

United States District Court
Southern District of Iowa
Central Division

FILED
SEP 22 2003
CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF IOWA

Jake Voshell, Jeff Winters,
Burt Smith, Louie Jales,
Scotty Flemming, Dave Baber,
Joe Ervig, Bryan Keller,
Wayne Quillen, Mike Joslin,
Clayton Gregory, Rich Whitney,
Thomas Keith, James Hall,
and Kris Johnson,

4:03-cv-40522

Civil No.

Complaint for Declaratory
Judgment, Injunctive
Relief, and Damages

Plaintiffs,

- VS -

John Spence,
John Mathis,
Ron G. Welder,
Ruth Stockbridge,
James Burton,
Louis Galloway,
Charels Harper,
and Dave De Grange

Defendants,

8

I.

“Previous Lawsuits”

- (1) Plaintiffs are in disciplinary detention and are being denied access to their legal materials necessary to address this issue at this time for this court.

II.

“Place of Present Confinement”

- (2) All plaintiffs are currently confined in the Iowa State Penitentiary at Fort Madison, IA.

III.

“Exhaustion of Administrative Remedies”

- (3) No Administrative remedies were persuaded do to the fact, disciplinary and classification proceedings cannot be challenged under the Department of Corrections Grievance Program.

IV.

“Parties”

Plaintiffs

- (4) Jake Voshell, # 803644, Iowa State Penitentiary, PO Box 316, Fort Madison, IA 52627
Jeff Winters #1045267
Burt Smith #1098924
Louie Jales #087897
Scotty Flemming #1028521
Dave Baber #803256
Joe Ewig #808517
Bryan Keller #1080959
Wayne Quillan #804605

Mike Joslin #1129552
Clayton Gregory #1139525
Rick Whitney #1050408
Thomas Keith #808596
James Hall #806039 and
Kris Johnson #1016548 are all confined at the same address as plaintiff Voshell, except Scotty Flemming he has discharged his sentence. His address is c/o 201 SE Jackson St., Des Moines IA 50315.

Defendants

- (5) John W. Spence, is the Executive Officer II for the Iowa Department of Corrections Central Office, 420 Watson Powell JR. Way, Des Moines IA 50309

John Mathis, Warden
Ron G. Welder, Executive Assistant
Ruth Stockbridge, Records Administrator
James Burton, Internal Affairs Investigator
Louis Galloway, Internal Affairs Investigator
Charles Harper, Administrative Law Judge,
and Dave De Grange, Investigator, each of which reside at the same address as the plaintiffs.

V.

“Statement of Claims”

“Introductions”

- (6) Plaintiffs advance four (4) legal claims against Defendants. As such the plaintiffs will address these legal claims separately below - and discuss each Defendants’ personal involvement separately below.

“Legal Claim One”

- (7) Everyone of the Plaintiffs’ are members of the Religious faith, the Church of the New Song (CONS). Defendants have and are subjecting plaintiffs to “religious discrimination and persection” by removing every single one of the (CONS) members off the General population yard at the Iowa State Penitentiary (ISP), and locking them up in disciplinary segregation and other forms of segregation absent any misconduct or adequate reasons for doing so. The Defendants singled out every CONS member for locked and disciplinary status and did so to:
- a. Close the CONS down; and
 - b. Create falsified administrative records to introduce before pending judicial proceedings, before the Eighth Circuit Court of Appeals, regarding litigation on the CONS and
 - c. Create falsified administrative records and statistics to use before Judicial Administrative and Legislative proceedings to:
 1. Seek/obtain favorable decisions based on the alleged needs to control gang conduct in the Iowa Department of Corrections.
 2. To obtain funding for lockup or control units, additional State employees.

Legal Claim Two

- (8) Defendants’ and their predecessor's for over two decades have repeatedly attempted to close down the CONS. This is a matter of judicial notice, and should be accepted as such.
- The most recent attempt was before Federal Judge Pratt in the United States District Court for the Southern District of Iowa.
- (9) In and act of retaliation due to the most recent ruling by Judge Pratt, Defendants’ retaliated against every single “active” member of the CONS, as well as three (3) people known to be studying to become CONS members, and subjected them to Disciplinary and Administrative segregation “absent absolutely and misconduct” on the part of the

plaintiffs’.

- (10) “Defendants’ made up a gang” calling it the “peckerwoods” or “woods” (A), and then falsely claimed every single member of the CONS was a member of this alleged gang.

(A) Peckerwood or wood is a slang term use to describe a white person, just like “brother” is a slang term used between black men to describe a black man.

