

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

FILED
U.S. DISTRICT COURT
INDIANAPOLIS DIVISION

11 MAY 31 PM 2:32

SOUTHERN DISTRICT
OF INDIANA
LAURA A. BRIGGS
CLERK

BILL SNIDER, on his own behalf, and)
on behalf of a class of those similarly)
situated,)

Plaintiff,)

v.)

SUPERINTENDENT, WABASH VALLEY)
CORRECTIONAL FACILITY;)
UNIT MANAGER, SPECIAL)
CONFINEMENT UNIT, WABASH)
VALLEY CORRECTIONAL FACILITY,)

Defendant.)

No.

1 : 11-cv-0731 WTL -MJD

COMPLAINT-CLASS ACTION

CLASS ACTION COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Introduction

1. Bill Snider is confined in the Special Confinement Unit (SCU) an Indiana Department of Correction (DOC) facility that is located within the Wabash Valley Correctional Facility in Carlisle, Indiana. Prisoners within the SCU are regularly served meals that fail to meet minimum caloric requirements. Prisoners complain of the deficient diet and are told that the matter will be rectified, but the deficiencies continue. The lack of an adequate diet has led to serious health problems for Bill Snider and the putative class and violates the Eighth Amendment to the United States Constitution. Appropriate declaratory and injunctive relief should issue.

Jurisdiction, venue and cause of action

- 2. This Court has jurisdiction of this matter pursuant to 28 U.S.C. § 1331.
- 3. Venue is proper in this district pursuant to 28 U.S.C. § 1391.
- 4. Declaratory relief is authorized by 28 U.S.C. §§ 2201 and 2202.

5. This action is brought pursuant to 42 U.S.C. § 1983 to redress the deprivation, under color of state law, of rights secured by the Constitution of the United States.

Parties

6. Bill Snider is an adult prisoner currently confined to the SCU.

7. The Unit Manager of the SCU is the DOC employee who is in charge of the day-to-day operations of the unit and is sued pursuant to Rule 17(d) of the Federal Rules of Civil Procedure.

8. The Superintendent of the Wabash Valley Correctional Facility is in charge of the operations of the facility, including the SCU and is sued pursuant to Rule 17(d) of the Federal Rules of Civil Procedure.

Class action allegations

9. This action is brought by Bill Snider on his own behalf and on behalf of a class of those similarly situated pursuant to Rule 23(b)(2) of the Federal Rules of Civil Procedure.

10. The class is defined as:

All prisoner now, and in the future, confined to the Special Confinement Unit at Wabash Valley Correctional Facility

11. As defined, the class meets all the requirements of the Federal Rules of Civil Procedure.

Specifically:

a. The class is so numerous that joinder of all members is impracticable. The SCU houses more than 200 prisoners.

b. There are questions of law or fact common to the class: whether the persistent serving of food portions significantly less than the prepared diets violates the Eighth Amendment to the United States Constitution.

c. The claims of the representative party are typical of those of the class.

d. The representative party will fairly and adequately protect the interests of the class.

12. The further requirements of Rule 23(b)(2) of the Federal Rules of Civil Procedure are met in this cause in that defendants have, at all times, acted or refused to act in a manner generally applicable to the class, thereby making final injunctive and declaratory relief appropriate with respect to the class as a whole.

13. Plaintiff's counsel should be appointed to represent the class pursuant to Rule 23(g) of the Federal Rules of Civil Procedure.

Factual allegations

14. The SCU is a long-term segregation unit where prisoners are confined for long periods of time either in administrative segregation or disciplinary segregation.

15. The Unit is lead by its Unit Manager who is responsible for the day-to-day operations of the unit.

16. The head of Wabash Valley Correctional Facility is its Superintendent.

17. Prisoners in the SCU receive meals three times a day in their cells.

18. Prisoners are generally confined to their small solitary cells except for an opportunity for recreation seven days a week for an hour and a brief opportunity for a shower.

19. The recreation takes places in small cages.

20. The rest of the time the prisoners are generally confined to their cells.

21. The DOC has contracted its food services responsibility to Aramark Correctional Services ("Aramark") and, with the assistance of prison employees, and under the ultimate supervision of DOC employees, Aramark employees prepare meals in the DOC institution, including the meals for prisoners in the SCU.

