

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

Derrick Phipps, et al.,	)	
	)	
Plaintiff,	)	07 C 3889
	)	
vs.	)	Honorable Judge
	)	Elaine Bucklo
Sheriff of Cook County and Cook County,	)	
	)	Magistrate Judge Cole
Defendants.	)	

**DEFENDANTS' ANSWER TO PLAINTIFF'S AMENDED COMPLAINT**

NOW COME Defendants COOK COUNTY SHERIFF TOM DART and COOK COUNTY, by their attorney RICHARD A. DEVINE, State's Attorney of Cook County, through his Assistant State's Attorney, Jamie M. Sheehan, and answer Plaintiff's Complaint as follows:

1. This is a civil action arising under Section 202 of the Americans with Disabilities Act, 42 U.S.C. §12132, Section 504 of the Rehabilitation Act, 29 U.S.C. § 794(a), and 42 U.S. C. §1983. The jurisdiction of this Court is conferred by 28 U.S.C. § 12133, 29 U.S.C. § 794a(a)(2), and 28 U.S.C. §1343.

ANSWER: Defendants admit that jurisdiction is proper.

2. Plaintiffs Derrick Phipps, Kevin House, Kenneth Courtney, and James Grant are residents of the Northern District of Illinois who are wheelchair bound.

ANSWER: Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph two.

3. Defendants are the Sheriff of Cook County and Cook County, Illinois.

ANSWER: Defendants admit the allegations contained in paragraph three.

4. Plaintiff Phipps is a paraplegic. He was assigned to the “Residential Treatment Unit” (RTU”) of Division Eight from April 11, 2007 to May 13, 2007.

ANSWER:

5. While confined at the RTU, Plaintiff Phipps was discriminated against because of his disability in violation of §202 of the Americans with Disabilities Act of 1990 (ADA) and § 504 of the Rehabilitation Act of 1973 because defendants failed to provide appropriate shower facilities, appropriate toilet facilities, and appropriate beds for wheelchair bound persons.

ANSWER: Defendants deny the allegations contained in paragraph five.

6. Plaintiff Phipps developed an infection from his bed sores as the direct and proximate result of the discrimination described above; on or about May 13, 2007, plaintiff was transferred to the hospital wing of Division Eight (“Cermak Hospital”) where he remained until he was discharged in July of 2007.

ANSWER: Defendants deny the allegations contained in paragraph six.

7. While confined at Cermak Hospital, Plaintiff Phipps continued to be discriminated against because of his disability in violation of §202 of the Americans with Disabilities Act of 1990 (ADA) and § 504 of the Rehabilitation Act of 1973 because defendants failed to provide appropriate shower facilities, appropriate toilet facilities, and appropriate beds for wheelchair bound persons.

ANSWER: Defendants deny the allegations contained in paragraph seven.

8. Plaintiff Phipps incurred personal injuries as a result of the above described discrimination at the RTU and Cermak Hospital: plaintiff fell on several occasions while trying to maneuver his body from the wheelchair to a non-handicap accessible toilet; and while trying

to maneuver his body from the wheelchair to the non -handicap accessible bed; plaintiff was required to shower while sitting in his wheelchair (rather than on a handicap accessible chair) and was unable to clean and dry his body.

ANSWER: Defendants deny the allegations contained in paragraph eight.

9. Plaintiff Phipps was also denied enlargement from custody at the Cook County Jail through the "Sheriff's Electronic Monitoring" program because of his disability: plaintiff was found qualified for placement in the "Electronic Monitoring" program on his admission to the jail but was denied placement in this program because of the Sheriff's refusal to maintain appropriate policies for the transportation of persons, like plaintiff, who are paraplegic.

ANSWER: Defendants deny the allegations contained in paragraph nine.

