

FILED

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U.S. DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
AKRON

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

NATHANIEL ROBERTS  
Individually and on behalf of all present and  
future inmates of the Mahoning County Jail and  
all persons committed to the custody of the  
Sheriff of the Mahoning County Jail, Mahoning  
Ohio, 110 5<sup>th</sup> Avenue, Youngstown, Ohio 44503

and

JAMES JOSEPH MANCINI  
Individually and on behalf of all present and  
future inmates of the Mahoning County Jail and  
all persons committed to the custody of the  
Sheriff of the Mahoning County Jail, Mahoning  
Ohio, 110 5<sup>th</sup> Avenue, Youngstown, Ohio 44503

and

JOSHUA BAIRD  
Individually and on behalf of all present and  
future inmates of the Mahoning County Jail and  
all persons committed to the custody of the  
Sheriff of the Mahoning County Jail, Mahoning  
Ohio, 110 5<sup>th</sup> Avenue, Youngstown, Ohio 44503

and

KEVIN WHITACKER  
Individually and on behalf of all present and  
future inmates of the Mahoning County Jail and

CASE NO. **4:03 CV 2329**

JUDGE **JUDGE DOWD**

MAGISTRATE

**MAG. JUDGE LIMBERT**

**COMPLAINT**  
**CLASS ACTION**

all persons committed to the custody of the )  
Sheriff of the Mahoning County Jail, Mahoning )  
Ohio, 110 5<sup>th</sup> Avenue, Youngstown, Ohio 44503 )

and )

MIKE HAMAD )  
Individually and on behalf of all present and )  
future inmates of the Mahoning County Jail and )  
all persons committed to the custody of the )  
Sheriff of the Mahoning County Jail, Mahoning )  
Ohio, 110 5<sup>th</sup> Avenue, Youngstown, Ohio 44503 )

and )

RODNEY GRAY )  
Individually and on behalf of all present and )  
future inmates of the Mahoning County Jail and )  
all persons committed to the custody of the )  
Sheriff of the Mahoning County Jail, Mahoning, OH )  
360 W. Commerce Street, Youngstown, Ohio 44503 )

and )

LELAND SCOTT )  
Individually and on behalf of all present and )  
future inmates of the Mahoning County Jail and )  
all persons committed to the custody of the )  
Sheriff of the Mahoning County Jail, Mahoning, OH )  
360 W. Commerce Street, Youngstown, Ohio 44503 )

and )

MAURICE BARNES )  
Individually and on behalf of all present and )  
future inmates of the Mahoning County Jail and )  
all persons committed to the custody of the )  
Sheriff of the Mahoning County Jail, Mahoning, OH )  
360 W. Commerce Street, Youngstown, Ohio 44503 )

Plaintiffs )

vs. )

COUNTY OF MAHONING, OHIO, A LOCAL )  
GOVERNMENTAL ENTITY )  
21 West Boardman Street, Suite 200 )  
Youngstown, Ohio 44503 )

and )

DAVE LUDT, AS A MEMBER OF THE )  
BOARD OF COMMISSIONERS OF )  
MAHONING COUNTY, OHIO )  
21 West Boardman Street, Suite 200 )  
Youngstown, Ohio 44503 )

and )

EDWARD J. REESE, AS A MEMBER OF THE )  
BOARD OF COMMISSIONERS OF )  
MAHONING COUNTY, OHIO )  
21 West Boardman Street, Suite 200 )  
Youngstown, Ohio 44503 )

and )

VICKI ALLEN SHERLOCK, AS A MEMBER )  
OF THE BOARD OF COMMISSIONERS OF )  
MAHONING COUNTY, OHIO )  
21 West Boardman Street, Suite 200 )  
Youngstown, Ohio 44503 )

and )

RANDALL A. WELLINGTON, IN HIS )  
OFFICIAL CAPACITY AS SHERIFF OF )  
MAHONING COUNTY, OHIO )  
110 Fifth Avenue )  
Youngstown, Ohio 44503 )

Defendants )

On behalf of themselves, and the class alleged herein, Plaintiffs state the following for their Complaint against Defendants:

**I. PRELIMINARY STATEMENT:**

1. This is a Class Action for equitable and declaratory relief brought on behalf of all persons who are or will be confined to the Mahoning County Jail. Plaintiffs contend that the totality of the conditions at the Mahoning County Jail (hereinafter "The Jail") fall below standards of human decency, inflict needless suffering on prisoners, and create an environment which threatens prisoners' mental and physical well-being, and results in unnecessary deterioration of prisoners confined there. Plaintiffs contend that the totality of the conditions at the jail violate the United States and Ohio Constitutions as well as the Statutory Law of the State of Ohio, and the rules and regulations promulgated by the Ohio Department of Rehabilitation and Correction.

