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CLERK, U. S. DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA  
BY \_\_\_\_\_ DEPUTY CLERK

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Attorneys for Plaintiffs

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, )  
•ROGER D. HAUSMAN, •CHARLES WILCOX, )  
•REBECCA MONTERO-SALCEDO, •ANTHONY )  
SHERWOOD, •RICHARD RUIZ, •EDWARD )  
CONTRERAS, and all others similarly )  
situated, )

Plaintiffs,

vs.

COUNTY OF FRESNO, STEVE MAGARIAN,  
as SHERIFF,

Defendants.

NO. F-93-5070 REC JFM

SECOND AMENDED COMPLAINT  
FOR DECLARATORY  
AND INJUNCTIVE RELIEF

17<sup>1.</sup>

JURISDICTION

1. This is a class action brought by the prisoners in the Fresno County Jail, Main Jail, located at 2200 Fresno Street, Fresno, California, the South Jail Annex, 2200 Fresno Street, Fresno, California, and the North Annex, including both pretrial detainees and sentenced prisoners, to redress the deprivation by defendants, County of Fresno and Sheriff Steve Magarian, of plaintiffs' rights, privileges and immunities arising under the Constitution and laws of the United States and the deprivation under color of law by the individual defendants of these rights (First, Fourth, Fifth, Sixth, Eighth and Fourteenth Amendments of the Constitution of the United States, 42 USC Section 1983) through overcrowding, by failing to provide beds, lack of exercise, and lack of access to law library. Named plaintiffs DOUG MURPHY, JOSEPH Q. KRUKOWSKI, RUBEN D. CRUZ, JOHN B. CRUZ, JOHN COLE, TIM PENDERGAS, MANUEL BERTAIO, ROGER D. HANSMAN, CHARLES WILCOX, REBECCA MONTERO-SALCEDO, ANTHONY SHEWARD, RICHARD RUIZ, EDWARD CONTRERAS, and all others similarly situated, are prisoners in the Fresno County Jail who are detained in the Fresno County Jail in such overcrowded conditions that they are denied a constitutionally adequate place of sleep, including failure to provide a bed to sleep on, access to exercise and access to a law library.

Specifically, the conditions in the Jail are grossly overcrowded and inhumane. The South Annex jail is rated for 511,

1 but often has 700 inmates and some people are forced to sleep on  
2 the floor every day regardless of physical disabilities or illness.  
3 At the present time the third and fourth floor of the jail are  
4 closed for remodeling. On the remaining first and second floors,  
5 prisoners are living in grossly overcrowded conditions in cells  
6 that have bed space for twelve prisoners, although there are  
7 frequently as many as twenty prisoners per cell. There are an  
8 unknown number of prisoners sleeping on the floor in the South  
9 Annex and of the Fresno County Jail, but there are approximately  
10 300 prisoners sleeping on the floor in the Main Jail. This means  
11 some prisoners have to try to sleep under the existing bunks and  
12 in other parts of the cell including in the dayroom. Even before  
13 the remodeling of the jail began, this particular facility was  
14 overcrowded with floor sleepers and with the number of prisoners  
15 grossly exceeding the jail's design capacity. The North Annex is  
16 has approximately 200 prisoners sleeping on the floor. Plaintiff  
17 JOHN CRUZ complains that needed law books are unavailable and they  
18 are only allowed one hour per week in the law library. Books  
19 indispensable to legal research are not available to the prisoners.  
20 Some of the books there are outdated.

