

FILED

JAN 10 1980

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

EYVON MENDENHALL
U. S. DISTRICT COURT
E. DISTRICT OF MO. *L*

ROBERT E. BULLINGTON, et al.,)
)
Plaintiffs,)
)
v.)
)
GENE McNARY, et al.,)
)
Defendants.)

No. 79-650 C ³(4)

REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE

The class action allegations of plaintiffs' amended complaint were referred to the undersigned United States Magistrate for review and a recommended disposition pursuant to 28 U.S.C. §636(b).

Plaintiffs Robert E. Bullington, Steven L. Toney, Glen Reynolds and Michael Clark seek an order permitting them to maintain this action as a class action on behalf of all persons who are detained at the St. Louis County Jail who are awaiting trial on alleged criminal offenses against the State of Missouri. By their allegations they invoke Rule 23(a), (b)(1)(B), and (b)(2), Federal Rules of Civil Procedure. The matter came on for hearing on January 9, 1980 and the parties, by counsel, offered written and oral stipulations of fact.

After considering the allegations of the complaint and the stipulations of counsel the undersigned makes the following findings:

The class is so numerous that joinder of all members is impracticable, there being in excess of 50 pre-trial detainees currently incarcerated in the St. Louis County Jail. One of the

Johnson v. O'Brien



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purported class representatives, Robert E. Bullington, remains incarcerated as a pre-trial detainee at the St. Louis County Jail. There are questions of fact and law common to the class. The claims of the representatives of the class are typical of the claims of the class. The representative parties through their counsel will fairly and adequately protect the interests of the class. See Fed.R.Civ.Pro. 23(a). The prosecution of separate actions by or against individual members of the class would create a risk of adjudications with respect to individual members of the class which would as a practical matter be dispositive of the interests of the other members not parties to the adjudications or substantially impede or impair their ability to protect their interests. See Fed.R.Civ.Pro. 23(b)(1)(B). The parties opposing the class have acted or refused to act on grounds generally applicable to the class thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the class as a whole. See Fed.R.Civ.Pro. 23(b)(2).

RECOMMENDATION

For the reasons set out above, it is the recommendation of the undersigned United States Magistrate that

(1) this action be maintained as a class action pursuant to Rule 23(a), (b)(1), and (b)(2);

(2) the subject class be defined as all persons who are detained, or have been detained, or will be detained at the St. Louis County Jail, State of Missouri, awaiting trial on alleged offenses against the State of Missouri;

(3) the Court reserve the right to alter or eliminate the class aspects of this action or to impose further conditions to its maintenance as a class action if upon further hearings

and upon further evidence adduced this Court believes that such alteration, elimination or conditions are necessary in order to properly protect the interests of the class. See Fed.R.Civ.Pro. 23(c)(1). The parties shall have ten days within which to file written objections to this Report and Recommendation.

Respectfully submitted,

David D. Noce
UNITED STATES MAGISTRATE

Dated this 10th day of January, 1980.

United States District Court

EASTERN DISTRICT OF MISSOURI
OFFICE OF THE CLERK
1114 MARKET STREET

Saint Louis, Missouri 63101
September 18, 1980

PHONE:
COML 314-425-4315
FTS. 279-4315

EYVON MENDENHALL

Mr. James L. Thomas
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St. Louis, Missouri 63101

Mr. John P. Emde
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St. Louis, Missouri 63101

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and Donald J. Weyerich
County Government Center
41 North Central Avenue
St. Louis, Missouri 63105

Mr. Eugene K. Buckley
Evans & Dixon
314 North Broadway
St. Louis, Missouri 63102

Re: Robert Ernest Bullington, et al.,
vs.
Warden Moreland, et al. #79-650C(2)
Consolidated With:
Ronnie Johnson
vs.
William O'Brien, etc., et al. #76-210CQ

_____ Enclosed is copy of an
ORDER entered this date
by the Honorable John F.
Nangle in the above-styled
cause.

_____ X _____ Enclosed is copy of an
ORDER AND MEMORANDUM
entered this date by the
Honorable John F. Nangle
in the above-styled cause.

_____ Enclosed is copy of a MEMO-
RANDUM AND ORDER entered
this date by the Honorable
John F. Nangle in the above-
styled cause.

Very truly yours,

EYVON MENDENHALL, CLERK

By: Gloria M. Fuigo
Deputy Clerk

cc - Honorable William S. Bahn
United States Magistrate

Enclosure(s)

George...

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

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ROBERT ERNEST BULLINGTON,)
et al.,)
)
Plaintiffs,)
)
v.)
)
WARDEN MORELAND, et al.,)
)
Defendants.)

EYVON MENDENHALL
U. S. DISTRICT COURT
E. DISTRICT OF MO.

No. 79-650 C (3)

ORDER

This matter is before the Court on plaintiffs' class action allegation.

After consideration of the matter,

IT IS HEREBY ORDERED that this matter be set for a hearing before United States Magistrate Noce at 10:00 a.m., January 9, 1980, in Room 724, United States District Court, Eastern District of Missouri.

Dated this 7th day of January, 1980.

Edward L. Filippine
UNITED STATES DISTRICT JUDGE

United States District Court

EASTERN DISTRICT OF MISSOURI
OFFICE OF THE CLERK

Saint Louis, Missouri 63101

Jan. 7, 1980

Mr. James L. Thomas
506 Olive Street
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Mr Thomas Wehrle
Mr. Donald Weyerich
Asst. County Counselor
41 North Central
Clayton, Mo. 63105

RE: ROBERT ERNEST BULLINGTON
et al
v.
WARDEN MORELAND et al
NO. 79-650-C(3)

X Enclosed is a copy of an
ORDER entered this date by
the Honorable Edward L.
Filippine in the above-
styled cause.

— Enclosed is a copy of an
ORDER & MEMORANDUM entered
this date by the Honorable
Edward L. Filippine in the
above-styled cause.

— Enclosed is a copy of a
MEMORANDUM & ORDER entered
this date by the Honorable
Edward L. Filippine in the
above-styled cause.

—

Very truly yours,
EVYON MENDENHALL, Clerk

L. Oakes
Deputy Clerk