

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

_____)
PEARL BEALE, Personal Representative)
of the Estate of Givon Pendleton)
and Legal Representative of)
Givon Pendleton)
2140 Brooks Drive #122)
Forestville, MD 20747)

Plaintiff,)

v.)

THE DISTRICT OF COLUMBIA)
A Municipal Corporation)
441 Fourth Street, NW)
Washington, DC. 20001)

Defendant.)
_____)

Civil Action No. _____

TRIAL BY JURY DEMANDED

COMPLAINT

(Negligence, Survival Action, Wrongful Death, and Civil Rights Violations)

I. Jurisdiction

1. This is a civil action seeking compensatory damages for the death of Givon Pendleton. This action arises under 42 U.S.C. § 1983, 42 U.S.C. § 1988, the common law, §12-101 and §16-2701 of the District of Columbia Code, and the United States Constitution.

2. This court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1343. Venue is proper under 28 U.S.C. § 1391(b).

II. Parties

3. Plaintiff Pearl Beale is an adult resident of the state of Maryland. She was duly qualified as Personal Representative of the Estate of Givon Pendleton, deceased, Court of Maryland for Prince George's County, Administration No. 64154, having been appointed on December 30, 2002. Plaintiff is the mother of the decedent and is empowered to maintain this cause of action pursuant to D.C. Code §12-101.

4. Defendant District of Columbia is a municipal corporation. It has, and at all relevant times to this action had, responsibility for persons incarcerated under its authority. The District of Columbia Jail, a/k/a Central Detention Facility, is a prison facility located within the District of Columbia and is utilized by the District of Columbia Department of Corrections (DC DOC) for the purpose of housing pretrial detainees and other persons who have been sentenced under the laws of the District of Columbia.

III. Factual Allegations

5. The DC DOC is charged by the DC Code §24-211.02 with responsibility for the safekeeping, care, protection, instruction and discipline of all persons housed in its penal institutions.

6. For over thirty (30) years, up to and including December 11, 2002, the District of Columbia was operating and maintaining its prison facilities in a hazardous and unsafe condition.

7. *Campbell v. McGruder and Inmates of DC Jail v. Jackson*, respectively, both were lawsuits filed in the 1970s seeking redress for unconstitutional conditions at the DC Jail. *Campbell* was filed on behalf of pretrial detainees confined to DC Jail. *Inmates of DC Jail* was filed on behalf of sentenced prisoners housed at the DC Jail. U.S. District Court Judge William B. Bryant held that the conditions of confinement in the Jail were so overcrowded and otherwise

inhumane that they violated the Eighth Amendment prohibition against cruel and unusual punishment.

8. For many years thereafter, the District consistently violated the District Court's orders stemming from the above cited lawsuits, and failed to bring the Jail up to minimal constitutional standards. In 1985, the Court found that conditions at DC Jail continued to violate prisoners' constitutional rights:

Time and again, defendants [the District] have requested the Court to defer to their accumulated wisdom, to stay its hand and to give them more time. Time and again, these requests have been honored in the hope and expectation that defendants would solve these problems expeditiously and effectively. However, instead of matters improving, they have deteriorated (Memorandum and Order, July 15, 1985, at page 50).

9. The Court's findings were based on many factors, including evidence that prisoners were confined in cells with non-functioning toilets and sinks, basic supplies were denied to many inmates, medical care was grossly deficient, and assaults and stabbings were regular occurrences.

10. As a result of defendant's maintenance of these unconstitutional conditions, Judge Bryant imposed an inmate population cap of 1,694.

11. Even with the Court imposed population cap, the District continued to defy numerous court orders designed to remedy the unconstitutional conditions at DC Jail. Finally, in 1993, the Court appointed a Special Officer to assist in ensuring compliance with its orders. In her February 1994 status report, the Special Officer documented that the District remained in "substantial noncompliance" with the Court's orders. The District did not dispute the Special Officer's findings and agreed to be held in contempt of court as part of a 1994 Consent Order. The Consent Order set forth a remedial plan with specific timetables to achieve compliance with constitutional requirements. Once again, however, the District failed to comply. In light of the

District's chronic noncompliance, which was particularly egregious in regard to medical and mental health care services, in 1995 the Court appointed a Receiver for medical care at the Jail.

