

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

FILED

ROBERT E. BULLINGTON, et al.,)

Plaintiffs,)

-vs-)

ST. LOUIS COUNTY, MISSOURI,)
et al.,)

Defendants.)

MAR 23 1980

EYVON MENDENHALL
U. S. DISTRICT COURT
E. DISTRICT OF MO.

No. 79-650-C(2)

ANSWER TO PLAINTIFF'S AMENDED COMPLAINT FOR
DECLARATORY JUDGMENT, INJUNCTIVE RELIEF
AND OTHER APPROPRIATE RELIEF

Comes now Defendants Gene McNary and Edward Moreland and for their Answer to Plaintiffs' First Amended Complaint for Declaratory Judgment, Injunctive Relief and Other Appropriate Relief state to the Court as follows:

Statement of Facts

1. Plaintiffs' Paragraph Number 7 of Complaint:

Plaintiffs and the classes each represent have been, are, and will continue to be subjected to the shocking, dehumanizing, illegal and unconstitutional conditions and practices enumerated in this complaint. These conditions and practices exist because of the willful and intentional acts, policies and omissions of the defendants in this action.

ANSWER: Defendants deny each and every allegation set forth in Paragraph 7 of Plaintiffs' Complaint.

2. Plaintiffs' Paragraph Number 8 of Complaint:

The St. Louis County Jail was erected in 1940 to serve as a "county" jail. At that time the population of St. Louis County was less than 1 million and the County was primarily rural. The county has grown and its character changed as the St. Louis County Metropolitan Area has grown. The county is now primarily urban with a population in excess of one million.

ANSWER: Defendants admit that the St. Louis County Jail was erected in 1950 and that St. Louis County has a population of approximately one million. Defendants do not have sufficient knowledge to answer as to the term "character" of St. Louis County nor as to the term "St. Louis County Metropolitan Area."

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3. Plaintiffs' Paragraph Number 9 of Complaint:

The inmates in the St. Louis County Jail, both pre-trial and detainees and sentenced inmates, are housed on the 4th floor of the structure.

ANSWER: Defendants admit certain inmates are housed on the 4th floor but in addition inmates are also housed on the 3rd floor.

4. Plaintiffs' Paragraph Number 10 of Complaint:

The St. Louis County Jail's inmate population fluctuates. The average daily number of prisoners housed at the jail is 112.

ANSWER: Defendants admit that the jail's population fluctuates and that the average daily number of prisoners housed exceeds 112 inmates.

UNSANITARY AND UNSAFE CONDITIONS

5. Plaintiffs' Paragraph Number 11 of Complaint:

The cells are infested with roaches and mice. There is also a fungus which frequently grows on some walls of the jail during periods of high humidity and heat. Whenever this fungus is present, there is an increase of respiratory ailments among the inmates.

ANSWER: Defendants deny each and every allegation set forth in Paragraph 11 of Plaintiffs' Complaint.

6. Plaintiffs' Paragraph Number 12 of Complaint:

Windows in the jail vary in their condition. In 1975 a majority of the windows were blocked up and air conditioning units installed. The exhaust vents on the roof provide the only source of ventilation in the cell areas. This lack of ventilation causes foul odors to collect and constantly permeate the air.

ANSWER: Defendants admit the windows vary in their condition but deny that air conditioners were installed in any of the windows and deny each and every other allegation of Paragraph 12 of Plaintiffs' Complaint.

7. Plaintiffs' Paragraph Number 13 of Complaint:

The mattresses for the bunks are filthy, foul-smelling and never cleaned, aired out or disinfected. No mattress covers are furnished and there is often a long period of time between changing of sheets.

ANSWER: Defendants admit that there are not mattress covers but deny each and every other allegation set forth in Paragraph 13 of

Plaintiffs' Complaint.

8. Plaintiffs' Paragraph Number 14 of Complaint:

The only cleaning in the jail is done by the inmates. Inmates who are trustees are responsible for the halls and common areas, while all inmates are solely responsible for their cells. Inmates who are not trustees frequently have difficulty obtaining the proper cleaning tools, such as mops and brooms.

ANSWER: Defendants admit the inmates and inmate trustees clean the jail but deny that cleaning materials are not made available.