2. The Mahoning County Jail consists of two buildings, with over 700 inmates being housed at the main facility at 110 Fifth Avenue, Youngstown, Ohio. The second building is called the Minimum Security Mahoning County Jail (hereinafter M.S.M.J.). This building houses over 100 inmates and is located at 360 W. Commerce Street, Youngstown, Ohio.

3. The Mahoning County Justice Center is a relatively new building, however, it is in disrepair and inadequately maintained. The facility is persistently understaffed and overcrowded. The Defendants' knowing disregard for the conditions and staffing levels have resulted in the following dangerous threats to the health and safety of the inmates.

(a) The facility is overcrowded, which prevents the facility from properly classifying due to inadequate space, which prevents the Defendants from segregating inmates based on their status as pretrial or sentenced, the nature of their alleged or convicted offense, their history of violent

behavior, the history of mental or physical illness, resultant victimization of inmates by other inmates as well as security threats from inmate unrest.

- (b) The facility is overcrowded. The Defendants have turned a number of ranges into "dorms" to allow for the housing of additional inmates. Said dorms are supervised with indirect supervision in violation of State and Federal standards.
- (c) Indoor or outdoor exercise facilities are available, but due to a lack of staff to transport inmates to indoor exercise, it is nearly non-existent. The outdoor exercise areas are adjacent to the housing areas, but are infrequently used due to a lack of staff.
- (d) The staffing levels in the jail are inadequate to provide for the security and safety of all inmates and to provide a safe and secure working environment for staff. Response time to inmate on inmate attacks and inmate on staff attacks is slow and below standards.
- (e) Inmates are locked down for inordinate amounts of time due to lack of staff.
- (f) There is insufficient staff to evacuate the facility in case of fire.
- (g) Maintenance of the facility is poor.
  - (1.) The facility intercom systems, which operate as a link between inmate cells and staff posts, are consistently broken.
  - (2.) The toilets have been recently shut off for extended periods of time due to problems with pumps.

(3.) The correctional officers' radios operate poorly. Worn out batteries frequently result in the inability of guards to contact other security officers in the facility.

(h) There are insufficient funds to properly train guards and supervisory officials.

(i) Defendants have terminated a legal access program through the Akron Legal Clinic. No legal access is available to inmates.

(j) Disciplinary procedures are inadequate, in that inmates are punished without proper due process procedures outline in the Ohio Revised Code being followed.

4. The MSMJ is located at 360 W. Commerce Street, Youngstown, Ohio, and is a relatively new building that is understaffed and poorly maintained.

(a) Many times a single guard is left to supervise well over 100 inmates. Said staffing level leaves inmates and guards in dangerous, life-threatening situations.

(1.) Fights between inmates are common. Said fights are often broken up by the inmates themselves, due to a lack of staff.

(2.) Proper disciplinary procedures are not followed. Inmates are punished without following Due Process procedures outlined in the Ohio Revised Code.

(b) Maintenance is poor.

(1.) C and D pods, only have two sinks with hot/cold running water.

- (2.) C and D pods have only one working shower for 54 inmates with mold and peeling paint prevalent in the shower areas.
- (3.) The camera on A-pod has been broken for some time.
- (4.) On B-pod, which houses 24 inmates, there are two urinals, one of which has been broken for an extended period of time.
- (5.) Cockroach and insect infestation is common.

5. The Plaintiffs ask this court to declare that the combined effect of the living conditions at the Mahoning County Justice Center and at the Minimum Security Jail, the lack of adequate classification, overcrowding, understaffing, and other conditions result in a confinement that violates the United States and Ohio Constitutions and the Statutory and Regulatory Laws of the State of Ohio. Furthermore, Plaintiffs seek injunctive and declaratory relief requiring Defendants to place the Plaintiffs and all other inmates in other institutions or community-based facilities which meet constitutional and statutory standards, until required alterations are made or a new facility is provided which meets constitutional and state statutory standards.

