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17 Attorneys for Plaintiffs

18 UNITED STATES DISTRICT COURT
19 ~~CENTRAL~~ ^{EASTERN} DISTRICT OF CALIFORNIA
20

21 JERRY ANDERSON, GLENNA BLAIR,)	CASE NO. CV-F 90 205 REC
22 TERRY DAVIS, JOHN WARDWELL,)	JFM
23 LORETTA PRINCE, JESSE VASQUEZ,)	
24 IRENE JUAREZ, and all)	FIRST AMENDED COMPLAINT
25 others similarly situated)	FOR DECLARATORY AND
26 Plaintiffs,)	INJUNCTIVE RELIEF
27 vs.)	
28 COUNTY OF KERN and JOHN)	
SMITH, Sheriff, in his)	
official capacity,)	
Defendants.)	

26

JURISDICTION

1
2 1. This is a class action brought by all of the
3 prisoners in the Kern County Jails to redress the deprivation
4 by defendants, County of Kern and Sheriff John Smith, of
5 plaintiff's rights, privileges and immunities arising under
6 the Constitution and Laws of the United States and the
7 deprivation under color of law by the individual defendants
8 of these rights (First, Fourth, Eighth and Fourteenth
9 Amendments of the Constitution of the United States, 42 USC
10 Section 1983) through overcrowding, inadequate staff and
11 inadequate procedures, by failing to provide beds, a place to
12 sit in holding cells and while eating meals, medical, dental
13 and mental health care, decent, clean and adequately heated
14 and cooled jails, safe jails, reasonable visitation, access
15 to legal materials, prompt judicial probable cause for
16 detention and bail determinations, access to telephones,
17 sufficient exercise, dayroom access, uncontaminated water,
18 decent plumbing and toilets, clean clothing, and adequate,
19 edible food.

20 2. Named plaintiffs JERRY ANDERSON, TERRY DAVIS, JOHN
21 WARDWELL, and LORETTA PRINCE, are (or were on the date of the
22 filing of the Complaint) prisoners held as pretrial detainees
23 and named plaintiff GLENNA BLAIR was a sentenced prisoner and
24 held in the Kern County Jails who were arrested without a
25 warrant and taken to the Kern County Jails, located in
26 Bakersfield and Lerdo, California. JOHN WARDWELL was also
27 recently a sentenced prisoner. At the time of the filing of
28 this lawsuit, plaintiff LORETTA PRINCE had not yet seen a

1 Judge, had a determination of probable cause for continued
2 detention, nor had a bail hearing. Named plaintiffs JESSE
3 VASQUEZ and IRENE JUAREZ are sentenced prisoners held in the
4 Kern County Jails. JESSE VASQUEZ is presently held at the
5 Men's Minimum Jail at Lerdo. IRENE JUAREZ is currently held
6 at the Women's Minimum Jail at Lerdo. Many warrantless
7 arrestees, and sentenced prisoners, are detained in the Kern
8 County Jails in such overcrowded conditions that they are
9 denied a constitutionally adequate place of detention,
10 including failure to provide a bed to sleep on.

11 3. The jurisdiction of this Court is invoked under 28
12 USC 1331, this being an action arising under the Constitution
13 and Laws of the United States and under 42 USC 1343, this
14 being an action authorized by law to redress the deprivation
15 under color of the State law, statute, ordinance, regulation,
16 custom and usage of a right, privilege and immunity secured
17 to plaintiffs by the First, Fourth, Eighth and Fourteenth
18 Amendments of the Constitution of the United States.

19 4. Defendant COUNTY OF KERN (hereinafter called
20 "County") is a unit of local government, duly formed and
21 authorized under the laws of the State of California. As
22 part of its duties, defendant County provides local jail
23 facilities, specifically the Kern County Jail ("Receiving
24 Facility") in Bakersfield and the branch jails located in
25 Lerdo, County of Kern. Through the Sheriff's Department of
26 the County of Kern and other County agencies, defendant
27 County also provides supervision to persons in the Kern
28 County Jails.

1 5. John Smith is the Sheriff of the County of Kern,
2 responsible for the Kern County Jails and its inmates. He is
3 sued in his official capacity as Sheriff.

4 6. At all times pertinent to this Complaint, the
5 defendants and their employees and agents were acting under
6 the color of their official capacity and the ordinances and
7 regulations of Kern County, and the laws of the State of
8 California.

9 7. The named plaintiffs are citizens or persons
10 residing in the United States.

11 8. During all times mentioned herein, the defendants,
12 and each of them, separately and in concert, acted under
13 color and pretense of law, to wit, under color of the
14 statutes, ordinances, regulations, customs and usage of the
15 State of California and the County. Each of the defendants
16 herein, separately and in concert engaged and conspired in
17 the illegal conduct herein mentioned to the injury of
18 plaintiffs, and deprived the plaintiff of the rights,
19 privileges and immunities secured to plaintiff by the First,
20 Fourth, Eighth and Fourteenth Amendments to the Constitution
21 of the United States and the laws of the United States,
22 pursuant to the practice and policy of defendant County.