9. Plaintiffs' Paragraph Number 15 of Complaint:

Showers and open toilet areas are contained in each cell except for the women's cell that has a separate enclosed bath room. The only cleaning of these areas is done by the inmates occupying the individual cells who are seldom provided with the proper materials to adequately clean these areas. Consequently these areas are breeding grounds for bacteria and fungus.

ANSWER: Defendants admit that showers and open toilet areas are contained in each cell including the women's cells. The cleaning of these areas is done by inmates occupying the individual cells in addition to inmate trustees but deny that said inmates and trustee inmates are not provided with the proper materials to adequately clean these areas. Defendants deny that the areas are breeding grounds for bacteria and fungus.

10. Plaintiffs' Paragraph Number 16 of Complaint:

Inmates are required to eat their meals in their cells, which are usually in a dirty and unsanitary condition due to the limited amount of cleaning previously described.

ANSWER: Defendants admit that inmates are required to eat their meals in their cells but deny that the cells are dirty or unsanitary due to the limited amount of cleaning.

11. Plaintiffs' Paragraph Number 17 of Complaint:

There is insufficient hot water for inmates to take showers. Normally an inmate must shower in cold water or remain dirty.

ANSWER: Defendants deny each and every allegation set forth in Paragraph 17 of Plaintiffs' Complaint.

12. Plaintiffs' Paragraph Number 18 of Complaint:

Personal hygiene items such as shampoo, soap, tooth paste, tooth brushes, and combs are sometimes difficult to obtain. No razors are given to any inmates, except during sporadic times when groups of inmates are allowed to shave in one common room.

ANSWER: Defendants admit that razors are not given to inmates and that shaving is only allowed as a group activity but deny that personal hygiene items such as soap, toothpaste, shampoo, toothbrushes and combs are difficult to obtain.

13. Plaintiffs' Paragraph Number 19 of Complaint:

Laundry is supposed to be done once a week for all inmates by the trustees. However, because of breakdowns in the equipment, washing is often done only once a month. Also inmates must wash their own socks in the sink without any detergent.

ANSWER: Defendants admit that occasionally breakdowns of equipment do interrupt the washing schedule but deny that said schedule is often done only once a month. Defendants admit that certain personal garments such as socks are to be washed by the inmates in the sink but deny that the inmates are not allowed detergent to wash said socks.

14. Plaintiffs' Paragraph Number 20 of Complaint:

There are heating and cooling problems, causing the jail to be unreasonably cold in the winter and unreasonably hot in the summer. At all times, the temperature varies from floor to floor. Inmates often suffer the harsh physiological effects of temperature extremes.

ANSWER: Defendants admit that the temperature varies in the jail from floor to floor but deny each and every other allegation as set forth in Paragraph 20 of Plaintiffs' Complaint.

LACK OF USE OF RECREATIONAL FACILITIES

15. Plaintiffs' Paragraph Number 21 of Complaint:

An indoor area is provided for exercise or recreation of the inmates, but is not utilized due to a shortage of staff to supervise the area. This lack of recreation leads to mental and physical deterioration.

ANSWER: Defendants admit that an indoor area is provided for exercise and recreation of inmates and that at times a full utilization of said area is not used due to a shortage of staff. Defendants deny each and every other allegation set forth in Paragraph 21 of Plaintiffs' Complaint.

FOOD

16. Plaintiffs' Paragraph Number 22 of Complaint:

The food served to the inmates is nutritionally deficient. Food which is supposed to be hot is always cold. Inmates never receive fresh fruits or vegetables. The portions of food which inmates do receive are too small, leaving inmates still hungry immediately after eating a meal.

ANSWER: Defendants deny each and every allegation as set forth in Paragraph 22 of Plaintiffs' Complaint.

MEDICAL FACILITIES AND CARE

17. Plaintiffs' Paragraph Number 23 of Complaint:

An inmate needing medical attention or medication from 5:00 p.m. to 9:00 a.m. must request it by getting a written or oral message to a correctional officer. These officers have no procedure for routinely checking with inmates to see who needs medical attention and they do not in fact do so. Even when officers receive requests for medical attention, these messages may not be conveyed to the medical staff at all. Therefore, inmates must sometimes endure unreasonable delay in obtaining needed care. For "minor" problems, such as colds, sores, dandruff, insect bites, rashes, corns, athlete's foot, headaches and tooth aches, it is very difficult to get any relief, even an aspirin.

