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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

NICHOLAS JOSEPH TORRES, JIMMY LEE
O'BRIEN, HEATH LEO STEERS, and all
others similarly situated,

Plaintiffs,

vs.

COUNTY OF MERCED, TOM SAWYER,
as SHERIFF,

Defendants.

CIV-8-93-0357 GEB

JFM

NO.

COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF

JURISDICTION

1. This is a class action brought by the prisoners in the

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Merced County Main Jail, located in the City of Merced, California, including both pretrial detainees and sentenced prisoners, to redress the deprivation by defendants, County of Merced and Sheriff Tom Sawyer, of plaintiffs' rights, privileges and immunities arising under the Constitution and laws of the United States and the deprivation under color of law by the individual defendants of these rights (First, Fourth, Fifth, Sixth, Eighth and Fourteenth Amendments of the Constitution of the United States, 42 USC Section 1983) through overcrowding, by failing to provide beds, lack of exercise, lack of proper and necessary clean clothing, and lack of access to law library. Named plaintiffs NICHOLAS JOSEPH TORRES, JIMMY LEE O'BRIEN, and HEATH LEO STEERS, and all others similarly situated, are prisoners in the Merced County Mail Jail, and who are detained in the Merced County Jail in such overcrowded conditions that they are denied a constitutionally adequate place of sleep, including failure to provide a bed to sleep on, access to exercise, access to clean and adequate clothing and access to a law library.

Specifically, the conditions in the Jail are grossly overcrowded and inhumane. inmates and some people are forced to sleep on the floor every day regardless of physical disabilities or illness. There are an unknown number of prisoners sleeping on the floor in the Main Jail. This means some prisoners have to try to sleep under the existing bunks and in other parts of the cell.

The prisoners are overcrowded, do not have a place to sit to

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2 eat meals, are subjected to excessive noise levels, have difficulty
3 obtaining exercise, have inadequate clean clothing, including both
4 underwear and outer garments, and have inadequate access to a law
5 library. Prisoners are given exercise once a week, some once every
6 two weeks, and some only once a month. Such exercise is inadequate
7 to maintain good health.

8 There is lack of clothing exchange in the jail. Prisoners are
9 not given underwear, socks and shoes. If they do not have these
10 items, they must beg, borrow or steal them from other inmates, or
11 have their family members bring them. There is a lack of adequate
12 laundering of the clothes; inmates are given only one set of outer
13 clothing to wear. It is necessary for them to walk around in their
14 underwear if they want to have their clothes washed. If they want
15 to have their underwear washed, they must walk around totally nude.

16 There is a lack of constitutionally adequate dental, medical
17 and psychiatric care.

18 2. The jurisdiction of this Court is invoked under 28 USC
19 1331, this being an action arising under the Constitution and laws
20 of the United States and under 28 USC 1343, this being an action
21 authorized by law to redress the deprivation under color of the
22 state law, statute, ordinance, regulation, custom and usage of a
23 right, privilege and immunity secured to plaintiffs by the First,
24 Fourth, Fifth, Sixth, Eighth and Fourteenth Amendments of the
25 Constitution of the United States.

26 3. Defendant County of Merced (hereinafter called "County"),
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2 is a unit of local government, duly formed and authorized under the
3 laws of the State of California. As part of its duties, defendant
4 County provides local jail facilities, specifically the Merced
5 County Jail located in the City of Merced, County of Merced.
6 Through the Sheriff's Department of the County of Merced and other
7 county agencies, defendant County also provides supervision to
8 persons in the Fresno County Jail.

9 4. Individual Tom Sawyer is the Sheriff of the County of
10 Merced, responsible for the Merced County Jail, and its inmates.

11 5. At all times pertinent to this complaint, the named
12 individual defendant was acting under the color of his official
13 capacity and the ordinances and regulations of Merced County, and
14 the laws of the State of California.

15 6. The named plaintiffs are citizens or persons residing in
16 the United States.

