

Salvador Lopez #998452
Washington State Reformatory
P.O. Box 777
Monroe, Washington 98272-0777

Appearing pro se

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

SALVADOR LOPEZ 998452, CORTEZ)
SANCHEZ 991415, GUILLERMO)
MONDRAGON 702922, FRANCISCO)
MORALES 700908, JOSE CARRANZA)
978610, MIGUEL ESPINOZA 701861,)
ARTURO HERNANDEZ GOMEZ 702068,)
ALFONSO JIMENEZ 967828,)

Plaintiffs,)

-vs-)

CHASE RIVELAND, Secretary,)
JAMES SPAULDING, Director,)
KEN DUCHARME, Warden,)

Defendants.)

Case No. _____

CIVIL RIGHTS COMPLAINT

Class Action Civil Rights Complaint with Jury Demand

1. This civil rights action is submitted by the named plaintiffs pursuant to 42 U.S.C. § 1983. The plaintiffs are state prisoners housed at the Washington State Reformatory in Monroe. They are seeking a declaratory judgment and injunctive relief (no damages) for a violation of their Constitutional rights by the defendants, each of whom were acting under the color and authority of state law. The plaintiffs seek class certification and request a trial by jury.

Jurisdiction

2. The instant complaint is submitted under 42 U.S.C. § 1983. This Court has jurisdiction pursuant to 28 U.S.C. § 1343. Plaintiffs further invoke the pendent jurisdiction of this Court.

Class Certification

3. This class action suit is brought on behalf of present and future Hispanic inmates confined in all Washington State prisons who do not read, write, speak, or understand the English language. Class certification is proper because granting the relief requested to plaintiffs would be applicable to all other members of the class, the questions of fact are common to every member of the class, and the defendants are relating to each member of the class as a group.

Parties

A. The Individual Plaintiffs

4. Plaintiff Salvador Lopez #998452 (Box 777, Monroe, WA 98272-0777) is a Hispanic prisoner presently incarcerated in the Washington State Reformatory at Monroe, where he has been serving a sentence for the state of Washington during the period the events herein described took place. He does not speak, read, write or understands the English language.

5. Plaintiff Cortez Sanchez #991415 (Box 777, Monroe, WA 98272-0777) is a Hispanic prisoner presently incarcerated in the Washington State Reformatory at Monroe, where he has been serving a sentence for the state of Washington during the period the events herein described took place. He does

not speak, read, write or understand the English language.

6. Plaintiff Guillermo Mondragon #702922 (PO Box 777, Monroe, WA 98272-0777) is a Hispanic prisoner presently incarcerated in the Washington State Reformatory at Monroe, where he has been serving a sentence for the state of Washington during the period the events herein described took place. He doesn't speak, read, write or understand the English language.

7. Plaintiff Francisco Morales #700908 (P.O. Box 777, Monroe, WA 98272-0777) is a Hispanic prisoner presently incarcerated in the Washington State Reformatory at Monroe, where he has been serving a sentence for the state of Washington during the period the events herein described took place. He doesn't speak, read, write or understand the English language.

8. Plaintiff Jose Carranza #978610 (P.O. Box 777, Monroe, WA 98272-0777) is a Hispanic prisoner presently incarcerated in the Washington State Reformatory at Monroe, where he has been serving a sentence for the state of Washington during the time the events herein described took place. He does not speak, read, write or understand the English language.

9. Plaintiff Miguel Espinoza #701861 (Box 777, Monroe, WA 98272-0777) is a Hispanic prisoner presently incarcerated in the Washington State Reformatory at Monroe, where he has been serving a sentence for the state of Washington during the time the events herein described took place. He doesn't

speak, read, write or understand the English language.

10. Plaintiff Arturo Hernandez Gomez #702068 (Box 777, Monroe, WA 98272-0777) is a Hispanic prisoner presently incarcerated in the Washington State Reformatory at Monroe, where he has been serving a sentence for the state of Washington during the period of time the events herein described took place. He doesn't speak, read, write or understand the English language.

11. Plaintiff Alfonso Jimenez 967828 (Box 777, Monroe, WA 98272-0777) is a Hispanic prisoner presently incarcerated in the Washington State Reformatory at Monroe, where he has been serving a sentence for the state of Washington during the period of time the events herein described took place. He doesn't speak, read, write or understand the English language.