ANSWER: Defendants admit that an inmate needing medical attention or medication from 5:00 p.m. to 9:00 a.m. must request it by getting a written or oral message to a correctional officer, but deny each and every other allegation set forth in Paragraph 23 of Plaintiffs' Complaint.

18. Plaintiffs' Paragraph Number 24 of Complaint:

When medical requests are made, the officer decides if the inmate receives medical attention. The officer has no specialized training to diagnosis or to determine if medical assistance is required. Therefore, the decision to allow medical assistance is often at the whim of the officer.

ANSWER: Defendants admit that a correctional officer decides if an inmate receives medical attention but deny each and every other allegation set forth in Paragraph 24 of Plaintiffs' Complaint.

19. Plaintiffs' Paragraph Number 25 of Complaint:

There is no medical screening procedure to test for contagious diseases. Trustees who handle all food preparation tasks do receive limited amount of screening for certain diseases. However, this screening frequently does not take place until the inmate has been on the job for a number of weeks, thus rendering these tests meaningless, exposing other inmates to great harm.

ANSWER: Defendants deny each and every allegation set forth in Paragraph 25 of Plaintiffs' Complaint.

20. Plaintiffs' Paragraph Number 26 of Complaint:

No dental care is provided.

ANSWER: Defendants admit that no preventative dentistry is provided for inmates but deny each and every other allegation as set forth in Paragraph 26 of Plaintiffs' Complaint.

VISITATION AND COMMUNICATION RIGHTS

21. Plaintiffs' Paragraph Number 27 of Complaint:

The visiting facilities are grossly inadequate. The visitation area consists of a "fish-bowl" area where visitors enter. Inmates are viewed through glass-like panels which are the walls of the "fish-bowl". If more than two or three persons occupy this area it becomes very crowded. Inmates with visitors must stand on the outside of the "fish-bowl" and communicate with their visitors through a hole. They are difficult for effective and meaningful communication. There is only one visit allowed per week. Each inmate is allotted 1/2 hour per week for visitation, with a limit of 3 visitors.

ANSWER: Defendants deny that inmates are allotted one-half hour per week for visitation and deny that there is a limit of three visitors. Defendants admit that the inmate is allotted one hour per week with a limit of two visitors per said visit. Defendants deny that if two people occupy the visiting area that said visiting area becomes very crowded. Defendants deny each and every other allegation set forth in Paragraph 27 of Plaintiffs' Complaint.

22. Plaintiffs' Paragraph Number 28 of Complaint:

Inmates are allowed an initial phone call upon admittance and are thereafter allowed to make one call per week. According to the whims of some guards, certain inmates are permitted to make more calls, while

some have their weekly call delayed until the very end of the week. Inmates are allowed to speak to the person called for a period of 5 minutes. The calls take place in an office, with a social worker or officer present, depriving them of any privacy. If an inmate uses this call to speak with his attorney, he is denied the confidentiality of the attorney-client relationship.

ANSWER: Defendants deny each and every allegation set forth in Paragraph 28 of Plaintiffs' Complaint.

JAIL DISCIPLINE

23. Plaintiffs' Paragraph Number 29 of Complaint:

The only written rules and regulations issued to inmates consist of a general list of infractions classified by level of seriousness. Included with this list is a generalized statement as to the punishment to be given if a certain rule is broken. The jail purports to have a policy whereby all inmates are to receive a copy of these rules upon admission. However, officers neglect to provide this document to incoming inmates. Frequently inmates are, therefore, unaware of the existence of any formal rules or regulations.

ANSWER: Defendants deny each and every allegation as set forth in Paragraph 29 of Plaintiffs' Complaint.

24. Plaintiffs' Paragraph Number 30 of Complaint:

When inmates do violate a rule or regulation, no due process whatsoever is afforded the inmate. Guilt or innocence is an arbitrary decision made by the individual guard and the inmate may or may not be punished depending on the mood of the guard. There is no procedure for appeal of a decision of guilt.

ANSWER: Defendants deny each and every allegation as set forth in Paragraph 30 of Plaintiffs' Complaint.

25. Plaintiffs' Paragraph Number 31 of Complaint:

A procedure exists for reducing the time to be served by a sentence inmate if he shows good behavior while in the jail. Inmates lose "good time", as this practice is called, on the whim of the corrections officers and are frequently not informed of this decision when it is made.

