

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

WILLIAM LEE,)	
)	
Plaintiff,)	
)	
v.)	TCA 93-40176-MMP
)	
HARRY K. SINGLETARY, et al.,)	
)	
Defendants.)	
)	
<hr/> LAWRENCE W. BLACKWELL,)	
)	
Plaintiff,)	
)	
v.)	TCA 93-40227-WS
)	
HARRY K. SINGLETARY, et al.,)	
)	
Defendants.)	
)	
<hr/> JAMES J. QUIGLEY,)	
)	
Plaintiff,)	
)	
v.)	TCA 93-40315-WS
)	
HARRY K. SINGLETARY, et al.,)	
)	
Defendants.)	
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CONSOLIDATED AMENDED COMPLAINT

CLASS ACTION

1. This Consolidated Amended Complaint is brought as a class action for declaratory and injunctive relief of behalf of

all inmates in the custody of the Florida Department of Corrections alleging that the defendants, in violation of the Cruel and Unusual Punishments Clause of the United States Constitution persist in using a handcuff cover, commonly known as the black box, despite the fact that the device causes excessive and unnecessary pain and discomfort.

JURISDICTION

2. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1331 in that this is a civil action arising under the Constitution of the United States.

3. Jurisdiction of the Court is invoked pursuant to 28 U.S.C. § 1343(a)(3) in that this action seeks to redress the deprivation, under color of state law, of rights secured to the plaintiff by the Eighth and Fourteenth Amendments to the Constitution of the United States of America.

4. The plaintiffs' claims for relief are predicated on upon 42 U.S.C. § 1983 which authorizes actions to redress the deprivation, under color of state law, of rights, privileges and immunities secured to plaintiff by the Constitution and laws of the United States

5. Plaintiffs' claim for attorneys' fees and costs is predicated upon 42 U.S.C. § 1988, which authorizes the award of attorney's fees and costs to prevailing plaintiffs in actions brought pursuant to 42 U.S.C. § 1983.

6. Plaintiffs seek permanent injunctive relief pursuant to Rule 65, Federal Rules of Civil Procedure.

PARTIES

7. Plaintiff, WILLIAM LEE, is a prisoner in the custody of the Florida Department of Corrections. He is a close custody inmate currently incarcerated at Apalachee Correctional Institution.

8. Plaintiff, LAWRENCE W. BLACKWELL, is a prisoner in the custody of the Florida Department of Corrections. He is a close custody inmate currently incarcerated at Polk Correctional Institution.

9. Plaintiff, JAMES J. QUIGLEY, is a prisoner in the custody of the Florida Department of Corrections. He is a close custody inmate currently incarcerated at Polk Correctional Institution.

10. Defendant, HARRY K. SINGLETARY, JR., is the Secretary of the Florida Department of Corrections. As such he is responsible for the promulgation and enforcement of policies and procedures generally applicable to all prisons and all prisoners. He is sued in his official capacity.

11. Defendant, MICHAEL RATHMANN, is the Statewide Security Administrator for the Florida Department of Corrections. As such he is responsible for the promulgation and enforcement of policies and procedures generally applicable to all prisons and all prisoners as they relate to security and, in particular, responsible for the security aspects of the transport of prisoners from facility to facility. He is sued in his official capacity.

CLASS ACTION ALLEGATIONS

12. This action is brought as a class action, pursuant to the provisions of Rule 23(b)(2) of the Federal Rules of Civil Procedure, for injunctive and declaratory relief on behalf of a class of all persons similarly situated.

13. The class of plaintiffs consists of all persons, other than death-sentenced persons, who are currently in the custody of the Florida Department of Corrections, or who will come into the custody of the Florida Department of Corrections, and who will be restrained with the black box security device while being transported between one secure facility and another secure facility in a transport van operated by employees of the Florida Department of Corrections.

14. The plaintiffs' class consists of an unknown but extremely large number of inmates, certainly in excess of 50,000 individuals, so that joinder of all members is impracticable.

15. Controlling issues of law and fact are common to all members of the plaintiff class in that the imposition of Cruel and Unusual Punishment by way of the black box security device, as alleged in this Consolidated Amended Complaint, is common to all inmates in the custody of the Florida Department of Corrections and is imposed as a matter of policy, pattern, practice and custom.

16. The claims of the individual plaintiffs are typical of the claims of the members of the plaintiff class. The named plaintiffs' right to be free from cruel and unusual punishment

has been abridged and will be abridged in the future, contrary to the Eighth and Fourteenth Amendments to the Constitution of the United States.

