

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

**MICHAEL BOYD, PAUL LEE and
KENDRICK PEARSON, on behalf of
themselves and all others similarly situated,**

Plaintiffs,

v.

**S. A. GODINEZ, Director of the Illinois
Department of Corrections, and RANDY
DAVIS, Warden of Vienna Correctional
Center, in their official capacities,**

Defendants.

Civil Action No. _____

Judge _____

COMPLAINT

Plaintiffs, Michael Boyd, Paul Lee and Kendrick Pearson, by and through their attorneys, Latham & Watkins LLP and Uptown People's Law Center, allege for their Complaint against Defendants S. A. Godinez, Director of the Illinois Department of Corrections, and Randy Davis, Warden of Vienna Correctional Center (collectively, "Defendants"), in their official capacities as follows:

NATURE OF THE ACTION

1. Vienna Correctional Center ("Vienna") is a minimum-security facility located in southern Illinois that houses male offenders convicted of low-level and largely non-violent crimes. When it opened in 1965, Vienna was intended to hold approximately 925 prisoners and to focus on education and community development as part of its rehabilitative mission.

2. Nearly 50 years later, Vienna is unconscionably overcrowded (housing nearly 1,900 prisoners), is dilapidated from years of neglect and has long since abandoned any meaningful educational or community development programs. Today, the prisoners at Vienna are forced to live in squalid conditions, where they are exposed to overflowing sewage, pervasive

mold and mildew and infestations of insects and rodents. They lack access to basic necessities, like properly functioning heat and ventilation, properly functioning toilets, sinks and showers and fresh, uncontaminated food. In short, the conditions at Vienna are inhumane and deprive the prisoners housed there of their basic human needs.

3. Despite having actual knowledge of these conditions and the serious risks they pose, Defendants have been deliberately indifferent to the inhumane conditions to which the prisoners at Vienna are exposed and have failed to make reasonable efforts to remedy those conditions, leaving the prisoners to suffer an inhumane, degrading, uncivilized and unhealthy existence.

4. As a result, this suit seeks injunctive and declaratory relief pursuant to 42 U.S.C. § 1983 and 28 U.S.C. § 2201 and § 2202 for violations of the Eighth Amendment to the United States Constitution, as applied to the states by the Fourteenth Amendment, on behalf of all prisoners at Vienna.

THE PARTIES

A. Plaintiffs

5. Plaintiff Michael Boyd (“Mr. Boyd”) is 26 years old. Mr. Boyd has been incarcerated in Vienna since approximately January 2011 and is currently housed in Building 19. Mr. Boyd has also been housed in two of Vienna’s other housing units and has spent time in Vienna’s segregation unit. He is serving time for a non-violent crime. While detained at Vienna, Mr. Boyd has been exposed to the conditions described in this Complaint.

6. Plaintiff Paul Lee (“Mr. Lee”) is 57 years old. Mr. Lee has been incarcerated in Vienna since approximately August 2010. Upon arriving at Vienna, Mr. Lee was initially housed in Building 19 and has since lived in three of Vienna’s additional housing units. He is

serving time for a non-violent crime. While detained at Vienna, Mr. Lee has been exposed to the conditions described in this Complaint.

7. Plaintiff Kendrick Pearson (“Mr. Pearson”) is 43 years old. Upon arriving at Vienna, Mr. Pearson was initially housed in Building 19 and subsequently was transferred to one of Vienna’s additional housing units. He is serving time for a non-violent crime. While detained at Vienna, Mr. Pearson has been exposed to the conditions described in this Complaint.

B. Defendants

8. Defendant S. A. Godinez (“Director Godinez”) has been the Director of the Illinois Department of Corrections since May 5, 2011. In all of his actions, Director Godinez was acting under color of state law and in the course of his employment. The claims being made against Director Godinez are brought against him in his official capacity.

