

	)	
WILLIE FLOYD WILLIAMS, JR.,	)	
MICKLE JERMAINE JACKSON,	)	
	)	
Plaintiffs,	)	
	)	CIVIL ACTION
v.	)	
	)	No. _____
CLINCH COUNTY, Georgia,	)	
	)	
WINSTON PETERSON,	)	
Sheriff of Clinch County, in his	)	
official and individual capacities,	)	CLASS ACTION
	)	
SISSY SUGGS,	)	
Deputy Sheriff of Clinch County,	)	
in her official and individual	)	JURY TRIAL DEMANDED
capacities,	)	
	)	
	)	
Defendants.	)	
	)	

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SUGGS (collectively, “Defendants”). In support thereof, Plaintiffs respectfully state as follows:

PRELIMINARY STATEMENT

1.

This is an action to stop Defendants from an abuse of their authority, through which they have been charging inmates at the Clinch County Jail in Homerville, Georgia (the “Jail”) fees for “room and board.” Clinch County, its Sheriff, and his Deputies have been forcing inmates -- even those inmates who have not been convicted of a crime -- to pay charges set by Defendants. Defendants threaten to incarcerate those who have been released but refuse to pay these fees. Without any statutory authority or oversight by a court, Defendants charge often poor inmates exorbitant fees -- in some cases over \$4,000 -- for room and board. This is far more than many defendants can pay. Even when an inmate at the Jail is released by the court on bond, Defendants often will not allow the individual to leave unless he signs a promissory note that states he must make weekly payments or face re-incarceration.

2.

This practice is illegal. Defendants have no authority to impose charges on inmates. Defendants have no authority to coerce inmates to sign promissory notes. Through this pervasive practice, Defendants have taken substantial sums of money from Plaintiffs and other inmates.

3.

Defendants' policy and practice of requiring pre-trial detainees to pay room and board fees violates numerous provisions of the U.S. Constitution and the Georgia Constitution. Further, this policy and practice violates Georgia law -- and quite simply constitutes conversion of Plaintiffs' money. Plaintiffs assert claims for violation of their civil rights under 42 U.S.C. § 1983, conversion, false imprisonment, and violation of the Georgia Constitution. In addition, they seek a declaratory judgment ruling that the promissory notes are not enforceable.

4.

Plaintiffs bring this putative class action on behalf of themselves and all past, current, and future pre-trial detainees at the Clinch County Jail who have been or will be charged for costs of their incarceration in violation of law. Plaintiffs respectfully ask this Court to preliminarily and thereafter permanently enjoin Defendants from charging inmates fees for room and board or other fees that are not permitted by law. Plaintiffs also ask this Court to order Defendants to return money that Defendants have wrongfully collected from Plaintiffs and other class members.

PARTIES

Plaintiffs

5.

Plaintiff Willie Floyd Williams, Jr. is resident of Homerville, Georgia. Mr. Williams was arrested on or around October 3, 2003 and spent approximately nine months in the Clinch County Jail before being released on bond on June 15, 2004. Before Mr. Williams was permitted to leave the Jail, despite having posted bond and being free to leave under the law, Deputy Sheriff Sissy Suggs advised him that he must first sign a promissory note agreeing to pay room and board costs of \$4,608. The promissory note included a statement advising Mr. Williams that he would be re-incarcerated if he failed to make his payments. To date, Mr. Williams has paid approximately \$140 towards the cost of the \$4,608 the Defendants claim he owes the County.

6.

Mickle Jermaine Jackson is a resident of Homerville, Georgia. Mr. Jackson was arrested on February 6, 2004 and spent approximately three months incarcerated at the Jail before he was released on bond on April 26, 2004. Mr. Jackson was charged approximately \$12,415~~000~~ for Jail costs for these three months. Defendants have ordered Mr. Jackson to pay the County \$100 per month towards his "jail bill."

Defendants

7.

Defendant Clinch County is responsible for setting the customs, policies, and practices at the Clinch County Jail, and has received “room and board fees” that were unlawfully collected from Plaintiffs by the Clinch County Sheriff and his Deputies. Upon information and belief, Clinch County Jail officials have deposited the room and board fees collected from Plaintiffs into an account earmarked “Jail Board Reimbursements” in the County treasury. (See Plaintiffs’ Exhibit 1). Upon information and belief, Clinch County has caused, created, authorized, condoned, ratified, approved, and/or knowing acquiesced in the policy of charging Jail inmates for the cost of incarceration, as described in this Complaint.

8.

