

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

NATHANIEL ROBERTS, *et al.*, :
 :
Plaintiffs, : Case No. 4:03CV2329
 :
vs. : Judge David D. Dowd, Jr.
 :
COUNTY OF MAHONING, OHIO, *et al.*, : Magistrate Judge Limbert
 :
Defendants. :

**DEFENDANTS' PROPOSED FINDINGS OF FACT
AND CONCLUSIONS OF LAW**

The Facilities.

1. The Mahoning County Justice Center Facility was built in 1996.
2. The facility is made up of two buildings-the main jail facility and the Minimum Security Mahoning County Jail. The main jail facility houses an average of approximately 600 inmates, while the Minimum Security facility houses approximately 80 inmates. Both facilities are located in the City of Youngstown.
3. The Minimum Security facility houses non-violent and low level misdemeanor inmates. It is an unlocked facility where inmates are satisfying sentences for non-violent crimes.
4. The facility has at least 17 different housing areas for use in classifying inmates, which allows them to keep violent and nonviolent inmates apart.
5. The facility has the benefit of 153 cameras to monitor security.
6. Inmates are provided with any number of privileges, including: cable television; use of a washer and dryer in the day area; use of showers; use of bathrooms and sinks outside of

their cells; indoor recreation facilities which include basketball, an exercise bike and a place to perform individual exercises; commissary privileges each Monday and Wednesday; visitation with friends and relatives who are properly identified on a weekly basis; programming through CCA, a subcontractor that provides GED training, domestic violence training and other programs.

7. A number of inmates are have roommates or are “double bunked.”
8. The average length of stay for inmates is less than 30 days.

Staff.

9. The number of staff has varied over time depending upon the financial constraints on the county. While at one time the county had been ordered to keep 151 staff on hand at the facility in the positions of guards or administration, since the county has been relieved from that order, the county has used 130 to 190 to staff in the facility.
10. The Sheriff and Jail Administrator have a policy in place to protect staff and inmates by locking down inmates for their own safety and the safety of guards when required.
11. Fewer acts of violence occur when inmates are locked down than when they are permitted to use the day area.
12. The Mahoning County Sheriff’s Department provides services to its community in addition to the incarceration and rehabilitation of inmates, including the service of subpoenas, transports to and from many of the county courts, security to the Mahoning County Courthouse and emergency calls from many of the outlying communities of Mahoning County.
13. When necessary, the Sheriff orders Deputies away from the other services provided to the community and orders that these Deputies take up duties in the Justice Center.

14. When there are not a sufficient number of deputies to open all of the pods so that the inmates may access the common areas, the Jail Administrator orders a lock down for the inmates' protection and for the protection of the deputies.
15. During times of financial difficulty for the county, inmates are locked down with greater frequency than they are in times when there are not budgetary concerns.
16. The administration rotates lock downs so that the same pods are not locked down on consecutive days.
17. The number of incidents of violence per inmate have stayed steady over the time period of 2000 to 2003, even though the staffing levels have varied, and even though the facility has come out from a federal court order for its operation.
18. The timing of deputies arriving for backup have not harmed inmates.
19. The union representing the deputies has historically requested additional numbers for their membership.

Maintenance.

20. The maintenance of the facility is accomplished by three experienced staff members who have been trained in facility maintenance.
21. The plumbing system is sabotaged by inmates by the flushing of towels, bags, pillow cases and the like.
22. The maintenance workers respond when called by the security staff and typically fix problems within two or three hours.
23. The maintenance workers are on call on the weekends and respond to security staff promptly to fix plumbing problems reported to them.
24. The maintenance staff has suggested improvements to the plumbing system to attempt to

make it less susceptible to sabotage from inmates. The suggested improvements have been funded by the County when requested and include new parts and upgrades to the design of the system.

25. Elevator and locking systems are repaired by the maintenance staff when requested.
26. The Sheriff has dedicated one deputy to fix any problems with the computer system and communication systems.
27. Television cameras are stationed throughout the facility for security purposes. The Sheriff replaced 26 cameras and added new cameras in the day areas, hallways, and outside the building.
28. All of the touch screens for the computers in the pods have been replaced in 2004.

Legal Access.

