

Filed 8/25/88

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA

Linn v. Foti

Kenneth H. Linn,
Rogelio Fernandez



JC-LA-008-001

Plaintiffs

v.

Civil Action No.

Charles Foti, Criminal Sheriff of
Orleans Parish, La.

COMPLAINT 88-3736

Roberts,
Warden Warden of the House of Detention
and/or the Community Correctional Center of
Orleans Parish, La.

Secl. A May. 6

Corporal Donnelly, Corporal in the Orleans
Parish Criminal Sheriff's Office

Corporal Lambert, Corporal in the Orleans
Parish Criminal Sheriff's Office

Officer Gaupp, Correctional Officer at the
Community Correctional Center of Orleans
Parish, La.

Officer Charles Jones, Correctional Officer
at the Community Correctional Center of
Orleans Parish, La.

Officer Eric Martin, Correctional Officer at
the Community Correctional Center of Orleans
Parish, La.

Dr. Lindner, Chief Doctor at the Community Cor-
rectional Center of Orleans Parish, La.

Lieutenant Short, Chief of Medical Personnel
at the Community Correctional Center of
Orleans Parish, La.

In their individual and official capacities

Defendants.

CIVIL RIGHTS COMPLAINT

WITH A JURY DEMAND

Her name the
federal AS?

I.

PRELIMINARY STATEMENT

1. This is a Section 1983 action for declaratory and injunctive relief and for money damages. Plaintiffs, individually and on behalf of all others similarly situated, seek to have this court declare invalid and to enjoin certain practices and procedures of the Community Corrections Center with regards to alleged violations of Constitutional rights. This is a federal question action under the U. S. Constitution. The Plaintiffs request a trial by jury.

2. Prior to the Bail Reform Act of 1984, there were fewer federal pre-trial defendants. The recent United States Supreme Court interpretation of this law made bail practically non-existent for non-cooperating drug defendants. Because drug arrests now constitute over one-half of all federal arrests, there has been an enormous increase in pre-trial incarceration. Tied together with the length of time necessary to complete a trial (the Speedy Trial Act notwithstanding), it is surprising that the sheer increase in numbers of people in federal pre-trial detention has not prodded any additional concerns from either the U. S. Marshall's office which is in ultimate charge of federal detainees care, or the Orleans Parish Sheriffs Department, who house these people under contract. This complaint is the result of that deliberate indifference.

II.

JURISDICTION

3. Jurisdiction is conferred on this court by 28 U. S. C. 1343 (a) (3), (4), which provides for original jurisdiction of this court in all suits authorized by 42 U. S. C. 1983 to redress the deprivation under color of state law by any right, privilege or immunity secured by the Constitution of the United States.

4. Jurisdiction is further conferred on this court by 28 U. S. C. 1331 (a), which provides for original jurisdiction of this court in all civil cases under the Constitution, laws or treaties of the United States.

5. Plaintiff's action for declaratory and injunctive relief and for damages is authorized by:

a) 28 U. S. C. 2201, 2202 and Rule 57 of the Federal Rules of Civil Procedure, which relate to declaratory judgments.

b) 42 U. S. C. 1983, which provides redress for the deprivation under color of state law of rights, privileges and immunities secured to all citizens and persons within the jurisdiction of the United States by the Constitution and laws of the United States.

c. Plaintiffs also invoke the pendant jurisdiction of this court.

7. The acts complained of have been and are totally conceived, carried out and arise within the Eastern District of Louisiana and in the jurisdiction of this court. Therefore, venue is proper pursuant to 28 U. S. C. 1391.

III.

PLAINTIFFS

8. Plaintiff, Kenneth Linn, is a federal prisoner, presently incarcerated at FCI Ashland in Ashland, Kentucky. Between August 31, 1987 and May 10, 1988 he was jailed at the Community Correctional Center (herein after called CCC) and the House of Detention (herein after called HOD) in New Orleans, La. as a federal pretrial detainee in a criminal action. (Kenneth Linn hereinafter will be called KL).

9. Plaintiff, Rogelio Fernandez, is a federal prisoner, presently incarcerated at FCI Ashland in Ashland, Ky. Between July 29, 1987 and December 21, 1987 he was incarcerated at the CCC and HOD as a federal pretrial detainee in a criminal action. (Hereinafter Rogelio Fernandez will be referred to as RF).

IV.

CLASS ACTION

10. This action is brought by the Plaintiffs on their own behalf and on behalf of all other persons similarly situated, pursuant to Rule 23 (a), (b) (1), (2) and (3) of the Federal Rules of Civil Procedure. The class represented is so numerous that joinder of all members is impracticable; there are questions of law and fact common to all members of the class; the representative party will fairly and adequately protect the interests of the class; the Defendants have acted on grounds generally applicable to the class, thereby making appropriate final injunctive and declaratory relief with respect to the class as a whole.

11. The class consists of all former, present and future federal detainees incarcerated in any property belonging to Orleans Parish or the City of New Orleans under contract with the federal government. Included in the class are U. S. citizens entitled to the protection of the U. S. Constitution, with the ability to exercise their rights under it, foreigners and illegal aliens, under the auspices of the Immigration and Naturalization Service, who have some rights under the laws of the United States and the State of Louisiana, pretrial federal detainees, convicted, but not sentenced federal prisoners, and sentenced federal prisoners in transit.

V.

DEFENDANTS

12. Defendant, Charles Foti, is the Criminal Sheriff of Orleans Parish and is responsible for the operation of the CCC and the HOD. He is ultimately responsible for the training and the supervision of the correctional personnel employed at CCC and HOD. He promulgates all necessary rules and regulations for the administration of all divisions of the Orleans Parish prison system. He is sued in his individual and official capacities.

13. Defendant, Warden Roberts, an agent of Defendant Foti, was chief in command at the HOD and later the CCC. Upon information and belief, he has been designated by the Sheriff to implement and carry out the mechanics of the running of the CCC. He is sued in his individual and official capacities.

14. Defendant, Corporal Donnelly, an agent of Defendant Foti, is in overall charge of the federal division of the CCC and HOD. Upon information and belief, he has been designated by the Sheriff and the Warden to run the federal division in the CCC and HOD. He is sued in his individual and official capacities.

15. Defendant, Corporal Lambert, an agent of Defendant Foti, is the officer in charge of the day-to-day operations of the federal division of the CCC and HOD. He is in immediate control and management of the federal division and the inmates thereof. He is sued in his individual and official capacities.

16. Defendant, Officer Gaupp, an agent of Defendant Foti, is a Deputy Sheriff and works as a corrections officer at the CCC. He is sued in his individual and official capacities.

17. Defendant, Officer Charles Jones, an agent of Defendant Foti, is a Deputy Sheriff and works as a corrections officer at the CCC. He is sued in his individual and official capacities.

18. Defendant, Officer Eric Martin, an agent of Defendant Foti, is a Deputy Sheriff and works as a corrections officer at the CCC. He is sued in his individual and official capacities.

19. Defendant Dr. Lindner, an agent of Defendant Foti, is the Head Doctor at the CCC. He is sued in his individual and official capacities.

20. Defendant, Lt. Short, an agent of Defendant Foti, is the Chief of Medical Personnel at the CCC. He is the liason between the correctional staff and the doctors, nurses and corpspeople. He is sued in his individual and official capacities.

21. All of the foregoing parties defendant will hereinafter sometimes be collectively referred to as Defendants.

22. All defendants have acted under "color of state law" during all times relevant to this complaint.

VI.

CLAIMS

COMMUNICATION, EXPRESSION AND ASSOCIATION

A) CORRESPONDANCE

COUNT 1

FACTUAL ALLEGATIONS

23. Mail in the CCC was frequently delayed. There was no mailbox in the detainee's common area. Delivery of mail to and from the federal division was normally done at approximately 2:30 P. M. to 3:30 P. M. Outgoing inmate mail was normally handed to a deputy or put in a paper box located outside the common area. This was done at breakfast or lunch. Urgent communications after lunch on weekdays would have to wait until the next day. Mail did not leave the institution

on the same day. it was picked up. (i. e. mail picked up Friday afternoon was not delivered to the U. S. Post Office until the following Monday)

24. On 11/24/87, 11/25/87, 12/24/87, 12/31/87, 01/04/88 and 01/07/88 there was no mail delivery or pick-up at all.

25. Reasons given for no mail included, that day preceded a holiday, or it was too cold outside and the delivery person did not feel like leaving his warm office in another building.

26. Until April 4, 1988, the price to mail a first class letter in the U. S. was 22¢. For inmates at the CCC, the price for first class mail was 25¢. Inmates were forced to buy stamps only from the CCC at this inflated price. Stamped envelopes were 25¢ outside and 30¢ inside. Envelopes had to be purchased inside.

27. On 04/04/88 the price of postage increased to 25¢ and stamped envelopes to 28¢. At the CCC, the prices increased to 28¢ for stamps and 35¢ for stamped envelopes. No stamps or envelopes were permitted into the CCC.

28. No 3¢ stamps were made available when the change-over took place. Outgoing mail was not accepted unless it had 44¢ on the envelope. It was impossible to purchase 25¢ stamps for outgoing mail until two weeks after the change-over, when they finally appeared on the commissary list. All 22¢ stamps were then useless.

29. Inmate Morris Hall had a postal money order stamped and mailed by the U. S. Post Office on 01/13/88. It was not credited to him until 02/09/88. This was a common occurrence when money was to be posted to inmates' accounts.

30. On 04/06/88 Inmate Mark Varca's federal express package, which included legal trial material, was received at the jail. It was not delivered to him until 04/12/88.

31. The week before Christmas, KL's mother sent three blank Xmas cards to KL, which he planned to send to his wife, mother and brother. The three Xmas cards were returned to sender stamped "unauthorized items".

FIRST CAUSE OF ACTION

32. The deliberate mishandling of prisoner's mail did not meet the procedural safeguards Constitutionally required to protect the substantial interests of Plaintiffs and was violative of the 1st, 5th, 6th, and 14th Amendments to the U. S. Constitution.

B) PUBLICATIONS

COUNT 2

FACTUAL ALLEGATIONS

33. Plaintiffs were not given an opportunity to have unrestricted access to a daily newspaper, which they willingly wanted to purchase. Upon Plaintiff's appeal to the federal division, the "policy" permitted three (3) newspapers on the quad (The quad held a maximum of 72 people). Those people who could receive and pay for the newspaper were arbitrarily chosen from a list of up to six names that was

collected once per week.

34. In September the policy changed to two newspapers in the quad, although occasionally more than two newspapers were delivered. It was impossible to guarantee purchase of a paper.

35. There is no library available to the inmates of the CCC. The only reading materials are publications sent in from outside. Up to April, 1988 the "policy" permitted soft-covered books only. However, all incoming books and magazines were banned from Sept., 1987 to March, 1988. On 03/25/88 a new "policy" was promulgated, allowing only two books in each cell (one book per person). Books had to be mailed in. They could not be physically dropped off. They were kept in the kitchen and were unavailable to the inmates. All books in the quad and the individual cells were removed to the kitchen as well.