12. In 1996, the United States Congress passed the Prison Litigation Reform Act ("PLRA"). This Act stripped the federal courts of much of their power to issue orders to prospectively correct even the most egregious prison conditions, and paved the way for the termination of the Court ordered Jail population cap in June 2002.

13. Within months, defendant purposefully increased the daily population at DC Jail to over 2,300 inmates, overwhelming the already deficient operating systems.

14. Despite an inmate population increase of almost forty percent (40%) , there was no corresponding increase in the number of correctional staff assigned by defendant to provide security to prisoners at the DC Jail.

15. Even before the inmate population ballooned, the DC Jail for many years had not implemented an inmate classification system to evaluate and assign appropriate housing and supervision to pretrial detainees. Inmates charged with nonviolent misdemeanors were housed alongside convicted violent felons, and no effort was made to separate predatory pretrial detainees charged with multiple murders from pretrial detainees charged with less serious offenses.

16. Although classification systems are routinely used by jails to classify inmates upon intake to the most appropriate level of custody and security, to make housing assignments, and to be reviewed regularly, the District simply did not care enough to conduct this basic screening process for pretrial detainees. These deficiencies were well known to the DC DOC management. In a 1996 report on the Department of Corrections (*District of Columbia Department of Corrections Study*) by the National Institute of Corrections, Dr. James Austin

concluded that DC DOC needed to develop a classification system for its pretrial population, which accounted for seventy percent (70%) of the Jail population.

Some of the specific findings were as follows:

- a) no objective classification system is in place for the pretrial population (p.18)
- b) the DOC needs to develop an objective classification system for the pretrial population (p.31)
- c) there are no system wide standards for inmate housing units within the DOC.... (p.37)
- d) the majority of housing units have the following major deficiencies:
 - (i) substantial overcrowding (p.37)
 - (ii) limited staff to provide security supervision and response capability (p.37)
 - (iii) inadequate sight lines (p.37)
 - (iv) inappropriate assignment of inmates relative to their custody levels (p.37)
 - (v) circulation and movement control systems did not allow for constant supervision of inmates when they were outside of their assigned cells(p.37)
 - (vi) staffing in open areas is insufficient to provide appropriate observation of inmates (p.38)

- (vii) because of the design of the facility, in which many areas are not visible to the officers, closed circuit televisions are a necessity for adequate supervision and security. (p.67)

17. In a follow up report in 1997 (*Assessment of the District of Columbia Department of Corrections*) which was funded by the Federal Bureau of Prisons and conducted by the National Institute of Corrections, the following security deficiencies at DC Jail were highlighted:

- a) the absence of a classification system for pretrial detainees - the majority of jail inmates (p.65)
- b) DOC has not adopted the new classification forms and procedures or implemented any of the other recommended tasks. As of this writing, the Department still operates under the classification system established in 1987. (p.66)

18. In addition to these reports, during the two (2) years preceding the murder of Givon Pendleton, the following events occurred:

- a) **April 13, 2001** - William H. Dupree, chairman of the Fraternal Order of Police Department of Corrections Labor Committee, wrote to Odie Washington, Director of the DC Department of Corrections, that the administration's plan to "increase the inmate population at the DC Jail ... while simultaneously eliminating security posts and decreasing the work force ... will present a major risk to the safety of...inmates confined at that facility."
- b) **September 29, 2001** - A study (District of Columbia Department of Correction Staffing and Overtime Assessment) prepared by Security

Response Technologies, Inc. warned that the District must "implement the proposed critical minimum staffing complement as the CDF's base roster of mandatory posts." (p.2)

