

COMPLAINT

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA

Major Tillery, Victor Hassine,
Kenneth Davenport, William Grandison
Nelson Charles Mikesell, and
Ellis W. Matthews, Jr.,

Plaintiffs

v.

and

David S. Owens, Jr.,
in his official capacity as the
Commissioner of the Pennsylvania
Department of Corrections,

and

George Petsock, in his official
capacity as the Superintendent
of the State Correctional
Institution at Pittsburgh

and

Arnold Snitzer, M.D., in his
official capacity as a member of
medical staff of the State
Correctional Institution at
Pittsburgh,

and

Robert Casey, in his official
capacity as the Governor of
Pennsylvania,

Defendants.

Civil Action
No. 87-1537

Amended Complaint

Tillery v. Owens



PC-PA-0006-0001

I. INTRODUCTION

Inmates of the State Correctional Institution at Pittsburgh
bring this civil rights action to challenge and obtain relief
from a combination of hostile conditions at the prison that are

inflicting cruel and unusual punishment upon them. They assert that the totality of conditions at the prison--overcrowded and environmentally unsound living areas, unacceptably high levels of peer violence, systematically deficient medical and psychiatric care, a regimen of enforced idleness, and an array of other negative factors--create an experience that falls below contemporary standards of human decency, produce serious deprivations of basic human needs, generate unnecessary pain and suffering, and compromise their physical and mental well being.

Through this action, the plaintiffs seek to obtain a declaratory judgment that their constitutional rights are being violated and a comprehensive remedial order to permanently abate the conditions that are causing the violations.

II. JURISDICTION

1. This action arises under the Constitution of the United States. As a result, jurisdiction to hear it exists under 28 U.S.C. Section 1343. Jurisdiction also exists under 28 U.S.C. Sections 2201 and 2202. A federal cause of action exists in this case by virtue of 42 U.S.C. Section 1983 since the constitutional deprivations complained about are being inflicted by persons acting under color of state law.

III. PARTIES

2. The named plaintiffs, Major Tillery, Victor Hassine, Kenneth Davenport, William Grandison, Nelson Charles Mikesell, and Ellis W. Matthews, Jr. are adult inmates of the State Correctional Institution at Pittsburgh. Their claims are brought

pursuant to Rules 23(a) and (b)(2) of the Federal Rules of Civil Procedure as a class action on behalf of all persons who now are or will be confined at the prison in the future. This case satisfies the prerequisites of a class action because (1) the membership of the class, which consists of more than 1600 prisoners, is so numerous that joinder of all members is impracticable; (2) there are questions of law and fact common to the class; (3) the claims of the named plaintiffs are typical of the claims of the class; (4) the named plaintiffs will fairly and adequately protect the interests of the entire class; and (5) the defendants have acted and refused to act on grounds generally applicable to the class, thereby making final injunctive relief appropriate for the class as a whole.

3. Defendant David S. Owens, Jr. is the Pennsylvania Commissioner of Corrections. As Commissioner, he is the Department of Corrections' chief executive officer and supervises the operation of the Pennsylvania state prison system, including the State Correctional Institution at Pittsburgh. Commissioner Owens is sued in his official capacity.

4. Defendant George Petsock is the Superintendent of the State Correctional Institution at Pittsburgh. As the administrator of the prison, he is responsible for the daily operation of the State Correctional Institution at Pittsburgh. Defendant Petsock is sued in his official capacity.

5. Defendant Arnold Snitzer, M.D., is a physician employed by the Pennsylvania Department of Corrections to provide medical

services to inmates of the State Correctional Institution at Pittsburgh. Dr. Snitzer, who is responsible for the medical screening and referral of all inmates at the prison, is sued in his official capacity.

6. Defendant Robert Casey is the Governor of Pennsylvania. As governor, he exercises ultimate authority over the operations of the State Department of Corrections and the State Correctional Institution at Pittsburgh. Governor Casey is sued in his official capacity.

IV. FACTS

A. The Physical Environment

7. The State Correctional Institution at Pittsburgh is a maximum security walled prison. It was built in 1882.

8. Approximately 1,660 inmates are housed in the prison's two functioning cellblocks, which are commonly referred to as the North and South Blocks. These nineteenth century buildings each contain five tiers of cells that are arranged back-to-back, and separated by plumbing chases that run the full length of the tiers. The cell bars face out onto narrow corridors and beyond the corridors to distant outer walls that contain several sets of windows. There are no windows, however, in the cells themselves.