36. No hard cover books were permitted in the CCC. Nothing was permitted directly from a publisher or a book store.

37. On 02/11/88 a copy of National Geographic magazine arrived for KL in the mail. This was a Xmas gift from a friend and came directly from the publisher. Although KL was allowed to keep this particular issue, he was forced to cancel delivery of his subscription.

38. On 03/09/88 Inmate Anthony Natalizio, although he followed stated policy to the letter, was refused any of his paper back books delivered to the CCC.

SECOND CAUSE OF ACTION

39. The arbitrary and capricious manner of blanket banning of newspapers and other publications and the effect of ensuring that no reading materials were available to detainees, violates the 1st, 5th, and 14th Amendments to the U. S. Constitution.

C) VISITING

COUNT 3

FACTUAL ALLEGATIONS

40. Only non-contact visiting was permitted federal detainees at the CCC. It was limited to fifteen minutes per person, once per week, on Thursdays. Sometimes, even this minimal time was arbitrarily cut short by the deputy on duty. On 12/31/87 KL was only allowed an eleven minute visit with his wife.

41. No children or adolescents under the age of eighteen were allowed to visit. Visitors were constantly treated rudely (as if they were the inmates), making for a very unpleasant experience, after the visitors had been forced to wait, sometimes for hours.

42. An inmate was permitted to have only three names on his visiting list, which is computerized. Since the printing of visitors was done at differing times, there was no consistency to when visitor's names could be changed. To the best of KL's knowledge, not one visitor on this so-called "security list" has ever been investigated.

43. Visiting took place in a cubicle through glass over a telephone. There were a maximum of five telephones for the maximum seventy-two people. At no time while KL was at the CCC were there ever five working phones.

44. On 01/07/88 three phones were working. On 01/14/88 only two phones were working and visitors were forced to wait two hours. On 01/21/88 four of five phones were working. On 02/11/88 three phones were working (with a fourth one cutting in and out). That evening visitors were forced to wait one and one-half hours to see inmates. On 3/31/88 there were three phones working and waits over one hour.

45. On 03/17/88 KL had a visitor fly in from New York. Her name was put in the computer the day before and was verified as there by both KL and Deputy Barnes. KL's visitor was not allowed entry on 03/17/88, supposedly for not being on the visitor's print out list. The trip was for nothing and KL's visitor returned to New York.

THIRD CAUSE OF ACTION

46. The inadequate time for visits, the exclusion of children, and the conditions of visiting in the CCC are violations of the 1st, 5th, 8th and 14th Amendments to the U. S. Constitution.

PROTECTION FROM PHYSICAL ABUSE

A) LIMITS ON GUARDS USE OF FORCE

COUNT 4

FACTUAL ALLEGATIONS

47. On 02/21/88 Corporal Lambert punched Inmate Keith Newman twice in the stomach in front of the Medical Clinic on the second floor of the CCC, without provocation and causing internal pain.

48. On 03/22/88 Corporal Lambert beat up Rajim Abolphazi while he was handcuffed, causing lacerations and bruises. Lambert was assisted by Officer Fuentes.

49. On 03/25/88 Inmate Abolphazi was dragged out of his cell in full view of all the other inmates. He was handcuffed and his body was bounced up the stairs. This assault resulted in additional lacerations.

FOURTH CAUSE OF ACTION

50. The excessive unnecessary use of force displayed by Sheriff Foti's deputies, to maliciously and sadistically cause harm, violated the 5th, 8th, and 14th Amendments to the U. S. Constitution, by causing severe emotional and physical distress.

B) SLEEP

COUNT 5

FACTUAL ALLEGATIONS

51. The daily schedule at the CCC allowed only a maximum of four and one-half (4½) hours of uninterrupted sleep. Wake-up was at 5:00 A. M. Evening lock-down was at 12:00 A. M. The night work crew would finish at about 12:30 A. M.

52. Naps were taken throughout the day whenever possible, but KL had numerous problems during his court appearances and trial staying alert because of lack of sleep. The noise level at the CCC was awesome. The overall result was tiredness, irritability and depression.

53. From 02/29/88 to 03/03/88 Officer Wilson woke KL up every night between 11:30 P. M. and 12:15 A. M. to check his window.

54. On 04/09/88 Officers Wagner and Martin woke up the whole quad at 4:30 A. M.

55. A regimen of frequently letting people sleep and then waking them up, done repetitively throughout the day at the CCC, has repeatedly been used to torture prisoners of war to break their health. This well documented abuse and its results are well known to torturers of all stripes.

FIFTH CAUSE OF ACTION

56. The deliberate prevention of sleep is a violation of the 8th Amendment to the U. S. Constitution.

MEDICAL DEPARTMENT

A) MEDICAL CARE

COUNT 6

FACTUAL ALLEGATIONS

57. On 09/09/87, KL heard something snap when he hurt his right knee playing basketball on the roof of the CCC. It became very swollen and KL was taken to see a young doctor (intern?) that evening and given ice. KL could not walk and had to hop to the doctor's office. On 09/10/87, 09/14/87 and 09/16/87 written requests were presented for crutches. There were no answers to the requests and no crutches were ever received. On 09/23/87 KL finally saw Dr. Lindner, who promised an appointment with a knee specialist. All during this time, KL was in considerable pain. The only medication he was given for the pain was a few aspirins.

58. On 10/13/87 KL sent a written request and asked the corpsman to please check on his doctor's appointment. On 10/16/87 KL asked the same of the nurse. No answers were ever received.

59. On 10/21/87 KL wrote a letter and complained to Dr. Lindner. On 10/22/87 Dr. Lindner saw KL. Finally, on 10/27/87 KL was seen by a Dr. Cooper at Charity Hospital.

60. Dr. Cooper told KL that he had ripped his anterior cruciate ligament in his knee and that it should be operated on; that if he had been seen immediately, simple reconstructive surgery would have been possible, but by that time the torn components had atrophied. Dr. Cooper suggested arthroscopic surgery and/or more complicated reconstructive surgery.

61. On 11/01/87 KL sent a letter for a copy of the Charity Hospital write-up. On 11/15/87 KL again requested his medical records in writing. On 11/23/87 KL requested his medical records in a letter to Linda Morin, Charles Foti's legal counsel. No written answer was forthcoming. On 12/01/87 Corporal Lambert informed KL that he would have to send a subpoena, if he wished to have the re-

ords. To date, KL has not received any of his medical records from Mr. Poti's medical department, despite letters from ~~KL~~ counsel dated 06/08/88 and 07/07/88, from his Ashland case manager dated 08/02/88 and from KL dated 08/11/88.

62. There were no aspirins available to inmates at the CCC. There was a policy statement saying paramedics were supposed to visit the Quad at regular intervals each day to dispense aspirin and other pills. From 08/31/87 to 05/10/88 ~~do were delivered~~ ^{KL} once per day, at all hours, it delivered at all. Many times inmates were out of their medication, unable to get prescriptions renewed because it always took approximately four days to see a doctor, if you could see one at all.

63. There were sick calls most mornings, but nothing was dispensed (including non-prescription items) unless a doctor had previously prescribed it. The pills came with no instructions, nor a description of what they actually were.

64. Medical emergencies were difficult to deal with because there was no doctor on the premises most of the time (despite the fact that there were nearly 4000 prisoners under the Sheriff's control).

65. On 12/14/87 Inmate Joseph Vance had a medical emergency during the night. He regularly took nitroglycerine pills for a heart condition. His cellmate had to scream and bang his door to wake everyone up, in order to make enough commotion to get a deputy's attention.

66. There are no working intercoms between the cells and the control room (although the intercoms are in place).

67. On 11/21/87 KL was sick with fever. No aspirins or other pills were given to him until 10:00 P. M. on 11/25/87.

68. On 12/10/87 KL's back snapped out. No doctors were available. On 12/11/87 KL notified the tier representative and told him that he could not move and would not be out of his cell for count or meals. On 12/11/87 KL had a legal visit and was in great pain. Corporal Lambert forced KL to come out for commissary pick-up. Deputy Barnes forced KL to come out for his dinner or he would not get any. Finally KL was sent down to the doctor at 6:00 P. M., but the doctor never showed up and KL had to return upstairs unattended. KL was in great pain, with no medication. There was no doctor available on Saturday or Sunday. KL asked Corporal Paula for him to be able to see the doctor on 12/14/87. On 12/15/87 KL filled out a new medical request for a doctor's visit and was finally seen and given two pills. The doctor wrote a prescription for KL, but no medication ever arrived. On 12/21/87 KL wrote a letter to Dr. Lindner asking why he had to remain in pain without medication for ten days. On 12/21/87 pills were finally delivered. On 12/22/87 KL saw the doctor again. He was still in great pain. After a 45 minute wait, KL got a weaker prescription. KL was told that they were out of the other prescription. KL underwent great pain and suffering from 12/10/87 on. From 12/27/87 to 12/31/87 the clinic was out of 600 mg. Ibuprofen and practically everything else.

69. On 12/22/87 Dr. Lindner said the following to KL: "The reason why there is no medication is that it's the end of the year and the budget is shot. There is no aspirin in the building."

70. On 01/05/88 no medication was delivered to the quad.

71. On 02/19/88 KL was ill again and wrote several requests for aspirin and decongestant for his flu and high fever. On 02/20/88 KL repeated his written re-

quest of 02/19/88. On 02/21/88 he repeated the same. On 02/22/88 a doctor saw KL, after he wrote a letter to Dr. Lindner with a copy to Corporal Lambert. The doctor prescribed medication and repeated a special diet memo. On 02/24/88 KL had still not received medication or his special diet. He was suffering. KL saw Head Nurse Pat and reiterated his requests.

12. On 02/15/88 Inmate Michael Chambliss was in great pain. He was denied emergency hospitalization. He stayed in pain with inadequate medication for a week. The reason given was that there were no beds available.

13. On 09/09/87 Dr. Lindner was told by KL of a possible cancer on KL's head. This sore grew in size until 03/06/88, when the doctor saw it and said it was a cancer and needed immediate attention. KL finally saw a dermatologist on 04/06/88, a Dr. Rousseau. This doctor asked for KL to return in two to three weeks to check if all the cancer was gone. KL, in a letter to Head Nurse Pat, reminded her of his need to return to the dermatologist. He was never taken back. He finally had to have the work done at FCI Ashland on 08/25/88.

SIXTH CAUSE OF ACTION

14. The deliberate indifference to serious medical needs of CCC prisoners constitutes the unnecessary and wanton infliction of pain proscribed by the 8th Amendment of the U. S. Constitution, evidenced by the inmates not being able to see a doctor at all or suffering debilitating long delays. Even when the doctors exercised judgment, their judgment was not carried out because medication and/or therapy was never obtained and specialists were never seen or delay hindered therapy. Serious medical needs requiring treatment, obvious to all Defendants, were constantly evaded at CCC, necessitating a doctor's attention and causing Plaintiffs significant pain and suffering. Medical needs went almost always unmet.