21 The prisoners are overcrowded, do not have a place to sit to  
22 eat meals, are subjected to excessive noise levels, have difficulty  
23 obtaining exercise and have inadequate access to a law library.  
24 The roof exercise area of the South Annex that is designed to  
25 provide outdoor exercise for the prisoners in the facility is  
26

1 presently not being used. Prisoners are allowed to go twice a week  
2 to a gymnasium on the second floor. This space is too small for  
3 the number of prisoners who attempt to use it. It is not equipped  
4 for exercise. There are ping pong tables and card tables and a  
5 weight machine in this space. In addition to the gymnasium's not  
6 being equipped for exercise, the space is also used for religious  
7 services by the prisoners and other types of meetings at the same  
8 time as it is available to the prisoners for exercise. This  
9 results in further restriction of movement. A person would not be  
10 able to run in the space or do other kinds of exercise such as play  
11 basketball. The two-hour exercise period twice a week is grossly  
12 inadequate time for physical exercise that is needed for a person  
13 to maintain health.

14 Prisoners in the Main Jail, which consists of six floors are  
15 terribly overcrowded. Three hundred prisoners are sleeping on the  
16 floor. Lock-down Units in which prisoners remain for up to twenty-  
17 three and one-half hours per day have three prisoners in them and  
18 two bunks. One bunk is jammed in between the floor between the  
19 toilet and the bunk. The larger housing areas in the Main Jail  
20 that have fifty bunks have seventy to seventy-five prisoners in  
21 them. This is a terribly crowded jail and riotous conditions have  
22 occurred as a result of the overcrowding in the Main Jail.

23 2. The jurisdiction of this Court is invoked under 28 USC  
24 1331, this being an action arising under the Constitution and laws  
25 of the United States and under 28 USC 1343, this being an action  
26

1 authorized by law to redress the deprivation under color of the  
2 state law, statute, ordinance, regulation, custom and usage of a  
3 right, privilege and immunity secured to plaintiffs by the First,  
4 Fourth, Fifth, Sixth, Eighth and Fourteenth Amendments of the  
5 Constitution of the United States.

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

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

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

20 6. The named plaintiffs are citizens or persons residing in  
21 the United States.

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

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

8 8. At all relevant times, the plaintiffs were prisoners and  
9 held in the Fresno County Jail, including the South Annex, North  
10 Annex and the Main 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, North Annex and the  
21 Main Jail are overcrowded. The overcrowding of the jails has led  
22 to constitutional violations, including floor sleeping. These  
23 constitutional violations, in particular floor sleeping and chronic  
24 overcrowding of the jail, are known to the jail administration,  
25 Sheriff and county officials. In particular, problems with  
26

1 overcrowding, understaffing, floor sleeping are documented and  
2 reported by the California State Board of Corrections which were  
3 addressed to the Sheriff and copied to defendant County of Fresno  
4 officials.

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

7 CLASS ACTION ALLEGATIONS

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

11 12. The members of the class are so numerous that joinder of  
12 all of them is impractical, there being more than 200 prisoners in  
13 the Fresno County Jail South Annex at any one time and up to 700  
14 prisoners when the jail is in full operation. The Main Jail has  
15 1,185 beds.

16 13. The members of the class are readily identifiable from  
17 the defendants' records.

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

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

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

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

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

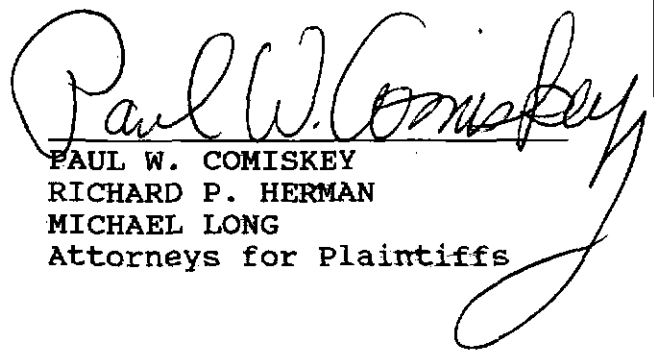
5 WHEREFORE, plaintiffs pray:

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

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

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

14 Dated: March 3, 1993.

15   
16 PAUL W. COMISKEY  
17 RICHARD P. HERMAN  
18 MICHAEL LONG  
19 Attorneys for Plaintiffs