9. Defendant Randy Davis (“Warden Davis”) is the Warden of Vienna Correctional Center. In all of his actions, Warden Davis was acting under color of state law and in the course of his employment. The claims being made against Warden Davis are brought against him in his official capacity.

JURISDICTION AND VENUE

10. Plaintiffs bring this action on behalf of themselves and all others similarly situated pursuant to 42 U.S.C. § 1983 to secure equitable relief from Defendants’ actions, which themselves were initiated under color of state law and which violate the rights, privileges and immunities guaranteed to Plaintiffs by the Eighth Amendment to the United States Constitution, as made applicable to the states through the Fourteenth Amendment.

11. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1343.

12. This Court is authorized to render declaratory relief pursuant to 28 U.S.C. § 2201 and § 2202.

13. Venue is proper in this district pursuant to 28 U.S.C. § 1391, because all of the relevant events occurred at Vienna, located in Johnson County, which is within the Southern District of Illinois.

FACTS COMMON TO ALL COUNTS

A. Severe Overcrowding At Vienna

14. Located in Johnson County and adjacent to the Shawnee National Forest, Vienna is a minimum-security, adult, male-only correctional facility that primarily houses low-level, non-violent offenders incarcerated for relatively short lengths of time. See Sept. 27, 2011 Monitoring Visit to Vienna Correctional Center by the John Howard Association of Illinois (“John Howard Report”), Ex. A, at 2.

15. In its early years, Vienna was hailed as one of the most successful prisons in Illinois. See John Howard Report, Ex. A, at 2. At that time, the facility was intended to function as a small town in which the prisoners could be rehabilitated and learn to re-enter society as responsible citizens. See id. In order to further its rehabilitative mission, Vienna focused on education and vocational training and its programs were so well-regarded that members of the surrounding community often took classes at the prison alongside the men who were incarcerated there. See id. In addition, since the majority of the prisoners at Vienna were non-violent offenders, they also were permitted to volunteer in the community. See id. In fact, Vienna operated an emergency technician program, which allowed qualified prisoners to staff a 24-hour ambulance service for the surrounding community. See id.

16. Despite its auspicious beginnings, the conditions at Vienna have degraded significantly over time. A surge in the prison population throughout Illinois has caused severe

and pervasive overcrowding at Vienna. According to the Illinois Department of Corrections, Vienna was originally designed to house 925 prisoners, but as of January 1, 2012, 1,899 prisoners were packed into the facility. See Limited Scope Compliance Examination For the Two Years Ended June 30, 2008, Vienna Correctional Center, State of Illinois Department of Corrections (“2008 Compliance Examination”), Ex. B, at 61; Jan. 1, 2012 Illinois Department of Corrections Quarterly Report (“Quarterly Report”), Ex. C, at Table 4. At 205% capacity, Vienna is one of the most over-crowded prisons in Illinois. See id.

17. The roughly 1,900 prisoners detained at Vienna are housed in six single-story housing units and one three-story housing unit. The three-story unit is referred to as “Building 19.” In order to accommodate the nearly 1,000 additional prisoners in excess of its designed capacity, Vienna has converted storage units and other spaces that were never meant to house prisoners into living quarters.

18. For example, Building 19 was, upon information and belief, an administrative building that was converted into housing. The first floor of Building 19 contains the segregation unit, and the second and third floors of Building 19 house prisoners in open-style dormitories containing double bunk beds. See John Howard Report, Ex. A, at 9. These bunk beds are placed so close to one another that the men can reach across the narrow aisles and touch the person sleeping in the bed next to them. Approximately 200 prisoners live on the second floor in one open dormitory, and approximately 400 prisoners live on the third floor in four separate quadrants. See id. As discussed in more detail below, since these converted areas were not designed to function as housing, they lack basic facilities, such as sufficient toilets and showers. See disc. infra ¶¶ 46-58.