9. The cells throughout the institution were designed for single occupancy. They range in size from approximately 56 square feet to 37 square feet. In recent years, because of the steadily mounting number of prisoners consigned to the prison, many of the 56 square feet cells have been converted to double

occupancy units by placing a second bed directly below the original one.

10. Most cells in the prison are equipped with one or two beds, a sink with cold running water, an uncovered toilet, a writing table and a light fixture. Those items consume about half of the floor space.

11. Conditions in the double-bunked quarters are extremely cramped and suffocating. There is also extreme density in common parts of the prison due to profound overcrowding that now exists in the institution.

12. Ventilation in the cellblocks is poor. There is no effective mechanical system for exchanging and dispersing fresh air into the cells. As a result, any air movement within the cellblocks essentially depends upon the opening of windows on the outer cellblock walls, a process that is essentially futile. During the summer months, prisoners often break out windows in vain attempts to create air movement. The lack of adequate ventilation, combined with the presence of excessive numbers of people in limited spaces, has serious public health implications. It significantly increases the risk that tuberculosis and other communicable airborne diseases will be transmitted among the inmate population.

13. Temperatures in sections of the cellblocks are uncomfortable to the extreme. In the winter, the top tiers often are unbearably hot because hot air blown from registers on the outer walls rises directly upward without reaching the lower

tiers. At the same time, the bottom tiers are extremely cold. Windows broken out during the summer months to obtain fresh air are often left unrepaired after winter has arrived. This allows cold air to enter the institution and creates serious drafts in parts of the living areas. Inmates housed in the segregation units, which are located on the bottom tiers of the North Block, are particularly burdened by the drafts and cold air.

14. The cellblocks are unclean and unsanitary. The walls, toilets, floors and shower areas are filthy. There is no organized, consistent effort to maintain an acceptable level of sanitation in the prison. Cleaning supplies and garbage cans are often unavailable in the institution. Moreover, the presence of large numbers of seriously mentally ill prisoners--men who are incapable of attending to their own hygienic needs or cleaning their own cells--contributes to the poor level of sanitation at the institution. These prisoners rarely shower or wash and often relieve themselves in common areas of the prison.

15. The presence of large numbers of seriously mentally ill prisoners contributes also to excessive noise levels in the cellblocks. Their shouts and screams add to the din of clanging cell doors and other activities that routinely occur along the cellblock corridors.

16. There are significant roach and rodent infestations in the cellblocks, particularly in the segregation units. Birds and pigeons, which enter the living units through the screenless windows on the outer walls, also inhabit the cellblocks and

deposit their waste inside the prison. These conditions create significant health risks.

17. Many inmates are allotted soiled, dirty, or insect infested mattresses. They essentially inherit the residue of their predecessors. When shortages of sheets occur, some inmates resort to covering their mattresses with plastic garbage bags in order to avoid sleeping directly on the mattresses.

18. There are many plumbing problems in the cellblocks, including malfunctioning toilets.

19. The equipment, floors and walls of the prison's food preparation and dining hall areas are unsanitary and unclean. The floor in the dining hall is also extremely slippery and unsafe. Serious roach and rodent infestations and the presence of birds generate significant public health problems. Noxious odors also permeate these facilities.

20. There are no effective inspection or preventive maintenance programs in these areas of the prison to ensure a safe and healthful environment.

21. There are less than twelve showers in each cellblock for prisoner use. This is an insufficient number of showers to adequately accommodate the population. As a result, the general level of personal hygiene is grossly deficient.

22. The presence of asbestos in the basement of the prison creates a serious health hazard for the inmates. The institution's heating system circulates asbestos fibers into the cellblocks.

23. Layers of fly ash are accumulated in the prison yard. This poses a significant health risk to inmates.

B. Fire Safety

24. The facility constitutes a significant fire hazard. Overcrowding has made the risk of a fire tragedy more pronounced. There is no mechanical fire alarm system and no smoke detectors in the cellblocks. There are inadequate means of egress from the tiers. Narrow stairways and manually operated unlocking system slow the process of exiting the cellblocks. Insufficient plans and training compound the problem. In addition, flammable chemicals are routinely stored in the prison basement.

