

NOV 14 1994

Memorandum

CLERK, UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF MISSISSIPPI



Subject

USA v. City of Tupelo, MS et al.  
Civil No.

Date

November 14, 1994

To

Clerk of the Court  
#308, Federal Building  
301 W. Commerce Street  
Post Office Box 704  
Aberdeen, Mississippi 39730

From

Alfred E. Moreton, III USA  
Northern District of Miss.  
Post Office Drawer 886  
Oxford, Mississippi 38655  
By: John R. Hailman  
Assistant U. S. Attorney

*JRH*

Attached for filing and docketing in the above-captioned case are:

- 1. original Civil Cover Sheet;
- 2. original + 2 service copies + Judge's copy of COMPLAINT.

Please return for our files

- (a) duplicate first page of the Complaint, as file-stamped; and
- (b) completed duplicate of this memorandum.

NUMBER ASSIGNED: 1:94cv312-D-D

DATE FILED: 11/14/94

JUDGE ASSIGNED: DAVIDSON

MAGISTRATE ASSIGNED: DAVIS

DATE SUMMONS ISSUED: \_\_\_\_\_

JRH/wm

Enclosures

U.S. v. Tupelo City



JC-MS-017-003

NOV 14 1994

U. S. DISTRICT COURT  
NORMAN L. GILLESPIE, CLERK  
BY [Signature] DEPUTY

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

CITY OF TUPELO, MISSISSIPPI;  
JACK L. MARSHALL, Mayor, City of  
Tupelo, in his official capacity,  
BILLY V. WHITE, Chief of Police,  
City of Tupelo, in his official  
capacity; RUSSEL WITT, Chief  
Corrections Officer, in his official  
capacity JAMES R. WILLIAMS,  
in his capacity as President of the  
City of Tupelo Council, PAUL EASON,  
CAROLYN MAUDLIN, JAMES R. WILLIAMS,  
SIMS REEVES, SMITH HEAVNER, STEVE  
MAYHORN, TOMMY DOTY, PERRY THOMAS,  
DANNY BARROWS, member of the City  
of Tupelo Council, in their official  
capacities,

Defendants.

Civil Rights No.

1:94CV312-D-D

COMPLAINT

THE UNITED STATES OF AMERICA, Plaintiff, alleges that:

1. This complaint is filed by the Attorney General on behalf of the United States of America pursuant to the Civil Rights of Institutionalized Persons Act of 1980, 42 U.S.C. §1997 et seq., to enjoin the named Defendants from depriving persons

incarcerated at the City of Tupelo Jail in Tupelo, Mississippi, of rights, privileges or immunities secured or protected by the United States Constitution.

JURISDICTION, STANDING, AND VENUE

2. This Court has jurisdiction over this action under 28 U.S.C. §1345.

3. The United States has standing to initiate this action pursuant to 42 U.S.C. §1997a.

4. Venue in the Northern District of Mississippi is proper pursuant to 28 U.S.C. §1391. The claims set forth in this Complaint all arose in said District.

5. The Attorney General has certified that all pre-filing requirements specified in 42 U.S.C. §1997b have been met. The Certificate of the Attorney General is appended to this Complaint and is incorporated herein.

DEFENDANTS

6. Defendant City of Tupelo, Mississippi, owns and operates the jail facility at issue in this action. The City of Tupelo is responsible for the conditions of confinement and treatment of the persons detained or incarcerated in the Tupelo City Jail.

7. Defendant Chief of Police Billy V. White, sued in his official capacity, is charged under local law with responsibility for the general supervision and control of the Tupelo City Jail. He is responsible for, inter alia, the conditions of confinement in the facility, the policies and procedures of the facility, and

for the protection and safety of the persons detained or incarcerated therein.

8. Defendant Russel Witt is sued in his official capacity as the Chief Correctional Officer of the Tupelo City Jail. The Chief Correctional Officer has responsibility for the day-to-day supervision and control of the Tupelo City Jail, including the conditions, practices and policies of the Tupelo City Jail.

9. Defendants James R. Williams, Sims Reeves, Paul Eason, Carolyn Mauldin, Smith Heavner, Steve Mayhorn, Tommy Doty, Perry Thomas, and Danny Barrows, are sued in their official capacities as members of the City of Tupelo Council. The City of Tupelo Council has the authority to appropriate monies in the City of Tupelo treasury and the responsibility to keep the Tupelo City Jail in good repair. The Board is also obligated to make contracts and plan for a new facility, if needed, and to ensure the completion of any needed remodeling, enlarging, or repairing of the existing Tupelo City Jail.

10. Defendants are legally responsible, in whole or in part, for the operation of the Tupelo City Jail, its conditions of confinement, and the health and safety of persons detained or incarcerated therein.

