

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION

F I D

FEB 3 - 1971

WILLIAM T. ROBERTSON, CLERK

Jan J. Ester

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NAZARETH GATES, WILLIE LEE HOLMS, HAL
ZACHARY, and MATHEW WINTERS, individually
and on behalf of all others similarly
situated,

Plaintiffs

-vs-

CIVIL ACTION
No. GC 716-K

THOMAS D. COOK, SUPERINTENDENT of the
MISSISSIPPI STATE PENITENTIARY, also known
as PARCHMAN PRISON, MISSISSIPPI PENITENTIARY
BOARD, J.D. DEMOVILLE, ST. TURNER ARANT,
SEBE DALE, JR. ROBERT D. ROBINSON and H. L.
ROBERTS, members of the MISSISSIPPI STATE
PENITENTIARY BOARD, and JOHN BELL WILLIAMS,
GOVERNOR of the STATE OF MISSISSIPPI, and
their Successors,

Defendants
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COMPLAINT

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C.A. §§ 1331, 1343 and 2201. This action arises under the Eighth and Thirteenth Amendments and the due process and equal protection clauses of the Fourteenth Amendment of the United States Constitution and is a suit in equity authorized by 42 U.S.C.A. § 1981, § 1983, § 1985, and § 1994 for a preliminary and permanent injunction to redress the deprivations, under color of state statute, ordinance, regulation, custom or usage, of rights, privileges and immunities secured under the aforementioned Amendments to the Constitution and statutes of the United States. This is also a proceeding for a declaratory judgment as to plaintiffs' rights to be free from such deprivation by the defendants acting under color of state law.

2. This is an action for a preliminary and permanent injunction and for a declaratory judgment (1) in the First Cause of Action, to enjoin the defendants from maintaining the Parchman Prison in its present condition which constitutes cruel and inhuman treatment of the members of the plaintiff class; and (2) as to the Second Cause of Action, to enjoin the defendants from depriving Negro members of this sub-class of their equal right to protection of the laws by virtue of the segregated facilities at the Prison, all in violation of the rights of the plaintiffs as set forth in ¶(1) above.

AS AND FOR A FIRST CAUSE OF ACTION

3. The plaintiffs, Nazareth Gates, Willie Lee Holmes, Hal Zachary and Mathew Winters are all inmates of the Mississippi State Penitentiary System located at Parchman Prison, Parchman, Mississippi. Each plaintiff brings this action on his own behalf and on behalf of all inmates of Parchman Prison and on behalf of all persons who in the future will be committed to the custody of the defendants for incarceration at Parchman and subject to the jurisdiction of the defendants, pursuant to Rule 23 of the Federal Rules of Civil Procedure. The prerequisites of Rule 23 (a), (b) (1), and (b) (2) are satisfied. The members of the class (present inmates and future inmates of Parchman Prison) are so numerous as to make it impracticable to bring them all before this Court. There are questions of law and fact common to all members of the class. The claims of the plaintiffs are typical of the claims of the class, and the relief sought is common to all members of the class. Plaintiffs will fairly and adequately represent and protect the interests of the class. The prosecution of separate actions by individual members of the class would create a risk of:

(a) inconsistent or varying adjudications with respect to individual members of the class which would establish incompatible standards of conduct for the party opposing the class, or

(b) 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 impair or impede their ability to protect their interests. Defendants have acted and refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive relief and corresponding declaratory relief with respect to the class as a whole.

4. Defendant Thomas D. Cook is the Superintendent of the Parchman Prison and as such is charged with the exclusive management and control of the prison system of the State of Mississippi pursuant to §§7930 of the Mississippi Code Annotated of 1942, Supp., 1964 (hereinafter, Miss. Code). He is sued in his individual and official capacity.

The Mississippi State Penitentiary Board is charged with the overall policy making authority for the prison system of the State of Mississippi pursuant to §§ 7951 Miss. Code.

Defendants J. Q. DeMoville, Thomas D. Cook, Turner Arant, Sebe Dale, Jr., Robert D. Robinson and H. L. Roberts, Sr. are all duly appointed members of the Penitentiary Board and as such their duties and responsibilities are set forth in §§7951 Miss. Code. They are sued in their individual and official capacities.

Defendant John Bell Williams is the Governor and chief executive of the State of Mississippi and Ex-Officio Member of the Penitentiary Board of the State of Mississippi. Pursuant to §7942 of the Miss. Code., defendant Williams as Governor of the State is responsible for appointing the members of the Penitentiary Board. He is sued in his individual and official capacity.

FACTS

5. Defendants are charged with the duty to the inmates that they "shall have humane treatment, and be given opportunity, encouragement and training in the matter of reformation." (§§7921 Mississippi Code)

Defendant's have failed and refused to provide humane treatment to the inmates of Parchman Prison thereby depriving them of their rights, privileges and immunities set forth in Paragraph (1) above as follows:

(a) Practically all of the camps wherein the inmates are housed are in dire need of plastering and painting. They are infested with maggots, roaches and other insects and rats.

(b) The sanitary conditions throughout the prison are in deplorable condition. The water is dirty, rusty and often contains insects.