2) MEDICAL DIETS

COUNT 2

75. On 02/10/88, after 4½ months of a diet of beans and rice, and having become increasingly constipated, KL sought to go on the diet line, so as to get more nutritious food and cure his constipation. KL wrote a letter to the doctor on 02/10/88 and 02/11/88 requesting a special diet. On 02/12 KL was called to the clinic and waited two hours for the doctor, who never arrived. During this time, KL's attorney came to the CCC and was denied a visit with KL because KL was in the clinic. Both KL and KL's attorney lost two hours of valuable time. On 02/13/88 KL was taken again to the doctor, who approved his special diet.

76. On 02/15/88 KL's diet had still not been delivered. KL requested Deputy Barnes find out where it was. On 02/16/88 KL requested information from Corpswoman Pat. On 02/19/88 KL wrote a letter to the Corporal. On 02/21 KL filled out a complaint form to the Corporal. On 02/22/88, while seeing the doctor for illness, KL had the doctor repeat the diet memo. On 02/24/88 KL saw Head Nurse Pat and again requested a special diet. On 02/26 sixteen days after KL's first request, a diet breakfast arrived, but no lunch or dinner.

77. On 03/04/88 KL wrote a letter to dietician Brenda Benjamin regarding the special diet. KL had already lost fifteen pounds during six months of incarceration and his body had deteriorated from lack of nutrition. On 03/07 diet meals began to arrive - four weeks after KL's first request. On 03/04, coincidental to KL's receipt of his diet meal, lettuce and tomato, the only fresh vegetables federal detainees ever see, were denied to all people on diets. On 03/11 KL wrote another letter to Brenda Benjamin regarding the lettuce and tomatoes (given to all federal detainees with their evening sandwiches) now denied to diet people. Instead, the left-over lettuce and tomatoes were thrown in the trash each evening. Corporal Lambert threatened KL with retaliation for using the dietician's first name. On 03/20 KL wrote a letter to Head Nurse Pat asking for lettuce and tomato.

78. On 03/28 Ms. Benjamin came to the federal division and posted a memo saying all federal detainees (including diet people) were to be given lettuce and tomatoes. Corporal Lambert had the memo taken down two days later. Deputy Gaupp denied lettuce and tomatoes once again to the diet people. On 04/11 KL wrote a letter to Corporal Lambert, once again requesting clarification why we could not have fresh vegetables. No answers to KL's letters or complaints were ever again.

79. On 04/04/88 Deputy Martin, after denying KL kool-aid at the evening meal - neither juice or milk having been sent up, said: "I don't care if you only have bread and water."

80. On 04/06 KL wrote a letter to Corp. Lambert asking about the kool-aid episode. KL saw Ms. Benjamin, and when told of recent events, she expressed surprise and promised to look into it.

81. On 04/14 KL wrote his last letter to Ms. Benjamin, explaining that Lambert had said that she would have to send lettuce and tomatoes from the kitchen for inmates to get any, despite there being plenty and the excess was thrown into the trash each night.

82. On 04/16 Deputies Martin and Gaupp were observed throwing away extra food, after eating what they wanted. (The deputies are prohibited from eating the inmates food). On 04/16 the milk and juice was eliminated from

the special diet.

83. On 04/26 Corporal Lambert arbitrarily refused to allow KL's vitamin pills into the CCC, despite having previously allowed his and other's in. He said for KL to obtain vitamins from the medical department, knowing that this was virtually impossible.

84. On 05/04/88 a new "policy" was begun - inmates on special diets had to sign for food before receiving it, since there were many complaints that special diets had not been received.

85. On 05/05/88 KL told Deputy Wilson that he would no longer sign for his diet meals, until after he received them because they were not being sent. Diet meals were sent one hour later than everyone else's meals. Bread, milk and juice were missing for most of the last two weeks. Dinner would follow two hours after lunch. No diet dinner was served at all on 05/04 and 05/05.

86. From 05/05/88 salt and pepper were denied to diet people.

SEVENTH CAUSE OF ACTION

87. By discouraging and denying medically approved special diets, the Defendants have arbitrarily violated KL's rights under the 5th, 8th, and 14th Amendments to the U. S. Constitution. Defendants have caused pain and suffering and permanently affected Plaintiff's health.

ACCESS TO COURTS

A) LAW LIBRARY AND SERVICES FOR PRO SE LITIGANTS

FACTUAL ALLEGATIONS

88. From the day that KL arrived at the CCC, he advised the staff that he was a pro se litigant in several actions and that he needed access to a law library. He related that some of his litigation was in a different jurisdiction. Deputy Jones informed KL that there was no law library available to federal detainees in the CCC.

89. KL managed to have a stay granted in one action because of his inability to access the court. KL has been advised that even if he wins that action, he will have suffered irreparable damage from depreciation, which is irrecoverable from an automobile seizure. In addition, KL went to great expense having cases copied and mailed in, so that he could continue to address the courts.

90. On 03/13/88 KL wrote a letter to Sheriff Foti's legal counsel advising her of Magistrate Meyer's admonition to Inmate McDonald for not having used the law library available to him to help himself in his federal case, since that particular detainee had been incarcerated an inordinate amount of time at the CCC. KL asked her for use of the law library and cited his belief that he had the right to have access, and/or be provided with books. He also cited cases he needed. No answer was received.

91. KL, a pro se litigant, was given no legal assistance or access to the existing law library at the CCC. Nor was he given access to a copy ma-

chine or a typewriter. Although both were requested, his requests were denied.

92. On 04/18/88 KL wrote a letter to Corporal Lambert requesting notarization of papers for the Federal District Court in Seattle. KL was told there was no notary available to inmates in the CCC (although there was a notary in the building).

EIGHTH CAUSE OF ACTION

93. The denial of a right to access an adequate law library or adequate assistance from persons trained in the law, for pro se litigants who might have actions in other jurisdictions or who might want a reasonable opportunity to present claimed violations of fundamental Constitutional rights to the courts, was a denial of Plaintiff's rights under the 1st, 5th, 6th, and 14th Amendments to the U. S. Constitution and chilled the assertion of these rights by all federal inmates in the CCC.

B) COMMUNICATION WITH ATTORNEYS

COUNT 9

FACTUAL ALLEGATIONS

94. There were no visiting rooms set aside for lawyers to visit federal detainees in the CCC. Meetings were usually held in a room which had two adjoining closets full of inmates personal property and laundry. Guards and inmates were in and out constantly interrupting, distracting and disturbing what were supposed to be confidential visits. Another room (normally used for the inmates' side of family visiting) was sometimes utilized. All of the rooms were unavailable when any regularly scheduled visiting took place. Sometimes, state prisoners were given these rooms for their visiting because of overflow in their own areas.

95. Telephone calls to attorneys were routinely monitored because deputies placed the calls and remained by the telephones during the conversations.

96. Attorney's assistants and associates were routinely denied admission.

NINTH CAUSE OF ACTION

97. Prisoners have a right to confidential communication and visits with attorneys and their assistants. Capricious denials were an abridgement of Plaintiff's 1st, 5th, 6th and 14th Amendment rights under the U. S. Constitution.

C) TELEPHONE

COUNT 10

FACTUAL ALLEGATIONS

98. Up to 04/11/88 there were no telephones available to federal detain-

nees, unless that person had a court order. Even with a court order, telephone calls were given out arbitrarily by Sheriff's deputies when they wanted to and if they wanted to. Contempt of phone orders issued by federal magistrates and judges was common. It was impossible to arrange attorney calls for a set time, since it was always impossible to know if, and when, phone use would take place.

99. Detainee's phone calls were used primarily to contact lawyers and family to assist detainees in the preparation of legal matters before the district courts of the Fifth Circuit and other circuits. All detainees who needed the phone were either processing pre-trial and other motions, preparing their cases for trial, appealing convictions or arguing other matters before the courts.

100. Federal detainees, involved in litigation in other jurisdictions had to be in communication with legal counsel and the courts by telephone because distance made personal visits impossible. Some federal detainees were proceeding pro se, so that personal communication with the courts and witnesses were necessary.

101. KL, during the period from Oct., 1987 until Apr., 1988, had a court order for three fifteen minute calls per day from Magistrate Wynne. During that time KL was prevented from making eighty-two (82) phone calls, despite his court order directing that he be given those calls by those on duty at the CCC. (Plaintiff has records of each call denied). This amounts to over twenty hour's worth of contempt of court ordered calls.

102. In addition to the calls denied, twenty-two calls requested by KL to be made to attorneys in the day time, were not given until after 8:00 P.M. when it was impossible to reach KL's attorney, so that the calls were directed to family for re-transmittal, with the resulting lack of dialogue necessary to aid attorney/client communication.

103. During the above time period, only one telephone was available for federal detainee's use and inmates were placed on the phone at the deputy's whim and discretion. All calls were monitored, whether to attorneys or not.

104. On 01/12/88 Deputies Barnes and Martin denied that renewal of KL's court order had been delivered to the CCC, although KL had a certified copy in his possession and showed same. When KL confronted these deputies with proof that another inmate had seen his order in their hands, they finally admitted it was true and allowed KL to use the phone late that evening. KL had necessary legal calls to make earlier in the day.

105. There was no clock by the phone to judge when fifteen minutes began and ended. The beginning time of the call was rarely noted, so that the deputies could and would arbitrarily end the calls early. Many times, the deputy who ended the call had no synchronisation of his watch with the watch of the deputy who initiated the call.

106. On 11/23/87 telephone access was completely removed for all federal inmates at the CCC. The reason given was the crisis at Oakdale, La. (over 200 miles away in a federal immigration facility).

107. On the 30th of Nov., KL and 24 other inmates attempted to have a temporary restraining order issued by the federal district court to restore telephone access. A motion and memorandum was sent with a pre-trial detainee who had a court appearance that day. Attorney Ralph Whelan presented the petition to the Clerk of the Court, but it was never formally accepted

or ruled upon. The federal prisoners were not lawyers, had no legal experience, had no way to communicate with their own lawyers and had no access to a law library, the Federal Rules of Civil Procedure or the local rules of the court. They had no existing action to which to attach the motion, despite the fact that the nine page memorandum could have been considered a complaint under the court's discretion to aid pro se litigants with liberal rules of pleading. The memorandum specifically requested the court overlook the informal presentation.

108. Cancellation of phone calls was said to be because of the possibility of problems by Cuban detainees at CCC. None of the six Cubans detained at CCC had a court order for calls. Normal visiting continued for everyone, including the Cubans. Cuban detainees in the HOD were permitted to continue their court ordered calls. No federal inmates at any federal prisons and no state inmates in any state prison were denied phone use during this time.

109. On 11/21/83 KL wrote a letter to Corporal Lambert regarding his inability to call attorneys when necessary.

110. On 12/09/83 Deputy Charles Jones said: "I don't give a damn about your court order. I don't work for the court. The court doesn't pay me. The Sheriff pays me. I do the Sheriff's work. I'll give you your court order if I get to it. If I'm too busy, it's too bad."

111. On 12/11/83 Deputy Jones said: "There's only two of us on this morning. If we get to you, fine. If not, that's too bad. I don't give a damn about the court orders. All of you with your high-priced lawyers won't be able to make it any different."