19. Moreover, although Illinois' Unified Code of Corrections requires that "[a]ll new, remodeled and newly designed institutions or facilities shall provide at least 50 square feet of cell, room or dormitory floor space" per prisoner (see 730 ILCS 5/3-7-3 (emphasis supplied)), the Illinois Department of Corrections admits that the prisoners at Vienna are on average confined to 33 square feet, two-thirds the minimum space the Illinois General Assembly has determined necessary for safe and sanitary living conditions. See Quarterly Report, Ex. C, at Table 6. In reality, many prisoners are restricted to even less space.

20. The overcrowding at Vienna "stretches vital . . . resources, from programming to healthcare." John Howard Report, Ex. A, at 7. Indeed, Vienna's once robust educational programming is now practically nonexistent. For a population of almost 1,900, Vienna has only four Adult Basic Education classes and two GED classes, which have extremely long waiting lists. See id. at 15. Vienna also has only limited vocational training opportunities and limited possibilities for prisoners to obtain jobs. See id.

21. Vienna's general population receives at most three hours of recreation/exercise time per week. See John Howard Report, Ex. A, at 9. Many men report receiving only two hours per week or less. The living areas, especially in Building 19, have very limited common area space where the prisoners can play cards or watch television. As a result, many of the prisoners at Vienna have nothing to do all day but sit idle in their bunks.

22. The severe overcrowding and the fact that the prisoners do not have any productive way to spend their time and energy fosters an environment of tension, unrest and violence. Fights routinely break out over theft as well as petty issues, such as seats near the television, time on the phone or the placement of fans.

23. Inadequate staffing exacerbates this situation. Simply put, Vienna has insufficient staffing to monitor and control the growing population of prisoners.

24. For example, only two correctional officers monitor the 200 prisoners on Building 19's second floor, and only two to three officers oversee the 400 prisoners on Building 19's third floor. See John Howard Report, Ex. A, at 11. Because there are so many prisoners and so few officers, the officers are frequently unaware of the fights that occur in the dormitories and when the officers are aware, they often let the prisoners fight it out, intervening only after the fight is finished in order to issue disciplinary citations.

25. The severe overcrowding has also limited Vienna's ability to provide the prisoners with adequate clothing, linens or blankets. The clothing and bedding materials provided to prisoners are often stained, soiled and tattered. The prisoners are not provided state-issued boots or stocking hats to protect them from the winter weather, and the shoes that are provided to prisoners often fall apart in a matter of weeks.

B. The Inhumane Living Conditions At Vienna

26. Compounding the problems caused by severe overcrowding is a lack of maintenance and upkeep. Critical maintenance projects have been ignored for nearly a decade, causing widespread disrepair. See John Howard Report, Ex. A, at 5. As a result, conditions at Vienna are deplorable and can only be considered inhumane.

1. Vienna Is Infested With Insects And Vermin

27. Cockroaches, spiders, ants, millipedes, mice, rats and other insects and vermin infest all the housing units as well as the kitchen and dining hall at Vienna. These insects and vermin expose the prisoners at Vienna to a multitude of diseases, including some diseases that can be fatal. In fact, many prisoners have reported experiencing spider bites that later became infected.

28. Cockroaches, in particular, are a common problem at Vienna. They infest the walls and take residence in the prisoners' clothing, shoes, bunks, property boxes, sinks and bathrooms. Prisoners find cockroaches in their coffee cups, drinking glasses and toothbrushes and feel cockroaches crawl across them while they lie in their bunks. The men often have to physically sweep cockroaches off of their mattresses and remove cockroach feces from their pillows and clothing.

29. Mice and rats are also a constant problem at Vienna. They crawl into the prisoners' property boxes and eat the food that the men have purchased from the commissary. Both officers and prisoners have reported finding mice nesting in closets and mouse feces on the floors of the housing units. Mice also "frequently [run] across the floors" in the dining hall during meals. See John Howard Report, Ex. A, at 10.