## **II. JURISDICTION AND VENUE:**

6. The first claim for relief is filed under 42 U.S.C. Section 1983 to redress the injuries suffered by the Plaintiffs and the class they represent for deprivation under color of state law of rights secured by the First, Eighth, Ninth and Fourteenth Amendments to the United States Constitution. The first claim also arises directly under the First, Eighth, Ninth and Fourteenth Amendments. Accordingly, this court has jurisdiction over the first claim pursuant to 28 U.S.C. Sections 1331 and 1343(3).

7. Plaintiffs' class claim for additional relief is derived from a common nuclei of operative facts involving substantially identical issues of fact and law, such that the entire class action constitutes a single case which would ordinarily be expected to be tried in one judicial proceeding. In the interest of judicial economy, convenience and fairness, and in order to avoid unnecessary duplication and multiplicity of actions, this court's jurisdiction over additional claims, which are in part based upon Ohio Law, is pendant to this Court's jurisdiction over the first class claim.

8. Venue in the Northern District of Ohio, Eastern Division is proper: each of the Defendants reside in the Northern District of Ohio, Eastern Division and each of the claims for relief arose in this district.

**III. PARTIES:**

9. The Plaintiffs, Rodney Gray, Leland Scott, and Maurice Barnes, are incarcerated in the Minimum Security Mahoning County Jail, located at 360 W. Commerce Street, Youngstown, Ohio.

10. The Plaintiffs, Nathaniel Roberts, James Joseph Mancini, Joshua Baird, Kevin Whitacker, and Mike Hamad, are incarcerated in the Mahoning County Justice Center, located at 110 Fifth Avenue, Youngstown, Ohio.

11. Defendants are adult citizens and residents of the State of Ohio, and are sued in their capacity as officials of Mahoning County and the State of Ohio who are responsible for the administration of the jail and the care and custody of its inmates or who have the authority to alleviate the conditions in the jail but have not exercised that power. On the contrary, Defendants have exercised their power to create and maintain the deplorable conditions at the Mahoning County Justice Center and Minimum Security Jail.



12. Defendant Randall Wellington is the duly elected sheriff of Mahoning County and as such has the care and custody of the jail pursuant to Chapter 341 of the Ohio Revised Code and O.R.C. Section 2921.44(c). Section 341.01, Ohio Revised Code, grants the Defendant Sheriff the duty, inter alia, to provide for the health and safety of inmates and to regulate the jail according to the Minimum Standards for Jails in Ohio promulgated by the Ohio Department of Rehabilitation and Correction. The Sheriff is charged with responsibility of insuring that the jail does not become foul or unclean so that the health of a prisoner is endangered. Pursuant to Section 311.20 of the Ohio Revised Code, the Sheriff has the duty of preparing and submitting a budget for jail operations to the Board of County Commissioners.

13. Defendants Dave Ludt, Edward J. Reese, and Vicki Allen Sherlock constitute the Board of County Commissioners of Mahoning County (hereinafter, The Board) and as such are responsible for providing a jail the necessary funds, services and supplies to maintain and operate such facility in compliance with Chapter 341 of the Ohio Revised Code and the Minimum Standards for Jails in Ohio. As the elected officers of the county, the Commissioners have the authority, pursuant to Ohio Revised Code Section 305.07(A), to make any necessary order or enter any necessary contract regarding the building, furnishing and operation of public buildings. Section 307.01(A) of the Ohio Revised Code specifically vests the responsibility for providing a jail in the Board. Likewise, the power to provide equipment that is reasonably necessary for the proper and convenient conduct of county offices rest in the Board. Sections 305.16 and 305.17 of the Ohio Revised Code authorize the Board to employ such personnel as are necessary to insure the care and custody of the jail and fix the compensation for such personnel. The Board is given the authority to provide for the training of the Sheriff and his deputies under Ohio Revised Code Sections 307.72 and 307.75. The Board is required, under

Ohio Revised Code Section 341.19, to supply jail inmates, at county expense, a suitable means of heating the jail, clothing, food, and further, to supply such fixtures and such repairs as required by the Court of Common Pleas. The Board is further empowered by the Ohio Revised Code Section 5705.38 to appropriate funds raised pursuant to the County's taxing powers for such purposes.

