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PC-CT-001-001

**UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT**

Civil Action No.  
Date: February 7, 2001

**ROBERT JOSLYN**, on behalf of himself and all  
others similarly situated,

Plaintiffs,

v.

**JOHN J. ARMSTRONG**, Commissioner of the  
Connecticut Department of Correction, in his  
official capacity,

Defendant.

**CLASS ACTION COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF**

**PRELIMINARY STATEMENT**

1. This is a class action brought pursuant to 42 U.S.C. § 1983 and the Eighth and Fourteenth Amendments to the United States Constitution. This action seeks injunctive and declaratory relief on behalf of Connecticut state prisoners confined at Wallens Ridge State Prison (WRSP) in Big Stone Gap, Virginia. This action alleges that by housing prisoners in his custody at WRSP, defendant John J. Armstrong is knowingly subjecting them to conditions that constitute cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments to the Constitution of the United States.

**JURISDICTION**

2. This Court has subject matter jurisdiction of this action pursuant to 28 U.S.C. § 1331 because this action arises under the Constitution and laws of the United States, and pursuant to 28 U.S.C. § 1343(a)(3) because this action seeks to redress the deprivation, under color of state of law, of plaintiffs' civil rights.

3. This Court has jurisdiction to grant declaratory relief pursuant to 28 U.S.C. §§ 2201 and 2202, and Fed. R. Civ. P. 57.

#### **VENUE**

4. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b) because defendant Armstrong resides in this district, and because a substantial part of the events and omissions giving rise to plaintiffs' claims occurred in this district.

#### **PARTIES**

5. Plaintiff Robert Joslyn is a prisoner committed to the custody of the Connecticut Department of Correction (CDOC) pursuant to a judgment of a Connecticut state court. He has been continuously housed at WRSP since November 9, 1999.

6. Defendant John J. Armstrong is Commissioner of the Connecticut Department of Correction. As such, he is the legal custodian of all prisoners sentenced by the courts of Connecticut for felony offenses, and is responsible for the safe, secure, and humane housing of those prisoners. At all times relevant hereto, he has acted under color of state law. Defendant Armstrong is sued in his official capacity.

#### **STATEMENT OF FACTS**

7. Wallens Ridge State Prison (WRSP) is a Level 6, "Supermax" prison located in Big Stone Gap, Virginia. Red Onion State Prison (ROSP) is a Level 6, "Supermax" prison located in Pound, Virginia. Both WRSP and ROSP are operated by the Virginia Department of Corrections (VDOC). Policies, practices, and procedures at WRSP and ROSP are essentially identical.

8. On or about October 12, 1999, defendant Armstrong, on behalf of the CDOC, signed a contract with the VDOC providing for the confinement of Connecticut prisoners at WRSP. The contract, a copy of which is attached hereto as Appendix 1, was entered into pursuant to the

Interstate Corrections Compact, as adopted by the Commonwealth of Virginia (Va. Code Ann. §§ 53.1-216-217) and the State of Connecticut (General Statutes of Connecticut, §§ 18-105-107). Article 27 of the contract provides that “The CDOC shall remain, at all times, the legal custodian of the Connecticut Inmates” housed in Virginia pursuant to the contract. Section 5.8 of the contract provides that the CDOC may withdraw its prisoners from Virginia at any time. There are currently approximately 200 Connecticut state prisoners confined at WRSP pursuant to this contract.

9. Excessive force is endemic at WRSP. Often force is used not in a good faith effort to maintain prison security, but to inflict summary punishment on prisoners who have somehow annoyed or displeased prison staff. Such excessive force is not confined to isolated incidents, but amounts to an official policy which defendant Armstrong has implemented or in which he has knowingly acquiesced.

10. A prime example of the abusive use of force at WRSP is the prison’s indiscriminate use of five-point restraints. Prisoners in five-point restraints are bound to a steel bed by restraints at the wrists and ankles and a strap tied across the chest. They are completely immobilized. Once strapped down, prisoners are left in restraints for a pre-determined period, almost invariably 48 hours. Some prisoners have been left in restraints for periods longer than 48 hours.

