintiff
7 to any other jail or any other facility where there exist the
8 conditions complained of herein.

9 F. Order the defendants to develop and implement a
10 comprehensive plan for the correction of the unlawful policies,
11 practices, acts and omissions complained of herein, and to
12 submit said plan to the court and to the attorneys for
13 plaintiffs for review.

14 G. Appoint a Special Master to review and insure
15 implementation of the plan submitted by defendants and to
16 protect the rights of plaintiffs during the pendency of this
17 action.

18 H. Retain jurisdiction over defendants and each of them
19 until such time as the Court is satisfied that their unlawful
20 policies, practices, acts and omissions complained of herein no
21 longer exist and will not recur.

22 I. For the wrongful death of Robert Lee Horn, award
23 general damages against each of the defendants, except
24 defendants FRITZ and HAWKINS, in the amount of \$2,000,000.00, or
25 such damages as may be proven at trial.

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1 J. For the wrongful death of Robert Lee Horn, award
2 special damages against each of the defendants, except
3 defendants FRITZ and HAWKINS, in the amount of \$1,500.00.

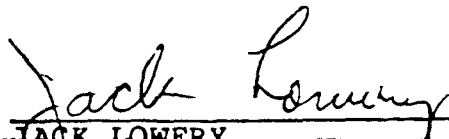
4 K. For the wrongful death of Robert Lee Horn, award
5 punitive damages against each of the defendants, except
6 defendants FRITZ and HAWKINS, in the amount of \$1,500,000.00.

7 L. For the injuries to plaintiff GREG HORN, award general
8 damages against each of the defendants, except defendants FRITZ
9 and HAWKINS, in the amount of \$25,000.00, or such damages as may
10 be proven at trial.

11 M. For the injuries to plaintiff GREG HORN, award punitive
12 damages against each of the defendants, except defendants FRITZ
13 and HAWKINS, in the amount of \$100,000.00.

14 N. Award plaintiffs the cost of this proceeding,
15 attorneys' fees, and such other and further relief as to this
16 Court seems just and proper.

17 Dated this 2nd day of March, 1983.

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