14. The County of Mahoning is a local government entity empowered to operate, regulate and maintain the Mahoning County Justice Center and Minimum Security Jail, and to levy and collect taxes, maintain a treasury and expend revenue for the operation and maintenance of the Mahoning County Justice Center and Minimum Security Jail pursuant to Ohio Revised Code Section 5705.01, et seq. Governed by the Mahoning County Board of Commissioners, the County of Mahoning has adopted policies, practices, customs and usages for the operation and maintenance of the Mahoning County Jail under color of State law, which have resulted in or caused Plaintiffs to be subjected to the deprivation of rights and liberties secured by the Constitution of the United States and of the State of Ohio.

15. The Plaintiffs have exhausted all administrative remedies prior to filing this action. Each named Plaintiff has filed at least one grievance asking for redress of all the listed complaints and have received no response from the administration. Plaintiffs have filed some sort of formal written grievance with the staff of the facility, copies of all written grievances filed are available from Plaintiffs counsel. Plaintiffs allege that the staff of the facility has not given one written answer to any of the Plaintiffs in regard to any kind of plans or actions to redress the wrongs alleged here.

**IV. CLASS ACTION ALLEGATIONS:**

16. This is a class action under Rules 23(a) and 23(b)(1), (2) of the Federal Rules of Civil Procedure. The Plaintiffs are representative parties of the class which is composed of all persons presently confined at the Mahoning County Justice Center and Minimum Security Jail, Youngstown, Ohio, or who may be so confined in the future.

17. Plaintiffs are members of the class and their claims are typical of the claims of all class members. Plaintiffs are represented by competent counsel, experienced in the handling of many of these types of cases and will fairly and adequately protect the interest of the class.

18. The class is so numerous that joinder of all members is impractical.

19. The questions of fact and law presented by the Plaintiffs are common to the class.

20. The Defendants have acted and refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive and declaratory relief with respect to the class as a whole.

**V. FACTUAL ALLEGATIONS AS TO THE CLASS:**

21. The totality of the conditions of confinement at the jail violate the constitutional and statutory rights of the Plaintiffs and has caused and is causing the Plaintiffs irreparable harm.

22. The two facilities that constitute the Mahoning County Jail are unfit for inmate habitation:

(a) The main jail is poorly maintained and in a state of disrepair. The intercom systems are unreliable and do not work. The pumping stations that control toilets have been shut down on many occasions in the last ten days, allowing waste to accumulate in the toilets, which cannot be flushed away. Inmates have been locked down

in these same cells with no regard for dealing with the stench and bacteria contamination that has resulted.

(b) The conditions at the minimum security facility are also in disrepair. Toilets are not in working order and one shower must be used by over 50 inmates. Cleaning supplies are rarely passed out. Inmates are without detergent to wash their uniforms or personal belongings. Inmates complaints about lack of cleanliness, cleaning utensils and toilet paper have continually gone unanswered.

(c) Both facilities are inadequately staffed. Staffing levels are well below that necessary to secure the safety and security of inmates and those established by Minimum Standards for Jails in Ohio. Most days, many officers assigned to staff the facility are pulled from the jail to perform functions outside the jail, such as transportation of inmates. The lack of staffing resulted in a high level of violence in the jail including attacks on guards and inmate on inmate fights. Due to the inadequate numbers of staff, guards are unable to respond to attacks in a timely manner. Because of a lack of staff, inmates cannot be properly supervised so inmates are constantly locked in their cells.

(d) Due to inadequate staff, exercise facilities are not used.

(e) Due to overcrowding, classification of inmates is impossible. Defendants have received permission from the State of Ohio to convert certain ranges into dorm areas. Defendants, however, have failed to abide by state regulations in the operation of those dorms.

(f) The legal access program at the facility has been discontinued, leaving inmates with no access to the courts.

(g) Inmates are locked down during all visitation periods due to a limited number of staff.

(k) MSMJ is infested with cockroaches and other vermin.

(j) The facilities themselves is a serious fire risk to inmates who are incarcerated there as there are an inadequate number of staff to properly evacuate the facility in case of fire.

(k) Due to inadequate number of staff, some inmates have no access to religious services on Sunday or any other day during the week.