29. The plaintiffs have not produced an inmate with a story of obstruction to the access to the courts for a nonfrivolous claim to challenge his or her sentence or the conditions of confinement.
30. Presentenced inmates have access to attorneys to assist them with access to the courts concerning their expected sentence.
31. Postsentenced inmates have access to attorneys to assist them with access to the courts to challenge their sentence.
32. In addition, the staff responds to inmate requests for assistance, or “kites,” by obtaining legal information when requested.
33. The plaintiffs have access to the courts to challenge the conditions of confinement, as evidenced by this suit.
34. The University of Akron Law School billed the facility \$60,000 in its last year in the

facility to have law students talk with inmates about their legal problems.

Proposed Conclusions of Law

1. The Court is without jurisdiction to order any of the relief requested because plaintiffs have failed to prove a current and ongoing constitutional violation. 18 U.S.C. sec. 3626(b)(3).
2. The Court is without jurisdiction to order the relief requested because the relief is not narrowly drawn, fails to extend no further than necessary to correct a violation of any federal right, and is not proven to be the least intrusive means necessary to correct the violation of any federal right. 18 U.S.C. sec. (a)(1)(A).
3. Although the source of authority is different for pre-trial detainees than for sentenced inmates (i.e. due process and Eighth Amendment), the standards are the same. *Northington v. Sherrard*, 1992 U.S. App. LEXIS 3333 (6th Cir. 1992).
4. Defendants are not deliberately indifferent to the serious needs of the inmates at the Mahoning County Jail. *Estelle v. Gamble*, 429 U.S. 97, 50 L. Ed. 251, 97 S.Ct. 285 (1976); *Walker v. Fails*, 917 F.2d 1449 (6th Cir. 1990).
5. The plaintiffs have failed to prove that any deprivation was, objectively, sufficiently serious to pose a substantial risk of serious harm. *Farmer v. Brennan*, 511 U.S. 825, 114 S. Ct. 1970, 128 L.Ed. 2d 811 (1994).
6. The plaintiffs have failed to prove that the defendants have a sufficiently culpable state of mind. In prison-conditions cases that state of mind is one of deliberate indifference to inmate health or safety. *Id.* at 834.

7. The conditions of confinement for plaintiffs do not deprive them of the "minimal civilized measure of life's necessities." *Rhodes v. Chapman*, 452 U.S. 337, 347, 69 L.Ed. 2d 59, 101 S. Ct. 2392 (1981).
8. Defendant furnishes its inmates with reasonably adequate food, clothing, shelter, sanitation, medical care and personal safety. *Id.*
9. While the inmates may not have the access to programming that they may have enjoyed in the past, there exists a fundamental difference between depriving a prisoner privileges he may enjoy and depriving him of the basic necessities of life.
10. The practice of "double bunking" inmates--that is, putting more than one inmate in a cell does not deprive inmates of their constitutional rights. See *Rhodes v. Chapman*, 452 U.S. 337, 69 L.Ed. 2d 59, 101 S. Ct. 2392 (1981) (although double bunking may result in discomfort, that is not sufficient to rise to the level of a constitutional violation); *Bell v. Wolfish*, 441 U.S. 520, 99 S. Ct. 1861, 60 L. Ed. 2d 447 (1979) (pretrial detainees have no due process right to private cells).
11. Plaintiffs have not shown a constitutional violation for double bunking because there is no evidence that the practice subjected them to the unnecessary or wanton infliction of pain or led to a deprivation of essentials such as safety or sanitation. An infrequent lack of programming is insufficient for a constitutional violation. *Rhodes, supra.*
12. No plaintiff has demonstrated an "actual injury," which cannot be shown by a theoretical deficiency in access to legal resources or legal aid. *Lewis v. Casey*, 518 U.S. 343, 135 L.Ed 606, 116 S. Ct. 2174 (1996).

13. No plaintiff has demonstrated that the alleged shortcomings in the legal assistance program hinder his efforts to pursue a non-frivolous legal claim. *Id.*
14. Inmates do not have the right to select the methods by which access is provided. *Penrod v. Zavaras*, 94 F.3d 1399, 1403 (10th Cir. 1996).

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CERTIFICATE OF SERVICE

I hereby certify that on December 10, 2004, a copy of the forgoing was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Daniel T. Downey
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