17. The defendants have acted on grounds generally applicable to the plaintiff class as a whole thereby making appropriate final injunctive and corresponding declaratory relief with respect to the class as a whole.

18. The policy, pattern, practice and custom with respect to Eighth and Fourteenth Amendment rights of the plaintiff class present common questions of law and fact which predominate over any questions affecting only individual members of the class and a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

19. The plaintiffs will fairly and adequately protect the interests of the members of the plaintiffs' class.

FACTUAL ALLEGATIONS

20. On February 20, 1992, Plaintiff Quigley was moved from the East Unit to the West Unit of Apalachee Correctional Institution in a Department of Corrections' van.

21. During the approximately five minute trip, which was made entirely on prison grounds, plaintiff Quigley was restrained with waist chains, handcuffs with a handcuff cover (the black box) and leg irons.

22. During the trip from the East Unit to the West Unit, plaintiff Quigley was accompanied by two armed Correctional Officers.

23. The use of restraints, as described in Paragraph 21, above, caused plaintiff Quigley to suffer severe pain and discomfort as a result of the black box.

24. During the course of the move from the East Unit to the West Unit, plaintiff Quigley was required to carry all his personal property, weighing approximately 50 pounds. A prisoner required to carry his personal property while wearing the black box security device is forced to endure even more severe pain and discomfort.

25. In January, 1993, plaintiff Quigley was scheduled to be transported by van from Baker Correctional Institution to the North Florida Reception Center for a medical evaluation. Prior to boarding the van, he was strip searched. When plaintiff Quigley learned that he would be restrained with a waist chain, handcuffs with a the black box and leg irons, he refused his medical appointment because of the extreme pain and discomfort caused by the black box.

26. On August 17, 1993, plaintiff Quigley was moved from Baker Correctional Institution to Hardee Correctional Institution in the same type of van used by Baker Correctional Institution to take prisoners to medical appointments at the North Florida Reception Center. During the approximately 8 hour trip, the black box was not used on plaintiff Quigley or on the other inmate transported in the van.

27. In an effort to be relieved of the pain and discomfort caused by the black box, plaintiff Quigley used the established grievance procedure. His grievance was denied at all levels.

28. Plaintiff Lee, during the time he was confined at Baker Correctional Institution, suffered from a serious respiratory ailment requiring a number of trips to the North Florida Reception Center for medical evaluation and/or treatment. Except for the first trip, each time plaintiff Lee was taken to the North Florida Reception Center he was restrained with a waist chain, handcuffs with a the black box and leg irons.

29. When restrained with a waist chain, handcuffs with a handcuff cover (the black box) and leg irons, plaintiff Lee was forced to endure great pain and suffering on account of the black box.

30. While at Baker Correctional Institution, because of the pain and discomfort caused by the black box, plaintiff Lee was forced to refuse several scheduled medical appointments at the North Florida Reception Center.

31. In an effort to be relieved of the pain and discomfort caused by the black box, plaintiff Lee used the established grievance procedure. His grievance was denied at all levels.

32. Plaintiff Blackwell, during the time he was confined at Baker Correctional Institution, was transported on several occasions to the North Florida Reception Center. Initially, in the mid-eighty's, he was transported restrained only with handcuffs. Subsequently, on trips from Baker Correctional Institu-

tion to the North Florida Reception Center he was restrained with a waist chain, handcuffs with a the black box and leg irons.

33. When restrained with a waist chain, handcuffs with a handcuff cover (the black box) and leg irons, plaintiff Blackwell was forced to endure great pain and suffering on account of the black box.

34. While at Baker Correctional Institution, because of the pain and discomfort caused by the black box, plaintiff Blackwell refused a scheduled dental appointment at Columbia Correctional Institution.

35. Each of the named plaintiffs has been transferred numerous times during the course of his incarceration from one secure facility to another secure facility by way of a Florida Department of Corrections' van, and each of the named plaintiffs, as a result of his lengthy sentence, can expect to again be transferred from one secure facility to another secure facility at some future time during the course of his incarceration.

36. The black box fits over the chain which joins the handcuffs, and is secured by the waist chain, thereby creating a ridged unit which causes severe pain and discomfort when worn for more than a very short period of time. This pain and discomfort is especially severe:

A. When the trip between prisons takes several hours, which is frequently the case.

B. When the transport van is driven at a high rate of speed of bumpy secondary roads, which is frequently the case.

C. When the transport van rounds a corner at a high rate of speed, which is frequently the case.

D. When the inmate being transported is forced to carry his personal belongings while in restraints, which is frequently the case.

