

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

_____)	
DONYA PIERCE, et al.)	
)	
Plaintiffs,)	
)	
v.)	
)	Case No.
THE CITY OF VELDA CITY,)	(Class Action)
)	
Defendant.)	
_____)	

CLASS ACTION COMPLAINT

Introduction

This case is about the City of Velda City jailing some of its poorest people and the poorest people in the St. Louis region because they cannot pay a small amount of money. Donya Pierce was arrested within the past 24 hours and is currently imprisoned by the City because she cannot afford to pay the amount of money generically set by the fixed cash “bail schedule” used by the City of Velda City and its police department.

In Velda City, most people arrested for minor ordinance violations are released immediately upon payment of a small cash bond. The amount of the bond ranges from \$150-\$350 depending on the offense. If a person is charged with multiple offenses, the fixed amount for each offense is added together to determine the total amount of cash required for release. Those arrestees who are too poor to afford \$150 remain in jail because of their poverty for at least three days, at which time Velda City typically releases them for free.

On behalf of the many other arrestees subjected to the City’s unlawful and ongoing post-arrest money-based detention scheme, the named Plaintiff challenges in this action the use of an

unlawful generic offense-based “bail schedule” that operates to detain only the most impoverished minor arrestees. The City’s policy has no place in modern American law.

By and through her attorneys and on behalf of herself and all others similarly situated, the named Plaintiff seeks in this civil action the vindication of her fundamental rights, injunctive relief assuring that her rights and the rights of the other Class members will not continue to be violated, and a declaration that the City’s conduct is unlawful.

Nature of the Action¹

1. It is the policy and practice of the City of Velda City to refuse to release ordinance violation arrestees from jail unless they pay a generically set “bond” amount. That amount is \$150 for most ordinance violations and \$350 for Driving While Suspended.² Because this sum is set generically by reference to the alleged offense of arrest, no individualized factors are considered, and anyone who cannot afford to pay is held in jail for at least three days. Plaintiff seeks declaratory, injunctive, and compensatory relief.

Jurisdiction and Venue

2. This is a civil rights action arising under 42 U.S.C. § 1983 and 28 U.S.C. § 2201, *et seq.*, and the Fourteenth Amendment to the United States Constitution. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343.

3. Venue in this Court is proper pursuant to 28 U.S.C. § 1391.

Parties

4. Named Plaintiff Donya Pierce is a 26-year-old resident of St. Louis County. She is the mother of two small children who depend on her for support. She represents herself as an

¹ Plaintiff makes the allegations in this Complaint based on personal knowledge as to matters in which she has had personal involvement and on information and belief as to all other matters.

² Felony and misdemeanor arrestees are not subject to the jurisdiction of the City of Velda City and are instead processed according to policies adopted by the State of Missouri.

individual and a Class of similarly situated people all subject to the City's post-arrest money-based detention scheme.

5. Defendant City of Velda City is a municipal corporation organized under the laws of the State of Missouri. The City operates the Velda City Police Department and the Velda City Municipal Court. The City also contracts with the City of St. Ann Jail to confine arrestees in the custody of the Velda City Police Department who cannot afford to pay the generically scheduled cash bond. The City notifies the St. Ann Jail to release arrestees as soon as the cash bond is paid to the City.

Factual Background

A. The Named Plaintiff's Arrest

6. Donya Pierce is a 26-year-old mother of three children.

7. Ms. Pierce was arrested by Velda City police on April 2, 2015, outside of a Walgreens store in Velda City, Missouri. She was charged with four traffic-related ordinance violation offenses, including having a headlight out, driving while suspended, failure to produce a driver's license, and no proof of insurance.

8. Ms. Pierce was taken to jail and told that she would be released if she paid cash to the City of Velda City in the amount of \$800. She was told that she would be kept in jail unless she paid \$800. *See* Exhibit 1, Declaration of Donya Pierce. A Velda City police officer later decided to remove one of the charges and reduced her cash payment requirement to \$650 accordingly.

9. Ms. Pierce is indigent. In September of 2014, she was homeless and entered emergency shelter for women and children. She is currently employed and has two children who depend on her. She participates in the supplemental nutritional assistance program (SNAP).

Ms. Pierce depends on these food benefits to survive. After taxes, she earns less than \$1,000 in per month, which is supplemented by the SNAP benefits to help support her young children. She does not own any real property.

