



PC-IN-002-003

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

Roger W. Anderson, individually,
and on behalf of all other inmates
similarly situated,

Plaintiff

v.

ROBERT ORR, in his official
capacity as GOVERNOR of the
State of Indiana

and

JOHN T. SHETTLE, in his official
capacity as Commissioner of the
Indiana Department of Correction

and

G. MICHAEL BROGLIN, in his official
capacity as Superintendent of the
Westville Correctional Center,
Westville, Indiana,

Defendants

Civil Action
No. S83-0481

Class Action

Second Amended
Complaint

I. INTRODUCTION

Inmates of the Westville Correctional Center in Westville, Indiana, bring this civil rights action to challenge and obtain relief from a combination of adverse conditions at the prison that are inflicting cruel and unusual punishment upon them. They assert that the totality of conditions at the prison -- severely overcrowded living areas, unacceptably high levels of peer violence, systematically deficient medical and psychiatric care,

and an array of other negative factors -- creates an experience that falls below contemporary standards of human decency, produces serious deprivations of basic human needs, generates unnecessary pain and suffering, and compromises their physical and mental well being.

Through this action, the plaintiffs seek to obtain a declaratory judgment that their constitutional rights are being violated and a comprehensive remedial order to permanently abate the conditions that are causing the violations.

II. JURISDICTION

1. Jurisdiction to hear and decide this case is conferred by 28 U.S.C. Section 1343 which grants federal district courts original jurisdiction over suits seeking to redress deprivations under color of state law of rights, privileges, or immunities secured by the United States Constitution. Pursuit of declaratory relief is authorized by 28 U.S.C. Sections 2201 and 2202. A federal cause of action exists in this case by virtue of 42 U.S.C. Section 1983 since the constitutional deprivations complained about are being inflicted by persons acting under color of state law.

III. PARTIES

2. The representative plaintiff, Roger W. Anderson, is an inmate of the Westville Correctional Center in Westville,

Indiana. He represents a certified class that consists of all present and future inmates of the prison.

3. Defendant Robert Orr is Governor of the State of Indiana and head of the State's executive branch of government. As Governor, he appoints the Indiana Commissioner of Correction and retains ultimate administrative authority over the Department of Correction -- a unit of the executive branch of government-- as well as the Westville Correctional Center. Governor Orr is sued in his official capacity.

4. Defendant John T. Shettle is the Commissioner of Correction for the State of Indiana. As Commissioner he exercises supervisory power over Indiana state prisons, including the Westville Correctional Center. Commissioner Shettle is sued in his official capacity.

5. Defendant G. Michael Broglin is Superintendent of the Westville Correctional Center. As the prison's administrator, he has custody and control of all prisoners confined in the institution and is responsible for its day-to-day operation. Superintendent Broglin is sued in his official capacity.

IV. FACTS

A. The Environment

6. The Westville Correctional Center is a medium security prison that houses adult prisoners who have been committed to the Indiana Department of Correction. With the exception of a small

maximum security unit, Westville's housing units are all dormitory-style.

7. The institution is profoundly overcrowded. Although it is designed to house approximately 1600 inmates, there are now almost 2800 inmates confined in the facility -- a level that is 75 percent over capacity.

8. Because of the influx of so many prisoners, the dormitories at Westville have been double-bunked. This intense density of people has resulted in beds being laid virtually against each other and, in some instances, mattresses being placed directly on the dormitory floors.

9. Heating and ventilation in the living units is inadequate. As a result, the potential for the spread of contagious airborne diseases is magnified.

10. There are not enough toilets, sinks and showers in the living units to accommodate the prison's bloated inmate population. These inadequacies negatively affect inmate hygiene and increase the potential for the continuation and spread of diseases.

11. Numerous mattresses in the housing units are torn, soiled and stained. They are not cleaned between uses or shielded by mattress covers. Mattresses in these conditions are harborage for disease carrying insects and can lead to the transfer of disease organisms from one bed user to the next. Torn mattresses also pose fire hazards through the exposure of highly combustible materials.

12. Lighting in the living areas is inadequate. At night,

lighting is routinely less than 20 foot candles.

13. There are dangerous levels of cancer causing asbestos under some of Westville's dormitories.

14. There are insufficient numbers of smoke detectors and fire extinguishers in the institution. This increases the risk of a fire tragedy.

15. There are significant rodent infestations in the prison's food storage and service areas and a significant fly infestation in the food service facilities.

16. Food is refrigerated and served to inmates at unsafe temperature levels.

b. Violence

17. There is a substantial amount of inmate-on-inmate violence at the prison which has increased in recent years at a rate that is disproportionate to the growth of Westville's inmate population during the same time period. This unacceptably high level of violence stems from extreme tensions and hostilities engendered by the crowding of too many people into too little space; from a pattern of enforced idleness generated by the lack of sufficient educational, vocational and employment programming at the prison and from inadequate staff supervision.

18. The serious level of violence also stems from a breakdown in the prison's classification process caused by the failure to adequately separate predatory and violent inmates from non-violent prisoners.