10. Plaintiff Kevin House is a paraplegic. He was assigned to Cermak Health from March 15, 2007 through April 6, 2007. While confined to Cermak Hospital, Plaintiff House was discriminated against because of his disability in violation of ADA and Sect. 504 of the Rehabilitation Act of 1973 because defendants failed to provide him appropriate shower facilities, appropriate toilet facilities, and appropriate beds for wheelchair bound persons.

ANSWER: Defendants deny the allegations contained in paragraph ten.

11. Plaintiff House incurred personal injuries as a result of the above described discrimination at Cermak Hospital: plaintiff fell on several occasions while attempted to transfer to a non-accessible chair in the shower area.

ANSWER: Defendants deny the allegations contained in paragraph eleven.

12. Plaintiff Courtney is a paraplegic. Since entering the Jail on June 6, 2006, Plaintiff Courtney has been assigned to Cermak Hospital. He is being discriminated against at Cermak Hospital because of his disability in violation of ADA and Sect. 504 of the

Rehabilitation Act of 1973 because defendants have not provided him with appropriate shower facilities, washbasins and appropriate beds for wheelchair bound persons. Since entering Cermak Hospital, Plaintiff Courtney has been unable to take a shower because the showers are not accessible. Plaintiff Courtney has filed a grievance and exhausted the administrative remedies available at the Jail prior to filing this action.

ANSWER: Defendants deny the allegations contained in paragraph twelve.

13. Plaintiff Courtney has suffered personal injuries as a result of the above -described discrimination at Cermak Hospital. Plaintiff has fallen on several occasions attempting to transfer from his inaccessible bed to his wheelchair. Courtney's bedsores have also become infected as a result of not being able to shower.

ANSWER: Defendants deny the allegations contained in paragraph thirteen.

14. Plaintiff James Grant has a spinal cord injury and is partially paralyzed on his left side. Since March of 2007, Plaintiff Grant has been assigned to Cermak Hospital and is being discriminated against because of his disability in violation of ADA and Sect. 504 of the Rehabilitation Act of 1973 because defendants have failed to provide him appropriate shower facilities, toilets, washbasins and appropriate beds for wheelchair bound persons. Since entering Cermak Hospital, Plaintiff Grant has been unable to take a shower because the showers are not accessible. Plaintiff Grant has filed a grievance and exhausted the administrative remedies available at the Jail prior to filing this action.

ANSWER: Defendants deny the allegations contained in paragraph fourteen.

15. Plaintiff Grant has suffered personal injuries as a result of the above described discrimination at Cermak Hospital: Plaintiff Grant has fallen on several occasions attempting to

transfer to and from the toilet and he has developed rashes on his body as a result of not being able to shower.

ANSWER: Defendants deny the allegations contained in paragraph fifteen.

16. As a result of the foregoing, the plaintiffs have incurred physical injuries, were subjected to emotional distress, and were deprived of equal protection of law, as secured by the Fourteenth Amendment to the Constitution of the United States, and were discriminated against in violation of the Americans with Disabilities Act, 42 U.S.C. §12132 and Section 504 of the Rehabilitation Act.

ANSWER: Defendants deny the allegations contained in paragraph sixteen.

17. Plaintiffs bring this action for a class of all former and current wheelchair bound inmates at the Cook County Department of Corrections who on or after July 12, 2005 were subjected to discrimination because of their disability in violation of §202 of the Americans with Disabilities Act of 1990 (ADA) and §504 of the Rehabilitation Act of 1973 because defendants failed to provide appropriate shower facilities, appropriate toilet facilities, and appropriate beds for wheelchair bound persons. The proposed class satisfies each of the requirements of Rule 23(a) of the Federal Rules of Civil Procedures. The relief sought is appropriate damages for each person subjected to the aforementioned discrimination and class certification is appropriate under Rule 23 (b)(3).

ANSWER: Defendants admit that this is a putative case for damages brought on behalf of four plaintiffs, defendants, however, deny the remaining allegations and further state that this case is not suitable for class action.

**JURY DEMAND**

Defendants demand trial by jury.

Respectfully submitted,

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