10. Ms. Pierce resides with her children, ages eight years and four years, in Wellston.

11. Ms. Pierce was not told when she would be brought to court and has not been brought to court for an initial appearance. The earliest that Ms. Pierce would be brought to court for a first appearance is April 8, 2015 nearly a week after her arrest because the City holds court only two times per month. Pursuant to City policy, she must remain incarcerated for at least three days because she is too poor to buy her freedom.

B. The City's Policies and Practices

12. The named Plaintiff would be released immediately by the City of Velda City if she or a family member paid the amount of cash set by the City of Velda City.

13. The treatment of the named Plaintiff and other Class members is caused by and is representative of the City's post-arrest detention policies and practices.

14. As a matter of policy and practice, when the City of Velda City Police Department makes an arrest for a minor ordinance violation, officers inform the arrestee at booking that the person will be released immediately if the person pays cash set by a fixed schedule.³ The arrestee is told that the arrestee will remain in jail if the arrestee is not able to make that payment.

15. Those arrestees unable to pay for release are typically released for free after a period of three days without ever having appeared in court. The City of Velda City holds court only twice per month.

³ Although commercial bail bonds are widely available in the St. Louis region, the City of Velda City does not allow for their use. Thus, any person held by the City of Velda City must pay the entire bond in order to buy her release.

16. Because court is held only twice per month, an arrestee too poor to buy her way out of jail could wait more than a week to see a judge for a bond reduction if police officers do not decide to release her for free after three days.

17. After an arrest, City of Velda City police do not deviate from their “bail schedule” of a minimum \$150 and maximum of \$350 depending on the ordinance violation.

18. Unlike many other cities, the City of Velda City does not allow post-arrest release on recognizance or with an unsecured bond (in which a person would be released by promising to pay the scheduled amount if the person later does not appear). Instead, City officials require that the cash payment amount be made up front.

19. The City of Velda City has 1,400 residents and comprises .16 of a square mile. The Police Department filed over 25,000 municipal ordinance violation cases in 2013. As of September of 2014, the City of Velda City had over 4,000 outstanding warrants for arrest or approximately 2.85 for every resident of the town.

20. Many of Velda City’s minor ordinance violation arrestees are released soon after arrest upon payment of the scheduled amount of cash. Some remain detained for varying lengths of time until they or their families are able to borrow sufficient amounts of money or arrange for third-party payment. Others, like the named Plaintiff, who are too poor even to find anyone to pay the cash bond for them, are kept in jail until they are brought to court or until police decide to release them for free pursuant to their typical policy of releasing arrestees who have not paid after three days.

21. Because of Velda City’s unusual and illegal policies, it is difficult for the public to obtain accurate details concerning how many impoverished Velda City arrestees are unable to buy their release each week.

Class Action Allegations

22. The named Plaintiff brings this action, on behalf of herself and all others similarly situated, for the purpose of asserting the claims alleged in this Complaint on a common basis.

23. A class action is a superior means, and the only practicable means, by which the named Plaintiff and unknown Class members can challenge the City's unlawful poverty-based post-arrest detention scheme.

24. This action is brought and may properly be maintained as a Class action pursuant to Rule 23(a)(1)-(4) and Rule 23(b)(2) of the Federal Rules of Civil Procedure.

25. This action satisfies the numerosity, commonality, typicality, and adequacy requirements of those provisions.

26. The Plaintiff proposes one Class seeking declaratory and injunctive relief. The Declaratory and Injunctive Class is defined as: all arrestees unable to pay for their release pursuant to Velda City's fixed bail schedule who are or who will become in the custody of Velda City.

A. Numerosity. Fed. R. Civ. P. 23(a)(1)

27. The City of Velda City Police Department filed over 25,000 cases for ordinance violation offenses in 2013.⁴ Each arrestee is presented with the City's standard cash bond choice of pay or jail. Arrestees are held in jail for varying lengths of time depending on how long it takes them to make the cash payment that the City requires for their release.

28. Some arrestees are able to pay for release immediately. Others are forced to wait a day or two days until they or family members can make the payment. Others are not able to pay or to find someone else to pay for them even after a few days.

29. The number of current and future arrestees subjected to this policy if it is not

⁴ The City appears to have been on a similar pace of arrests in 2014, but final statistics are not yet publicly available.

enjoined is well over forty.

B. Commonality. Fed. R. Civ. P. 23(a)(2).

30. The relief sought is common to all members of the Class, and common questions of law and fact exist as to all members of the Class. The named Plaintiff seeks relief concerning whether the City's policies, practices, and procedures violate the rights of the Class members and relief mandating the City to change its policies, practices, and procedures so that the constitutional rights of the Class members will be protected in the future.