11. Prisoners at WRSP are strapped down in five-point restraints not because they pose a danger to themselves or to others, but as summary punishment for various trivial offenses. According to WRSP records, five-point restraints were used on Connecticut prisoners on 45 occasions between January 3 and August 17, 2000. Of these 45 prisoners, 13 were tied down in restraints for “kicking the cell door.” Other offenses resulting in the use of five-point restraints were throwing clothes, and sticking a rolled-up piece of paper out the cell door.

12. After the prisoner’s initial placement in restraints, there is no evaluation of the continuing need for such an extraordinary level of force. Rather, when the prisoner is initially placed in restraints, a decision is made that he will remain in restraints for a fixed period, almost always 48 hours. This fixed and pre-determined duration shows that restraints are being used as

punishment, rather than to temporarily incapacitate a prisoner who genuinely poses a risk to himself or others.

13. Prisoners in restraints are not adequately monitored by medical staff. Long periods in restraints result in pain, numbness, stiffness, and loss of circulation in the limbs, and bruising and cuts at the ankles, wrists, and torso. The prolonged immobilization that results from WRSP's use of five-point restraints poses a risk of nerve damage, circulatory damage, blood clots, and other *serious physical injury*.

14. Often prisoners in restraints are not allowed timely access to toilet facilities, with the result that they urinate and defecate on themselves, and are left to lie in their own waste for hours. Even when prisoners are temporarily released from restraints to use the toilet, they are placed in leg irons and handcuffs, resulting in extremely limited movement.

15. Prisoners are placed in five-point restraints without any consideration of whether their behavior results from mental illness, or whether the use of restraints will exacerbate their mental illness. Prisoners whom the CDOC itself has classified as suffering from major mental illness have repeatedly been subjected to five-point restraints at WRSP.

16. Prisoners who are being placed in five-point restraints are sometimes also shocked with the "Ultron," the "Taser," or other "stun" devices. These devices inflict a powerful and painful electric shock. Use of these devices constitutes potentially lethal force, particularly with prisoners who have heart trouble or other chronic health conditions. In July 2000, Connecticut prisoner Lawrence Frazier died after being repeatedly "stunned" by WRSP staff.

17. The use of five-point restraints on prisoners at WRSP is sanctioned by official policy. Use of five-point restraints is authorized by a statewide written policy of the VDOC. Given this official policy, plaintiffs are overwhelmingly likely to suffer confinement in five-point restraints in the future. However, both the VDOC and the CDOC have refused to provide copies of this policy, either to individual prisoners or to plaintiffs' counsel. Therefore, plaintiffs have no way of knowing what acts or omissions may subject them to five-point restraints.

18. The use of five-point restraints as described in this Complaint results in the unnecessary and wanton infliction of pain, physical injury, and humiliation that is unrelated to any legitimate penological purpose.

19. Defendant Armstrong has transferred plaintiffs to WRSP, and has maintained plaintiffs at WRSP, with full knowledge of the unconstitutional conditions set forth herein. Defendant Armstrong's decision to transfer plaintiffs to WRSP, and his decision to maintain them there, were not made in haste, under pressure, to restore prison security in an emergency situation. Rather, these decisions were made, and continue to be made, over time, with ample opportunity for deliberation and reflection. In making these decisions, defendant Armstrong has acted, and continues to act, with deliberate indifference to plaintiffs' health and safety, and to the risk that plaintiffs will suffer serious physical injury or death.

20. The policies, procedures, and practices described in this Complaint are likely to persist unless enjoined by this Court.

#### **FACTS PERTAINING TO PLAINTIFF ROBERT JOSLYN**

21. On January 24, 2000, a WRSP guard accused plaintiff Robert Joslyn of throwing his empty meal tray into the trash can, spilling food on the officer in the process. Mr. Joslyn denied this accusation. Nevertheless, Mr. Joslyn was immediately placed in five-point restraints. Although Mr. Joslyn did not resist and was fully cooperative with staff, he was left in five-point restraints for 48 hours. Once Mr. Joslyn was restrained, the guard who had accused him came to the cell to taunt him: "Are you having fun?"

22. Mr. Joslyn was placed in restraints wearing only his boxer shorts. The cell was cold; he was not given a blanket or anything else to keep him warm. During the nights, he was able to sleep for only a few minutes at a time because of the cold and the pain caused by the restraints.

23. Mr. Joslyn was not allowed timely access to toilet facilities. He called to staff that he needed to use the toilet, but there was no response. As a result, he suffered extreme discomfort from having to hold his urine and bowel movements.