- c) **November 9, 2001** - Mr. Dupree wrote to Mayor Williams concerning "an urgent safety and security matter at the DC Jail.... The Department of Corrections is in the process of implementing a very irresponsible plan that not only violates the Court ordered ceiling at the DC Jail, but compromises the safety of both staff and inmate populations."
- d) **November 12, 2001** - James F. Wallington, Esquire, an attorney representing the Fraternal Order of Police Department of Corrections Labor Committee wrote to the Special Officer requesting assistance in seeking "a temporary restraining order directing the Office of the Mayor ... and the Director of the DC Department of Corrections to cease the intentional overcrowding at the DC Jail. As of Sunday, November 11, 2001, the Department of Corrections has failed to increase the correctional officer staff at the DC Jail to address the immediate influx of inmate population."
- e) **November 14, 2001** - Correctional Officer Irving Robinson, who was assigned to the DC Jail, wrote that "it is my observation that the overcrowded conditions at the DC jail pose an immediate threat to staff and inmates."
- f) **November 16, 2001** - Mr. Dupree swore in an affidavit that "again the Department has deceived the employees of the Department of

Corrections and their representatives in a matter which clearly places the health and safety of employees and the public at risk ... based upon my experience as a correctional officer, I am of the opinion that these overcrowding conditions will only get worse and lead to serious injury or death...."

- g) **April 10, 2002** - Dominic Jones (the inmate who eventually murdered Givon Pendleton) along with two (2) other inmates, assaulted an inmate in the Southwest Three cellblock at the DC Jail. This inmate was hospitalized for his injuries. An informant advised correctional staff that Dominic Jones and the other assailants were part of a group of Muslims that had been strong arming inmates in the unit.
- h) **May 21, 2002** - The Special Officer reported that DOC Director Washington, in a March 25, 2002 Declaration, filed with the Court, represented that all posts on the "Critical Staffing Complement" would be filled at all times. However, according to shift rosters, cellblocks with an inmate population of 100 inmates or greater were not consistently staffed with three (3) officers. (p.5-6)
- i) **June 4, 2002** - The Special Officer reported that "According to the shift rosters and the cellblock logs, there have been numerous instances when cellblocks containing greater than 100 inmates have not been assigned three (3) officers.... I feel strongly that the Department of Corrections should adhere to its representations made in the Declaration filed with the Court.(p.5)

- j) **November 13, 2002** - Pamela Chase, Chairperson of the Fraternal Order of Police Department of Corrections Labor Committee testified at an oversight Hearing of the DC Department of Corrections that staffing shortages had created "reoccurring breaches in public safety and embarrassing incidents within the Department of Corrections.... Essential equipment and staffing have been sacrificed ... placing lives at risk and immediate action must be taken."
- k) **November 26, 2002** - The Honorable Kathleen Patterson, the District of Columbia City Council Judiciary Committee chairperson, and Ward 6 Councilmember Sharon Ambrose, wrote to Mayor Williams, stating in part as follows: "We are very concerned that the conditions appear to be worsening ... at the DC Jail due to overcrowding.... In sum, we fear for the physical safety of inmates, staff and the public at large."

19. Against this backdrop, on December 11, 2002, while incarcerated in the Southeast One cellblock at DC Jail, Givon Pendleton was brutally attacked by Dominic Jones, who stabbed him repeatedly with a metal weapon, believed to be a street knife, that had been smuggled into the institution. Mr. Pendleton died from his injuries. According to the MPD affidavit in support of the arrest warrant for Dominic Jones, Mr. Jones "was known to Detective Michael Irving as a defendant charged with shooting and killing of two individuals in an unrelated murder case.... The investigation revealed that the defendant is a member of a group called the "Muslim Brotherhood." The defendant was a detailee on the date of this murder and was in charge of dispensing meals and beverages (including milk) to the inmates during the dinner hour when this murder took place."

20. The autopsy report documented that Givon Pendleton suffered the following injuries:

- a) Stab wound to left lateral chest with perforation of heart and lung;
- b) Stab wound to left side of head
- c) Stab wound to left posterior neck
- d) Stab wound to left mid-chest
- e) Stab wound to right mid-chest
- f) Stab wound to left abdomen
- g) Stab wound to left lateral back
- h) Stab wound to left mid-back
- i) Stab wound to left arm
- j) Stab wound to left elbow

21. No prison guard saw, heard, or was present at the time of the assault to supervise, monitor or deter the brutal murder of Givon Pendleton by Dominic Jones, a predatory inmate awaiting trial on multiple counts of 1st degree murder while armed, and a known gang leader (Muslim Brotherhood) with a documented history of assaulting and strong arming other pretrial detainees. Moreover, Mr. Jones improperly had been detailed by correctional authorities to dispense food and milk to other inmates, including decedent. At the time of Mr. Pendleton's murder, there were 153 prisoners housed in the Southeast One cellblock.