112. On 12/16/83, while appearing before Magistrate Wynne for a different matter, KL related the telephone problems and was told by her to put all of it in writing that day, which KL did, on four legal size pages.

113. On 12/20/87 KL augmented these allegations with another letter to Magistrate Wynne spelling out CCC procedures and policies that were in contempt of court orders for telephone use.

114. On 02/27/88 when KL tried to make his call about 5:50 P. M., Deputy Jones said: "I've been working all day and I'm too tired. We're not doing any more calls on this shift."

115. On 03/02/88 KL wrote another letter to Lambert relating problems about getting on the phone. During the week of 04/04/88 Deputy Martin tried to keep KL off the phone by telling Inmate Atkins to stay on the phone so KL couldn't use it.

116. On 04/06/88 Magistrate Wynne visited the CCC and was told by the staff-telephone policy. That day KL wrote another letter to Magistrate Wynne contradicting some of the information given to her by the staff.

117. On 04/07/88 KL assisted immigration detainees in a letter to Immigration Judge Hughes, expressing their inability to get any telephone calls whatsoever. These people were denied the ability to retain attorneys or make bonds without telephone calls.

118. On 04/08/88 a new telephone policy was put into effect by Mag. Wynne. Pre-trial detainees were entitled to three calls weekly, pre-sentence detainees got two calls weekly and post sentence detainees and other federal

detainees on writs or in transit (even if they had litigation in process) were given no calls, unless a deputy saw fit to do a personal favor. Additional calls were still available, if a court order could be obtained. More calls were available than previously, particularly to inmates with no court orders. However, it was still impossible to call attorneys when necessary or exceed the limit on the number of calls when necessary.

119. On 05/02/88 KL received an order for four calls per week. No calls were given to KL for the first five days of the order - in direct contempt of the order.

TENTH CAUSE OF ACTION

120. Plaintiffs allege that the cancellation of phone calls was a mere pretext to deny Plaintiffs their Constitutional right of access to attorneys and was in direct contempt of all of Plaintiff's court orders for telephone calls. Plaintiffs further allege that Defendants knew there were no emergencies and that the overwhelming negative effect on inmates lives of denying contact with attorneys and loved ones was a denial of their rights under the 1st, 5th, 6th, 8th and 14th Amendments to the U. S. Constitution. The denial of telephone access to counsel to anyone with ongoing legal problems, who can't reach his counsel otherwise, was a grievous denial of a Sixth Amendment right.

SEARCHES, SEIZURES AND PRIVACY

A) CELL SEARCHES

COUNT 11

FACTUAL ALLEGATIONS

121. During the period while KL was at CCC, the Central Investigative Division (CID) appeared randomly to search and ransack cells looking for "contraband". The only "contraband" ever found, to the best of KL's knowledge, was extra clothes, food, etc., items that inmates found necessary to ease their daily existence.

122. Inmate's personal property was strewn in the quad during these searches. Each time CID came, they asked for lists of inmates' grievances. None were ever acted upon.

ELEVENTH CAUSE OF ACTION

123. Defendants violated Plaintiff's rights under the 4th Amendment to the U. S. Constitution by purposely searching inmate's property purely to intimidate them. These searches were never conducted in a reasonable manner and were unrelated to prison security. The searches left prisoner's cells in a shambles.

B) STRIP SEARCHES

COUNT 12

FACTUAL ALLEGATIONS

124. In conjunction with the pretextual cell searches, all federal detainees were made to stand naked in the common area. One by one, Plaintiffs were unreasonably made to stand close visual inspections of the anal and genital areas, although there had been no probable cause and no contact with persons outside the institution.

TWELFTH CAUSE OF ACTION

125. The unreasonable and unnecessary strip search procedures together with the accompanying verbal abuse was unwarranted harassment violative of Plaintiff's rights under the 4th Amendment to the U. S. Constitution.

PRIVATE PROPERTY

COUNT 13

FACTUAL ALLEGATIONS

126. Sometime during the month of April, 1988, Inmate Ronald Wood, a federal convict in transit, had an intentional deprivation of some of his personal property, namely, some legal materials belonging to Plaintiff, KL, relating to the proposed T. R. O. sought for the denial of telephone use at the CCC. These were the only papers missing from his property.

THIRTEENTH CAUSE OF ACTION

127. The deprivation of Plaintiff's property without due process of law was brought about by an unreasonable search and seizure, and since the property was legal papers, Plaintiffs rights under the 1st, 5th, 6th and 14th Amendments to the U. S. Constitution were violated.

LAUNDRY, CLOTHING AND BEDDING

COUNT 14

FACTUAL ALLEGATIONS

128. On 08/31/87 KL was booked into the CCC and given one shirt, one pair of pants, one blanket, two sheets and one towel. The clothes and bedding were much too big and full of rips and holes. Sheets and blankets were sewn together out of scraps. On 09/03/87 KL was given an extra shirt, pants and towel. No pillow, pillow case, underwear or socks were issued, although a limited amount of underclothes and socks could be sent in from outside. No outerwear for cold weather was issued. Corp. Lambert' made KL's wife take back beige undershorts and buy white ones.

129. The laundry at the CCC purportedly worked nightly. In reality, it worked sporadically. Moreover, the laundry lost everything regularly. Rarely could a federal detainee's property be sent to the laundry without losing some or all. Rags were regularly washed with clothes, so that everything returned unclean and with a foul odor. Many times the laundry didn't run at all.

130. On the following days there was no laundry: From 11/13/87 to 11/30/87 it worked four days. On 12/26 and 12/27 there was no laundry. On 01/01/88 and 01/03/88 there was no laundry.

in a work sink adjacent to the common commode area. Even when clothes got washed, there was no place to hang them to dry. The deputies constantly confiscated drying clothes. On 02/06/88 the laundry changed policy to twice per week. On 02/11/88 KL sent all his clothes to the laundry. None returned.

132. On 02/19/88 the sink used for hand-washing clothes was locked up ^{and} made inoperative.

133. On 04/07/88 there was a fire in one of the laundry driers. There was no laundry until 04/18/88. Inmates were forced to do laundry (including sheets) in the showers during morning clean-up. No other water or other washing area was made available. If inmates refused to do their own laundry, they got no fresh clothes or bedding.

134. Corp. Lambert refused to reopen the laundry sink. It became nearly impossible to wash out clothes and sheets. A pervasive odor permeated the quad. The deputies refused to turn the showers on, except sporadically. It became a constant battle to keep clean. Large bags of dirty laundry remained in the hallway for weeks. Much of it became mildewed and ruined. Bugs were attracted..

135. Deputy Martin, when KL asked him about getting the laundry back in, so the inmates could wash it themselves (having been a week in the hallway), said: "I'm not answering you."

136. On 05/04/88 KL returned from HOD to CCC. All his clothes and bedding were filthy. The deputy refused to turn the water on to wash clothes, although there was still no laundry in operation.

137. On 05/06/88 KL's wife tried to bring clothes for KL to wear for travelling to the Federal penal system. She was sent back and forth to the HOD and CCC twice. There was no set policy for acceptance. Deputy Jones told her it was up to the Deputy's discretion whether to accept it or not.

FOURTEENTH CAUSE OF ACTION

138. By refusing to provide inmates with clean clothing and bedding, Defendants have violated the 8th Amendment to the U. S. Constitution.

COMMISSARY

COUNT 15

FACTUAL ALLEGATIONS

139. The prisoner's commissary at the CCC is the only source for federal detainees to obtain necessary personal hygiene articles and other items to try to stay healthy. Packages from the outside are unavailable. Yet, there is virtually nothing healthy for sale. There are no vitamin pills, fruit juices or instant soup, to name just a few desirable items.

140. Prices charged are exorbitant. For example: Coffee is \$7.00 per pound. A 29¢ size of toothpaste is \$1.50. Stamps cost 28¢. Stamped envelopes cost 35¢. Premium ice cream is \$2.25 per pint. Most items are priced unreasonably.

141. There is no way to audit one's commissary account because it is im-

possible to keep a running balance. The inmate is not given a receipt with an old balance, amount of the debit and a new balance. His receipt only shows the quantities he bought, not the dollar amount he spent. Credits to the commissary accounts can take weeks. They are not posted when received.

142. Inmates Morris Hall and Michael Joe Roberts had \$100 each lost from their accounts for several months.

143. Commissary order slips were usually handed out between 11:30 P. M. and 12:00 A. M., after most inmates had retired. To order commissary entailed being awakened.

144. The delivery of commissary was haphazard. It was common to get deliveries at 9:30 A. M. (including ice cream).

145. Around holiday times, there was no commissary. (Inmates received nothing on 12/22/87 and 12/25/87).

FIFTEENTH CAUSE OF ACTION

146. By not providing federal inmates with competitively priced merchandise, posting his money to his account within a reasonable length of time, denying stamps at the federal rate for postage and arbitrarily preventing orders for merchandise, Defendants have violated the federal prisoners' 1st, 5th, 8th, and 14th Amendment rights to the U. S. Constitution.

RELIGION

A) OBSERVANCE

COUNT 16

FACTUAL ALLEGATIONS

147. On 01/04/88 a priest appeared at the federal division. This was the first religious figure KL saw since he arrived at the CCC. The priest said that he came about every six weeks or so to visit. He said that he conducted Mass every Sunday, but that by order of Sheriff Foti, federal detainees were not permitted to attend. The priest came to visit a total of three other times while KL remained at the CCC.

SIXTEENTH CAUSE OF ACTION

148. The capricious denial of the reasonable opportunity to exercise religious freedom was a violation of Plaintiffs' 1st, 5th and 14th Amendment rights under the U. S. Constitution.

B) PRACTICES - HAIR AND BEARDS

COUNT 17

FACTUAL ALLEGATIONS

149. Inmates at the CCC were forcefully barbered continually. There was

no specific length requirement. Haircuts were supervised by whomever the duty officer was that day. The deputies cut whomever's hair they wished, when they wished.

150. Conversely, if an inmate desired a haircut (i. e. before a court date), he usually could not get one. Inmates were escorted to the prison barber most Thursday mornings.

151. If a person were not clean shaven on visiting day (Thursday), he was prevented from visiting. This summary judgement procedure was implemented without a hearing or any other due process.

152. On 03/10/88 Inmates Joseph Hines and Rajim Abolphazl were forcefully shorn of beards and hair, despite protestations of religious requirements. Neither had hair even to their shirt collars. There was no hearing on the issue and physical threats were used to intimidate both of them.

153. On 03/19/88 Rajim Abolphazl was prevented from seeing visitors because he was not clean shaven. This happened many times.

154. On 04/14/88 Plaintiff, KL, asked to be included with that day's haircut group. Deputy Barnes refused KL's request, even though KL had a court appearance less than two weeks away.

SEVENTEENTH CAUSE OF ACTION

155. The haircut and shave policy at the CCC was a deliberate and obvious ruse to demean and intimidate inmates. There is no legitimate penal interest served by such conduct and Muslims are intimidated and demeaned particularly, in violation of the 1st, 5th and 14th Amendments to the U. S. Constitution.