B. The Defendants

12. Defendant Kenneth W. DuCharme is the Warden of the Reformatory (P.O. Box 777, Monroe, WA 98272) and is directly responsible for the day-to-day operation and management of the Reformatory. He is also responsible for the training and supervision of the correctional personnel employed at that facility, as well as for the implementation of Division of Prisons policy directives and field instructions. This suit is being brought against Mr. DuCharme in both his individual and official capacities.

13. Defendant James Spaulding is the Director of Washington State's Division of Prisons (P.O. Box 9699, Olympia,

WA 98504), a branch of the Department of Corrections. Mr. Spaulding is responsible for the operation and management of all prisons within the division, including the Reformatory. He is also responsible for the training and supervision of the administrators of the prisons within the division, and for the formulation and implementation of DOP operating policies and field instructions within the state. He is being sued in his individual and official capacities.

14. Chase Riveland is the Secretary of the Washington State Department of Corrections (P.O. Box 9699, Olympia, WA 98504), and is responsible for the operation and management of the entire correctional system. He is ultimately responsible for the formulation of policy and the supervision of all administrators within the Department of Corrections. He is also responsible for insuring that DOC employees receive proper training and supervision. Mr. Riveland is being sued in his individual and official capacities.

15. All of the defendants have acted under "color of state law" during all times relevant to this complaint.

Facts

16. On January 15, 1990, the Director of the Division of Prisons implemented a Division Directive to "[a]ll Division of Prisons' facilities" (D.O.P. Policy #430.050) for the purpose of "assur[ing] that Hispanic offenders are able to understand all relevant institution policies, rules, and procedures." The said policy statement mandated that: "Each Superintendent shall develop field instruction to meet the

requirements of this Directive." The substance of that document required that "[a]ll institutional rules, policies, and other relevant data shall be published in Spanish when they are issued in English." The directive's definition of a Hispanic offender was "[a]ny inmate whose primary language is Spanish or whose country of birth has Spanish as its primary language."

17. The effective date of said policy was January 15, 1990. Notwithstanding the mandatory language of the policy directive, in the more than three and one-half years that have passed since its effective date, not one single policy, rule, or other relevant data has been published in Spanish at the Reformatory. Inside and outside Hispanic and Latino leaders have both met and talked on the phone with certain defendants and brought this matter to their attention. The Hispanic Club at the Reformatory (Los Mexicanos) has filed numerous grievances over defendants' failure to implement the said policy. Hispanics at some other prisons within the state, such as Clallam Bay, have also filed administrative complaints in an effort to resolve this issue without resort to litigation. The personal pleas, phone calls, letters and grievances have produced nothing but unfulfilled promises from the defendants. This suit follows.

First Cause of Action

18. Defendant Chase Riveland denied each of the named plaintiffs, and the class they represent, due process of law as guaranteed by the Fourteenth Amendment of the U.S. Const-

itution. This was accomplished by his failure to both train and supervise his subordinates in the implementation of Division of Prison's Directive 430.050, which mandated that all institutional rules, policies, and other relevant data shall be published in Spanish. The mandatory language of the said directive created a legitimate expectation on the behalf of the plaintiffs that honest efforts would be made to enforce the provisions of the said directive.

19. As a direct result of Mr. Riveland's failure in the above respect, each of the plaintiffs are effectively denied their Constitutional right to be informed of the proceedings against them at disciplinary hearings, or otherwise to receive adequate notice of the charges against them. The translation of infractions and institutional rules are critical documents that the defendant should have known was more than a mere convenience to non-English speaking prisoners. As a result of the said defendant's omission plaintiffs have been denied their due process right to be afforded the means of understanding the rules and policies they are expected to live by.

20. The Revised Code of Washington (§ 72.02.040) makes Secretary Riveland directly responsible for the administration of all adult correctional institutions operated by the Department of Corrections. RCW § 72.01.090 provided Secretary Riveland authority for making rules for the proper execution of the department's powers. And RCW § 72.01.050 also makes him responsible for managing and governing all state

prisons. Defendant Riveland's performance of his duties to the extent of overseeing and enforcing the implementation of policies with respect to English speaking inmates, but not those directly related to the needs of the growing Hispanic inmate population, violates plaintiffs' right to equal protection of the law as guaranteed by the Fourteenth Amendment of the United States Constitution.