22. Taken as a whole, these examples document the District's custom and policy of exhibiting deliberate indifference to its constitutional duty to protect pretrial detainees at the DC Jail. All of these matters became known to the highest policymakers in the District government through court orders, studies, reports, expert reports which were provided to the District, lawsuits

filed against the District, settlements entered into by it and adverse verdicts delivered by juries. These documents placed the District on notice of the unconstitutional conditions of confinement at DC Jail.

COUNT ONE

(Negligent Contraband Control - Survival Statute)

23. Plaintiff hereby incorporates paragraphs 1 through 22, supra, by reference.

24. The Department of Corrections of the District of Columbia was under a statutory and common law duty to provide for the safekeeping, care, protection, instruction and discipline all of all persons housed in its penal institutions, including decedent Givon Pendleton.

25. Defendant District of Columbia knew or should have known that, due to its lack of commonly accepted prison security measures including, but not limited to, its failure to control contraband, install metal detectors, and conduct and document frequent and unannounced housing unit, inmate and cell shakedowns, it was reasonably foreseeable that residents, including plaintiff, would be attacked by other residents with lethal and prohibited weapons.

26. As a direct and proximate result of the above-described negligence, plaintiff was assaulted with a metal knife or shank, resulting in his death. He experienced bodily pain and mental anguish, and he suffered pecuniary loss, including, but not limited to, hospital and medical expenses and loss of future earnings.

WHEREFORE, plaintiff prays for a judgment against defendant District of Columbia awarding compensatory damages in the amount of \$10 Million Dollars (\$10,000,000.00), costs of this suit, and any other relief deemed appropriate by the court.

COUNT TWO

(Negligent Supervision of Inmates - Survival Statute)

27. Plaintiff hereby incorporates paragraphs 1 through 26, *supra*, by reference.

28. Defendant District of Columbia knew or should have known that, due to its lack of security measures including, but not limited to, its failure to assign adequate staff to watch, hear, monitor and supervise properly resident activity and movement, it was reasonably foreseeable that residents, including plaintiff's decedent, would be attacked by other residents with lethal and prohibited weapons.

29. As a result, Mr. Jones was able to acquire a metal knife or shank which he used to repeatedly stab decedent Givon Pendleton without sight or sound supervision or deterrence by correctional personnel, in violation of commonly accepted prison security standards.

30. As a direct and proximate result of the above-described negligence, plaintiff was assaulted with a metal knife or shank, resulting in his death. He experienced bodily pain and mental anguish, and he suffered pecuniary loss, including, but not limited to, hospital and medical expenses and loss of future earnings.

WHEREFORE, plaintiff prays for a judgment against defendant District of Columbia awarding compensatory damages in the amount of \$10 Million Dollars (\$10,000,000.00), costs of this suit, and any other relief deemed appropriate by the court.

COUNT THREE

(Negligent Overcrowding - Survival Statute)

31. Plaintiff hereby incorporates paragraphs 1 through 30, *supra*, by reference.

32. Shortly after the court ordered population cap of 1,674 inmates at DC Jail was lifted in June 2002, the daily population at DC Jail grew and was over 2,300 inmates at the time of Givon Pendleton's murder.

33. Despite the rapid increase in the jail population, there was no corresponding increase in the assignment of correctional staff to provide security at DC Jail.

34. Defendant District of Columbia had been repeatedly warned of the dangers to inmates that would result from overcrowding.

35. Defendant District of Columbia knew or should have known that, due to its lack of commonly accepted security measures including, but not limited to, its failure to reduce overcrowding, and/or to assign adequate numbers of correctional officers to supervise the excessive numbers of residents, its failure to control contraband, and to install metal detectors, its failure to monitor and supervise properly resident activity and movement, and its failure to conduct and document frequent and unannounced housing unit, inmate and cell shakedowns, it was reasonably foreseeable that residents, including plaintiff's decedent, would be attacked by other residents with lethal and prohibited weapons in the crowded cellblock.