23 9. At all relevant times, the plaintiffs, JERRY
24 ANDERSON, GLENNA BLAIR, TERRY DAVIS, JOHN WARDWELL, LORETTA
25 PRINCE, JESSE VASQUEZ and IRENE JUAREZ were prisoners and
26 held in the Kern County Jails.

27 10. The deprivations suffered by plaintiffs were and are
28 the result of ongoing patterns of conduct and practices of

1 defendants, including defendant COUNTY OF KERN and defendant
2 Sheriff John Smith, and unless and until ordered by this
3 court, overcrowded conditions resulting in inadequate food,
4 clothing, sleeping arrangements, medical, dental and mental
5 health, safety, dayroom access, outdoor exercise,
6 uncontaminated water, toilets, clean clothing, access to
7 legal materials, seating, inadequate heating, cooling and
8 ventilation, excessive detention of warrantless arrestees
9 before probable cause hearings and bail hearings will
10 continue to deprive inmates of the Kern County Jails of their
11 constitutional rights.

12 11. The Kern County Jails consist of five jails, one
13 behind the courthouse in Bakersfield and four jails about 10
14 miles outside of Bakersfield in Lerdo. The rated capacity of
15 the jail in Bakersfield (the "Receiving Center") is 292
16 (cells rated at one to eight prisoners). The rated
17 capacities of the jails in Lerdo are: Pretrial, 672 (seven
18 pods of six housing units of sixteen single cells); Men's
19 Minimum ("Honor Farm") 704 (in barracks); Women's Minimum, 96
20 (in barracks) and Men's "Medium-Maximum" 364 (cells and
21 dorms) ("Max").

22 12. The Lerdo "Max" facility is currently undergoing
23 renovation and is closed, but expected to re-open in thirty
24 to sixty days. The "Receiving Center" in Bakersfield is
25 undergoing renovation requiring prisoners to vacate some of
26 their housing areas (into their dayrooms). These cells may
27 or may not be shut down for renovations (basically upgrading
28 and a new kitchen) when the Lerdo "Medium-Maximum" facility

1 opens.

2
3 13. All of the Kern County Jails presently in use are
4 overcrowded. The present prisoners population is between
5 2,300 and 2,400 prisoners. The total rated capacity of the
6 presently open jails is 1,764. Even with the Lerdo "Max"
7 facility open and the Bakersfield "Receiving Center" open,
8 the total Board of Corrections Rated Capacity of 2,128 is
9 exceeded by more than 200 prisoners. There are more beds
10 than rated in all of the open jails. In addition, there are
11 prisoners sleeping on the floor in the Receiving Center and
12 Lerdo Pre-trial facility. There are triple bunks in the
13 dayrooms of the Pre-trial facility. The Lerdo "Max" facility
14 will be triple-bunked in the dorms when it opens. Prisoners
15 are freely transferred between the jails.

16 14. Prisoners are allowed minimal amounts of outdoor
17 exercise (except at the farm). There is no provision for
18 outdoor exercise for prisoners at the "Receiving Center."
19 Prisoners at the Lerdo Pre-Trial Facility classified as
20 "Administrative Segregation" (not Disciplinary Isolation)
21 are only allowed out of their cells every other day for one
22 hour(!). There are plans to eliminate attorney contact
23 visits at the Lerdo Pre-Trial jail. The prisoner
24 classification system is inadequate to prevent harm to
25 prisoners and to guards. The jails are all understaffed and
26 overcrowded.

27 15. There are no provisions for prompt judicial
28 determination of probable cause for continued detention.

16. Medical care is inadequate. Diagnosis and

1 treatment of medical, mental health and dental problems is
2 systematically unnecessarily delayed causing unnecessary pain
3 and suffering to the prisoners. Neither dentures nor
4 eyeglasses are provided, even when needed for normal
5 functioning as a human being. There is no medical, mental
6 health or dental screening by a licensed health professional
7 with minimum diagnostic skills (Registered Nurse or better).
8 There are no medical examinations of incoming prisoners
9 except in unusual circumstances. There is inadequate
10 coverage by a psychiatrist in the jails. Medical complaints
11 are often diagnosed in places other than the examining rooms,
12 for instance, in the open, public elevator vestibules where
13 private physical examinations (or even conversations) are not
14 possible. Mentally ill and medically dysfunctional prisoners
15 are housed in the general population.