31. These common legal and factual questions arise from one central scheme and set of policies and practices: the City's post-arrest detention schedule. The City operates this scheme openly and in materially the same manner every day. The material components of the scheme do not vary from Class member to Class member, and the resolution of these legal and factual issues will determine whether all of the members of the class are entitled to the constitutional relief that they seek.

Among the most important, but not the only, common questions of fact are:

- Whether Velda City has a policy and practice of using a fixed "bail schedule" to determine the amount of money necessary to secure post-arrest release;
- Whether Velda City requires that scheduled amount of money to be paid up front before it will release a person from jail;
- What standard post-arrest procedures Velda City performs on ordinance violation arrestees.

32. Among the most important common question of law are:

- Whether a "bail schedule" setting standard amounts of cash required up front to avoid post-arrest detention violates the Fourteenth Amendment's due process and equal protection clauses.

C. Typicality. Fed. R. Civ. P. 23(a)(3).

33. The named Plaintiff's claims are typical of the claims of the other members of the Class, and she has the same interests in this case as all other members of the Classes that she

represents. Each of them suffers injuries from the failure of the City to comply with the basic constitutional provisions: they are each confined in jail because they could not afford to pay the City's standardized cash bond amount. The answer to whether the City's scheme of policies and practices is unconstitutional will determine the claims of the named Plaintiff and every other Class member.

34. If the named Plaintiff succeeds in the claim that the City's policies and practices concerning post-arrest detention violate her constitutional rights, that ruling will likewise benefit every other member of the Class.

D. Adequacy. Fed. R. Civ. P. 23(a)(4).

35. The named Plaintiff is an adequate representative of the Class because her interests in the vindication of the legal claims that she raises are entirely aligned with the interests of the other Class members, who each have the same basic constitutional claims. She is a member of the Class, and her interests coincide with, and are not antagonistic to, those of the other Class members.

36. There are no known conflicts of interest among members of the proposed Class, all of whom have a similar interest in vindicating their constitutional rights in the face of their unlawful treatment by their local government.

37. Plaintiffs are represented by attorneys from Equal Justice Under Law and Archcity Defenders,⁵ who have experience in litigating complex civil rights matters in federal

⁵ ArchCity Defenders is a non-profit public interest law firm based in Saint Louis. It has represented the poor and homeless in municipal court cases for the past five years and is an expert on the ways in which Ferguson's illegal practices and policies make and keep people poor. ArchCity Defenders also published an extensive report detailing similar practices and policies in the cities of Bel-Ridge and Florissant. The report is available at www.archcitydefenders.org.

Counsel from ArchCity Defenders was recently lead counsel in a case in the Eastern District of Missouri restricting the use of chemical munitions on peaceful protesters, is co-counsel on two federal class actions alleging the operation of debtors' prisons in Ferguson and Jennings, Missouri, and is co-counsel in an additional nine state

court and extensive knowledge of both the details of the City's scheme and the relevant constitutional and statutory law.

38. ArchCity Defenders and Equal Justice Under Law have extensive experience with the functioning of the entire municipal court system in the St. Louis County region through their representation of numerous impoverished people in the Cities of Velda City, Ferguson, Jennings, Pine Lawn, Wellston, Fenton, Beverly Hills, and other municipalities.

39. The efforts of Class counsel have so far included extensive investigation over a period of months, including numerous interviews with witnesses, court employees, jail inmates, families, attorneys practicing in municipal courts throughout the region, community members, statewide experts in the functioning of Missouri municipal courts, and national experts in constitutional law, post-arrest procedure, law enforcement, judicial procedures, criminal law, pretrial services, and jails.

40. Class counsel have also observed numerous courtroom hearings in municipalities

class action suits alleging the imposition of illegal fees and fines in various municipal courts in the St. Louis County region.

Equal Justice Under Law is a non-profit civil rights organization based in Washington, D.C. The organization is funded in part by the Harvard Law School Public Service Venture Fund.

Counsel from Equal Justice Under Law was recently lead counsel in a landmark federal civil rights class action lawsuit against the City of Montgomery for engaging in similar practices. In that case, the United States District Court for the Middle District of Alabama issued a preliminary injunction condemning and forbidding the City's similar jailing of impoverished people with unpaid debts, and the case was successfully settled after the City agreed to compensate the Plaintiffs and to the entry of an injunction reforming its entire municipal debt-collection regime. *See Mitchell et al. v. City of Montgomery*, 14-cv-186 (M.D. Ala. 2014).