22. Pursuant to the contract between the DOC and Aramark, prisoner meals are to be prepared according to menus that provide the prisoners between 2500 and 2800 calories per day.

23. Aramark has constructed published menus, approved by dieticians, which provide this diet.

24. Despite the menus that are designed to provide the minimum adequate calories and diets for the prisoners in the SCU, food is frequently missing from Mr. Snider's and other SCU's prisoners trays.

25. As a result, Mr. Snider and the prisoners are receiving significantly less food, and calories, as is required by the contract between DOC and Aramark and as is required to assure the health and well-being of the prisoners.

26. Mr. Snider and many other prisoners have frequently complained about the dietary deficiencies.

27. At times, DOC personnel have acknowledged the deficiencies. For example, in a grievance response entered in October of 2010, a DOC employee noted that "food supply to provide the required meals is not always present in the SCU."

28. This echoes an October 2009 finding by the Indiana State Department of Health that verified that proper portions were not being served to prisoners.

29. Both defendant Superintendent and defendant Unit Manager are aware of the problems with SCU prisoners not receiving the proper amounts of food.

30. Nevertheless, despite these substantiated complaints and subsequent promises to rectify the matter, food portions continue to be frequently short.

31. This has led to many prisoners losing significant amounts of weight because of caloric and portion deficiencies.

32. Bill Snider had been confined in the SCU since March of 2008.

33. Upon entering the SCU and being served inadequate amounts of food, Mr. Snider lost weight.

34. However, since May of 2008 he has been able to purchase food from commissary.

35. He was forced to purchase food items from commissary to attempt to supplement the lack of healthy calories from the regular diet that was consistently inadequate..

36. However, the foods on commissary are high in salt, fat, and cholesterol.

37. Because he is locked up in a small cell for almost all of his days, Mr. Snider has limited opportunities for exercise.

38. Because of the inadequacy of the diet being served and his need to supplement it with food from commissary, Mr. Snider has actually gained weight. He has been diagnosed as having benign essential hypertension and has been prescribed lopressor to control his high blood pressure.

39. Many of the other SCU prisoners do not have money to buy foods on commissary and, as a result, are suffering continuing weight loss.

40. Mr. Snider has exhausted all grievances concerning the diet issue. (Attached).

41. Prisoners have frequently complained to the defendants, other than through formal grievances, concerning the dietary problems.

42. The defendants are aware of the deficient diets, but have done nothing to remedy the problem.

43. Mr. Snider and the putative class are being caused irreparable harm for which there is no adequate remedy at law.

44. At all times defendants have acted under color of state law.

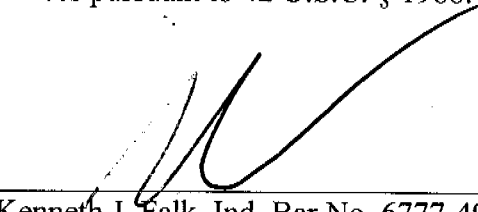
Claim for relief

45. The failure of defendants to supply to Mr. Snider and the putative class with a minimally adequate diet represents deliberate indifference to the serious risk of physical harm, and the actual harm, caused to Mr. Snider and the putative class and therefore violates the Eighth Amendment to the United States Constitution.

Request for relief

WHEREFORE, plaintiff requests that this Court:

- a. Accept jurisdiction of this case and set it for hearing at the earliest opportunity.
- b. Certify this case as a class action with the class as defined above.
- c. Enter a declaratory injunction that defendants have violated the Eighth Amendment for the reasons noted above.
- d. Enter a permanent injunction enjoining defendants to take all steps to assure that prisoners in the SCU receive the diets and portions specified in dietician-approved menus.
- e. Award plaintiff his costs and attorneys' fees pursuant to 42 U.S.C. § 1988.
- f. Award all other proper relief.



Kenneth J. Falk, Ind. Bar No. 6777-49
Jan P. Mensz (Member, New York Bar and
the Bar of this Court)
ACLU of Indiana
1031 E. Washington St.
Indianapolis, IN 46202
Ph: 317-635-4059
Fax: 317-635-4105
kfalk@aclu-in.org
jmensch@aclu-in.org