

COMPLAINT

West v. Manson



PC-CT-010-001

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UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

U.S. DISTRICT COURT
HARTFORD, CT

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VALERIE WEST,
PASSION RAYNE WEST,
VICTORIA BELLAVITA,
JO-ANN PARKER,
DONNIELLE PARKER, AND
LINDA SHELTON

Plaintiffs

v.

CIVIL NO. H83-366

JOHN R. MANSON, Commissioner of
Department of Corrections,
MARIE CERINO, Warden, Connecticut
Correctional Institution,
Niantic, and
MARK MARCUS, Commissioner of
Department of Children and
Youth Services

Defendants

COMPLAINT

I. JURISDICTION

1. Plaintiffs' claims are brought pursuant to 42 U.S.C. §1983. Jurisdiction is conferred upon this Court by 28 U.S.C. §1343(3) and (4) and by 28 U.S.C. §1331(a).

2. This Court has pendant jurisdiction over plaintiffs' state law claims.

3. Declaratory judgment is sought pursuant to 28 U.S.C. §§2201-2202.

II. PARTIES

Plaintiffs:

1. Plaintiff Valerie West is a sentenced inmate residing in Faith Trumbull North. She has been incarcerated at Niantic since November, 1982.

2. Plaintiff Passion Rayne West is the one-month old daughter of plaintiff Valerie West. She was born to plaintiff Valerie West while plaintiff West was incarcerated at Niantic and presently resides with relatives in Connecticut.

3. Plaintiff Victoria Bellavita is a pretrial inmate residing in Davis Hall. She has been incarcerated at Niantic since February 2, 1983. She is presently in her second trimester of pregnancy.

9. Defendant Mark Marcus is and at all times pertinent herein has been the Commissioner of the Connecticut Department of Children and Youth Services. Pursuant to C.G.S. §17-415(e), he is required to provide adequate psychiatric, psychological, social and other services to children under his supervision and, pursuant to C.G.S. §17-415(j), he is required to coordinate the activities of the Department of Children and Youth Services with those of other state agencies concerned with providing services for children and youth and their families. He is sued in his official and individual capacities.

III. CLASS ACTION ALLEGATIONS

This action is brought as a class action pursuant to Rule 23(b)(1) and (2) of the Federal Rules of Civil Procedure.

a. Plaintiffs Valerie West, Victoria Bellavita, Jo-Ann Parker, and Linda Shelton, sue on behalf of all persons who are or will be confined in Niantic, whether in pretrial or sentenced status.

b. Plaintiffs Passion West and Donnielle Parker sue on behalf of all children whose mothers are or will be confined in Niantic.

c. The class of inmates consists of over two hundred members and is so numerous that joinder of all its members is impractical.

§18-65, it houses all females sixteen years of age and over who have been arrested and are unable to post bond while awaiting trial. It also houses all female offenders who have been sentenced to a term of incarceration at a Connecticut penal institution.

2. It is a medium security facility located on approximately 900 acres in a rural setting in Niantic, Connecticut. Although designed for 156 inmates, the population recently has reached as high as 235 .

3. The population is approximately 55% black, 40% white and 5% Hispanic. The median age of the inmates is 26 and the average grade level is between 10th and 12th grade. Sixty percent of the inmates are sentenced, 30% unsentenced and 10% sentenced with additional charges pending. The median minimum sentence is eighteen months.

A. Mental Health

1. Women inmates who are identified as mentally ill are housed on the second floor segregation area in Davis Hall together with women punished for violating prison regulations and women who are considered escape risks.

2. Mentally ill inmates are on occasion placed in the basement of Davis Hall, in one of four windowless, all-metal cells. This area is often referred to as "the Dungeon." Mentally ill inmates placed in this area are made to wear paper gowns and

on a daily basis cannot properly identify, refer, and treat inmates who are in need of psychiatric help.

8. The staff at Niantic is not trained to deal with acutely psychotic and suicidal inmates. This increases the likelihood that the response to crisis situations will be inadequate.

9. Currently, the procedures which exist to facilitate the transfer of inmates who are acutely psychotic to mental health facilities for treatment are inadequate.

10. Medication prescribed for mentally ill inmates cannot be adequately monitored due to the shortage of psychiatric staff. Medications sometimes are dispensed by guards.

11. The inadequate care of mentally ill inmates described in paragraphs A.1 to A.10, supra, leads to unnecessary physical and emotional suffering by mentally ill inmates and presents unnecessary risks to the general prison population.