17 7. During all times mentioned herein, the defendants, and
18 each of them, separately and in concert, acted under color and
19 pretense of law, to wit, under color of the statutes, ordinances,
20 regulations, customs and usage of the States of California and the
21 County. Each of the defendants herein, separately and in concert,
22 engaged and conspired in the illegal conduct herein-mentioned to
23 the injury of plaintiffs, and deprived the plaintiffs of the
24 rights, privileges and immunities secured to plaintiffs by the
25 First, Fourth, Fifth, Eighth and Fourteenth Amendments to the
26 Constitution of the United States and the laws of the United States,

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2 pursuant to the practice and policy of defendant County.

3 8. At all relevant times, the plaintiffs were prisoners and
4 held in the Merced County Main Jail.

5 9. The deprivations suffered by plaintiffs were and are the
6 result of ongoing pattern of conduct and practices of defendants,
7 including defendant County of Merced and defendant Sawyer and
8 unless and until ordered by this court, overcrowded conditions
9 resulting in inadequate sleeping arrangements and causing personal
10 stress for prisoners, lack of personal safety, restricted access
11 to legal materials and necessary services will continue to deprive
12 prisoners of the Merced County Jail of their constitutional rights.

13 10. The Merced County Main Jail is overcrowded. The
14 overcrowding of the jails has led to constitutional violations,
15 including floor sleeping. These constitutional violations, in
16 particular floor sleeping and chronic overcrowding of the jail, are
17 known to the jail administration, Sheriff and county officials.
18 In particular, problems with overcrowding, understaffing, floor
19 sleeping are documented and reported by the California State Board
20 of Corrections which were addressed to the Sheriff and copied to
21 defendant County of Fresno officials. The Sheriff and officials
22 of Merced County have ignored extremely serious and dangerous
23 problems of overcrowding in the Merced County Main Jail.

24 Prisoners in pro per have restricted legal access and are
25 unable to do the legal research necessary to their defense.

26 CLASS ACTION ALLEGATIONS

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11. The named plaintiffs are representatives of a class within the meaning of Rule 23(a) and 23(b)(2) of the Federal Rules of Civil Procedure.

12. The members of the class are so numerous that joinder of all of them is impractical, there being more than 300 prisoners in the Merced County Main Jail at any one time. The Main Jail has a Board Rated Capacity of 177.

13. The members of the class are readily identifiable from the defendants' records.

14. There are questions of law and fact common to the class; their class claims predominate over any individual claim.

15. The defendants have acted or refused to act on grounds generally applicable to the class by failing to provide constitutionally adequate facilities and hearings.

16. The named plaintiffs will fairly and adequately protect the interests of the class, having no other intent herein.

17. The class consists of all prisoners held in the Merced County Main Jail from March 3, 1993 to the present, and all future prisoners.

18. Plaintiffs do not propose notice at this time, consistent with their practice in similar cases.

WHEREFORE, plaintiffs pray:

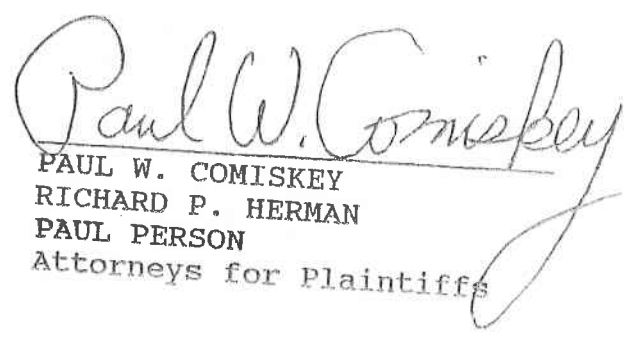
1. For an order and judgment requiring defendants to provide adequate conditions of confinement including a bed for every prisoner, an end to overcrowding, access to legal materials,

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reasonable exercise time, with adequate facilities for exercise,
access to services and places to sit, and adequate clean clothing;

1. For reasonable attorneys' fees and costs of suit;
3. For such other relief as may be necessary and proper to affect the purposes of this litigation.

Dated: March 4, 1993.


PAUL W. COMISKEY
RICHARD P. HERMAN
PAUL PERSON
Attorneys for Plaintiffs