#### FACTUAL ALLEGATIONS

11. The Tupelo City Jail is an "institution" within the meaning of 42 U.S.C. §1997(1).

12. Persons confined in the Tupelo City Jail have included men and women, pre-trial detainees, misdemeanants, felons, and persons detained pursuant to Mississippi law.

13. Defendants have failed to provide adequate medical care to persons confined in the Tupelo City Jail by, inter alia, failing to provide adequate medical screening of inmates at intake, failing to provide inmates with adequate access to routine, follow-up, and emergency care, and failing to implement an adequate medication distribution system.

14. Defendants have failed to provide adequate mental health care services to persons confined at the Tupelo City Jail by, inter alia, failing to provide adequate mental health screening upon entry to the jail, failing to provide adequate access to mental health care professionals, and failing to implement suicide prevention measures.

15. The Defendants have subjected inmates at the Tupelo City Jail to unsanitary and unsafe conditions. Defendants have subjected inmates to unsanitary and unsafe conditions and practices with respect to, inter alia, food and water services, bedding, clothing, personal hygiene, ventilation, plumbing, electrical wiring, and lighting at the Jail.

16. The Defendants have failed to provide inmates at the Tupelo City Jail with an environment that is adequately fire safe.

17. The Defendants have failed to provide inmates at the Tupelo City Jail with adequate protection from harm by, inter

alia, failing to provide adequate security and supervision, adequate staffing, adequate staff training, classification, and appropriate policies and procedures to safely operate the Jail. Such deficiencies endanger the lives of persons incarcerated or detained in the Jail.

18. The Defendants have failed to provide inmates with adequate opportunity for out-of-cell/exercise time.

19. The Defendants have failed to provide inmates at the Tupelo City Jail with adequate access to legal materials.

#### VIOLATIONS ALLEGED

20. The acts, practices and omissions of Defendants alleged in each of paragraphs 13 through 19 violate rights of persons confined at the Tupelo City Jail that are secured or protected by the Constitution of the United States.

#### PRAYER FOR RELIEF


21. The Attorney General has authority under 42 U.S.C. §1997, et seq. to seek equitable relief.

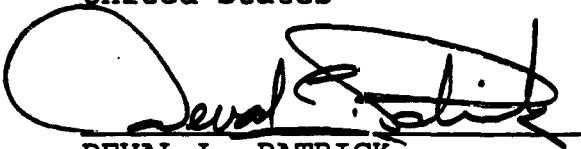
22. Unless restrained by this Court, persons confined at the Tupelo City Jail will be deprived of rights secured or protected by the Constitution of the United States.


WHEREFORE, the United States prays that this Court enter an order permanently enjoining Defendants, their officers, agents employees, subordinates, successors in office, and all those acting in concert or participation with them from continuing the acts, omissions and practices set forth herein and to require Defendants to take such actions as will provide constitutional

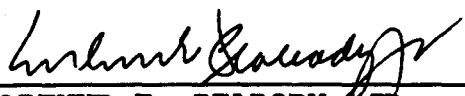
conditions of confinement to inmates at the Tupelo City Jail.  
The United States further prays that this Court grant such other  
and further equitable relief as it may deem just and proper.


Respectfully submitted,

  
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JANET RENO  
Attorney General of the  
United States

  
\_\_\_\_\_  
DEVAL L. PATRICK  
Assistant Attorney General  
Civil Rights Division

  
\_\_\_\_\_  
ALFRED E. MORETON, III  
United States Attorney  
Northern District  
State of Mississippi

  
\_\_\_\_\_  
ARTHUR E. PEABODY, JR.  
Chief  
Civil Rights Division  
Special Litigation Section

  
\_\_\_\_\_  
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Office of the Attorney General  
Washington, D. C. 20530


CERTIFICATE OF THE ATTORNEY GENERAL

I, Janet Reno, Attorney General of the United States, certify that with regard to the foregoing Complaint, United States v. City of Tupelo, Mississippi, et al., I have complied with all subsections of 42 U.S.C. §1997b(a)(1). I certify as well that I have complied with all subsections of 42 U.S.C. §1997b(a)(2). I further certify, pursuant to 42 U.S.C. §1997b(a)(3), my belief that this action by the United States is of general public importance and will materially further the vindication of rights, privileges or immunities secured or protected by the Constitution of the United States.

In addition, I certify that I have the "reasonable cause to believe" set forth in 42 U.S.C. §1997a to initiate this action. Finally, I certify that all prerequisites to the initiation of this suit under 42 U.S.C. §1997 et seq. have been met.

Pursuant to 42 U.S.C. §1997a(c), I have personally signed the foregoing Complaint. Pursuant to 42 U.S.C. §1997b(b), I am personally signing this Certificate.

Signed this 31st day of October, 1994, at  
Washington, D.C.

  
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JANET RENO  
Attorney General  
of the United States