Defendant Winston Peterson is the Sheriff of Clinch County and, upon information and belief, is a resident of Clinch County, Georgia. As Sheriff, Defendant Peterson is directly responsible for the daily management, administration, and operation of the Clinch County Jail. In Defendant Peterson's capacity as Sheriff, he has caused, created, participated in, authorized, condoned, ratified, approved, and/or knowingly acquiesced in the policy of charging Jail inmates for the cost of incarceration, as described in this Complaint. Sheriff Peterson is sued in his official and individual capacities.

9.

Defendant Sissy Suggs is the Deputy Sheriff of Clinch County and, upon information and belief, is a resident of Clinch County, Georgia. In Defendant Suggs' capacity as Deputy Sheriff, she has caused, created, participated in, authorized, condoned, ratified, approved, and/or knowingly acquiesced in the policy of charging Jail inmates for the cost of incarceration, as described in this Complaint. Deputy Sheriff Suggs is sued in her official and individual capacities.

JURISDICTION AND VENUE

10.

This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1343 because the action arises under and is brought under the Civil Rights Act of 1871, 42 U.S.C. § 1983 and the Fourteenth Amendment to the United States Constitution. The Court has supplemental jurisdiction over Plaintiffs' state law claims under 28 U.S.C. § 1367 because they are so related to the federal claims that they form part of the same case or controversy under Article III of the United States Constitution.

11.

Venue is proper in this District under 28 U.S.C. § 1391(b)(1) because at least one Defendant resides in this judicial district. This District also is an appropriate venue for this action under 28 U.S.C. § 1391(b)(2) because all or at least a substantial part of the events or omissions giving rise to the claims asserted herein occurred in this judicial district.

FACTUAL BACKGROUND

12.

Willie Floyd Williams, Jr.

Plaintiff Willie Floyd Williams, Jr. was arrested on or about October 3, 2003 and spent approximately nine months in the Clinch County Jail. Through his court-appointed attorney, Mr. Williams applied for bond on or about May 10, 2004, and on June 15, 2004, was permitted to bond out of the Jail. Before Mr. Williams was released, however, Sheriff Peterson advised him that he owed the Jail money and directed him to see Deputy Sheriff Sissy Suggs. Deputy Sheriff Suggs told Mr. Williams he owed the Jail \$4,608 to cover his Jail costs. Deputy Sheriff Suggs presented Mr. Williams with a promissory note, which he was directed to sign *as a condition of* being released from Jail. (See Exhibit 2). The promissory note described the amount Mr. Williams purportedly owed the Jail and stated that if he failed to pay such Jail costs, he would be incarcerated. The note states, in relevant part:

I Willie Williams am agreeing to pay the Clinch County Jail \$20.00 per week on jail cost that I owe in the amount of \$4608.00, to which I have paid \$100.00[.] The new balance will be \$4508.00. I will start paying this amount on 6/25/04. I am aware that if I fail to keep this agreement I will be incarcerated in the Clinch County Jail.

13.

After signing the promissory note and giving \$100 to Defendant Suggs, Mr. Williams was released from the jail.

14.

On July 6, 2004, Mr. Williams gave Defendant Suggs an additional \$20 cash payment toward his debt. (See Exhibit 3). On ~~or around~~ August ~~30~~²⁶, 2004, Mr. Williams received a post card from the Sheriff asking him to come to the Sheriff's Department within three working days of receiving the notice. (See Exhibit 4). On September 3, 2004, Mr. Williams gave Ms. Suggs a third cash payment of \$20. (See Exhibit 5).

15.

Mr. Williams is still awaiting trial on the charges for which he was arrested in October 2003. He has not been convicted of any crime.

16.

Mr. Williams is indigent. The Superior Court of Clinch County determined he was too poor to afford a lawyer to represent him in his criminal case and appointed an attorney to represent him. Mr. Williams hopes to be re-hired as a forklift operator by his previous employer, where he worked for 10 years before being arrested on the charges that he is facing. At present, however, Mr. Williams has no income, has continuing child support obligations and is unable to pay the \$4,608~~000~~ it is claimed he owes the Jail.

17.

Mickle Jermaine Jackson

Mickle Jermaine Jackson was arrested on February 6, 2004 and was incarcerated for approximately three months at the Jail before being released on bond on April 26, 2004. Before being released, Deputy Warden Sissy Suggs advised Mr. Jackson he owed the Jail \$1,415 for “room and board.” Jail officials would not allow Mr. Jackson to leave the Jail until Mr. Jackson’s cousin, Lonnie Cooper, came to the Jail with a cash payment \$113 in cash. Since being released on bond, Mr. Jackson has been ordered to pay the Jail \$100 per month on the first of each month until he has repaid the Jail in full for his Jail costs. Attached to this Complaint as Exhibit 65 are two receipts showing that Mr. Jackson has paid \$200 toward the cost of his jail stay.