C. Risk of Violence

25. Idleness pervades the prison. It grows as the population grows. Most inmates have nothing constructive to do all day. While some jobs, vocational, and educational programs do exist at the prison, there are not nearly enough. The population explosion has precluded hundreds of inmates from participating in work or training activities. Much of the prison's once large recreation yard has been consumed by the construction on it of a new housing unit that is scheduled to open sometime in the future. This has eliminated any meaningful outdoor recreational opportunities and has reduced outside activities to little more than loitering or milling about. In addition, the prison gymnasium cannot adequately accommodate the increased numbers of inmates who must compete to use it. As a

result of these developments, inmates spend most of their time in crowded cellblocks reduced to a regimen of idleness.

26. The unbroken pattern of idleness that now exists at the prison not only has a deleterious impact on the emotional well-being of the inmates--it also increases tension and frustration which, in turn, promote incidents of violence and the likelihood of violence.

27. Security of inmates from physical attack by other inmates is a serious problem at the prison. Extreme forms of violence, including bludgeonings, stabbings, and sexual assaults have occurred all too frequently in recent years. Less severe forms of assault have also occurred with distressing frequency. Moreover, in addition to actual eruptions of violence, there is a lingering and deep-rooted sense of insecurity among the inmate population--a fear that violence will occur.

28. The history, risk, and intense fear of violence at the prison are the by-products not only of profound overcrowding and the stresses wrought by overcrowding but also stem from understaffing, the failure of overburdened security personnel to supervise the living areas of the institution properly, and an antiquated physical layout that makes supervision of the cellblocks a difficult task even with an adequate security force intact. The ready availability of shanks and other weapons contributes to these problems.

29. The assignment of prisoners to double occupancy cells also creates security problems. Assignments are essentially

based on the availability of space. As cells open up, placements are made with little or no regard to the compatibility of the individuals who will be living together. This represents a fundamental breakdown in the prison's classification process. The absence of screening has not only resulted in the mixing of predators with weaker prisoners as well as confrontations between persons who have been assigned to share cells, but has also magnified the tensions and hostilities created by the other conditions described above.

D. Psychiatric Care

30. In recent years, the prison has become a depot for the State's mentally ill prisoners. As a result, hundreds of inmates with serious psychiatric disorders are confined either in the psychiatric ward of the prison hospital or dispersed among the general prison population in the main cellblocks.

31. Professional staffing for the treatment of psychiatrically ill prisoners is inadequate. As a result, the disorders of these inmates often are untreated or are treated only superficially and inadequately.

32. There are not enough beds in the prison's in-patient psychiatric unit to accommodate the number of inmates who require that form of treatment. Nor is there a separate housing area for prisoners with serious disorders who do not require in-patient hospital care but cannot function in a general population setting. As a result, many emotionally disturbed prisoners who should not be housed in the prison's general population units

are, nevertheless, housed there. This creates measurable tension within the cellblocks and is contrary to the medical interests of the psychiatrically ill inmates.

33. Physical restraints are applied unnecessarily in the in-patient psychiatric unit of the prison and are maintained for unnecessarily prolonged periods of time. These practices inflict needless pain and suffering on the inmates and can be counter-therapeutic.

34. Prisoners who return from outside mental health facilities such as Farview State Hospital unnecessarily decompensate at the prison due to the absence of adequate follow-up care and maintenance after their return.

35. Systemic deficiencies in the nature and level of psychiatric care available at the prison result in serious mental health needs not being met and in needless suffering.

E. Medical Care

36. Serious overcrowding strains the prison's medical resources to a dangerous level and jeopardizes the health of the prisoners.

37. Sick call examinations are routinely handled in a perfunctory, superficial and hostile manner. This approach leads towards misdiagnosis, contra-indicated treatment, and discourages inmates from seeking medical care at the prison. Sick call in the prison's segregation units is conducted across the cell gates, without any form of physical examination.

38. Follow-up medical care for chronic conditions is

handled haphazardly, without a comprehensive or organized system. As a result, inmates in need of follow-up treatment or examinations too often fall between the cracks.