C. Medical Care

20. Severe overcrowding at Westville strains the prison's medical resources to a dangerous level and jeopardizes the health of its inmates.

21. There are systemic deficiencies in medical staffing at the prison. Three part-time physicians combine to fill one full-time physician's slot. Nursing and other support personnel are also seriously understaffed.

22. The current level of staffing at Westville is grossly inadequate to tend to the serious medical needs of the institution's nearly 2800 inmates. As a result, the diagnosis and treatment of serious medical conditions are routinely delayed and often unsatisfactory.

23. Sick call is conducted only once a week at the prison and for a period of time last summer had to be totally suspended altogether due to staffing shortages.

24. The quality of medical screening at the institution is inadequate. As a result, there is an increased risk that contagious diseases such as tuberculosis will be transmitted among the inmate population.

25. There is no coherent protocol for providing emergency medical care at the prison. As a result, emergency care is delayed and inadequate.

26. Follow-up medical care for chronic conditions is handled haphazardly. There is no comprehensive or organized system for such care. As a result, inmates in need of follow-up

treatment or examinations often fall between the cracks.

D. Psychiatric Care

27. Westville is a center for the State's mentally ill prisoners. A 200 bed mental health unit is maintained at the prison for the housing of prisoners who suffer from serious psychiatric disorders.

28. In addition to those mentally ill prisoners who are confined to the mental health unit, many others with serious disorders are housed in the institution's other living areas.

29. Direct contact between inmates with serious psychiatric disorders and the Westville's psychiatric staff is infrequent and superficial.

30. Physical restraints are often applied unnecessarily or maintained for unnecessarily protracted periods of time. These practices result in needless pain and suffering and are counter-therapeutic.

31. The nature and level of psychiatric care provided at the prison is inadequate to meet the serious psychiatric needs of Westville inmates. As a result, inmates are subjected to unnecessary pain and suffering.

E. Overcrowding

32. The mounting density of Westville's inmate population over the past several years has contributed to fundamental

deteriorations in institutional conditions to the point where basic human needs are not being provided. The quality of inmate shelter, the level of medical and psychiatric care and the degree of inmate protection from assault have all been seriously and adversely affected by profound overcrowding. The cumulative impact of conditions at Westville, aggravated by overcrowding, has resulted in intolerably high levels of inmate tension, stress, hostility and depression, and has produced needless pain and suffering.

IV. CLAIMS FOR RELIEF

33. The totality of conditions over which the defendants preside are incompatible with contemporary standards of decency and result in unnecessary and wanton inflictions of pain. By depriving plaintiffs of such basic human needs such as adequate shelter, personal safety, medical and mental health care, the defendants are violating plaintiffs' rights to be free of cruel and unusual punishment as prescribed by the Eighth Amendment to the United States Constitution.

34. By operating a prison health care system that is systematically deliberately indifferent to the serious medical and psychiatric needs of inmates, the defendants are violating plaintiffs' right to be free of cruel and unusual punishment as prescribed by the Eighth Amendment to the United States Constitution.

V. EQUITY

As a result of defendants' policies, practices, acts, and omissions, plaintiffs are being irreparably harmed. They are either suffering or will soon suffer unnecessary pain and anguish, psychological as well as physical hurt and impairment, and the loss of their right to be imprisoned under conditions that do not inflict cruel and unusual punishment. Plaintiffs will continue to be irreparably injured by defendants' policies, practices, acts and omissions unless this court grants comprehensive injunctive relief to abate the unconstitutional conditions that now exist in the institution.

VI. RELIEF

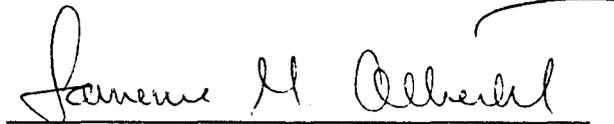
On the basis of the foregoing, the plaintiffs respectfully ask the court to:

1. Declare that the conditions described above violate the constitutional rights of the plaintiffs to be free of cruel and unusual punishment.
2. Enjoin the defendants, their agents, employees and all persons acting in concert with them from subjecting the plaintiffs to the unconstitutional conditions and practices described above.
3. Retain jurisdiction of this case until all remedial orders have been fully implemented.
4. Award plaintiffs their reasonable costs and attorney's fees.

5. Grant whatever additional relief may be just and appropriate.

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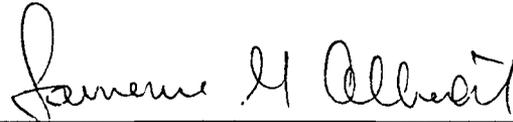
Jere Krakoff
Mark J. Lopez
National Prison Project
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Washington, D.C. 20036

Dated: December 30, 1987

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing Motion for Leave to Amend Complaint and Second Amended Complaint upon opposing counsel, the Attorney General of the State of Indiana by mailing to his assistant, David Arthur, at his offices at room 219, Statehouse, Indianapolis, IN 46204, first class postage prepaid, on the date appearing below.

DATED: December 30, 1987



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