18.

Mr. Jackson is currently awaiting trial. He has not been convicted of the crime with which he has been charged.

19.

Mr. Jackson is indigent. The Superior Court of Clinch County determined that Mr. Jackson was too poor to afford a lawyer to represent him in his criminal case and appointed an attorney to represent him. Mr. Jackson currently lives off of a fixed income of \$562 per month in Supplemental Security Income.

Other Former Pre-Trial Detainees

20.

The experiences of Mr. Williams and Mr. Jackson are not isolated instances. It is Defendants' policy and practice to charge Jail inmates – including pre-trial detainees – ~~for s~~ for the cost of room and board. The following are just a few other examples of this policy and practice:

- (a) Darius Dorsey was arrested in May 2004 and spent the night in the Jail. The following day, the charges against Mr. Dorsey were dismissed. Despite this, Mr. Dorsey was required to pay the Jail \$36 for the cost of room and board.
- (b) James Smith spent approximately one week in the Jail in 2003 for allegedly failing to pay child support. He was released from the Jail

on a Friday afternoon after a determination was made that he was too poor to pay child support. Later the same day, sheriff's deputies arrived at Mr. Smith's house, picked him up, and re-incarcerated him at the Jjail until he paid his \$109 "food bill." Mr. Smith's mother came to the Jjail the next morning with the \$109 and Mr. Smith was released.

- (c) Kenneth Brown was arrested in March 2004. Mr. Brown bonded out of the Jjail the day after his arrest. Before he was permitted to leave the Jail, however, he was required to pay \$18 for the cost of room and board. Mr. Brown had yet to be convicted of the crime with which he was charged.

Fredrick Caussey was arrested on August 4, 2004. He spent three days in the Clinch County Jail before being released on bond on August 8, 2004. Before being permitted to leave the Jjail, Mr. Caussey was required to pay \$57 for the cost of room and board. Mr. Caussey has not been convicted of the offense for which he was charged.

- (d)

Jeanne McGhee was arrested in March 2003. She was incarcerated in the Jail for approximately four days before pleading guilty and being released sentenced to a term of probation. When Ms. McGhee was

released, she was charged \$90 for room and board.

Dominique Raysor was arrested on July 28, 2004. He spent approximately three months in the Jail before pleading guilty on October 15, 2004. Following his guilty plea, the Assistant District Attorney assigned to Mr. Raysor's case told Mr. Raysor that he owed over \$1,440 in "jail costs." ~~Mr. Raysor has paid \$85 toward the Jail costs.~~

Defendants' Conduct Is Unauthorized And Illegal

5.

There is no statutory or other legal authority for Defendants to charge Plaintiff's for the cost of room and board. This policy and practice constitutes unlawful conduct deliberately undertaken by a County and its officials.

6.

Defendants' policy and practice of collecting room and board fees has not been authorized by the Georgia legislature.

CLASS ACTION ALLEGATIONS

7.

Plaintiffs bring this class action pursuant to Rules 23(a) and (b)(2) of the Federal Rules of Civil Procedure on their behalf and on behalf of a class similarly situated and affected during the pendency of this lawsuit and in the future. The class is defined as all past, current, and future pre-trial detainees at the Clinch County Jail who have been or will be charged for the cost of incarceration in violation of law.

8.

The members of this class are so numerous that their joinder is impractical. The class consists of an unknown number of past inmates, about 32 current inmates, and such future inmates who will be incarcerated at the Jail.

9.

The conditions and practices challenged in this action apply with equal force to the named Plaintiffs and all members of the class so that the claims of the named Plaintiffs are typical of those of the class. All class members are past, current, or future inmates at the Clinch County Jail. All class members have been or will be, absent this Court's intervention, charged for the cost of incarceration, in violation of law and deprived of their liberty without due process of law upon any alleged failure to pay. All class members will continue to be subject to such conditions absent the requested relief.

10.

The named Plaintiffs will fairly represent and adequately protect the interests of the class as a whole. They possess the requisite personal interest in the subject matter of the lawsuit and possess no interests adverse to other class members. Plaintiffs are representative of the class of all persons who have been or will be charged for the cost of incarceration at the Jail in violation of law.

11.