30. The infestations in the kitchen and dining hall are particularly disturbing. Mice, cockroaches and other insects run rampant across the floors of the dietary unit, where Vienna prepares meals for its prisoners. Cockroaches dart across "clean" pans, utensils, countertops and serving stations and climb into the food trays as they are being passed down the serving line. Much of the food, including bread, rice, grains, cereals and oatmeal, contains rodent feces and mold. Mice nest in the cabbage, rice, potatoes, bread and other food.

31. Nonetheless, prison staff instruct the prisoners working in the kitchen to cook with and serve this food, which is often otherwise outdated, expired or spoiled. Unsurprisingly, therefore, prisoners find dead bugs, rodent droppings, insect antennae, hair, rocks, rubber bands, cardboard and other objects in their food. Some men have stated that the problem has become so bad that they simply do not eat in the dining hall at all. Instead, if they can afford it, they live only off of whatever they can buy in the commissary.

32. The dining hall, like the food that is served there, is filthy. Rodents, cockroaches, flies, spiders and other bugs run across the floor during meals. Cockroaches crawl across the serving boards and sneeze guards where food is prepared and served. Spider webs cover the walls, and birds nest in available crevices.

2. Vienna Lacks Adequate Ventilation, Exposing The Prisoners To Extreme Temperatures And Other Weather

33. Ventilation in the housing units throughout Vienna is severely inadequate and causes extreme fluctuations in temperature.

34. The windows in the majority of the housing units are broken and lack screens, which causes the dormitories to become frigid in the winter.

35. In addition, in at least some of the housing units, “air constantly blew through the air vents, making the cells very cold” in the winter. See John Howard Report, Ex. A, at 9. The prisoners in these units “stuff[] toilet paper into the vents to block the airflow” in order to try to warm up but are threatened with “being issued a disciplinary ticket” if they are caught. See id. It is often so cold that the men must sleep in all of their clothing, yet they still feel as if they are sleeping outside.

36. Some air vents in Building 19 are caked with dust, which is then constantly circulated throughout the building. The lack of proper ventilation keeps dust, mold and mildew in the air, causing prisoners breathing problems. Some prisoners have complained of waking up with nose bleeds as a result of the poor ventilation.

37. In Building 19, Vienna’s “solution” to the problem of broken windows has been to board over the windows entirely, totally blocking out sunlight and fresh air. When the windows in Building 19 are boarded up, it is so dark that the prisoners feel as if they are living in an abandoned building.

38. Moreover, the housing units can become unbearably hot in the summer, particularly in Building 19, which houses hundreds of prisoners in spaces that were never intended to be living quarters.

39. Broken windows not only let in cold air and extreme heat but also water and other elements. During storms, rain leaks into the dormitories through broken windows and visible cracks in the ceiling, damaging light fixtures, staining the ceiling, dripping directly onto prisoners' beds and property, fostering the growth of mold and creating a smell of mildew that pervades the living spaces. See John Howard Report, Ex. A, at 10; disc. infra at ¶¶ 40-45. Staff members place buckets and trash cans throughout the facility as makeshift measures to attempt to collect the rain water. Because no other measures are taken, however, the floors nevertheless become dirty, wet and dangerous.

3. Vienna Is Also Infested With Mold

40. The improper ventilation at Vienna contributes to its severe mold problem.

41. Mold is everywhere in Vienna: in the housing units, the bathrooms and even the dining hall. It grows along the walls and ceilings, in the light fixtures, around the sinks and drinking fountains, in the showers and behind the toilets.

42. The mold on the ceiling and in the showers sometimes grows so thick that it breaks off and falls on the prisoners while they are sleeping in their bunks or showering.

43. The Centers for Disease Control has noted that exposure to mold indoors can lead to “upper respiratory tract symptoms, cough, and wheeze in otherwise healthy people; with asthma symptoms in people with asthma; and with hypersensitivity pneumonitis in individuals susceptible to that immune-mediated condition.” See <http://www.cdc.gov/mold/stachy.htm#Q6> (last visited June 11, 2012).