36. As a direct and proximate result of the above-described negligence, plaintiff was assaulted with a metal knife or shank, resulting in his death. He experienced bodily pain and mental anguish, and he suffered pecuniary loss, including, but not limited to, hospital and medical expenses and loss of future earnings.

WHEREFORE, plaintiff prays for a judgment against defendant District of Columbia awarding compensatory damages in the amount of \$10 Million Dollars (\$10,000,000.00), costs of this suit, and any other relief deemed appropriate by the court.

COUNT FOUR

(Negligent Supervision and Training - Survival Statute)

37. Plaintiff hereby incorporates paragraphs 1 through 36, supra, by reference.

38. At the time of plaintiff's decedent's injuries, DC Jail was staffed by guards who were inadequately supervised and trained.

39. Because the guards were inadequately supervised and trained, and were too few in number, they failed to properly monitor, supervise and secure the area, and prevent or deter the attack upon plaintiff.

40. As a direct and proximate result of the above-described negligence, plaintiff was assaulted with a metal knife or shank, resulting in his death. He experienced bodily pain and mental anguish, and he suffered pecuniary loss, including, but not limited to, hospital and medical expenses and loss of future earnings.

WHEREFORE, plaintiff prays for a judgment against defendant District of Columbia awarding compensatory damages in the amount of \$10 Million Dollars (\$10,000,000.00), costs of this suit, and any other relief deemed appropriate by the court.

COUNT FIVE

(Wrongful Death Statute)

41. Plaintiff hereby incorporates paragraphs 1 through 40, *supra*, by reference.

42. As a direct and proximate result of the above-described negligence, decedent Givon Pendleton died on or about December 11, 2002. There were no intervening or superseding causes contributing to his death.

43. As a further direct and proximate result of the above-described negligence and the ensuing death of Givon Pendleton, plaintiff and decedent's next of kin suffered the loss of decedent's services, companionship, comfort, care, love, affection, attention, assistance, financial support, future earnings and other pecuniary benefit which they would have derived had plaintiff's decedent survived.

WHEREFORE, plaintiff prays for a judgment against defendant District of Columbia awarding compensatory damages in the amount of \$10 Million Dollars (\$10,000,000.00), costs of this suit, and any other relief deemed appropriate by the court.

COUNT SIX

(Civil Rights Violations)

44. Plaintiff hereby incorporates paragraphs 1 through 43, *supra*, by reference.

45. At all relevant times, the District of Columbia operated DC Jail under color of state law, and adopted a pattern, practice, custom, and policy of acting with deliberate indifference and reckless disregard with respect to providing for the safety, security, and protection of pretrial detainees.

46. The District's pattern, practice, custom, and policy of acting with deliberate indifference and reckless disregard with respect to providing for the safety, security, and protection of pretrial detainees was known to, and sanctioned by, District policymakers.

47. The aforesaid actions constitute violations of 42 U.S.C. § 1983 and the Fourth, Fifth, Eighth, and Fourteenth Amendments of the United States Constitution, and deprived plaintiff of his rights to life, liberty, and bodily integrity, and further subjected him to cruel and unusual punishment.

48. As a direct and proximate result of the above-described municipal pattern, practice, custom and policy, plaintiff was assaulted with a metal knife or shank, resulting in his death. He experienced bodily pain and mental anguish, and he suffered pecuniary loss, including, but not limited to, hospital and medical expenses and loss of future earnings.

49. As a further direct and proximate result of the above-described municipal pattern, practice, custom and policy and the ensuing death of Givon Pendleton, plaintiff and decedent's

next of kin suffered the loss of decedent's services, companionship, comfort, society, care, love, affection, attention, assistance, guidance, advice, financial support, future earnings and other pecuniary benefit which they would have derived had plaintiff's decedent survived.

WHEREFORE, plaintiff prays for a judgment against defendant District of Columbia awarding compensatory damages in the amount of \$10 Million Dollars (\$10,000,000.00), costs of this suit, attorneys' fees, and any other relief deemed appropriate by the court.

Jury Demand

Plaintiff hereby demands trial by jury of this matter.

Respectfully submitted,

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