- (11) Following a lengthy investigation the Defendants placed every single “active” member of CONS and three (3) people studying to become members of CONS on disciplinary report (B) alleging almost every single violation of the prison rules (C) alleging every active member of CONS and the three potential members were involved in the whole array of DOC rule violations including killing of another (D).

- (12) “Defendant’s made up a gang” calling it the peckerwoods or woods, they alleged every single active member and the three (3) potential members of CONS was a member of alleged group and retaliated against every single person by,

(B) Plaintiffs’ want it made “very clear” they are not by “this” cause of action advancing a legal challenge to the outcome or disciplinary decision that resulted in disciplinary punishments being imposed against them.

(C) Plaintiffs’ were not sanctioned by a disciplinary tribunal for acts of gang misconduct - fact is - they were cleared of acts of gang misconduct. They were found guilty of being members of a nonexistent gang the defendants made up to describe the member of the CONS.

(D) No one has been killed at the Iowa State Penitentiary in approximately ten (10) years. Locking them up in punitive and administrative segregation, as alleged members of a gang, due to the Defendants inability to close down the CONS through the judiciary.

“Legal Claim Three”

(13) Defendants’ relied on disciplinary findings that all the plaintiffs’ were “gang members” in violation of DOC Rule # 42 (E), “Not that they had engaged in gang related conduct and locked them all up -

(E) DOC Rule IN-V-36, V . N . (Definition of offenses) describes Rule # 42 as follows:

42. Unauthorized Group/Gang Conduct: An offender commits an offense under this subsection when the offender:

(a) Originates, promotes, participates in, recruits for, etc., any unauthorized group, organization, gang, clique, association, etc., or

(b) Communicates involvement in any unauthorized groups through written or verbal means, physical appearance, hand signs, symbols, photographs, association, with others, etc., or

(c) Possesses, creates, reproduces, or transmits any materials related to unauthorized group/gang activities

based upon fact findings that every active member and the five potential members of CONS was/is a peckerwood or wood, and that being a peckerwood or wood - was being a gang member in violation of Rule 42 of the DOC Disciplinary Rules of Substantive Misconduct (F)

(14) Plaintiffs/ state, that to use a slang term unrelated to any gang, by Defendants’, to re-title the CONS membership to calling them a gang, and then say that because they are a gang they’ve violated Rule #42, is “objectionably unreasonable” “interpretation and application of their rules to the facts of this case” as defined in Moorman-v-Thalacher, numbers 95 - 2245 and 95 - 2297 (8th Circuit Court of Appeals dated May 14, 1996).

(15) Plaintiffs' further state - that it is no Rule violation of Rule # 42 "to be a gang" member if you are not involved in gang conduct

(F) There is no gang in ISP called the "peckerwoods or woods". Defendants' created this gang - by saying that because a term used to describe a "white" man was used by CONS members are a gang called the peckerwoods or woods.

(16) Plaintiffs' advance a Constitutional challenge to the Rules and facts of this case as being "objectively unreasonable" in violation of the due process clause of the Fourteenth Amendment to the United States Constitution.

"Legal Claim Four"

(17) From June and to July of 2002, Defendants' locked up everyone of the plaintiffs' advancing an array of charges of gang misconduct, (G). Fact Finding made by the ALJ made clear "Not one of the plaintiffs had committed a single act of gang misconduct." Plaintiffs' were declared to be peckerwoods or woods and as such "gang members - and solely because they were declared "gang members" they were sanctioned with harsh disciplinary sanction that was a typical and and significant hardship", and singled out for these punishments, "while no other "gangs", that are on fact,

(G) Plaintiff Hall was never alleged to be involved in gang related conduct, yet he was found to have been along with the other CONS members, because he is a CONS member who admits the slang term peckerwood applies to him as a white man.

Clearly documented gangs throughout the entire DOC, nor a single member of any of these other gangs - have been locked up and punished only because they are a gang member.

(18) Plaintiffs' (although not gang members) have been alleged as such, and under Rule 42 have been denied due process and equal protection under the rules contrary to the Fourteenth Amendment to the United

States Constitution.