44. Despite the fact that mold presents a health hazard, Vienna has made no meaningful attempt to stem the growth of mold. Maintenance workers periodically paint over the mold, which does nothing to actually stop its growth. Inevitably, because the underlying mold is not addressed, this paint eventually chips and flakes, only further contributing to the appalling living conditions.

45. Moreover, prison officials often reject or fail to respond to grievances about mold and mildew, claiming that the prisoners have access to cleaning supplies and should clean the mold themselves. Vienna's general population, however, does not have access to even the watered-down cleaning supplies normally used, let alone access to the more powerful bleaches and disinfectants that would be needed to begin to actually clean the mold.

4. Building 19

46. While the living conditions at Vienna are generally deplorable, Building 19 is widely recognized as the worst of the worst. As noted by John Howard during their visit, Building 19 is "unfit for the 600 [] men who lived there." See John Howard Report, Ex. A, at 10 (emphasis supplied). Indeed, prison officials use Building 19 as a punishment, threatening prisoners with transfer to Building 19 as a way to get them to behave, knowing that Building 19 represents the very worst of the poor living conditions at Vienna.

47. Upon arrival at Vienna, all prisoners are initially housed in Building 19 before they are transferred to one of the other housing units. In addition, prisoners may be transferred back to Building 19 at any time and for a variety of reasons.

48. Upon information and belief, Building 19 was never intended to be used as housing and is unsuitable for habitation. There is exposed insulation, pipes with chipping and flaking paint and exposed electrical wiring throughout. As discussed above, the prisoners in Building 19 are exposed to pervasive mold and mildew (see disc. supra at ¶¶40-45), infestations

of mice, cockroaches and other insects (see id. at ¶¶27-32) and extreme temperature fluctuations due to broken windows and inadequate clothing and bedding (see id. at ¶¶33-39).

49. Moreover, Building 19 lacks basic necessities. The prisoners are crammed together in bunks placed less than 18 inches apart from each other. See disc. supra ¶¶18-19. These bunks are rusting and are not properly bolted to the floor. Often, the top bunk lacks support so that the mattress sags, endangering the prisoner on the top bed and encroaching upon the prisoners sleeping below.

50. In addition, Building 19's third floor, which houses approximately 400 prisoners, has only one functioning phone. So many prisoners competing for one phone has led to "repeated fights." See John Howard Report, Ex. A, at 11.

51. But it is Building 19's bathroom facilities that epitomize the deprivation of basic human needs occurring at Vienna.

52. The second floor bathroom, which serves 200 prisoners, contains only three toilets and three sinks. The third floor bathroom, which serves 400 prisoners, has only four toilets, four sinks and two urinals.

53. To make matters worse, some of these toilets and sinks often do not function or drain properly due to leaking or clogged pipes. See John Howard Report, Ex. A, at 10-11. Rust-colored water comes out of these few sinks, which the prisoners use to brush their teeth, wash their faces and "clean" their dishes. Broken toilets are left filled with feces, sometimes for weeks. These toilets often overflow, flooding the bathroom with raw human waste and leaving stagnant water pooling on the floor. A "strong smell of fecal matter and sewage" constantly saturates the air. See id. at 10.

54. Dirty water falls from exposed, rusting pipes in the ceiling, creating a dangerously slippery floor and spawning additional mold and mildew. See John Howard Report, Ex. A, at 10-11. This water falls on the prisoners while they are exposed and attempting to use whatever working toilets are available. To keep dry while using the facilities, the prisoners bring towels to cover their heads when using the toilets.

55. The second floor bathroom has no working showers. The only working showers in Building 19 are on the third floor, which has seven showers that must accommodate all 600 prisoners. See John Howard Report, Ex. A, at 11. The men housed on the second floor of Building 19 are shuttled to the third floor showers on a rotating basis, as the third floor bathroom obviously cannot accommodate all 600 prisoners each day. See id.