23. Defendant Commissioners and Sheriff have failed to provide adequate numbers of personnel to insure the safety of all inmates. There is an insufficient number of guards, which means the prisoner cannot get the attention of personnel quickly in an emergency.

**VI. FIRST CLAIM FOR RELIEF:**

24. Paragraphs 1-23 above are incorporated herein by reference.

25. The totality of the conditions at the Mahoning County Jail, including the facilities, overcrowding, understaffing, lack of classification, lack of programs, and the practices and policies under the control or authority of Defendants, subjects inmates to cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments of the United States Constitution.

**SECOND CLAIM FOR RELIEF:**

26. Paragraph 1-25 above are incorporated herein by reference.

27. The totality of conditions at the Mahoning County Justice Center and the MSMJ make the treatment and rehabilitation of the inmates impossible, and the totality of the conditions of confinement at the jail, including the facilities, overcrowding, understaffing, lack of

classification, lack of programs, and the practices and policies, subject prisoners to cruel and unusual punishment, in violation of the Eighth and Fourteenth Amendments to the United States Constitution.

**VII. THIRD CLAIM FOR RELIEF:**

28. Paragraph 1-27 above are incorporated herein by reference.

29. Defendants have failed and refused to support and operate the Mahoning County Justice Center and MSMJ in accordance with the guarantees established by the Constitution of the State of Ohio, the statutory provisions of the laws of the State of Ohio, and the rules and regulations promulgated by the Ohio Department of Rehabilitation and Corrections.

**VIII. PRAYER FOR RELIEF:**

WHEREFORE, Plaintiffs pray that this Court:

1. Determine, pursuant to Rule 23 of the Federal Rules of Civil Procedure, that this action is a proper class action, and that the Plaintiffs are proper class representatives;

2. Adjudge and declare that the totality of the conditions of confinement above described are in violation of the right of Plaintiffs and the class they represent, under the Constitution of the United States and the laws of the United States, and the Constitution of the State of Ohio and the laws of the State of Ohio and that their rights under Title 42, U.S.C. §1983 have been and are being violated;

3. Declare that the Defendants have been and are carrying on an unlawful and unconstitutional facility known as the Mahoning County Justice Center and the MSMJ, in violation of the statutes and standards established by the laws of the State of Ohio;

4. Permanently enjoin the Defendants from operating and maintaining the Mahoning County Justice Center and the MSMJ in a manner infringing upon the Constitutional and statutory rights of the Plaintiffs and the class they represent;

5. Order the Defendants, Board of County Commissioners, to provide at the expense of Mahoning County all services and supplies necessary to maintain the Mahoning County Justice Center and the MSMJ in a manner that does not infringe upon the constitutional and statutory rights of the Plaintiffs and the class they represent, pursuant to §341.19 of the Ohio Revised Code;

6. Order Defendant Randall A. Wellington, Sheriff of Mahoning County, to present a plan to this Court under which the Mahoning County Justice Center and MSMJ will enforce the rules and regulations promulgated by the State of Ohio;

7. Adjudicate and delineate a set of standards for the incarceration and detention of prisoners which will protect the rights and privileges of Plaintiffs and the class they represent;

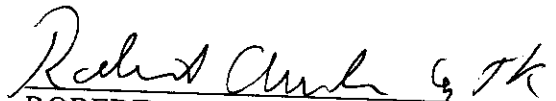
8. Order Defendants to close the Mahoning County Justice Center and the MSMJ until such time as it can be made safe for its inmates, and, in the meantime, to designate a suitable alternate jail facility in which the conditions complained of do not exist;

9. Enjoin Defendants from transferring Plaintiffs or any other member of the class they represent to any other facility where similar conditions exist and further enjoin them from incarcerating additional prisoners in the Mahoning County Justice Center and MSMJ until further order of this Court;

10. Issue an Order permanently enjoining Defendants, their agents, employees, and those acting in concert with them from failing to perform their statutory obligations to inmates to provide suitable clothing and to provide medical and mental health services when required.

11. Order Defendants to pay the costs, expenses and attorneys' fees of this action, as authorized by the Civil Rights Act of 1976, 42 U.S.C. §1988;
12. Grant such other and further relief, at law and in equity, as this Court may find just and proper.

Respectfully submitted,

  
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