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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JOHN B. CRUZ, JOSEPH Q. KRUKOWSKI,)
RUBEN D. CRUZ, DOUG MURPHY, JOHN)
COLE, TIM PENDERGAS, MANUEL BERTA0,)
and all others similarly situated,)

Plaintiffs,)

vs.)

COUNTY OF FRESNO, STEVE MAGARIAN,)
as SHERIFF,)

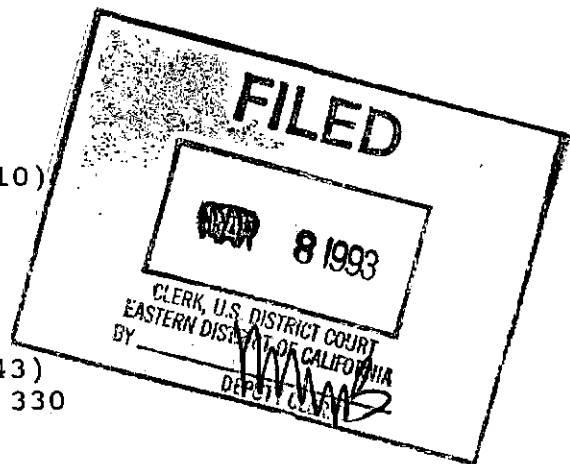
Defendants.)

NO. CIV. F-93-5070 REC JFM

COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF

JURISDICTION

1. This is a class action brought by the prisoners in the



1 Fresno County Jail, South Jail Annex, 2200 Fresno Street, Fresno,
2 both pretrial detainees and sentenced prisoners, to redress the
3 deprivation by defendants, County of Fresno and Sheriff Steve
4 Magarian, of plaintiffs' rights, privileges and immunities arising
5 under the Constitution and laws of the United States and the
6 deprivation under color of law by the individual defendants of
7 these rights (First, Fourth, Fifth, Sixth, Eighth and Fourteenth
8 Amendments of the Constitution of the United States, 42 USC Section
9 1983) through overcrowding, by failing to provide beds, lack of
10 exercise, and lack of access to law library. Named plaintiffs DOUG
11 MURPHY, JOSEPH Q. KRUKOWSKI, RUBEN D. CRUZ, JOHN B. CRUZ, JOHN
12 COLE, TIM PENDERGAS, MANUEL BERTAIO, and all others similarly
13 situated, are prisoners in the Fresno County Jail who are detained
14 in the Fresno County Jail in such overcrowded conditions that they
15 are denied a constitutionally adequate place of sleep, including
16 failure to provide a bed to sleep on, access to exercise and access
17 to a law library.

18 Specifically, the conditions in the Jail are grossly
19 overcrowded and inhumane. The jail is rated for 511, but often has
20 700 inmates and some people are forced to sleep on the floor every
21 day regardless of physical disabilities or illness. At the present
22 time the third and fourth floor of the jail are closed for
23 remodeling. On the remaining first and second floors, prisoners
24 are living in grossly crowded conditions in cells that have bed
25 space for twelve prisoners, although there are frequently twenty
26 prisoners. This means some prisoners have to try to sleep under

1 the existing bunks and in other parts of the cell including in the
2 dayroom. Even before the remodeling of the jail began, this
3 particular facility was overcrowded with floor sleepers and with
4 the number of prisoners grossly exceeding the jail's design
5 capacity. Plaintiff JOHN CRUZ complains that needed law books are
6 unavailable and they are only allowed one hour per week in the law
7 library. Books indispensable to legal research are not available
8 to the prisoners. Some of the books there are outdated. The
9 prisoners are overcrowded, do not have a place to sit to eat meals,
10 are subjected to excessive noise levels, have difficulty obtaining
11 exercise and have inadequate access to a law library. The roof
12 exercise area that is designed to provide outdoor exercise for the
13 prisoners in the facility is presently not being used. Prisoners
14 are allowed to go twice a week to a gymnasium on the second floor.
15 This space is too small for the number of prisoners who attempt to
16 use it. It is not equipped for exercise. There are ping pong
17 tables and card tables and a weight machine in this space. In
18 addition to the gymnasium's not being equipped for exercise, the
19 space is also used for religious services by the prisoners and
20 other types of meetings at the same time as it is available to the
21 prisoners for exercise. This results in further restriction of
22 movement. A person would not be able to run in the space or do
23 other kinds of exercise such as play basketball. The two-hour
24 exercise period twice a week is grossly inadequate time for
25 physical exercise that is needed for a person to maintain health.

26 2. The jurisdiction of this Court is invoked under 28 USC

1 1331, this being an action arising under the Constitution and laws
2 of the United States and under 28 USC 1343, this being an action
3 authorized by law to redress the deprivation under color of the
4 state law, statute, ordinance, regulation, custom and usage of a
5 right, privilege and immunity secured to plaintiffs by the First,
6 Fourth, Fifth, Sixth, Eighth and Fourteenth Amendments of the
7 Constitution of the United States.