56. When the prisoners are able to access the showers, the water is sometimes so ice cold, boiling hot or lacking in water pressure that the showers cannot actually be used. In addition, raw sewage and dirty water back up through the shower drain, causing flooding in the showers. The prisoners in Building 19 tie bags over their feet and ankles to try to avoid developing infections or fungus while showering.

57. Moreover, the shower area lacks adequate ventilation, creating a “stuffy, humid, and fetid” environment totally unsuitable for human use. See John Howard Report, Ex. A, at 11.

58. Notably, although the bathrooms in Building 19 are considered the worst, the bathrooms in the other housing units are also disgusting and in serious disrepair. The walls are covered with mold, rust, dirt and grime. In one of the units, for example, a “rusty-colored liquid dripped from the ceilings, which prisoners had to artfully dodge as they brushed their teeth or used the restroom.” See John Howard Report, Ex. A, at 9.

5. Vienna's Administration Ignores These Deplorable Living Conditions

59. The Illinois Department of Corrections and Vienna's prison administration, correctional officers and other staff are aware of the living conditions described above. In fact, on January 5, 2012, the Warden for Vienna issued a memorandum acknowledging the high number of grievances relating to Building 19. In his memorandum, the Warden admitted that these inhumane living conditions "are not new and have been present since reopening this area for housing" but argued that, while Building 19 may need some "improvements," it is "livable." See Ex. D hereto. Since issuing that memorandum, the Warden has not been amenable to hearing the inmates' concerns about the living conditions and instead has simply referred them to the memorandum.

60. Additionally, Vienna's administration has affirmatively taken steps to cover up these inhuman conditions. Before John Howard arrived to inspect Vienna in September of 2011, prison officials instructed prisoners to paint over rust and mold without actually cleaning or improving prison conditions.

61. Despite the fact that Defendants knew or should have known of the deplorable conditions at Vienna, Defendants have chosen to disregard these conditions and the risks they pose to the prisoners.

CLASS ALLEGATIONS

62. Plaintiffs bring this action as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure on behalf of themselves and all prisoners residing at Vienna, seeking prospective declaratory and injunctive relief.

63. Class action status is proper for this litigation, because the class of persons described in Paragraph 62 above is so numerous that the individual joinder of all absent class members is impracticable. While Vienna's population fluctuates, Plaintiffs believe that the

proposed class consists of approximately 1,900 persons. See Quarterly Report, Ex. C, at Tables 1-2, 4-5. The exact number of absent class members is unknown to Plaintiffs at this time but will be ascertainable upon appropriate discovery from Defendants.

64. The claims set forth in this Complaint are common to each member of the class. Common questions of law or fact exist as to each of the proposed class members, including but not limited to:

a. Whether Defendants are violating the prisoners' Eighth Amendment rights by forcing them to live in a vastly overcrowded and dilapidated facility;

b. Whether Defendants are violating the prisoners' Eighth Amendment rights by exposing them to rats, mice, cockroaches, birds, spiders, other insects and vermin and rodent feces, which infest the housing units, kitchen and dining hall;

c. Whether Defendants are violating the prisoners' Eighth Amendment rights by exposing them to inadequate ventilation and extremes in temperatures;

d. Whether Defendants are violating the prisoners' Eighth Amendment rights by depriving them of basic sanitation, including adequate bathroom facilities, showers and toilets;

e. Whether Defendants are violating the prisoners' Eighth Amendment rights by exposing them to mold, which covers the walls, ceilings and/or floors of the housing units; and

f. Whether Defendants are violating the prisoners' Eighth Amendment rights by exposing them to an unnecessary threat of violence, due to the overcrowding, unsanitary living conditions and insufficient staff.

65. Plaintiffs are proper representatives of the proposed class, because they are members of the class described in Paragraph 62 above. The claims of Plaintiffs are typical of the claims of the class. Each Plaintiff has suffered the living conditions at Vienna in violation of the federal Constitution, federal law and all other applicable laws.

66. Plaintiffs will fairly and adequately represent the interests of the members of the proposed class and have no interests in conflict with those of the proposed class. Plaintiffs have retained competent attorneys who are experienced in class action and complex litigation.

