

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DIVISION, EASTERN JUDICIAL DISTRICT
OF MISSOURI

OCT 30 1979

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

ROBERT ERNEST BULLINGTON, et al.)
)
Plaintiffs,)
)
vs.)
)
WARDEN MORELAND, et al.)
)
Defendants.)

Cause No. 79-650 C (4)(3)

BRIEF OF DEFENDANTS IN SUPPORT
OF DEFENDANTS MOTION TO DISMISS COMPLAINT

Plaintiffs in their first Amended Complaint are attempting to relitigate the issues of law and fact previously brought before this Court regarding policies, conditions and facilities of the St. Louis County, Missouri Jail in Clayton, Missouri. Further, Plaintiffs have prayed for relief from said policies and conditions which this Court has already investigated and entered judgment.

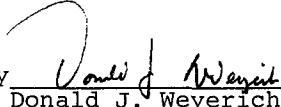
This Court in the Case of Ronnie Johnson, et al. v. William O'Brien, et al., Cause No. 76-210 C (3), Appeal dismissed in 78-1143, caused the facilities and policies extant at the Clayton portion of the St. Louis County Jail to be exhaustively investigated by Magistrate William S. Bahn as Special Master. At the conclusion of said investigation, the parties entered into a stipulation and judgment was entered wherein St. Louis County was required to comply with said judgment and make progress reports on a periodic basis to the Court to ensure compliance. The same issues and factual allegations are again raised in Plaintiffs' Amended Complaint. The Court ordered renovation of said facilities continues under this Court's supervision pursuant to the judgment in Johnson v. O'Brien supra.

Plaintiffs' Complaint is an attempt to sue upon the cause of action adjudicated in Johnson supra, as the same parties and issues were previously joined and ruled upon thus constituting res judicata as to those issues and parties. See Commissioner v. Sunnen, 333 U.S. 591, 597 (1948). It is clear from Plaintiffs' Amended Complaint that the wrong for which redress is sought is

the same as that sought by the class represented in Johnson supra.
Thus, said claim is precluded. Woodbury v. Porter, 158 F. 2d. 194
(8th Cir. 1946) quoted in Hanson v. Hunt Oil, 505 F. 2d. 1237
(8th Cir. 1974).

Plaintiffs' attempt to relitigate the issues and facts
surrounding the facilities, policies, and operation of the
Clayton portion of the St. Louis County Jail facility should
be dismissed.

THOMAS W. WEHRLE
St. Louis County Counselor

By 
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Attorneys for Defendants

ROBERT ERNEST BULLINGTON
et al. vs.

No. 79-650 C (4)(3)

United States District Court

Eastern District of Missouri

WARDEN MORELAND, et al.

October 29, 1979

MEMORANDUM FOR CLERK

Comes now Defendants and file Defendant's
Motion to Dismiss Amended Complaint and Brief in
Support.

THOMAS W. WEHRLE
St. Louis County Counselor

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OCT 30 1979

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

PROOF OF SERVICE

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29th DAY OF October A.D. 1979

Donald K. Anderson

Plaintiff
Attorney's for
Defendant