8 3. Defendant County of Fresno (hereinafter called "County"),
9 is a unit of local government, duly formed and authorized under the
10 laws of the State of California. As part of its duties, defendant
11 County provides local jail facilities, specifically the Fresno
12 County Jail located in the City of Fresno, County of Fresno.
13 Through the Sheriff's Department of the County of Fresno and other
14 county agencies, defendant County also provides supervision to
15 persons in the Fresno County Jail.

16 4. Individual Steve Magarian is the Sheriff of the County
17 of Fresno, responsible for the Fresno County Jail, and its inmates.

18 5. At all times pertinent to this complaint, the named
19 individual defendant was acting under the color of his official
20 capacity and the ordinances and regulations of Fresno County, and
21 the laws of the State of California.

22 6. The named plaintiffs are citizens or persons residing in
23 the United States.

24 7. During all times mentioned herein, the defendants, and
25 each of them, separately and in concert, acted under color and
26 pretense of law, to wit, under color of the statutes, ordinances,

1 regulations, customs and usage of the States of California and the
2 County. Each of the defendants herein, separately and in concert,
3 engaged and conspired in the illegal conduct herein-mentioned to
4 the injury of plaintiffs, and deprived the plaintiffs of the
5 rights, privileges and immunities secured to plaintiffs by the
6 First, Fourth, Fifth, Eighth and Fourteenth Amendments to the
7 Constitution of the United States and the laws of the United States,
8 pursuant to the practice and policy of defendant County.

9 8. At all relevant times, the plaintiffs were prisoners and
10 held in the Fresno County Jail.

11 9. The deprivations suffered by plaintiffs were and are the
12 result of ongoing pattern of conduct and practices of defendants,
13 including defendant County of Fresno and defendant Magarian and
14 unless and until ordered by this court, overcrowded conditions
15 resulting in inadequate sleeping arrangements and causing personal
16 stress for prisoners, lack of personal safety, restricted access
17 to legal materials and necessary services will continue to deprive
18 prisoners of the Fresno County Jails of their constitutional
19 rights.

20 10. The Fresno County Jail South Annex is overcrowded. The
21 overcrowding of the jail has led to constitutional violations,
22 including floor sleeping. These constitutional violations, in
23 particular floor sleeping and chronic overcrowding of the jail, are
24 known to the jail administration, Sheriff and county officials.
25 In particular, problems with overcrowding, understaffing, floor
26 sleeping are documented and reported by the California State Board

1 of Corrections which were addressed to the Sheriff and copied to
2 defendant County of Fresno officials. In addition, there is an
3 existing Superior Court order in Fresno that limits the population
4 of the Main Jail to 865 prisoners and it has over 1,100 prisoners
5 in it. The Sheriff and officials of Fresno County have blithely
6 ignored extremely serious and dangerous problems of overcrowding
7 in the Fresno County Jail.

8 Prisoners in pro per have restricted legal access and are
9 unable to do the legal research necessary to their defense.

10 CLASS ACTION ALLEGATIONS

11 11. The named plaintiffs are representatives of a class
12 within the meaning of Rule 23(a) and 23(b)(2) of the Federal Rules
13 of Civil Procedure.

14 12. The members of the class are so numerous that joinder of
15 all of them is impractical, there being more than 200 prisoners in
16 the Fresno County Jail South Annex at any one time and up to 700
17 prisoners when the jail is in full operation.

18 13. The members of the class are readily identifiable from
19 the defendants' records.

20 14. There are questions of law and fact common to the class;
21 their class claims predominate over any individual claim.

22 15. The defendants have acted or refused to act on grounds
23 generally applicable to the class by failing to provide
24 constitutionally adequate facilities and hearings.

25 16. The named plaintiffs will fairly and adequately protect
26 the interests of the class, having no other intent herein.

1 17. The class consists of all prisoners held in the Fresno
2 County Jail South Annex from February 4, 1993 to the present, and
3 all future prisoners.

4 18. Plaintiffs do not propose notice at this time, consistent
5 with their practice in similar cases.

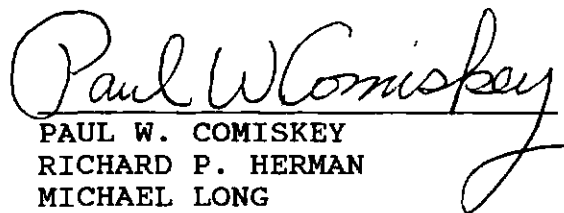
6 WHEREFORE, plaintiffs pray:

7 1. For an order and judgment requiring defendants to provide
8 adequate conditions of confinement including a bed for every
9 prisoner, an end to overcrowding, access to legal materials,
10 reasonable exercise time, with adequate facilities for exercise,
11 access to services and places to sit.

12 1. For reasonable attorneys' fees and costs of suit;

13 3. For such other relief as may be necessary and proper to
14 affect the purposes of this litigation.

15 Dated: February 5, 1993.

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19 RICHARD P. HERMAN
20 MICHAEL LONG
21 Attorneys for Plaintiffs
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