67. The proposed class may properly be certified under Federal Rule of Civil Procedure 23(b)(2), because Defendants have acted in a manner generally applicable to the class as a whole, making final injunctive relief appropriate with respect to the class as a whole.

CAUSES OF ACTION

COUNT I – INJUNCTIVE RELIEF

Unconstitutional Conditions Of Confinement Under The Eighth Amendment In Violation Of 42 U.S.C. § 1983

68. Plaintiffs reallege and incorporate herein by reference the foregoing Paragraphs 1 to 67 of their Complaint as if stated fully herein.

69. The Eighth Amendment to the United States Constitution protects individuals from cruel and unusual punishment.

70. The protections of the Eighth Amendment apply equally to the states and all divisions and entities thereof, including departments of corrections, prison facilities and officers acting in their official capacities.

71. Plaintiffs and the members of the proposed class have a right not to be subjected to cruel and unusual punishment.

72. By the facts and actions described above regarding the conditions of confinement at Vienna, Defendants are subjecting Plaintiffs and the members of the proposed class to a serious deprivation of basic human needs, including through exposure to, infliction of and failure to address the following conditions:

- a. vastly overcrowded living conditions;
- b. rats, mice, cockroaches, spiders, rodent feces and other insects and vermin;
- c. inadequate ventilation;
- d. excessive heat;
- e. excessive cold;
- f. inadequate sanitation, including malfunctioning toilets, sinks and showers;
- g. defective plumbing;
- h. raw sewage, rust, mold, mildew, rain water and flooding and pooling water;
- i. inadequate, soiled and tattered clothing and bedding materials;
- j. insufficient recreational, educational and vocational training opportunities;
- k. unclean drinking water;
- l. unsanitary dining facilities filled with rats, cockroaches spiders and other vermin; and

m. the threat of violence among prisoners due to the deplorable living conditions and insufficient correctional staff.

73. These deprivations and the risks they pose violate contemporary standards of decency and deny prisoners minimal civilized measures of life's necessities.

74. These deprivations of basic human needs are serious and excessive, given that they pose serious harm or serious risk of harm to the prisoners' health and safety.

75. Despite having actual knowledge of the serious risks posed to the prisoners' health and safety, Defendants have disregarded those risks, taking little if any action to try to address the deprivations of the prisoners' basic human needs brought about by the conditions of confinement.

76. As such, Defendants have acted with deliberate indifference toward serious deprivations of the prisoners' basic human needs.

77. At all relevant times, Defendants acted in their official capacity under color of state law.

78. Defendants' actions have deprived the prisoners of their right to be free from cruel and unusual punishment and demonstrate a reckless and callous disregard of their rights.

79. By the acts described above, Defendants have violated and continue to violate the rights of Plaintiffs and the members of the proposed class protected by the Eighth Amendment to the United States Constitution and 42 U.S.C. § 1983.

80. Defendants' actions have caused and will continue to cause Plaintiffs great, immediate and irreparable harm if such actions are permitted to continue.

81. Given Defendants' past actions, combined with their repeated refusal to acknowledge or address the deplorable conditions at Vienna, it is not only probable but likely

that Defendants will continue to act in a similar manner toward Plaintiffs and the members of the proposed class in the future.

82. Plaintiffs and the members of the class have no adequate remedy at law for Defendants' failure to provide conditions of confinement that comply with the United States Constitution, federal law and other applicable laws as a result of the conduct complained of herein. As such, Plaintiffs and the members of the proposed class are entitled to an order compelling Defendants to comply with the Constitution, federal law and all other applicable laws.

WHEREFORE, Plaintiffs pray for judgment as follows:

- a. For an order that this action be maintained as a class action pursuant to the Court's powers under Federal Rule of Civil Procedure 23 and defining the class as described above in Paragraph 62;
- b. For an order of permanent injunctive relief, compelling Defendants to comply with the Constitution, federal law and other applicable laws;
- c. For costs, including attorneys' fees pursuant to 42 U.S.C. § 1988; and
- d. For such other and further legal, equitable and other relief as this Court deems just and proper.