B. Treatment of Drug-Dependent Inmates

1. Approximately 80% of women inmates, upon admission to Niantic, are drug or alcohol dependent. Many of them are successfully participating in a methadone program upon entering prison. Others are participating in other forms of addiction treatment or therapy. Nevertheless, upon arrival at Niantic, all drug-dependent inmates, pretrial and sentenced, are (with the

the institution. When pregnant inmates travel to and from court, no provision is made to assure that they will be fed adequately. This indifference to diet jeopardizes the health of pregnant inmates and the fetuses they carry.

2. Although many pregnant inmates upon admission are drug-dependent, until recently defendants have subjected these inmates, upon admission, to a twenty-one day detoxification program, irrespective of the fact that detoxification of pregnant persons during the first and third trimesters can cause fetal deformity, and that detoxification during the second trimester may also endanger the fetus if imposed as rapidly as defendants' detoxification program allows.

3. Defendants have failed to establish a methadone maintenance program for pregnant inmates which ensures that the risks set forth in paragraph C.2 supra, will not occur.

4. Although defendants recently changed their policy of shackling inmates during labor and childbirth, defendants' policy continues to allow for inmates to be shackled while going off grounds for hospital visits and during hospital stays, including the post-partum period.

D. Treatment of Mothers and Children

1. Pregnant inmates are taken to Lawrence and Memorial Hospital in New London, Connecticut in order to deliver their children.

Cerino have failed to arrange transportation for them to and from Niantic, and have failed to establish a program to insure children in foster care continue the familial relationship.

9. Upon information and belief, defendants Marcus, Manson and Cerino have failed to establish regulations for the placing of children born to inmates as required by C.G.S. §§18-69, and 18-69(a).

E. General Conditions in the Housing Units

1. Overcrowded Conditions

a. Pretrial detainees are housed in Thompson Hall. Presently there are approximately eighty-seven inmates in that unit design capacity of which is approximately fifty-five.

b. Because of overcrowded conditions, there is inadequate supervision, increased tension and violence, too few jobs, and a strain on already inadequate sanitation facilities.

c. The residences for sentenced inmates are also overcrowded. As a result, an inmate who is sentenced is not immediately moved from Thompson Hall. This delay causes a sentenced inmate delay in obtaining a job or entering a school program.

2. Lack of Toilet Facilities

a. At night from 9:45 p.m. to 7:30 a.m., most Thompson Hall residents are locked in rooms without toilet facilities and must depend upon correctional officers to unlock their cell doors if they need to use the bathroom.

F. Medical Care

1. Medication, although prepared by the nursing staff, is sometimes dispensed by guards with no medical or pharmaceutical training.
2. On several occasions, inmates at Niantic have been given liquid medication by guards with no instructions as to whether the it should be taken internally or applied externally.

G. Lack of Privacy

1. Twenty-three percent of correctional officers at Niantic are male. Some of these male guards are assigned by defendants to the housing units.
2. On many occasions male guards have taken the liberty of peering into the rooms in these units at times when they knew or should have known that inmates were dressing or undressing. Similarly, male guards sometimes peer into shower areas. These "observations" are unrelated to the need to establish a "count" of inmates or to any other security need.
3. Defendants have refused to allow inmates to place pieces of paper or other material over the windows of their cells or to take steps to insure male guards will not peer into shower areas.

3. There are no established hours during which the law library is open. Thus, inmates seeking to use it must make appointments in advance.

4. Upon information and belief, the library recently has been closed to all inmates in response to an alleged breach of discipline by a few.

J. Court Visits

1. Defendants' established procedures transporting inmates to and from scheduled court appearances places a substantial burden upon them. A single van departs from Niantic at about 7:00 a.m., and then makes a circuit of courthouses, dropping inmates at Bridgeport, New Haven and Hartford. At the close of the day the same course is followed in reverse so that inmates arrive back at Niantic late at night, sometimes as late as 11:00 p.m.

2. Although defendants provide inmates with a sandwich for lunch, some inmates are not fed again until the following day. Particularly for inmates with successive court appearances, this procedure proves so taxing as to substantially impair the inmates' capacity to protect their interest in court, and it may deter some from even pursuing legal claims.

2. Pay Equity

a. Wages for women inmates who have job assignments range from \$.90 per day to a maximum of \$1.40. Male inmates at Somers and Enfield, by contrast, earn between \$2.40 and \$5.70 per day for work performed within the institution.