JAIL PROCEDURAL REQUIREMENTS AND GUIDELINES

COUNT 18

FACTUAL ALLEGATIONS

156. There was no inmate handbook at the CCC. There were no consistent procedures. The inmate was given no advice upon booking of: a) types of disciplinary action, b) the actual disciplinary system within the institution, c) the inmate's rights and responsibilities and d) prohibited acts.

157. Each cell had a sliding metal door, operated from the control room. Although it would be convenient to keep these doors open during inmate out time in the common area, the door policy would change from guard to guard and from shift to shift - sometimes open, sometimes closed. When closed, they were supposed to open on the hour. If the deputies felt lazy, they would not open the doors, making it impossible to use one's toilet or sink.

158. Since the one toilet in the common area was totally unfit for human use, the small sink did not work, and the large sink was locked in and unuseable after 02/19/88, one could only use one's own sanitary facilities. Since the door, if it were opened, stayed open only a few moments, it would be likely that the inmates who used their toilets were stuck in their cells until they were lucky enough to get out. Getting out was difficult because

there was no working intercom to advise control one wanted to be let out. Because of obstructions, many cells could not be seen from the control room.

159. Time in the day room was also erratic. Supposedly, inmates were to be out of their cells from 11:00 A. M. Realistically, it was entirely up to the deputy's whim. Lock-down was supposed to be at 12:00 A. M.

160. There existed a one part inmate request/complaint form. It was to be returned to the deputy on duty. From there, it might be routed to the trash basket. Despite, KL having filled out many of these forms and having written numerous letters, never once was a written response to either a question or a complaint ever received. The request/complaint forms were difficult to obtain. They were not placed in the quad or freely available.

161. There was one clock in the quad. For a celled inmate, it was nearly impossible to know the time, (so as to attempt to beg for a scheduled phone call).

162. From December, 1987 until April, 1988 there was no corporal (or any other person with authority to make decisions) on the federal tier. The deputies had no authority in most matters.

EIGHTEENTH CAUSE OF ACTION

163. Arbitrarily requiring federal pretrial detainees to live by unpublished rules announced orally (when convenient) as "policy" was a violation of Plaintiff's rights under the 5th, 8th and 14th Amendments to the U. S. Constitution, if the result of not following unwritten rules was punishment.

SEGREGATION - ADMINISTRATIVE AND PUNITIVE

COUNT 19

FACTUAL ALLEGATIONS

164. If an inmate was "segregated" from other federal inmates at the CCC, he was usually taken to the House of Detention (HOD). This was another building around the corner in the Orleans Parish prison complex.

165. Prisoners were moved to the HOD with no due process safeguards (as have been enunciated by the United States Supreme Court). Sometimes there was no hearing. Many times there was no notice of the charges, no written statement of the evidence that the decision was based on and no reasons given for the action taken. No witnesses were allowed. Nor was there an impartial tribunal. Decision makers were involved in the investigation and decisions were biased because there was no impartial factfinder. Administrative segregation was used as a pretext for indefinite confinement.

166. On 03/25/88 Inmate Anthony Natalizio was placed in disciplinary segregation based on reasons other than stated at his hearing. He remained there for months.

167. On 11/02/ Inmate Rogelio Fernandez was locked down for intervening between two people in an altercation. He was trying to stop the fight, but was charged with an infraction. He was denied his request to call eye-wit-

nesses (one of whom was Plaintiff, KL). He was given no opportunity to appeal his summary disciplinary hearing results. Fernandez was let out to population after fifteen days lock-down, but was moved to HOD when one of the inmates who was in the fight was also let out to population. No hearing accompanied this move.

168. At HOD, RF was forced to awaken for breakfast at 3:00 A. M., eat lunch at 10:00 A. M. and dinner at 3:00 P. M. He had no exercise or recreation for the twenty-one days he was there. Scalding showers could be had only at 5:30 A. M. and he was locked down for 23 hours per day, excluding the shower period. RF was denied his court ordered phone calls for two weeks and his commissary for one week. RF saw rats and roaches, which ran on him while he tried to sleep. He received no medical attention, despite repeated requests.

169. The total circumstances of such harsh punishment and the unsanitary conditions and primitive regimen caused RF tremendous mental stress and the loss of ten pounds of body weight.

170. At 9:30 A. M. on 04/27/88 Plaintiff, Kenneth Linn was sentenced in federal court. At 12:30 P. M. KL was taken back to the CCC and locked into the "classroom". He remained there until 6:30 P. M., when he was forced to pack all of his accumulated belongings, including four boxes of legal materials. He was shackled and moved to the HOD, where he was given a filthy mattress with stuffing protruding and one blanket (nothing else). He was taken to the tenth floor. This was a psychiatric ward. It was filthy and had a foul odor. KL was put in a cell by himself and kept awake by people screaming all night. Dr. Juarez saw KL that evening at 7:30 P. M. There was no running water in the cell. The shower was an ice water trickle down the wall of an adjacent cell. It was impossible to clean up.

171. On 04/28/88 Dr. Juarez saw KL at 9:00 A. M., said he tested KL the night before (without KL's knowledge), that he did not find KL suicidal, and that KL would be returned to the CCC that day by 3:00 P. M. KL watched the doctor put this information in his computer terminal.

172. At 11:00 A. M. KL was moved downstairs to Floor #9 - North side - Cell 7. This cell block was locked down between 22 and 23 hours per day. There were no lights in any of the cells on the tier. It was dinghy and very difficult to see. The cell itself was less than six feet by nine feet and held two people. There were bars in front, no door. In the nine cells were twelve federal prisoners and six state prisoners.

173. On 04/29/88 the federal detainees on the tier got one hour of outdoor recreation. This was the first time there had been any exercise for federal prisoners ever at the HOD. Some of the federal detainees had been there over six months.

174. The laundry in the HOD operated once per week. There were no wash buckets. Clothes had to be washed out by hand on the shower floor in the one hour of out time from the cell used for showering.

175. KL was on a special diet at CCC. It was never received at HOD, despite repeated request and complaint forms sent. Nor was KL's paid for newspaper sent over. Nor was his commissary sent over. One phone call was offered the second day to notify someone of KL's transfer.

176. KL was kept up all night by noise. There was no clock anywhere.

177. On 04/30/88 KL showered, shaved without a mirror to see ~~his~~ face, (and cut himself), and at 2:30 P. M. was allowed out of his cell for one hour.

178. On 05/01/88 KL was not allowed out of his cell, except for one hour to shower. He also attempted to wash his uniform.

179. On 05/02 the shower was scalding hot and KL could not use it. KL noticed the very stale air and that only two windows were open at the end of the room. There was no air conditioning and it was very hot. KL sent a letter to the U. S. Marshall describing conditions and asking why he was there.

180. On 05/03 KL's lawyer visited. He had a copy of his court order for phone calls issued on 05/02 (which calls were never given). The lawyer (Mr. Robert Glass) said that Mr. Robert Hamaan of the U. S. Marshall's Service said that the Dr. caused me to be at the HOD. Deputy Wilson told me that the U. S. Marshalls did it. Corporal Donnelly said to KL that the Marshalls caused it. KL was moved back to the CCC on 05/03/88 in a van that stunk from urine. KL was forced to carry three heavy boxes of personal property while his legs were shackled. His commissary order was once more undelivered.

181. HOD was a totally disgusting place - a violation of 8th Amendment rights, as well as any civilized standards of decency.

182. All together, seven complaints and/or request forms were sent out by KL while at HOD, plus the letter to the U. S. Marshalls. Not one was answered.

183. Double celling in 54 square feet of cell space for 23 hours per day, indefinitely under these conditions, should be considered unacceptable in a civilized society.

NINETEENTH CAUSE OF ACTION

184. Punishment under the disciplinary and administrative segregation systems used by the CCC and HOD were violations of Plaintiff's rights under the 5th, 8th and 14th Amendments to the U. S. Constitution and were a disgusting insult to any of society's evolving sense of dignity and decency.

PRISON EMERGENCIES AND LOCKDOWNS

COUNT 20

FACTUAL ALLEGATIONS

185. During KL's stay in the CCC, there were many "lockdowns." None of these was a genuine emergency. None involved a riot or a threat of physical harm to anyone. The restrictions caused by these lockdowns were in bad faith and pretextual, such as the following:

186. On 12/27/87 the television was sabotaged. On 12/28/87 all federal detainees were locked down for the day as punishment. On 12/31/87 a letter was written to Warden Roberts and a black and white T.V. was brought to the quad for the weekend. On 01/04/88 this T.V. was removed and there was no television again until 01/09/88. The replacement T. V. was not cable ready

and up until KL's departure on 05/10/88, no cable T. V. was returned to the inmates, despite being readily available. The television given to the federal division barely worked. All federal detainees were ultimately punished indefinitely for the acts of one person, who long before had been apprehended and moved to HOD.

187. On 01/11/88 all inmates were kept locked down all day for painting of the common room. The room was painted in sections by state prisoners and there was no reason why it could not have been done without a lockdown for such a long length of time. Inmates were allowed out of their cells only for meals.

188. On 02/18/88 inmates were locked down all day because of a brief visit by the wife of Vice President George Bush. No phone calls were allowed all day. No attorney visits were allowed all day. KL had a scheduled telephone call with his attorney in Seattle, regarding his appeal brief due the following Monday. The brief had to be presented without Plaintiff's corrections because of his inability to use the phone that day.

189. KL also had an attorney's visit scheduled that day. A motion was due in the local federal court. That motion also had to be presented without KL's corrections. Both incidents caused KL irreparable damage.

190. It should be noted that all of the federal detainees are on the top floor of the CCC (6th). Ms. Bush visited the first floor for a very short time. At no time was she ever on the sixth floor, no less near the federal quad. Nor was she near the CCC for most of the day.

191. On 03/02/88 the quad was locked down for the plumbers to go from cell to cell. Every other time they did the same thing, before this instance and after, inmates were not locked down.

192. On 03/05/88 Deputy Martin locked down everyone until 1:00 P. M. His excuse was that we were noisy at count. Mr. Martin proceeded to go to sleep, which was the pretext for locking us down.

193. On 03/07/88 Martin again would not let us out at our regular time. No reason was given.

194. On 03/19/88 Deputy Gaupp locked everyone down from 6:30 P. M. - 8:40 P. M. The reason given was that he was the only deputy on duty, despite this status being very common, happening nearly every week at the CCC.

195. On 04/19/88, after Deputy Martin slept all afternoon and kept the quad locked down, he proceeded to lock the quad up one hour early at 11:00 P. M. and went back to sleep.

196. On 04/23/88 Deputy Gaupp locked everyone down from 7:00 P. M. to 8:00 P. M. He said there were cigarette butts on the floor. KL does not smoke.

197. On 04/26/88 one of the rare roof recreation periods was cut back to forty minutes, so that all inmates could be locked down for welders doing metal mesh in two windows.

TWENTIETH CAUSE OF ACTION

198. The pretextual lockdowns, for personal, non-emergency, non-secu-

ity reasons, was a violation of Plaintiff's 5th, 8th, and 14th Amendment rights under the U. S. Constitution.