COUNT II – DECLARATORY RELIEF

Unconstitutional Conditions Of Confinement Under The Eighth Amendment In Violation Of 42 U.S.C. § 1983

83. Plaintiffs reallege and incorporate herein by reference the foregoing Paragraphs 1 to 82 of their Complaint as if stated fully herein.

84. The Eighth Amendment to the United States Constitution protects individuals from cruel and unusual punishment.

85. The protections of the Eighth Amendment apply equally to the states and all divisions and entities thereof, including departments of corrections, prison facilities and officers acting in their official capacities.

86. Plaintiffs and members of the proposed class have a right not to be subjected to cruel and unusual punishment.

87. By the facts and actions described above regarding the conditions of confinement at Vienna, Defendants are subjecting Plaintiffs and the members of the proposed class to a serious deprivation of basic human needs, including through exposure to, infliction of and failure to address the following conditions:

- a. vastly overcrowded living conditions;
- b. rats, mice, cockroaches, spiders, rodent feces and other insects and vermin;
- c. inadequate ventilation;
- d. excessive heat;
- e. excessive cold;
- f. inadequate sanitation, including malfunctioning toilets, sinks and showers;
- g. defective plumbing;
- h. raw sewage, rust, mold, mildew, rain water and flooding and pooling water;
- i. inadequate, soiled and tattered clothing and bedding materials;

j. insufficient recreational, educational and vocational training opportunities;

k. unclean drinking water;

l. unsanitary dining facilities filled with rats, cockroaches, spiders and other vermin; and/or

m. the threat of violence among prisoners due to the deplorable living conditions and insufficient correctional staff.

88. These deprivations and the risks they pose violate contemporary standards of decency and deny prisoners minimal civilized measures of life's necessities.

89. These deprivations of basic human needs are serious and excessive, given that they pose serious harm or serious risk of harm to the prisoners' health and safety.

90. Despite having actual knowledge of the serious risks posed to the prisoners' health and safety, Defendants have disregarded those risks, taking little if any action to try to address the deprivations of the prisoners' basic human needs brought about by the conditions of confinement.

91. As such, Defendants have acted with deliberate indifference toward serious deprivations of the prisoners' basic human needs.

92. At all relevant times, Defendants acted in their official capacity under color of state law.

93. Defendants' actions have deprived the prisoners of their right to be free from cruel and unusual punishment and demonstrate a reckless and callous disregard of their rights.

94. By the acts described above, a ripe and justiciable controversy exists between the parties regarding the rights of Plaintiffs and the members of the proposed class under the Eighth Amendment to the United States Constitution and 42 U.S.C. § 1983.

95. Given Defendants' past actions combined with their repeated refusal to acknowledge or address the deplorable conditions at Vienna, it is not only probable but likely that Defendants will continue to act in a similar manner toward Plaintiffs and the members of the proposed class in the future.

WHEREFORE, Plaintiffs pray for judgment as follows:

a. For an order that this action be maintained as a class action pursuant to the Court's powers under Federal Rule of Civil Procedure 23 and defining the class as described above in Paragraph 62;

b. For an order declaring that Defendants, individually and collectively, have subjected Plaintiffs and the members of the proposed class to conditions of confinement, both individual and in aggregate, that deprive Plaintiffs and the members of the proposed class of their rights under the Eighth Amendment to the United States Constitution, federal law and other applicable law;

c. For costs, including attorneys' fees pursuant to 42 U.S.C. § 1988; and

d. For such other and further legal, equitable and other relief as this Court deems just and proper.

Dated: June __, 2012

Respectfully submitted,

/s/ _____

One of the Attorneys for Plaintiffs Michael Boyd,
Paul Lee and Kendrick Pearson, on behalf of
themselves and all others similarly situated

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