ANSWER: Defendants admit that a procedure exists for reducing the time to be served by a sentenced inmate if he shows good behavior while

in jail but deny that said procedure is based upon the whim of the correction officer as set forth in Paragraph 31 of Plaintiffs' Complaint.

26. Plaintiffs' Paragraph Number 32 of Complaint:

Shakedowns occur at unreasonable times and are harrassing in nature. When shakedowns do occur it is normal practice for officers to throw bedding onto floors that have standing pools of water and to scatter personal items throughout the cell areas, causing them to become lost and damaged.

ANSWER: Defendants admit that shakedowns do occur at various times but that said times are not unreasonable. Defendants deny each and every other allegation as set forth in Paragraph 32 of Plaintiffs' Complaint.

27. Plaintiffs' Paragraph Number 33 of Complaint:

When admitted to the jail, all of an inmate's personal effects are placed in a numbered bin in the property room located in the basement.

ANSWER: Defendants admit that when an inmate is admitted to the St. Louis County Jail that his personal effects are placed in a numbered box in a locked property room but deny that this area is located in the basement of the building. Said area is located on the same floor as the confinement area. Defendants further state that an inmate, upon request, can obtain certain personal effects from said box such as legal books or documents.

28. Plaintiffs' Paragraph Number 34 of Complaint:

Inmates are subjected to verbal abuse from officers, such as threats, name-calling, intimidations, insinuations and harrassment.

ANSWER: Defendants deny each and every allegation as set forth in Paragraph 34 of Plaintiffs' Complaint.

29. Plaintiffs' Paragraph Number 35 of Complaint:

There is no established procedure for registering inmate complaints. The inmate must depend upon the good humor of the staff to correct any problem he or she might be having.

ANSWER: Defendants deny each and every allegation as set forth in Paragraph 35 of Plaintiffs' Complaint.

INMATE SECURITY AND SUPERVISION

30. Plaintiffs' Paragraph Number 36 of Complaint:

Those persons hired as guards for the St. Louis County Jail receive no training to prepare them for their duties at a detention facility.

ANSWER: Defendants deny each and every allegation as set forth in Paragraph 36 of Plaintiffs' Complaint.

31. Plaintiffs' Paragraph Number 37 of Complaint:

There is no effective procedure for the classification of inmates. Pre-trial detainees, misdemeanants and felons are all housed together. No classification procedure exists based upon inmates' age, physical size, crime or experience with the criminal justice system. The only system of classification which does exist is an arbitrary one imposed by the staff attempting to separate violent inmates from those more well-behaved.

ANSWER: Defendants deny each and every allegation set forth in Paragraph 37 of Plaintiffs' Complaint.

32. Plaintiffs' Paragraph Number 38 of Complaint:

Adequate supervision of the inmates is impeded by the structure of the jail itself and the limited number of guard staff employed by the jail. There is no central location in the jail where guards can supervise inmates located in cells and there are too few guards on duty at any given time to have someone stationed on each of the floors at all times. Consequently, when assaults or medical emergencies have occurred in the past, guards have had difficulty determining from what part of the jail an inmate's cries for help have come. Delays in locating disturbances or medical emergencies have resulted in unnecessary injuries which could have been prevented. In instances where inmates are so severely injured or seriously ill preventing them from crying out for help, even more grievous harm has occurred.

ANSWER: Defendants deny each and every allegation set forth in Paragraph 38 of Plaintiffs' Complaint.

33. Plaintiffs' Paragraph Number 39 of Complaint:

Plaintiffs and the class they represent suffer mental and emotional as well as physical harm by incarceration at the St. Louis County Jail. Long term psychological damage results from the degradation and demoralization associated with the unsanitary and inhumane living conditions, the lack of adequate recreational facilities, the

long hours of idleness, the isolation, the deficient health program, the almost total denial of contact with their families and friends, and the inconsistent treatment by jail personnel. This atmosphere deprives plaintiffs and the class they represent of all dignity and severely damages their mental and emotional well-being. The mental and emotional harm is demonstrated by the numerous suicide attempts at the jail.

ANSWER: Defendants deny each and every allegation set forth in Paragraph 39 of Plaintiffs' Complaint.