Counsel was also the lead counsel in a recent similar challenge to the fixed "bail schedule" scheme employed by the City of Clanton, Alabama. *See Varden et al. v. City of Clanton*, 15-cv-34 (M.D. Ala 2015). Although that case is ongoing, the City of Clanton has agreed to end its use of a fixed cash bail system for new arrestees.

Counsel is also the lead counsel in two cases involving the treatment of impoverished people in St. Louis County municipal courts. *See Jenkins et al. v. City of Jennings*, 15-cv-252-CEJ (E.D. Mo. 2015); *Fant et al. v. City of Ferguson*, 15-cv-253-AGF (E.D. mo. 2015).

Counsel was also previously the lead attorney in a constitutional civil rights class action against the District of Columbia in the United States District Court for the District of Columbia. *See 1:13-cv-00686-ESH* (D.D.C. 2013). In that litigation, undersigned counsel was responsible for investigating and building the complex constitutional claims against the District of Columbia, authoring the legal filings in the class action case, and negotiating a Memorandum of Understanding with the District of Columbia Attorney General that stayed the class action litigation and began to implement sweeping changes to the city's policies and practices governing the civil forfeiture of property by the District's Metropolitan Police Department—procedures that affect thousands of putative class members every year.

across the region in order to compile a detailed understanding of state law and practices as they relate to federal constitutional requirements. Counsel have studied the way that these systems function in other cities in order to investigate the wide array of lawful options in practice for municipalities.

41. As a result, counsel have devoted enormous time and resources to becoming intimately familiar with the City's scheme and with all of the relevant state and federal laws and procedures that can and should govern it. Counsel has also developed relationships with many of the individuals and families most victimized by the City's practices. The interests of the members of the Class will be fairly and adequately protected by the Plaintiffs and their attorneys.

E. Rule 23(b)(2)

42. Class action status is appropriate because the City, through the policies, practices, and procedures that make up its post-arrest detention scheme has acted in the same unconstitutional manner with respect to all class members. The City of Velda City has created and applied a simple scheme of post-arrest detention and release: it charges a minimum of \$150 for every ordinance violation arrestee and \$350 for each driving while suspended. The City releases those who can pay and detains those who cannot. The detained arrestees are either released pursuant to police policy of typically releasing detainees for free after three days. Otherwise, arrestees are eventually taken to court on one of the two days per month that Velda City conducts court.

43. The Class therefore seeks declaratory and injunctive relief to enjoin the City from continuing in the future to detain impoverished arrestees who cannot afford cash payments. Because the putative Class challenges the City's scheme as unconstitutional through declaratory and injunctive relief that would apply the same relief to every member of the Class, Rule

23(b)(2) certification is appropriate and necessary.

44. Injunctive relief compelling the City to comply with these constitutional rights will similarly protect each member of the Class from being subjected to the City's unlawful policies and practices. A declaration and injunction stating that the City cannot use a fixed cash "bail schedule" that jails indigent arrestees but frees arrestees with financial means would provide relief to every member of the Class. Therefore, declaratory and injunctive relief with respect to the Class as a whole is appropriate.

45. Plaintiff seeks the following relief and hereby demands a jury in this cause for all matters so appropriate.

Claims for Relief

Count One: Defendant City of Velda City Violates Plaintiff's Rights By Jailing Her Because She Cannot Afford A Cash Payment Prior to a First Court Appearance.

46. Plaintiff incorporates by reference the allegations in paragraphs 1-45.

47. The Fourteenth Amendment's due process and equal protection clauses have long prohibited imprisoning a person because of the person's inability to make a monetary payment. Defendant Velda City violates Plaintiff's rights by placing and keeping her in jail when she cannot afford to pay the amount of cash set by the generic fixed bail "schedule" used by Velda City.

Request for Relief

WHEREFORE, Plaintiff and the other Class members request that this Court issue the following relief:

- a. A declaratory judgment that the Defendant City violates the named Plaintiff's and Class members' constitutional rights by jailing them and keeping them in jail when they cannot pay a generically set amount of money to secure release after an arrest;
- b. An order and judgment preliminarily and permanently enjoining Defendant Velda City from enforcing the unconstitutional post-arrest money-based detention policies and

practices against the named Plaintiff and the Class of similarly situated people that she represents;

- c. A judgment individually compensating the individual named Plaintiff for the damages that she suffered as a result of the City's unconstitutional and unlawful conduct, including damages resulting from her confinement in jail;
- d. An order and judgment granting reasonable attorneys' fees and costs pursuant to 42 U.S.C. § 1988, and any other relief this Court deems just and proper.

Respectfully submitted,

/s/ Thomas B. Harvey

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