E. When the inmate being transported is forced to attempt to eat while in restraints, which is frequently the case on longer trips.

37. The rules regulating the security procedures to be followed when inmates are transferred from one prison to another, or to some other, non-prison location, are found in Section 33-7.009 of the Florida Administrative Code.

38. Section 33-7.009(6) requires that the transport "vehicle shall be thoroughly searched and all security features inspected prior to boarding any inmates."

39. Section 33-7.009(7) requires that "all inmates [be] searched prior to boarding the transfer vehicle."

40. Section 33-7.007(14) sets out the method of restraint and provides:

Standard restraint equipment for the normal situation will be handcuffs and a restraint chain. Additional restraints, such as leg irons, shall be necessary when transferring inmates who are extreme escape risks or inmates with serious assaultive tendencies. Being legally responsible for the custody of inmates, the transfer officer in charge is unrestricted in the necessary application of restraints.

(a) Use of restraint equipment, except for death row and high security inmates, will not be necessary when inmates are transferred

within the state from institution to institution provided a physically secure transfer vehicle is used.

41. For inmates not being transported between prisons, Section 33-7.007(14) (b) & (c) provide that:

(b) Each close custody inmate who is not being transferred from institution to institution shall be restrained with at least handcuffs prior to leaving the institution. The restraints shall not be removed until the inmate is returned to an institution unless circumstances require their removal, that is, federal court appearances or medical visits.

(c) When mixed custody inmates are being transferred together, they shall all be restrained as though they are close custody inmates.

42. Section 33-7.009(10) distinguishes the ordinary close custody inmate from death row inmates and from inmates determined by the Correctional Officer Chief to be a high security risk, and provides as to those inmates:

(a) The inmate shall be handcuffed with waist chains and leg irons and transferred in a secure caged vehicle. The driver shall be unarmed in order to handle inmates en route if necessary.

(b) The transfer vehicle shall be accompanied by a trailing escort vehicle driven by a well-armed officer. "Well-armed" shall mean possession of a semiautomatic rifle or shotgun.

(c) If several inmates are being transferred, the transfer vehicle shall have a second armed officer in attendance.

(d) Communication between the two vehicles is essential and is recommended between both vehicles and the home station.

43. Section 33-7.009 does not distinguish transfers from prison to prison based on whether a bus or a van is used as the means of transport.

44. During the course of the transport described in the above paragraphs, inmates may travel in vans or in buses belonging to the Department of Corrections. Typically, the vans:

A. Have some type of screen to separate the driver's compartment from the passengers' compartment.

B. Have expanded metal or some other type of screening over the windows in the passengers' compartment.

C. Have a padlock or other secure type of lock on the outside of the rear doors.

D. Are staffed with two Correctional Officers, one who drives and one who carries a weapon, usually a pistol.

E. Are equipped with radios (or in some cases, portable telephones).

45. Prior to transporting an inmate, the policies, practices and procedures of the Florida Department of Corrections, as set forth in the Department's Security Operations Manual, require that the van be searched.

46. Prior to transporting an inmate, the policies, practices and procedures of the Florida Department of Corrections, as set forth in the Department's Security Operations Manual, require that the inmate be searched. If the inmate is a close custody inmate, the inmate must be stripped searched.

47. Prior to transporting an inmate, the policies, practices and procedures of the Florida Department of Corrections, as set forth in the Department's Security Operations Manual, require that any property which will accompany the inmate be searched.

48. The vans are used to transport inmates in a variety of situations, including but not limited to:

A. Routine trips between two secure facilities, such as a trip from Baker Correctional Institution to the North Florida Reception Center for purposes of medical evaluation and treatment, as happened to the named plaintiffs.

B. Routine transfers, such as the transfer of an inmate between Baker Correctional Institution and Hardee Correctional Institution, as happened to plaintiff Quigley.

C. Transport from, and return to, a secure facility for a court appearance, such as a trip between Apalachee Correctional Institution and Tallahassee for appearance in the Northern District of Florida, as happened to the named plaintiffs.

D. Transport from, and return to, an outside doctor's appointment, such as a trip from Apalachee Correctional Institution to a doctor's office, as happened to plaintiff Lee.