Plaintiffs are represented by counsel who are experienced in class action litigation involving the rights of prisoners. The named Plaintiffs and the class members are represented by attorneys at King & Spalding LLP, a law firm with extensive experience in complex class action litigation as well as attorneys at the Southern Center for Human Rights, a privately funded, nonprofit organization with extensive experience in complex class action litigation involving prisoners' rights. Plaintiffs' counsel have the resources, expertise, and experience to effectively prosecute this action.

12.

The questions of fact and law common to the class as a whole concern the constitutionality and lawfulness of the policy and practice of charging Clinch County Jail pre-trial detainees for the cost of incarceration. For example, there are common questions of law and fact concerning the lawfulness of each of the following of Defendants' policies and practices:

- (a) the policy and practice of requiring inmates to pay a per diem charge for the cost of incarceration regardless of their guilt or innocence or ability to pay;
- (b) the policy and practice of holding at the jail inmates who are entitled to release until they sign a promissory note stating that ~~he or she~~ **they** will

pay the amount owed;

(c) the policy and practice of threatening to re-incarcerate without any due process protections former jail inmates who fail to make payments on their “jail bill;”

(d) the policy and practice of collecting installment payments;

(e) the policy and practice of holding of such illegally collected funds in the county treasury.

13.

Defendants, in creating and enforcing the jail reimbursement policy, have acted in a way generally applicable to the class the Plaintiffs represent, thereby making preliminary and permanent injunctive relief and corresponding declaratory relief appropriate for the class as a whole pursuant to F.R.C.P. 23(b)(2).

CLAIMS FOR RELIEF

COUNT ONE

INJUNCTIVE RELIEF

14.

Plaintiffs incorporate herein and re-allege, as if fully set forth herein, the allegations of the preceding paragraphs.

15.

Plaintiffs seek a preliminary and thereafter a permanent injunction to prevent Defendants from charging Jail inmates for the cost of incarceration in violation of federal law and Georgia law. See infra Counts Two through Six.

16.

Defendants' conduct is not authorized by any Georgia law. Defendants' conduct violates 42 U.S.C. § 1983 and Georgia law.

17.

Defendants' conduct is likely to continue unless preliminarily and thereafter permanently enjoined. Defendants' conduct is causing Plaintiffs immediate irreparable harm that cannot be remedied by the award of money damages. Plaintiffs have no plain, adequate, or complete remedy at law to redress the wrongs described herein. If Defendants² are not enjoined, they are likely to continue irreparably harming Plaintiffs.

18.

The balance of the hardships and public policy strongly favor the Court entering a preliminary injunction and thereafter permanently enjoining Defendants' unlawful policy and practice of collecting fees for "room and board" from inmates at the Jail.

19.

Plaintiffs seek an Order from this Court preliminarily, and thereafter permanently, enjoining Defendants from collecting fees for room and board from pre-trial detainees at the Jail or collecting other fees not permitted by law.

20.

Plaintiffs also seek an order from this Court requiring Defendants to reimburse the money wrongfully taken from Plaintiffs and other class members.

COUNT TWO

VIOLATION OF PLAINTIFFS' CIVIL RIGHTS UNDER 42 U.S.C. § 1983

21.

Plaintiff~~s~~ incorporates herein and re-alleges, as if fully set forth herein, the allegations of the preceding paragraphs.

22.

Defendants have violated Plaintiffs' right to due process of law under the Fourteenth Amendment to the Constitution of the United States, as applied to the states and enforced through 42 U.S.C. § 1983, by requiring Plaintiffs to pay the cost of room and board for a pre-trial and/or pre-conviction jail stay.

23.

By requiring Plaintiffs who have not been convicted of any crime to pay the cost of room and board for a pre-trial and/or pre-conviction jail stay, Defendants are violating the Fifth Amendment's prohibition on takings without just compensation, as applied to the states and enforced through 42 U.S.C. § 1983.

24.

By deliberately requiring Plaintiffs to pay the cost of room and board for a pre-trial and/or pre-conviction jail stay before release, Defendants have deprived Plaintiffs of their liberty without due process of law, falsely imprisoned Plaintiffs in violation of their constitutional rights, deprived Plaintiffs of equal protection of the law, and imposed an unconstitutional ex post facto law.

25.

By requiring Plaintiffs who have not been convicted of any crime to pay the cost of room and board for a pre-trial and/or pre-conviction jail stay, Defendants have deprived Plaintiffs of their property without due process in violation of Plaintiffs' constitutional rights.

26.

By requiring Plaintiffs who have not been convicted of any crime to pay the cost of room and board for a pre-trial and/or pre-conviction jail stay, Defendants have deprived Plaintiffs of their substantive due process rights under the Constitution.