39. There are substantial delays in obtaining access to outside specialty treatment.

40. There are substantial delays, particularly at night, in obtaining emergency medical care.

41. There are not enough beds in the prison hospital to accommodate the number of prisoners who require in-patient treatment. Pressure to make space available for new medical admissions sometimes results in the premature discharge of prisoners to cellblocks for convalescence, a development that is determined by space and custodial considerations rather than by proper medical factors. This practice jeopardizes the medical welfare of inmate patients.

42. Patients with communicable diseases are not segregated from other patients.

43. The hospital is not kept clean. Mice and roaches are present.

44. Inmate clerks routinely have access to prisoner/patient medical records. This seriously jeopardizes the chain of confidentiality required of the physician/patient relationship.

45. There are significant deficiencies in the provision of inmate dental care. Substantial delays in obtaining dental care for acute and chronic dental problems are commonplace. Delays of a year or more for obtaining dentures are not unusual.

46. Systemic deficiencies in the nature and level of medical and dental care at the prison result in serious medical and dental needs not being met and in needless suffering.

F. Overcrowding

47. The prison is designed to hold a maximum of 1,100 inmates. Until 1981, only 1,077 prisoners were housed in it. Every year since then, however, the population has steadily increased to the point where there are now approximately 1,660 prisoners--a level that is 46 per cent above the design capacity.

48. The mounting density of the prison population over the past few years has contributed to a fundamental deterioration in institutional conditions to the point where basic human needs are now being denied. Sanitation, programming, medical care and other important aspects of the prison operation have been seriously and adversely affected by the density of the population. The cumulative impact of these serious deficiencies has resulted in intolerably high levels of inmate tension, stress, hostility and depression; has contributed to the risk as well as actual outbreaks of violence; and has produced untoward public health hazards such as the transmission of communicable diseases.

49. Overcrowding has clogged access to the prison's law library because there is not enough space in the library to adequately serve the number of inmates who must use it. As a result, there routinely are substantial delays in gaining access

to the library, a factor that diminishes prisoners' ability to prepare and file legal papers.

IV. CLAIMS FOR RELIEF

50. The totality of conditions over which the defendants preside are incompatible with contemporary standards of decency and result in unnecessary and wanton inflictions of pain. By depriving plaintiffs of such basic human needs such as adequate shelter, sanitation, personal safety, medical and mental health care, the defendants are violating plaintiffs' right to be free of cruel and unusual punishment as prescribed by the Eighth Amendment to the United States Constitution.

51. By operating a prison health care system that is systematically deliberately indifferent to the serious medical, psychiatric and dental care needs of inmates, the defendants are violating plaintiffs' right to be free of cruel and unusual punishment as prescribed by the Eighth Amendment to the United States Constitution.

52. The denial of reasonable access to the prison law library engendered by overcrowding deprives plaintiffs of their right of meaningful access to the courts as guaranteed by the Due Process Clause of the Fourteenth Amendment to the United States Constitution.

V. EQUITY

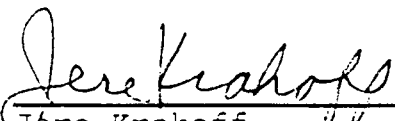
As a result of defendants' policies, practices, acts, and omissions, plaintiffs are being irreparably harmed. They and members of their class are either suffering or will soon suffer

unnecessary pain and anguish, psychological as well as physical hurt and impairment, and the loss of their right to be imprisoned under conditions that do not inflict cruel and unusual punishment. Plaintiffs will continue to be irreparably injured by defendants' policies, practices, acts and omissions unless this court grants comprehensive injunctive relief to abate the unconstitutional conditions that now exist in the institution.

VI. RELIEF

On the basis of the foregoing, the plaintiffs respectfully ask the Court to:

1. Certify this case as a class action pursuant to Rules 23(a) and (b)(2) of the Federal Rules of Civil Procedure.
2. Declare that the conditions described above violate the constitutional right of the plaintiffs and the class they represent to be free of cruel and unusual punishment and the right of access to the courts and procedural due process.
3. Enjoin the defendants, their agents, employees and all persons acting in concert with them from subjecting the plaintiffs and the class they represent to the unconstitutional conditions and practices described above.
4. Retain jurisdiction of this case until all remedial orders have been fully implemented.
5. Award plaintiffs their reasonable costs and attorney fees.
6. Grant whatever additional relief may be just and appropriate.


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