PHYSICAL CONDITIONS AND RESTRICTIONS

A) OVER-CROWDING

COUNT 21

199. When KL first entered the CCC on 08/31/87, there were two tiers for the federal detainees. Each tier held 72 people maximum, in 28 two-man cells and 4 four-man cells. There was no over-crowding problem, until the federal inmates who had previously taken up two tiers, were stuffed into one tier on 11/16/87.

200. Many times the maximum of 72 people was exceeded. This was accomplished by taking short-term immigration detainees, usually Mexican nationals, and placing them (like cord wood) on the floor of a small room, which served as an intermediate room between the outside corridor and the federal common room. This room also served as the telephone room after the installation of the telephone for inmate's use. It was necessary to travel through this room to obtain all meals, use the phone, have attorney or family visits, go to court or the doctor, etc.

201. On one weekend KL counted sixteen (16) people living on the floor of this room. The stink was pervasive and the unsanitary conditions for these mostly unwashed people should have been obvious to all.

202. Whenever this room (about nine feet by twelve feet) was used, the detainees were put on mattresses on the floor. When there was not enough room on the floor for all the mattresses, the immigration detainees were left to make do.

TWENTY-FIRST CAUSE OF ACTION

203. The cramming together of people, who were forced to sleep on the floor was unsanitary and unreasonable and was grossly disproportionate to the severity of those peoples' crimes, if any, and was violative of the Plaintiffs 5th, 8th, and 14th Amendment rights to the U. S. Constitution.

B) VENTILATION

COUNT 22

FACTUAL ALLEGATIONS

204. Air in the CCC was part of a closed system of circulation. There was no ventilation and the air was foul smelling, smoky and grimy. Regular use of Q-tips was a necessity.

205. Before the area around the vents was painted, it was black compared to the rest of the walls. This "air" was what the federal pretrial detainees were forced to breathe.

206. Because of the unhealthy nature of this air, inmates were constantly ill, particularly with sinus problems and headaches. KL continually suffered these problems throughout his entire stay in the CCC.

207. On 09/22/87 KL saw the exterminator spray insecticide into the vents. He was sick for the rest of the day.

208. The exterminator visited again on 10/20/87 and 01/05/88 and sprayed the rooms. KL was sick on those days also.

TWENTY-SECOND CAUSE OF ACTION

209. The use of a closed system of ventilation, which recirculated and did not properly purify the foul air in the CCC, was a violation of Plaintiffs 5th, 8th, and 14th Amendment rights to the U. S. Constitution because they were forced to breathe this filth by Defendants.

C) HEATING AND AIR CONDITIONING

COUNT 23

FACTUAL ALLEGATIONS

210. Heating and air conditioning of the federal common area was controlled somewhere else in the building. It was always too hot or too cold because of the lack of control. The air conditioning was left on even when it was 40° outside. KL and many others wore blankets over their uniforms in the common area on many days.

211. In the cells, heat and air conditioning were controlled by a person who made rare appearances to adjust the unit that supplied two cells. KL and many others made repeated requests to turn off the a/c when winter came and turn on the heater and vice versa.

212. On 02/08/88 the heat was finally turned on in KL's cell after temperatures were in the 20s for the third day in a row.

213. The air conditioning units in nearly all the cells were broken and probably still are.

TWENTY-THIRD CAUSE OF ACTION

214. The inadequate heating and air conditioning at the CCC violated the 5th, 8th, and 14th Amendment guarantees of the U. S. Constitution.

D) LIGHTING

COUNT 24

FACTUAL ALLEGATIONS

215. Lights in the cells were operated from the control room. The inmate had no light switch to turn his lights off and on. The lights themselves were indirect and very dim. At 10:00 P. M. the lights in the cells (with the exception of a very small night light) were turned off, so one could not read in the cell after this hour.

216. There was no direct lighting over the beds and no individual lighting, so that one person could study while the other slept. The available light was injurious to the eyes because it was too dim. It was impossible to stay up as late as necessary to prepare trial work because of the absence of light.

217. KL's eyes were injured from voluminous reading of trial material with poor light during his CCC sojourn.

218. At any one time, approximately 25% of all the lighting was inoperative in the federal area.

TWENTY-FOURTH CAUSE OF ACTION

219. The inadequate lighting at the CCC violated the 8th Amendment guarantee of the U. S. Constitution.

E) NOISE

COUNT 25

FACTUAL ALLEGATIONS

220. The noise level at the federal tier of the CCC was injurious to one's hearing. It was impossible to sleep while inmates were in the common area, particularly if the television was on. The T. V. sat directly in front of the cells. There was no enclosed set-aside area for television viewing or for card playing. There was plenty of room for these improvements.

TWENTY-FIFTH CAUSE OF ACTION

221. The excessive noise level was a violation of Plaintiffs' rights under the 5th, 8th, and 14th Amendments to the U. S. Constitution.

F) FIRE PROTECTION AND OTHER SAFETY DANGERS

COUNT 26

FACTUAL ALLEGATIONS

222. There were no working intercoms in any of the cells on the federal tier. It was impossible to make contact with any staff, if any emergency were to arise.

223. There was one fire extinguisher that KL saw in the common room. This extinguisher was never checked the whole time KL was at CCC. KL still has no idea whether it or the sprinkler system was in working order.

224. On the morning of 01/31/88 Inmate Diaz slipped in shower stall #1 on an uncovered tile floor. The other three stalls had rubber mats. Diaz hit his head and shoulder and required paramedics to carry him out. He was injured fairly seriously. When KL left CCC in May, there was still no mat in shower stall #1.

TWENTY-SIXTH CAUSE OF ACTION

225. Inadequate fire protection and deliberate indifference to the health and safety of federal detainees, by not having a safe environment for them, was an abuse of Plaintiffs' rights under the 5th, 8th, and 14th Amendments to the U. S. Constitution.

G) SANITATION

COUNT 27

FACTUAL ALLEGATIONS

226. Cells at the CCC were filthy. The reason why they were filthy was twofold: a) there was no incentive to keep them clean and b) there was nothing to clean them with - no cleansers and no utensils. At no time did KL ever see so much as a rag issued to inmates. Inmates had to clean their cells during the same 75 minutes given for showers and shaving, (all 72 of them). There were four showers, sometimes three usable, depending on water pressure. There was one mop-bucket whose water went unchanged, two mops, three brooms and one toilet brush available to the whole quad at 5:00 A. M. Needless to say, most inmates refused to wake up at this hour on most mornings because of the lack of sleep.

227. Showers sometimes did not work. It depended on repair work being done in the building and/or other reasons unknown to KL.

228. On 11/05/87 and 11/06/87 there were no showers. From 11/25/87 to 11/30/87 the drinking fountain was broken. (It worked intermittently from then on and finally quit giving cold water in March, 1988). It was always filthy and clogged.

229. On 12/07, 12/16 and 12/22 there was no water in the quad.

230. On 12/23 there was no water pressure.

231. On 01/03/88 there were no cleaning supplies issued.

232. On 02/19/88 the large sink in the quad was locked up. It became impossible to do such things as wash hands before eating or after urinating or to wash clothes.

233. On 02/20 the large locked up sink developed a leak, but because it was locked up, everything ran into the quad. From 02/20 - 02/27 this leak continued to run without anyone attempting to fix it. The odor in the quad was disgusting.

234. On 02/27 the drains in the shower became plugged up. If an inmate desired a shower, he had to stand in ankle-deep slime.

235. On 03/02 a sickening smell from scum all over the floor permeated the entire common area. The large sink was still plugged up for the second week.

236. On 03/04 it was reported by Inmate William Sercovich that there had been no disinfectant or soap available for the quad floors for over two weeks.

237. On 03/08 the shower drains were still plugged. Water pressure in the cells had been over-flowing for over two weeks.

238. On 03/15 the drains for the showers and the large sink were still stopped and over-flowing. KL had advised Corp. Lambert on 03/10 of the urgency of the problem and he promised to take care of it.

239. On 03/23 there was no hot water in the cells. By this time KL had been trying to get a plumber for a month to correct a leaking toilet and the water over-flow in his cell - Upper 27.

240. On 3/22 and 3/23 there were no cleaning materials issued.

241. On 03/25 the plumber finally came. He left KL's toilet still leaking because he said he did not have those parts and that they had been on order for months, that it was a common problem.

242. On 04/05 the shower drain was stopped up again.

243. On 04/19 the CID came into the quad for the third time doing their "shakedown" routine and took notes on all things broken. Nothing was ever repaired.

244. On 04/20 KL noticed roaches in the cell and realized that the exterminator had not shown up for some time.

245. On 04/23 the water in the showers was too hot and there was no pressure. It was impossible to shower.

246. From 02/19/88 no water for washing in the common area was available.

247. KL never saw a health inspector at the CCC. KL surmises that the CCC would flunk any health inspection.

248. Handling food after using the toilet is recognized as unsanitary everywhere in the world. No matter how primitive the place, water with which to wash is always provided after one relieves himself.

TWENTY-SEVENTH CAUSE OF ACTION

249. The unsanitary conditions deliberately and purposely provided by Defendants were violations of the 5th, 8th, and 14th Amendments to the U. S. Constitution. These conditions included defective plumbing, infestation by vermin and lack of cleaning materials.

H) RECREATION

COUNT 23

FACTUAL ALLEGATIONS

250. The only time that an inmate got fresh air at the CCC (with the exception of the brief period to and from court appearances) was an occasional trip to the roof of the building. These trips were few and far between and for all practical purposes, a trip to the roof was the only exercise available to inmates.

251. From KL's arrival on 08/31/87 through 11/25/87, KL counted three trips to the roof. On 02/25/88 there was a roof trip, but KL was with his attorney

and missed it. In March there were three trips and in April there were five. The rectrips usually lasted one hour, which included transit time to and from the roof.

252. KL went one period of two and one-half (2½) months with no outdoor activity, no exercise and no fresh air.

253. There was no indoor exercise. The upper landing had been used for walking until 02/22, when it was abruptly prohibited. No reason was given for the prohibition of the only regular exercise available to inmates. When KL first arrived at CCC, an hour of indoor exercise had been allotted, but this was done away with on 11/25/87. On that date, the Corporal had decided on a schedule change, including the 5:00 A. M. showers.

TWENTY-EIGHTH CAUSE OF ACTION

254. By not affording some meaningful exercise each day and recreational opportunities, including activities outdoors on a regular basis, Plaintiffs' 5th, 8th, and 14th Amendment rights under the U. S. Constitution were violated.

I) PROGRAMS

COUNT 29

FACTUAL ALLEGATIONS

255. There was no library of any kind available to federal inmates at the CCC. The only amenity provided was one old television that barely worked.

TWENTY-NINTH CAUSE OF ACTION

256. Enforcing idleness and providing no opportunity for meaningful activity was a violation of Plaintiffs' 8th Amendment rights under the U. S. Constitution.