27.

In each and every instance set forth above, Defendants acted intentionally, or at least recklessly, in disregard of Plaintiffs' constitutional rights. Defendants knew or should have known that confiscating funds without a conviction, without a court order, without notice or hearing, and without any statutory authority violated Plaintiffs' constitutional rights.

28.

The actions set forth above were taken by Defendants under color of state law.

29.

As a direct and proximate result of Defendants' illegal policy and practice, Plaintiffs were wrongfully deprived of money that belonged to them.

30.

As a direct and proximate result of Defendants' illegal policy and practice, Plaintiffs were wrongfully deprived of their liberty.

31.

Defendants are jointly and severally liable for the violations of Plaintiffs' rights, and the harm they suffered as a result, because each Defendant either personally participated in the actions or failures to ~~act, act,~~ or implicitly authorized, approved, or knowingly acquiesced or failed to remedy the wrongs at issue.

32.

Defendants' above-described actions were willful, deliberate, and malicious, and should be punished and deterred by an award of punitive or enhanced damages as permitted by law and in an amount to be determined at trial.

COUNT THREE

CONVERSION

33.

Plaintiff~~s~~ incorporates herein and re-alleges, as if fully set forth herein, the allegations of the preceding paragraphs.

34.

Defendants took and converted to their own use the funds set forth above from Plaintiffs.

35.

Defendants' above-described actions were willful, deliberate, and malicious, and should be punished and deterred by an award of punitive damages as permitted by law and in an amount to be determined at trial.

COUNT FOUR

FALSE IMPRISONMENT

36.

Plaintiff~~s~~ incorporates herein and re-alleges, as if fully set forth herein, the allegations of the preceding paragraphs.

37.

Defendants' detention of Plaintiffs in order to coerce the execution of promissory notes or payment of fees for room and board constitutes detention or imprisonment without authorization and in violation of law.

38.

Defendants' actions constitute false imprisonment under Georgia law.

39.

Defendants' above-described actions were willful, deliberate, and malicious, and should be punished and deterred by an award of punitive damages as permitted by law and in an amount to be determined at trial.

COUNT FIVE

VIOLATION OF THE GEORGIA CONSTITUTION

40.

Plaintiffs incorporate herein and re-allege, as if fully set forth herein, the allegations of the preceding paragraphs.

41.

The Georgia Constitution states: “No person shall be compelled to pay costs in any criminal case except after conviction on final trial.” See Ga. Const. Art. I, § 1, ¶ XXIV. In contravention of the Georgia Constitution, Defendants are compelling Plaintiffs to pay for the cost of incarceration before they have been found guilty of any crime.

COUNT SIX

DECLARATORY JUDGMENT

42.

Plaintiffs incorporate herein and re-allege, as if fully set forth herein, the allegations of the preceding paragraphs.

43.

Defendants have directly and/or indirectly forced Plaintiff Williams to sign a promissory note that purports to require him to make payments to one or more Defendants.

44.

Pursuant to 28 U.S.C. § 2201, Plaintiff Williams seeks a declaration by the Court that the promissory note is unenforceable. The promissory note is unenforceable because, among other things, Plaintiff Williams was coerced to enter it, it lacks consideration, and it is unconscionable.

45.

Plaintiff Williams will be adversely affected if Defendants continue to enforce the promissory notes. The controversy between Plaintiff Williams and Defendants is definite and concrete. An actual controversy exists between the parties as to Defendants' enforcement of the promissory note and whether Defendants will seek to incarcerate Plaintiff Williams for failing to pay the amounts allegedly due under the promissory notes.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully prays that this Court:

1. Assume jurisdiction over this action;
2. Determine by Order pursuant to Rule 23 of the Federal Rules of Civil Procedure that this action be maintained as a class action;
3. Order trial by jury on all claims so triable;
4. Enter judgment in favor of Plaintiffs;

5. Enter a preliminary injunction and thereafter a permanent injunction enjoining Defendants from collecting fees for room and board from pre-trial detainees at the Jail or collecting other fees not permitted by law;
6. Order that Defendants return all money taken from Plaintiffs in violation of law;
7. Declare the promissory note that purports to bind Plaintiff Williams null and void;
8. Award Plaintiffs the costs of this lawsuit and reasonable attorneys' fees pursuant to 42 U.S.C. § 1988;
9. Award enhanced or punitive damages as permitted by law and in an amount to be proven at trial;
10. Order such other and further relief as this Court may deem just and proper.

Respectfully submitted this ____ day of November, 2004.

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