3. Work Release Program

a. Pursuant to C.G.S. §18-100, defendant Manson is authorized to establish work release programs in which inmates report to jobs outside the institution during the day and return to the institution at night.

b. Although work-release programs have been established and are in operation at the jails housing male inmates, including Bridgeport, Hartford and New Haven, such a program, although formally established, has never been placed in operation at Niantic.

c. The only job available to Niantic inmates outside the institution is as cleaning women in the homes of members of the prison staff.

d. This failure to implement the work-release program not only prevents inmates from gaining employment, but also from earning extra good time credit pursuant to C.G.S. §18-98a.

4. Education

detention facilities. Sentenced male inmates, sixteen through twenty-one years of age, primarily are incarcerated at Cheshire, an institution devoted solely to this age bracket, with specialized programs to meet their specialized needs.

6. Mental Health Unit

a. The mental health services provided at Niantic are described in paragraphs A.1 through A.11, supra.

b. Male offenders who are mentally disturbed are given treatment at a special Mental Hygiene Unit at Somers which is staffed by a two full-time psychologists, a consulting psychologist, a correctional rehabilitation services officer, two correctional service aides, one clerk and four consulting psychiatrists. Male inmates also have access to treatment at Whiting Forensic Institute, a facility specially designed to house male inmates with psychiatric disorders.

c. Inmates at Niantic have no access to a full-time psychiatrist, full or part-time social workers, psychiatric nurses or guards specially trained to handle the mentally disturbed, no access to Whiting Forensic Institute and no access to a mental health unit comparable to that at Somers.

7. Treatment of Drug-Dependent Inmates

a. Defendants have established a policy at Niantic where inmates who desire to see a physician because of illness must put in a request prior to 8:00 a.m. on the day they wish to see the physician.

b. Inmates who become sick during the day or who are at Court during the day are not permitted to see a physician until the following morning.

c. At the male institutions, a physician is available during the day and evening hours and male inmates are allowed to see a physician at night if they become ill during the day.

11. Toilet Facilities

As described in paragraph E.2.a, supra, some inmates residing in Thompson Hall have no toilet in their cells.

Upon information and belief, all male inmates residing in single or double cells have toilets within their cells.

V. IRREPARABLE HARM

Plaintiffs are suffering and will continue to suffer irreparable harm for which they have no adequate remedy at law.

VI. VIOLATIONS OF LAW

The allegations of sections I through V are alleged as if pleaded herein in full.

infants and defendants' failure to provide transportation and visitation programs for mothers and their children violate both the mothers' and their children's fundamental right to family integrity as guaranteed by the First, Ninth and Fourteenth Amendments and the right to be free from cruel and unusual punishment as guaranteed by the Eighth and Fourteenth Amendments to the United States Constitution.

E. Defendants' failure to provide safe, uncrowded and sanitary housing facilities to inmates at Niantic violates their right to due process of law and to be free from cruel and unusual punishment as guaranteed by the Eighth and Fourteenth Amendments to the United States Constitution.

F. Defendants' policy of permitting guards to dispense medications constitutes a deliberate indifference to the serious medical needs of inmates in violation of the Eighth Amendment to the United States Constitution and constitutes a violation of due process in violation of the Fourteenth Amendment to the United States Constitution.

G. Defendants' practice of allowing male guards to view inmates in various stages of undress violates their right to privacy under the Ninth and Fourteenth Amendments to the United States Constitution.

2. Certify this case as a class action pursuant to Rule 23(a), (b)(1) and (b)(2) of the Federal Rules of Civil Procedure.

3. Enter a declaratory judgment pursuant to 28 U.S.C. §§2201 and 2202 and Rule 57 of the Federal Rules of Civil Procedure, declaring that the conditions of confinement, the facilities, programs, services, policies and practices of the defendants violate the rights of plaintiffs and the classes represented by the inmate plaintiffs and their children to family integrity, privacy, access to the courts, equal protection of the laws, due process of law and their right to be free from cruel and unusual punishment as guaranteed by the First, Sixth, Eighth, Ninth and Fourteenth Amendments to the United States Constitution.

4. Enter a temporary, preliminary and permanent injunction pursuant to Rule 65, Federal Rules of Civil Procedure, enjoining the defendants, their agents, and successors in office from refusing to provide to plaintiffs and their classes

- a. Adequate mental health care
- b. Adequate drug treatment and therapy
- c. Adequate diets and drug treatment for pregnant inmates
- d. Adequate facilities to prevent the separation of mothers and their children, adequate transportation and visitation programs for mothers and their children
- e. Safe, uncrowded and sanitary housing facilities