(c) The beds and mattress are substandard and often infested with insects.

(d) There are insufficient and unsanitary bathroom facilities in the camps to supply the number of inmates housed therein. Windows in the bathrooms are broken out.

(e) The sewage disposal system is inadequate and dangerous to the health and safety of the inmates. In some cases, human and food wastes are discharged directly into open ditches adjacent or near to the camps with no chemical treatment. Such areas become infested with flies and mosquitoes in the summer months, breeding germs and disease. In one case, such a condition exists only several feet from the kitchen causing a direct or potential health hazard to the food served to the inmates.

(f) Solid wastes are dumped in open pits breeding rats.

(g) Electric wires are exposed in areas of the camps which create a fire hazard and cause electric shock to the inmates.

(h) The camps have inadequate heating facilities to keep the inmates warm in the winter months.

(i) In the event of a fire at one of the camps, the only method of fighting it presently is to use one outmoded fire wagon and hand methods that are inadequate to protect the inmates from injury or death. Several buildings have already burned down.

(j) The inmates are inadequately fed, especially for the arduous work they are required to perform.

(k) The hospital building is in a terrible state of disrepair. There is plaster falling off of the walls. The heating is inadequate. The water system is inadequate. Many of the machines used in the hospital are outdated and break down.

(l) Although there is authorization for a full time doctor, the prison has not had one on any permanent basis. In sum, the medical and psychiatric facilities at the prison are inadequate to serve the most basic needs of the inmates.

(m) The cemeteries at the prison are in deplorable condition. In many instances there are no headstones or markers to indicate the deceased's name.

(n) The defendants have failed to provide the inmates with adequate clothing to protect them from the weather.

6. Most of the inmates are required to work in the fields. Said work is without compensation. The inmates are often made to work until they drop from fatigue and or heat or sun stroke. They are required to work as long as 15 hours per day in the summer, sometimes seven days each week. The inmates are not provided adequate clothing to work in the fields and are forced to work in the cold and rain without proper clothing.

7. The barracks type of housing fails to protect inmates from assaults, murder, rape and homosexual activities

by other inmates. Despite their knowledge of these conditions, the defendants have failed and refused to protect the inmates from these acts of violence. The inmates are in constant fear for their safety and lives as a result of this disregard for their most basic welfare and protection.

(8) Defendants have employed a system of guarding the prisoners by other prisoners known as the "trusty" system (§§7695 Mississippi Code). This system has deprived the inmates of their rights as set forth in Paragraph (1) as follows:

(a) Many of the trusty inmates have been convicted of the worst crimes against man including rape and murder.

(b) These same trusties have almost complete life and death control over the rest of the inmates at the prison.

(c) Most of these trusties are armed with rifles and shotguns.

(d) The trusties have inflicted the most barbaric punishment on other inmates including forceable rape, murder and torture, beating inmates with such weapons as rubber hoses, axe-handles, chains and straps. These sadistic beatings have taken place with the knowledge and consent of the defendants herein and on occasion in front of the "free world" security guards.

(e) These same trusties are assigned the responsibility of keeping prison records with regard to prison good time and disciplinary information.

(f) These trusties have used their power to extort money from other prisoners and in concert with "free world" guards, share in the profits and force said inmates to commit crimes within the prison and subject them to unnatural sexual acts.

(g) Access to medical and dental facilities by the inmates is through these trusties who have little or no regard

for the welfare of their fellow inmates.

(h) These trustees have almost complete authority over the Maximum Security unit of the prison and treat the inmates in Maximum Security in the most barbaric and sadistic way. The aforementioned activity occurs with the knowledge and consent of the defendant.

(9) There is a complete lack of security facilities at the prison to protect prisoners from each other and from the trustees. There is an insufficient number of guards to guard and protect the inmates. Those presently employed at the prison are not properly trained in prison security and treat the inmates in a cruel and inhuman manner, subjecting them to the same treatment as described in paragraph (8).

(10) Mail sent by inmates to their attorneys and family and friends is censored and or opened by prison officials with the knowledge and consent of the defendants.

(11) Inmates are not informed as to the standards of conduct that is required of them which may subject them to corporal punishment and in most instances the subjective determination of the trustees prevail and is taken at face value by the prison officials. Inmates are subjected to solitary confinement in Maximum Security Unit as punishment without due process and at the hands of the trustees as set forth in Paragraph (8) above.

(12) There are virtually no recreational facilities for the prisoners when they are not in the fields or locked in the camps.

(13) Despite the obligation to give "opportunity, encouragement and training in the matter of reformation (§ 7921 Miss. Code), the defendants have not provided the inmates with basic adult education program. Although there is a Vocational Training program, only a small percentage of the inmates are afforded an opportunity for the same. The defendants have failed and refused to provide the inmates with a basic educational training program.

(14) The aforementioned actions of the defendants have deprived the members of the plaintiff class of rights, privileges and immunities secured to them by the Eighth and Thirteenth Amendments and the due process and equal protection clauses of the Fourteenth Amendment of the Constitution of the United States and the laws and statutes of the United States as set forth more fully in paragraph (1) above.