49. The buses owned and operated by the Florida Department of Corrections:

A. Have some type of screen to separate the driver's compartment from the passengers' compartment.

B. Have expanded metal or some other type of screening over the windows in the passengers' compartment.

C. May have a cage in the back used for inmates requiring protection from other inmates.

D. Are staffed with two Correctional Officers, one who drives and one who carries a weapon, usually a shotgun.

E. Are equipped with radios (or in some cases, portable telephones).

50. The buses owned and operated by the Florida Department of Corrections are used to transport as many as 50 inmates at a time on regular routes connecting the three reception centers with the more than 50 prison facilities throughout the State.

51. Inmates transferred from prison to prison on a van are typically restrained with a waist chain, handcuffs with black box and leg irons.

52. Inmates transferred from prison to prison on the buses are not restrained in any way.

53. Section IV of the Security Operations Manual of the Department of Corrections addresses the use of restraints during the process of moving inmates from place to place. Paragraph F. provides that:

Each close custody inmate who is not being transferred from institution to institution shall be restrained in one of two acceptable ways:

Option #1 - Shall be restrained with waist chains, handcuffs with the C & S handcuff cover (or equivalent handcuff cover), and leg irons prior to leaving the institution.

or

Option #2 - Shall be restrained with waist chains equipped with side cuffs (Smith &

Wesson #1800 or equivalent) and leg irons prior to leaving the institution.

Normally, the restraints shall not be removed until the inmate is returned to an institution unless circumstances require their removal; for example, during federal court appearances or when required by outside medical staff for medically-related reasons. If the officer is at all reluctant to remove the restraints, additional staff should be sent to assist in providing supervision.

54. The restraints described in Paragraph F. of Section IV of the Security Operations Manual are used at some prisons whenever the vans are used, whether the inmate is being transported to another secure facility or to an outside appointment.

55. The restraints described in Paragraph F. of Section IV of the Security Operations Manual are not used at some prisons when the vans are used, whether the inmate is being transported to another secure facility or to an outside appointment.

CAUSE OF ACTION

56. The use of the black box results in extreme pain and discomfort to those inmates forced to wear it. The longer the trip, the more pain and discomfort the black box causes.

57. For those inmates where restraints are necessary, the use of a waist chain with side cuffs and leg irons provides as much security as the use of a waist chain, handcuffs and black box and leg irons, but without inflicting the extreme pain and discomfort caused by the black box.

58. The routine use of a waist chain, handcuffs and black box and leg irons when vans are used as the means of transport

between prisons is an unnecessary and exaggerated response to the security needs of the Florida Department of Corrections.

59. There is no valid, rational connection between the practice of routinely using a waist chain, handcuffs and black box and leg irons and the penological interest put forward to justify the routine use of the black box, given the explicit provisions of the applicable regulations, including Chapter 33-7 and the Security Operations Manual.

60. There are no alternative means whereby an inmate can escape the pain and discomfort of the black box.

61. Given the express terms of Chapter 33-7 and the Security Operations Manual, there is no impact on correctional staff, prison resources or other inmates if the waist chains with side cuffs alternative is used, when necessary, for prison to prison transfers.

62. Following the applicable regulations, including using waist chains with side cuffs, constitutes a ready alternative to the black box that fully accommodates the prisoners' right to be free of unnecessary pain and discomfort at de minimis costs to valid penological interests.

63. Forcing all inmates being transported in a van to wear the black box constitutes the unnecessary infliction of pain and suffering contrary to the Cruel and Unusual Punishments Clause of the Eighth Amendment.

WHEREFORE, plaintiffs request that this Court:

A. Certify this action as a class action pursuant to Rule 23(b)(2) of the Federal Rules of Civil Procedure;

B. Declare that the routine use of the black box, without any consideration being given to security concerns posed by a specific inmate, violates the Cruel and Unusual Punishments Clause of the Eight Amendment, made applicable to the States by the Fourteenth Amendments to the Constitution of the United States;

C. Enter permanent injunctive relief enjoining the defendants and their servants, agents and employees, and those acting in concert with them, from routinely using the black box without any consideration being given to the security concerns posed by a specific inmate;

D. Award attorneys' fees and costs pursuant to 42 U.S.C. § 1988; and

E. Grant such other and further relief as the Court may deem just and equitable.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing document has been furnished to Donna La Plante, Assistant Attorney General, Department of Legal Affairs, The Capitol, Suite PL-01, Tallahassee, Florida 32399-1050, by United States Mail on March 22, 2010.

By: Peter M. Siegel