J) FOOD

COUNT 30

FACTUAL ALLEGATIONS

257. Food at the CCC was nutritionally inadequate. KL contends that there was a vitamin deficiency because of what was served and the method of preparation. No vitamin supplements were provided. In the contract between the U. S. government and the Orleans Parish Criminal Sheriff, the sheriff received a specified amount of money each day for the federal detainees daily upkeep. That money should have been used for food and other daily necessities. In fact, with only a few very minor differences, the meals received by federal detainees was exactly the same as received by state detainees. The approximate \$30.00 difference in daily per prisoner subsidization was not spent for the benefit of the federal detainees. The federal detainees should have been the third-party beneficiaries of the federal subsidization.

258. On 09/07/87 red beans and rice were served with bugs in the food. on 09/08/87 the bugs were repeated with different beans. Bugs in the food

happened several times.

259. On 09/12/87 Inmate Ross reported seeing a large pot of food fall to the ground from a cart in transit to the federal tier. He saw the food shoveled back into the pot, which arrived a few minutes later for the federal prisoners' meal.

260. The menu at the CCC was the same - week in and week out. There were very few variations. There was no milk served, except sometimes Sunday mornings and occasionally bulk powdered milk, which was undrinkable. There was never any soup.

261. One hot meal was served each afternoon. It was usually some kind of beans. Dinner consisted of cold sandwiches. Many weeks dinner was bologna sandwiches, four or five days in a row.

262. From 11/13/87 to 11/26/87 there were no hot meals because the kitchen was not working. Food was sent over late from the kitchen at HOD.

263. From 11/13/87 to 12/01/87 fresh fruit appeared twice, fresh vegetables never. In the whole month of December, inmates received oranges, apples and bananas twice each.

264. The red beans served in the week of 12/14/87 had bugs in it.

265. On 01/07/88 the mid-day meal was inedible (canned spaghetti with grease and sugar added).

266. On 01/10/88 fruit was only available for one-half the quad.

267. On 03/09 the apples were bad - frozen and inedible.

268. Many Sundays, dry cereal was served at breakfast. These small boxes always came from a sealed cardboard container marked "not to be used after 1986." They were stale sugar frosted flakes.

269. The deputies consistently liked to eat the best parts of the inmates' food. What the deputies didn't eat was thrown away after each meal, so that inmates could not receive seconds.

270. On 04/01, 04/04, and 04/05 KL's dinner consisted of four slices of bread and two slices of cheese - period!

271. On 05/06/88 Deputy Gaupp ate eight sausages.

272. On 05/07/88 extra hamburgers were available, but Dep. Gaupp ate them all.

273. Only coffee was served at breakfast. There was not even water for non-coffee drinkers.

274. The timing of meals was always inconsistent. Breakfast was anywhere from 5:00 A. M. to 11:00 A. M., lunch 10:30 A. M. to 5:30 P. M., and dinner from 4:30 P. M. to 10:30 P. M. Dinner could follow a couple of hours after lunch. KL's bodily routine was severely disrupted.

275. KL lost over fifteen pounds while at the CCC, down to about 140.

He would have lost more weight, but for the commissary. Moreover, the long term effects of this debilitating diet and routine are still unknown at this time.

THIRTIETH CAUSE OF ACTION

276. The food consumption, food preparation and food service at the CCC presented an immediate danger to the health and well being of the inmates, who were forced to consume this regimen or starve. This was a violation of Plaintiffs' 5th, 8th, and 14th Amendment rights under the Constitution of the U. S.

K) PERSONAL HYGIENE

COUNT 31

FACTUAL ALLEGATIONS

277. CCC had a "clean shave" policy. No beards were allowed. Yet, no razors were issued on Sundays and many other days there were no razors. Nail clippers were issued sporadically. On 05/08 Deputy Wilson would not allow KL to use the clippers. After 02/10/88 there was no moustache scissors. Most of the stainless steel mirrors in the cells could not be used because they were so badly scratched up. No polish was ever issued.

278. Mattresses were used and reused until they literally fell apart, irregardless whether crabs or lice had been found on them.

279. From 11/23/87 through 11/25/87 a crab and lice attack spread through the upper corner of the federal tier (Cells U-23 - U-27). Mattresses were merely sprayed and reused.

280. The one common toilet in the day room was filthy, never disinfected and rarely used.

281. There were continuing plumbing problems in the cells, resulting in many days with no water in the cells and the inability to flush one's toilet, bathe or clean up one's person or cell. On 12/18 - 12/20 there was no water in the cells. On 04/03 there was no water pressure and no showers. On 04/04 it was impossible to get a shower. (Too many of the 72 people happened to want showers that morning).

282. On 12/05/87 a "policy" was installed to use the same razors for a week. People stopped shaving, since it was impossible to shave with the used rejects that were issued.

283. Toothbrushes and toothpaste were supposed to be issued to incoming prisoners. Many times these items were unavailable and prisoners had to go days without brushing their teeth. On 04/22/88 there was no water all day in the cells.

THIRTY-FIRST CAUSE OF ACTION

284. Prisoners were entitled to maintain personal cleanliness and serious denials of personal hygiene were violations of the 8th Amendment to the U. S.

Constitution.

L) PHYSICAL CONDITIONS - OTHER

COUNT 32

FACTUAL ALLEGATIONS

285. The CCC is filthy and vermin infested. Until February, 1988 it appeared that the federal tier had never been painted since it was built. In Feb., the common area was given a fresh coat of paint. The paint went over all the years' worth of dirt and grime and was a cosmetic improvement.

286. The cells were not painted. KL was told by the staff painting supervisor that "nobody could see the cells." KL suspects that the cells are just as filthy and ugly today as they were when he was there. KL also suspects that the cells have not been painted since the jail was built.

287. Cockroaches abound in New Orleans. They happily frolic in the CCC in record numbers, particularly in the food serving areas. Since disinfectant is not issued for use in the cells, the bugs have their way there also.

288. There were not enough chairs in the common area, so that when the quad was full, people had to eat on the floor or wait for a turn at a chair. Altercations involving chairs were common.

THIRTY-SECOND CAUSE OF ACTION

289. The totality of the circumstances of the physical plant of the CCC, a relatively new building, which has had virtually no preventive maintenance, deprived inmates of the minimal civilized measure of life's necessities. The general living conditions, whether for the convicted prisoner or the pretrial detainee is cruel and unusual punishment, which was prohibited by the 8th Amendment of the U. S. Constitution.

SMOKING

COUNT 33

FACTUAL ALLEGATIONS

290. The Surgeon-General of the U. S. has stated that "smoking cigarettes is hazardous to your health." He has also made it very clear that secondary smoke is more debilitating than the original smoke. He has characterized the addiction as worse than cocaine.

291. Accordingly, Plaintiff, KL, who does not smoke and is allergic to the smoke, requested a non-smoking environment. It was denied because it was unavailable.

292. When KL entered the CCC, there were two quads available for federal detainees. One of these quads could have been made a non-smoking quad, but wasn't.

293. The air in quad 6-2, where KL was housed was always smoke-filled. The air always had a detestable, foul odor, particularly noticeable when coming in from outside.

294. Cells were supposed to be non-smoking areas, but in reality never were because of the impossibility of enforcing such a regulation.

295. Despite the irrefutable evidence of the dangers to one's health by inhaling cigarette smoke, KL was forced to do just that, with no fresh air ever available to him, for a period of nearly 8½ months.

296. Posted in the room where the telephone was placed was a "no smoking" sign. The deputies smoked there anyway.

297. After pointing out Warden Robert's no smoking signs to Deputy Martin, he said: "That's only for inmates." (with cigarette in hand).

THIRTY-THIRD CAUSE OF ACTION

298. The immediate and irreparable damage caused by inhaling cigarette smoke was well documented. Forcing Plaintiffs to breathe befouled air against their will was a violation of Plaintiffs' 5th, 8th, and 14th Amendment rights to the U. S. Constitution.

WOMEN PRISONERS

COUNT 34

FACTUAL ALLEGATIONS

299. Federal detainees, who happened to be women, were placed in the HOD in eight person cells, together with convicted state prisoners. They did not even have the few privacy benefits given to the men prisoners. Their facilities were substantially sub-standard to the men.

THIRTY-FOURTH CAUSE OF ACTION

300. Providing federal women inmates with facilities that were substantially inequivalent to those provided men and forcing federal women pretrial detainees to be housed with convicted state felons was gender based discrimination and was a violation of Plaintiffs' 5th and 14th Amendment rights under the U. S. Constitution.

PRAYER FOR RELIEF

Plaintiffs at the CCC are made up of unconvicted federal detainees, unsentenced federal defendants, federal convicts, immigration detainees (including minors) all lumped together. At the HOD, state convicts are mixed in.

Plaintiffs and members of the Plaintiff class have suffered irreparable injury and are threatened with continuing future injury by reason of the acts

complain of herein and have no adequate remedy at law.

While convicts may not be subjected to cruel and unusual punishment, pretrial detainees may not be punished at all. That is the crux of this prayer for relief, that at the very least, the pretrial detainees in the CCC be treated no worse than other federal pretrial detainees (as set out in Program Statements #7331.2 and 5267.3 of the Federal Bureau of Prisons rules and regulations), that the liberty interest created by these rules be applied to all the federal detainees in the CCC and that their rights cannot be bargained away by the federal government at its convenience in New Orleans.

Plaintiff, Kenneth Linn, is in the midst of an appeal of his criminal conviction, for which he was sentenced on 04/27/88. If he is successful on appeal, it is likely that a retrial would be ordered, forcing him to be reincarcerated at the CCC for the duration of the new trial. If he is unsuccessful with his appeal, he has been advised by the U. S. Attorney that he will be ruled into court for the continuation of the civil forfeiture aspect of his charges. Either way, Kenneth Linn, a Plaintiff in this law suit, expects to be returned to the CCC imminently.

WHEREFORE, PLAINTIFFS demand on behalf of themselves and all others similarly situated, that this honorable court:

1) Determine by Order, pursuant to Rule 23 (c)(1) of the Federal Rules of Civil Procedure that this action be maintained as a class action.

2) Appoint counsel to represent Plaintiffs Kenneth Linn and Rogelio Fernandez and the affected class, so that pendant state claims can be amended to the complaint (Plaintiffs have no access to the necessary Louisiana Code), so that depositions can be taken of the Defendant parties, so that adequate oral argument from the Plaintiffs' point of view can be offered to the court and so that the complexity of the issues can be fairly represented for all concerned.

3) Enter a declaratory judgment, pursuant to 28 U. S. C. A. 2201, that Defendants violated the United States Constitution when they:

A) Purposely did not pick up and deliver mail and refused to process mail unless it had more postage than the U. S. required.

B) Restricted receipt of newspapers and publications without justification.

C) Excluded children and other visitors, who were not security threats, from visiting Plaintiffs.

D) Punched Keith Newman without justification.

E) Beat up and dragged Rajim Abolphazl without justification.

F) Deliberately refused to allow Plaintiffs a reasonable amount of uninterrupted sleep.

G) Refused to provide Plaintiffs with medication and care when necessary because of their deliberate indifference.

H) Refused to provide Plaintiffs with medical diets when prescribed.