16 17. Prisoners awaiting transportation from the Central
17 Receiving jail to Lerdo are often left for hours in dayrooms
18 handcuffed and in leg chains (including women prisoners).
19 The Central Receiving Jail is infested with cockroaches.
20 Rats have been observed in the kitchens in Lerdo. The water
21 supply at Lerdo is contaminated with sulphur. Prisoners in
22 the Central Receiving facility are not allowed to eat their
23 meals in their dayrooms (some cells have no dayrooms and
24 others no dayroom access at all). There are insufficient
25 seats and tables for prisoners to eat their meals at the
26 Lerdo Pre-Trial facility and many prisoners in that facility
27 eat their meals (and sleep) on the floor. Access to
28 telephones is limited or rare for many prisoners in the

1 Central Receiving Jail. Food is bad and inadequate. Clean
2 clothing is often unobtainable.

3 18. The Law Library is located at Lerdo Pre-Trial Jail.
4 There is no effective access to the Law Library for prisoners
5 in the other jails.

6 19. Disciplinary Isolation is overcrowded. These
7 prisoners, who virtually never get out of their cells,
8 sometimes have an additional prisoner sleeping on the floor
9 of their single cells.

10 20. This litigation specifically excludes any request
11 for relief already obtained in the order granting relief in
12 Yeager v. Smith, CV-F-87-493 REC.

13
14 CLASS ACTION ALLEGATIONS

15 21. The named plaintiffs are representatives of a class
16 within the meaning of Rule 23(a) and 23(b)(2) of the Federal
17 Rules of Civil Procedure.

18 22. The members of the class are so numerous that
19 joinder of all of them is impractical, there being more than
20 2,000 prisoners in the Kern County Jails at any one time.

21 23. The members of the class are readily identifiable
22 from the defendants' records.

23 24. There are questions of law and fact common to the
24 class; their class claims predominate over any individual
25 claim.

26 25. The defendants have acted or refused to act on
27 grounds generally applicable to the class by failing to
28 provide constitutionally adequate facilities and hearings.

1 26. The named plaintiffs will fairly and adequately
2 protect the interests of the class; having no other
3 individual interests.

4 27. The class consists of all prisoners held in the
5 Kern County Jails from April 9, 1990 to the present, and all
6 future prisoners.

7 28. Plaintiffs do not propose notice at this time,
8 consistent with their practice in similar cases.

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1 WHEREFORE, plaintiffs pray:

2 1. For an order and judgment requiring defendants
3 provide adequate conditions of confinement including a bed
4 for every prisoner, limiting the population to the present
5 Board of Corrections Rated Capacity, adequate edible food,
6 adequate medical, dental and mental health care, safety,
7 provide in-custody arrestees, arrested without warrants,
8 prompt probable cause determinations and bail hearings, a
9 decent, clean jail, seats, reasonable visitation, proper
10 ventilation, heating and cooling, access to telephones,
11 exercise, dayrooms, uncontaminated water, decent plumbing and
12 toilets, and clean clothing.

13 2. For reasonable attorneys fees and costs of suit;

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

16 DATED: August 1, 1990

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18
19 PAUL W. COMISKEY
20 RICHARD P. HERMAN
21 PAUL PERSONS
22 MICHAEL WEBB
23 H.A. SALA
24 DAN STORMER
25 Attorneys for Plaintiffs
26
27
28

STATE OF CALIFORNIA, COUNTY OF

I have read the foregoing

and know its contents.

☒ CHECK APPLICABLE PARAGRAPH

☐ I am a party to this action. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

☐ I am ☐ an Officer ☐ a partner ☐ a of

a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. ☐ I am informed and believe and on that ground allege that the matters stated in the foregoing document are true. ☐ The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

☐ I am one of the attorneys for a party to this action. Such party is absent from the county of aforesaid where such attorneys have their offices, and I make this verification for and on behalf of that party for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true.

Executed on _____, 19____, at _____ California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Type or Print Name

Signature

ACKNOWLEDGMENT OF RECEIPT OF DOCUMENT
(other than summons and complaint)

Received copy of document described as _____

on _____ 19____.

Type or Print Name

Signature

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF ORANGE

I am employed in the county of Orange, State of California.

I am over the age of 18 and not a party to the within action; my business address is:
229 Marine Avenue, Balboa Island, CA 92662

On Aug. 1 1990 I served the foregoing document described as _____

FIRST AMENDED COMPLAINT FOR DECLARATORY AND
INJUNCTIVE RELIEF

on see below

in this action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

by fax
and mail: Holly N. Gallagher
Deputy County Counsel
County of Kern
1415 Truxtun Avenue, 5th floor
Bakersfield, CA 93301

☒ (BY MAIL) I caused such envelope with postage thereon fully prepaid to be placed in the United States mail at Balboa Island, California.

Executed on August 1, 1990, at Balboa Island, California.

☐ (BY PERSONAL SERVICE) I caused such envelope to be delivered by hand to the offices of the addressee.

Executed on _____, 19____, at _____, California.

☐ (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

☒ (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Mirra Miller

Type or Print Name

Signature