Second Cause of Action

21. The acts and omissions of defendant Spaulding, the Director of the Division of Prisons, are similar to those of Defendant Riveland. Mr. Spaulding denied each of the named plaintiffs and the class due process of law as guaranteed by the Fourteenth Amendment of the United States Constitution. Said deprivation was accomplished by a failure to both train and supervise his subordinates in the implementation of Division of Prison's Directive 430.050, which mandated that all institutional rules, policies, and other relevant data shall be published in Spanish. The mandatory language of the said directive created a legitimate expectation on the behalf of the plaintiffs that honest efforts would be made to enforce the provisions of the said directive.

22. As a direct result of Mr. Spaulding's failure in the above respect, each of the plaintiffs were effectively denied their Constitutional right to be informed of the proceedings against them at disciplinary hearings, or otherwise to receive adequate notice of the charges against them. The translation of infractions and institutional rules are crit-

ical documents that the defendant should have known was more than a mere convenience to non-English speaking prisoners. As a result of the said defendant's omission plaintiffs have been denied their due process right to be afforded the means of understanding the rules and policies they are expected to live by.

23. Defendant Spaulding's performance of his duties to the extent of overseeing and enforcing the implementation of policies with respect to English speaking inmates, but not those directly related to the needs of the growing Hispanic inmate population, violates plaintiffs' right to equal protection of the law as guaranteed by the Fourteenth Amendment of the United States Constitution.

Third Cause of Action

24. The acts and omissions of defendant Ken DuCharme, the Superintendent of the Reformatory, are similar to those of the other defendants. Mr. DuCharme denied each of the named plaintiffs and the class due process of law as guaranteed by the Fourteenth Amendment of the United States Constitution. Said deprivation was accomplished by a failure to both train and supervise his subordinates in the implementation of Division of Prison's Directive 430.050, which mandated that all institutional rules, policies, and other relevant data shall be published in Spanish. The mandatory language of the said directive created a legitimate expectation on the behalf of the plaintiffs that honest efforts would be made to enforce the provisions of the said directive.

25. As a direct result of Mr. DuCharme's failure in the above respect, each of the plaintiffs were effectively denied their Constitutional right to be informed of the proceedings against them at disciplinary hearings, or otherwise to receive adequate notice of the charges against them. The translation of infractions and institutional rules are critical documents that the defendant should have known was more than a mere convenience to non-English speaking prisoners. As a result of the said defendant's omission plaintiffs have been denied their due process right to be afforded the means of understanding the rules and policies they are expected to live by.

26. Defendant DuCharme's performance of his duties to the extent of overseeing and enforcing the implementation of policies with respect to English speaking inmates, but not those directly related to the needs of the growing Hispanic inmate population, violates plaintiffs' right to equal protection of the law as guaranteed by the Fourteenth Amendment of the United States Constitution. RCW 72.02.040 mandates the superintendent of each institution is subject to the rules of the department and for the supervision and management of the institution and the subordinate employees.

Relief Sought

27. The plaintiffs urge this Court to issue a preliminary injunction directing the defendants to make some steps toward translating prison rules and policies into Spanish.

28. Enter a declaratory judgment that defendants vio-

lated the United States Constitution and state law when they ignored the mandatory language of their own Division Directive requiring said rules to be translated.

29. Issue an injunction ordering the defendants and their agents to implement Division Directive 430.050.

30. Order payment of attorney fees and costs to plaintiffs' and/or their attorneys pursuant to 42 U.S.C. § 1988.

31. Grant such other relief as it may appear plaintiffs are entitled.

32. Each of the below signatories understands the penalties of the crime of perjury, hereby declare under penalty of perjury that the above is facts are true and correct to the best of their knowledge and belief.

Signed on this 21 day of July, 1993, at Monroe, Washington.

Respectfully submitted,

Salvador Lopez Santos
Salvador Lopez

Cortez Sanchez
Cortez Sanchez

Guillermo Mondragon
Guillermo Mondragon

Francisco Morales
Francisco Morales

Jose Carranza
Jose Carranza

Miguel Espinoza
Miguel Espinoza

Arturo Hernandez Gomez
Arturo Hernandez Gomez

Alfonso Jimenez
Alfonso Jimenez