SECOND CAUSE OF ACTION

(15) Plaintiffs repeat and reallege each and every allegation contained in paragraphs marked "(1)", "(3)", and "(4)" herein on behalf of all Negro and future Negro inmates of the Parchman State Penitentiary with the same force and effect as if more fully set forth herein.

(16) The plaintiffs herein are all members of the Negro race and as a sub-class seek to represent all Negro and future Negro inmates subject to the jurisdiction of the defendants, pursuant to Rule 23 of the Federal Rules of Civil Procedure. The prerequisites of Rule 23 (a), (b) (1), and (b) (2) are satisfied. The members of the sub-class (present and future Negro inmates of Parchman Prison) are so numerous as to make it impracticable to bring them all before this court. There are questions of law and fact common to all members of the class. The claims of the plaintiffs are typical of the claims of the class and the relief sought is common to all members of the class. Plaintiffs will fairly and adequately represent and protect the interest of the class. The prosecution of separate actions by individual members of the class would create a risk of:

(a) inconsistent or varying adjudications with respect to individual members of the class which would establish incompatible standards of conduct for the party opposing the class, or

(b) 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 impair or impede their ability to protect their interests. Defendants have acted and refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive relief and corresponding declaratory

relief with respect to the class as a whole.

(17) Plaintiff Negro members of the sub-class have been deprived of their rights and privileges as set forth in paragraph (1) above in that they have been classified, designated, segregated and discriminated against on the basis of their race as follows:

(a) All of the camps at the prison are segregated by race, save one.

(b) The dining facilities are segregated by race.

(c) The prison hospital has a White and Negro ward for the inmate patients.

(d) Negro inmates are required to do the most arduous tasks at the prison. White inmates are given easier tasks.

(e) The food provided in the Negro camps is inferior to that which is provided in the white camps.

(f) All of the conditions described in paragraph (5) above, exists in a more deplorable condition in the Negro camps than in the white camps.

(g) Negro prisoners are subjected to barbaric treatment at the hands of "free world" white guards.

(18) Plaintiffs are informed and believe that the Negro population of the State is 36.8 per cent, the defendant, Governor John Bell Williams has failed and refused to appoint any Negro to the Penitentiary Board; no members of the Negro race are employed as office and clerical workers, or as "free world" guards, and in any other positions at the Parchman Prison.

(19) That the defendants willful classification and segregation and discrimination as set forth in paragraphs (17) and (18) was and is purposeful and systematic and based solely upon race in violation of the rights and privileges contained in the Due Process and Equal Protection clauses of the Fourteenth Amendment to the Constitution of the United States and the statutes and laws of the United States as set more fully forth in ¶(1) above.

WHEREFORE, plaintiffs pray that the court enter judgment granting plaintiffs;

(1) As to the First Cause of Action:

- (a) a declaratory judgment that defendants' acts complained of herein violate plaintiffs' rights secured by the Eight and Thirteenth Amendments and due process and equal protection clauses of the Fourteenth Amendment of the Constitution of the United States and is cruel and inhuman treatment.
- (b) A preliminary and permanent injunction enjoining the defendants from maintaining or retaining custody of the plaintiffs under the conditions set forth in this complaint.
- (c) A preliminary and permanent injunction ordering the defendants to;
 - (i) immediately discontinue the use of the "trusty" guard system,
 - (ii) to immediately provide adequate medical care, housing, clothing, food, heat, hospital facilities and other services presently denied to the plaintiffs as set forth more fully herein,
 - (iii) to provide plaintiffs with programs of rehabilitation and education,
 - (iv) to hire trained guards to protect the safety and well being of the plaintiffs.
 - (v) to refrain from requiring plaintiffs to work without pay in a manner that constitutes cruel and inhumane treatment,
 - (vi) to provide adequate procedural safeguards in the imposition of discipline,

- (vii) to refrain from inflicting any corporal punishment on the plaintiffs, and
- (viii) to otherwise refrain from inflicting cruel and inhumane treatment on the plaintiffs.

(2) As to the Second Cause of Action:

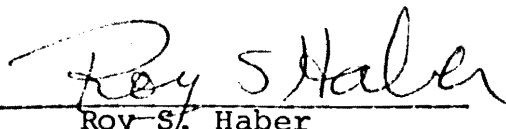
- (a) A preliminary and permanent injunction enjoining the defendants from maintaining and retaining Negro plaintiffs in their custody until such time as the defendants integrate the facilities at the Parchman Prison.
- (b) A preliminary and permanent injunction ordering the defendants to integrate the facilities at the Parchman prison: ordering the defendants to hire Negro employees and guards; and order the defendant John Bell Williams to submit a plan to provide Negro representation on the State Penitentiary Board, and to otherwise refrain from discriminating against plaintiffs solely because of their race.

(3) Allow plaintiffs their costs in this action, including a reasonable attorneys' fee;

(4) Grant to plaintiffs such other and further relief as to the court seems just and proper.

Dated: February 8, 1971

Respectfully submitted,



Roy S. Haber
Constance Iona Slaughter

Lawyers' Committee For Civil
Rights Under Law
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