FREEDOM TO PRACTICE RELIGION

34. Plaintiffs' Paragraph Number 40 of Complaint:

No special diets are provided for those inmates whose religious preference requires one.

ANSWER: Defendants deny each and every allegation set forth in Paragraph 40 of Plaintiffs' Complaint.

35. Plaintiffs' Paragraph Number 41 of Complaint:

Plaintiffs and the class they represent, pretrial detainees, First Amendment Rights are violated by the officers placing the inmates' reading material from publishers in the property bin without allowing the inmates access to the bin. The inmates are restricted to only two pieces of literature per week.

ANSWER: Defendants deny that they violate the First Amendment rights of inmates by placing the inmates' reading material in the property bin without allowing inmates access to the bin. Defendants admit that inmates are restricted to two pieces of published material (excluding a Bible and/or legal documents) at any given time. Defendants further state that an inmate may request other published materials if he turns in the two in his possession at any time of the week and hence theoretically could read numerous publications per week.

36. Plaintiffs' Paragraph Number 42 of Complaint:

Pretrial detainees are impaired as to their right to aid in the preparation of their defense at trial in the following manner.

a. There is no adequate facility for private conversations between inmates and attorneys. Most attorney-client visits take place in Social Workers' offices. Attorneys who do wish to speak privately with their clients must wait their turn to use the Social Worker's office.

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The hours for these visits are limited and if there are a large number of requests for private attorney visits, there may be a delay of several days before an inmate can consult privately with his attorney.

b. The jail does not have a Law Library. The legal books are scattered remotely in Social Workers' offices and are inadequate to assist the inmates. No provisions are made for inmates to have access to a law library if they should need to use one.

c. Inmate's legal papers, documents, notes, letters, and other records have been confiscated or destroyed.

d. Writing paper, pens, envelopes, etc. are often difficult to obtain, especially by those detainees who are indigent.

e. Lack of access to telephones inhibits proper attorney-client communication. There are no special telephone privileges for contacting attorneys, so a detainee has to use his one weekly call for this purpose. If the attorney is not in his office when the call is made, the inmate cannot try again for another week.

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ANSWER: Defendants deny each and every allegation set forth in Paragraph 42 of Plaintiffs' Complaint.

37. Plaintiffs' Paragraph Number 43 of Complaint:

Inmates are often forced to appear in court unshaven and wearing dirty, malodorous clothing. The psychological impact of being unable to relate to a jury as dignified human beings has caused many inmates to be ineffective witnesses at trial.

ANSWER: Defendants deny each and every allegation set forth in Paragraph 43 of Plaintiffs' Complaint.

38. Plaintiffs' Paragraph Number 44 of Complaint:

Information, rumors and personal correspondence concerning an inmate's case are openly and loudly discussed by jail staff.

ANSWER: Defendants deny each and every allegation set forth in Paragraph 44 of Plaintiffs' Complaint.

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Defendants request that the Court incorporate by reference numerous documents provided by Defendants; said documents are identified as three manila folders and designated Volume 1 of 3, Volume 2 of 3, and Volume 3 of 3 which set forth with specificity the policies and practices of the St. Louis County Jail. Defendants further state the following:

1. This Court lacks jurisdiction over the subject matter.

2. The Amended Complaint fails to state a claim upon which relief can be granted against these Defendants.

3. The Amended Complaint is frivolous and malicious and should be stricken pursuant to 28 USC Code 1915(d).

WHEREFORE, having fully answered Plaintiffs' Amended Complaint Defendants Gene McNary and Edward Moreland pray that said Complaint be dismissed with prejudice at Plaintiffs' cost.

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PROOF OF SERVICE

THE UNDERSIGNED CERTIFIES THAT A COMPLETE COPY OF THIS INSTRUMENT WAS SERVED UPON THE ATTORNEYS OF RECORD OF EACH PARTY TO THE ABOVE ACTION BY ENCL. NO. THE SAME IN AN ENVELOPE ADDRESSED TO SAID ATTORNEYS AT THEIR BUSINESS ADDRESS AS DECLARED IN THE PLEADINGS OF RECORD HEREIN WITH FIRST CLASS POSTAGE FULLY PREPAID, AND BY DEPOSITING SAID ENCL. IN THE U. S. MAIL ON THE

28 DAY OF March A D., 1992
Donald J. Weyers