24. During this 48-hour period, Mr. Joslyn was fed only twice per day. He was required to eat with his feet still strapped to the restraint bed, and his hands in handcuffs. On these occasions, he was allowed to use the toilet, but was required to wear handcuffs and leg irons while doing so. Except for these occasions, prison staff did not check on Mr. Joslyn during the 48 hours he was restrained.

25. The complete immobilization caused by the restraints resulted in Mr. Joslyn suffering extreme pain in his back and legs. When he was let up from restraints to use the toilet, he could hardly move and required assistance. When he was finally released after 48 hours, he could barely stand.

26. On March 7, 2000, Mr. Joslyn was accused of kicking his cell door. Once again, Mr. Joslyn was immediately placed in five-point restraints. Although the guards who placed Mr. Joslyn in restraints noted in their report that “[t]he inmate was cooperative through the incident,” Mr. Joslyn was again left in five-point restraints for 48 hours. Conditions were identical to those he suffered when he was restrained in January 2000, except that he was fed three times a day rather than twice. Mr. Joslyn was once again denied timely access to toilet facilities; on this occasion, he was unable to hold his bowels and defecated on himself while tied to the restraint bed.

27. The conditions suffered by Mr. Joslyn are typical of those suffered by prisoners subjected to five-point restraints at WRSP.

28. Mr. Joslyn has exhausted such administrative remedies as are available to him.

#### **CLASS ACTION FACTS**

29. Plaintiff Robert Joslyn brings this action on behalf of himself and all others similarly situated, pursuant to Fed. R. Civ. P. 23(a) and (b)(2).

30. Mr. Joslyn seeks to represent a class consisting of:  
All Connecticut state prisoners who are now, or who will in the future be, confined at Wallens Ridge State Prison in Big Stone Gap, Virginia, or at Red Onion State Prison in Pound, Virginia.

31. The members of the class are too numerous, and the membership of the class too fluid, to permit joinder of all members. There are currently approximately 200 Connecticut state prisoners confined at WRSP. Connecticut prisoners at WRSP are constantly being transferred to other prisons, while other Connecticut prisoners are transferred to WRSP.

32. Common questions of law and fact exist as to all class members. All class members are equally subject to the unconstitutional conditions at WRSP described in this Complaint. These common questions include, but are not limited to: Whether the plaintiffs are subjected to five-point restraints as a form of summary punishment rather than for legitimate security reasons; whether prisoners in such restraints are adequately monitored by medical personnel; whether prisoners are kept in restraints for periods longer than security needs require; whether the abusive use of restraints occurs with the knowledge, acquiescence, and/or deliberate indifference of defendant Armstrong; whether the use of five-point restraints on plaintiffs constitutes cruel and unusual punishment in violation of the Eighth and Fourteenth Amendments to the United States Constitution; and whether injunctive relief should issue enjoining defendant Armstrong from subjecting prisoners in his custody to the unconstitutional use of five-point restraints described herein.

33. The claims of named plaintiff Robert Joslyn are typical of those of the class.

34. Mr. Joslyn will fairly and adequately represent the interests of the class. Mr. Joslyn's interests are consistent with those of the class, and he is represented by counsel who are experienced in class action, civil rights, and prison conditions litigation.

35. Defendant Armstrong has 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.

#### **CAUSES OF ACTION**

36. By subjecting prisoners in his custody to the conditions set forth herein, with full knowledge of those conditions, defendant Armstrong has acted, and continues to act, with

deliberate indifference to their serious health and safety needs, in violation of the Eighth and Fourteenth Amendments to the United States Constitution.

**PRAYER FOR RELIEF**

Wherefore, plaintiffs respectfully request that the Court:

1. Certify this action as a class action;
2. Issue a judgment declaring that defendant Armstrong's actions described herein are unlawful and violate plaintiffs' constitutional rights;
3. Permanently enjoin defendant Armstrong, his subordinates, agents, employees, and all others acting in concert with him from subjecting plaintiffs to the conditions set forth in this Complaint;
4. Grant plaintiffs their reasonable attorney fees and costs pursuant to 42 U.S.C. § 1988 and other applicable law; and
5. Grant such other relief as the Court considers just and proper.



Respectfully submitted this 7<sup>th</sup> day of February, 2001.

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<sup>1</sup> Practice limited to the federal courts; admission pro hac vice pending.