- I) Disallowed use of an existing law library to Plaintiffs.
 - J) Refused to allow Plaintiffs confidential telephone communications and visits with attorneys when necessary.
 - K) Ransacked Plaintiffs personal property and left Plaintiffs' cells in a shambles.
 - L) Strip searched Plaintiffs and physically and verbally abused them while naked.
 - M) Confiscated Plaintiff's legal pleadings.
 - N) Refused to provide inmates with clean clothing and bedding.
 - O) Prevented Plaintiff from purchasing personal hygiene and other necessary items from the commissary at reasonable prices.
 - P) Refused to allow any and all Plaintiffs from attending weekly religious services.
 - Q) Forcefully cut beards and hair contrary to Plaintiffs' beliefs without justification.
 - R) Forced Plaintiffs to live by arbitrary unpublished rules and regulations.
 - S) Segregated Plaintiffs without due process of law under less than minimal living conditions.
 - T) Locked down Plaintiffs for personal and non-emergency reasons.
 - U) Forced Plaintiffs to live in cramped, unsanitary, unhealthy, and unsafe quarters.
 - V) Prevented Plaintiffs from exercising and having regular recreation periods.
 - W) Did not provide Plaintiffs any reading material.
 - X) Did not provide Plaintiffs a nutritious diet.
 - Y) Discriminated against women prisoners.
 - Z) Deliberately prevented Plaintiffs from being third-party beneficiaries of Defendants' contract with the federal government.
- 4) Issue preliminary and permanent injunctions against the Defendants, their successors in office, agents and employees and all other persons in active concert with them, ordering the following:
- I. Mail be processed promptly on all regular business days.
 - II. Federal inmates not be charged any more for postage than other U. S. citizens and/or inmates be allowed to have stamps and envelopes sent in.
 - III. Posting of U. S. postal money orders to inmate accounts be done immediately upon receipt.
 - IV. All federal inmates have unrestricted access to the daily newspaper after ordering and paying for it.

V. Access to the institution be allowed any publication permitted transit through the U. S. mail, unless a particular issue of a particular publication is deemed beforehand to be a danger to the security of the institution.

VI. Delivery be allowed of any hard or soft covered book directly from a publisher or a bookstore.

VII. Soft covered books be admitted from any source at any time.

VIII. Each inmate be permitted three hours weekly of visiting (including children).

IX. All telephones be kept operational and an improvement in conditions and deputy conduct be accomplished in the visiting areas.

X. An end come to arbitrary and unreasonable pre-registration of visitors.

XI. Sheriff's deputies refrain from physical abuse of inmates, except when immediately necessary to prevent injury, death or the destruction of valuable property.

XII. Inmates on the federal tier be provided with eight hours of uninterrupted sleep each night, without exception, and that guards not disturb the inmates during that time without justification.

XIII. Lighting be tested and adjusted for minimum reading requirements in the cells and burned out bulbs be promptly replaced.

XIV. No general lock-downs be allowed, except in cases of emergency to the security of the institution.

XV. Inmates not be housed on the floor; that each inmate be given a bed.

XVI. An exterminator visit the federal tier at least once per month and not spray insecticide into the air vents.

XVII. Enough chairs and tables be placed in the federal common area, so that all inmates can be seated.

XVIII. All cells on the federal tier be cleaned and painted.

XIX. An air quality inspector test the quality of the air on the federal tier and if the air does not meet federal Environmental Protection Agency air quality standards, that proper improvements be carried out immediately.

XX. Heating and air conditioning equipment be maintained in proper working order for all cells and common areas and that the temperature be kept within a constant range, to be determined by an expert in that field.

XXI. Individual lights for reading at night be installed in the cells and that the controls for night lights be given the inmates.

XXII. A test be done on the noise level in the federal area and if that level does not meet federal EPA noise level standards, that proper improvements be carried out immediately.

XXIII. The city fire inspector immediately test the fire safety equipment and make sure it is in working order and fix whatever is inoperative.

- XXIV. Non-slip mats be placed on all shower stall floors.
- XXV. Sufficient cleaning materials and disinfectant be given to each cell each morning, including, but not limited to rags, brooms, clean mops, cleaner, polish, etc.
- XXVI. Showers be left on during the inmate out time and that water pressure be adequate.
- XXVII. All drains be cleaned out and kept free-flowing.
- XXVIII. The common toilet and sinks be kept clean and in working order at all times.
- XXIX. Inmates be given a minimum of one hour each day of outdoor recreation and that the walkways be open for walking at all times.
- XXX. Establishment of a reading and reference library for inmate use.
- XXXI. A test by an expert in the field be carried out on the nutritional adequacy of the present inmate diet, that the food be tested after preparation for vitamin, protein and nutrient deficiency and if the diet does not meet the American Medical Association minimum requirements, that the diet be changed, so that inmates are adequately fed.
- XXXII. A reasonable portion of fresh fruit, fresh vegetables and low-fat milk be provided every day to all inmates.
- XXXIII. Left-over food always be offered to inmates before disposal and deputies not eat the inmates' food.
- XXXIV. Food be prepared under sanitary conditions and checked for bugs before being brought over for inmates' consumption.
- XXXV. The New Orleans City Health Inspector check the kitchen sanitation on a regular basis, without previous notice.
- XXXVI. Food not be served whose dates for consumption have expired, but not let this order be an excuse for elimination of desirable food items.
- XXXVII. Length of hair and beards be an inmate's individual decision, unless there is a legitimate compelling reason based on security to have it otherwise.
- XXXVIII. Mattresses be disposed of when bug infested or stuffing hanging out.
- XXXIX. Toothbrushes, toothpaste and adequate clean clothes and bedding be issued to each inmate upon arrival.
- XXXX. A non-smoking living area be established for those federal inmates who are non-smokers, including cells and common areas.
- XXXXI. Women prisoners be given equivalent housing and living conditions as the men and not be celled with convicted state offenders.
- XXXXII. Aspirin/tylenol and decongestants be kept available on the quad at all times.

XXXXIII. A medical doctor be on the premises at all times for inmate emergency visits and that a system of sick call be initiated each day, where a qualified medical practitioner is on hand to prescribe medication and offer medical opinions.

XXXXIV. Medical specialists be available to the inmates within a reasonable time.

XXXXV. Renewal of prescriptions be available within 24 hours of expiration.

XXXXVI. Sealed vitamin pills be allowed each inmate upon request, either from the medical department, the commissary or from outside.

XXXXVII. Inmates be allowed reasonable access to the law library upon request and/or a system be initiated for delivery of necessary legal materials daily, as the court deems proper.

XXXXVIII. A notary be available to inmates.

XXXXIX. A reasonable number of typewriters be made available to inmates for legal matters.

L. A copy machine for legal matters be made available to inmates.

LI. A permanent lawyers visiting area be made available, which will have ensured confidentiality of communication.

LII. Collect only pay phones be installed in the inmate common area with monitoring capabilities. (It is suggested that six (6) telephones are adequate for 72 people); that these phones have a shut-off control for emergencies; that these phones be available for inmates use whenever they are out of their cells; that attorney-client calls not be monitored; that no inmate be denied legal phone calls when he feels such a call is necessary.

LIII. During cell searches, inmates' property be left reasonably in the same condition as before the deputy's entry.

LIV. Strip searches only be done when there is a legitimate security reason for doing so.

* LV. Inmates private property not be taken without a hearing consisting of due process safeguards.

LVI. Inmates not be forced to wash their own clothes and bedding; that a laundry system be established insuring clean clothes and bedding for inmates at all times.

LVII. Some healthy items be put on the commissary list; that a reasonable profit be guaranteed the proprietor on all items, but that price gouging be ended.

LVIII. Each inmate be given a receipt with each purchase, showing his old balance, amount of purchase and new balance, so that he can audit his account.

LIX. Commissary order sheets be handed out only in the daytime, consistently, when inmates are awake.

LI. Inmates be allowed to attend regular weekly religious observances, when available in the institution.

III. Inmates be allowed visitors, whether or not they are clean shaven.

IIII. An inmate handbook be printed and given each inmate upon arrival, that it have a list of all prohibited acts, the punishments if found guilty of these acts, a list of the inmates rights and responsibilities, and the grievance and appeal procedures associated with their conduct.

IIIII. The intercoms between cells and control be put back into working order.

IIIV. The HOD be discontinued as a segregation facility for federal inmates, until it is brought up to Constitutional standards, (which may prove to be impossible).

IIV. Administrative and disciplinary segregation not be accomplished without a hearing, which includes all due process safeguards, (i.e. The inmate have the right to call and confront witnesses, have the assistance of lay counsel, have the charges read to him and the opportunity to respond, have an impartial fact-finder and an impartial judge, have a decision made upon substantial evidence and have administrative review of the final decision), and that these safeguards be enumerated in the aforementioned inmates handbook.

IIVI. Federal pretrial detainees be afforded the same treatment as federal pretrial detainees incarcerated in the federal Bureau of Prisons system; that federal inmates in the CCC be governed by the guidelines in BOP Program Statement 7331.2, which offer the minimum rights entitled by federal policy; that all federal pretrial detainees in the CCC be considered beneficiaries of this mandate; that their rights not be any less just because the federal government has decided to contract out their detention to a local entity.

IIVII. Federal pretrial detainees at the CCC be considered third party beneficiaries of any contract for their care between the U. S. and the Orleans Parish Criminal Sheriff's Office, with all the rights that they would be entitled to by being beneficiaries of this contract.

IIVIII. Any other prohibitions the court deems proper under the circumstances.

5) Award Plaintiffs compensatory damages in the following amounts:

\$ 500,000 against Defendant Foti;
\$ 100,000 against Defendant Roberts;
\$ 100,000 against Defendant Donnelly;
\$ 250,000 against Defendant Lambert;
\$ 25,000 against Defendant Gaupp
\$ 25,000 against Defendant Jones
\$ 25,000 against Defendant Martin
\$ 250,000 against Defendant Lindner
\$ 25,000 against Defendant Short

to compensate Plaintiffs for the emotional harm and mental and physical

suffering.

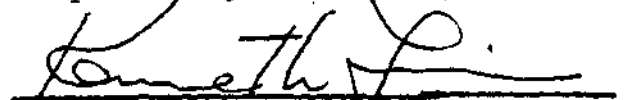
6) Award Plaintiffs punitive damages in the amount of \$ 250,000 in order to deter Defendants from punishing persons for engaging in Constitutionally protected activities in the future.

7) Order the Defendants to pay Plaintiffs reasonable counsel fees and costs herein.

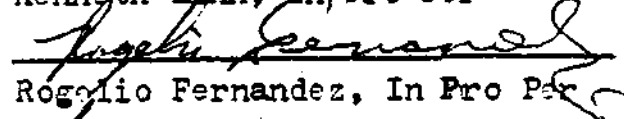
8) Grant such other relief as it may appear to the court that Plaintiffs are entitled.

DATED, the 18th of August, 1988.

Respectfully submitted,



Kenneth Linn, In Pro Per



Rogelio Fernandez, In Pro Per

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

Executed on 8/18/88



Kenneth Linn



Rogelio Fernandez