Personal Involvement of
Defendants' Spence, Mathis, Welder,
Stockbridge, and Harper

- (19) Defendants' Spence, Mathis, Welder, and Stockbridge acted as "appellate officers" regarding either the disciplinary or classification proceedings regarding this case and refused or failed to take corrective action regarding, Defendants' Burton, Galloway, Harper and De Grange's conduct of an unconstitutional nature.
- (20) Defendant Harper as the ALJ failed to take corrective action regarding the unconstitutional conduct of Defendants' Burton, Galloway and Mathis, when he acted in conspiracy with them as set forth below.
- (21) Defendants' Burton (H) and Galloway, acting as investigators "created and assembled a whole array of false charges" against all the Plaintiffs as justification to issue them disciplinary reports. Burton and Galloway's actions were a direct result of directions issued them by Defendant Mathis (and other - at this time - unknown DOC personnel).
- (22) Defendants De Grange acting as an investigator failed to take any corrective action against Burton, Galloway and Mathis when he knew or should have known their conduct to be unconstitutional.

(H) Burton in a case before Federal Judge Donald E. O'Brian was found to have falsified and corrupted an investigation involving inmate George Goff. Burton's unethical conduct as an investigator is a matter of judicial notice and should be accepted as such.

IV

"Relief Requested"

- (23) Plaintiffs seek a declaratory judgment as it concerns all the following:
 - a). Plaintiffs' have been subject to religious

discrimination and persecution as well as retaliatory treatment by Defendants contrary to the First and Fourteenth Amendments to the United States Constitution.

- b). Plaintiffs' have been "retaliated" against by Defendants' because they either are members of a class of CONS members, potential CONS members learning to become CONS members, or parties to parties to Federal Litigation concerns the CONS.
- c). Defendants' created falsified investigative and disciplinary records to use to:
 - 1). retaliate against the membership of the CONS;
 - 2). discriminate and persecute the members of the CONS;
 - 3). use of Federal Judicial proceedings against members of the CONS;
 - 4). to remove every member of the CONS from the prisons general population status to close down the CONS;
 - 5). obtain and secure financial and political objectives relative to an alleged DOC gang problem.
- d). Defendants' use of disciplinary Rule #42 to impose disciplinary sanctions on Plaintiffs as "alleged" gang members, absent any findings of guilt that plaintiffs' participated in any improper gang related conduct is an "objectively unreasonable" interpretation and application of Defendants' own rules to the facts of this case.

- e). Defendants' discriminated, denying Plaintiffs due process and equal protection when they disciplined them for only being "alleged" gang members (absent any improper gang related conduct) - when no other DOC has been or will be subject to such discipline.

(24) Plaintiffs' seek injunctive relief as follows:


- a). enjoining Defendants from subjecting the Plaintiffs and other members of the CONS from further discriminatory treatment and persecution due to being members of the CONS.
- b). enjoining Defendants from any further acts of retaliation against Plaintiffs or the membership of the CONS for seeking legal redress from the courts or other First Amendments protected activities.
- c). enjoining Defendants from using in any judicial proceeding, administrative or legislative the investigations and disciplinary records falsified by the defendants to reflect any of the following:
 - 1. That Plaintiffs' are an alleged gang called the "peckerwood" or "woods"
 - 2. That the CONS membership is a gang
 - 3. That Defendants require from the legislature or other administrative agencies of the states of Iowa or Federal Government, additional financial support to combat alleged gang problems in the Iowa Department of Corrections.
- d). enjoining Defendants from imposing disciplinary punishments against the plaintiffs'; CONS members

or any other prisoner's of the Iowa Department of Corrections for alleged violations of DOC Rule #42 "based only on the fact the may be or are a gang member absent evidence to support actual gang misconduct or participation.

- e). enjoining Defendants from discriminating against Plaintiffs' and other CONS members - by imposing disciplinary punishments against them for "ONLY BEING ALLEGED GANG MEMBERS" - when no other gangs or their members are being made subject to discipline for the very same reason or under the very same rules and procedures.
- 25). Plaintiffs' seek compensatory damages in the amount of \$500,000.00 from each Defendant to each Plaintiff.
- 26). Plaintiffs' seek punitive damages in the amount of \$1,000,000.00 from each Defendant to each Plaintiff.
- 27). Plaintiffs' seek a trial by jury on all issues triable by jury.
- 28). Plaintiffs' seek cost of this action.
- 29). Plaintiffs' seek appointment of legal counsel.
- 30). Plaintiffs' seek any and all further relief as this Court deems just.

Dated: 7-18, 2003.

We the undersigned declare under penalty of perjury that the foregoing is true and correct to the best of our knowledge and belief by our signatures below:



Jake Voshell #803664
Iowa State Penitentiary
PO Box 316
Fort Madison, IA 52627

Notice: See attached page for
signatures of all additional Plaintiffs'
to this action:

(18)

Butt Smith

John Marshall

Thomas P. Keith

Louie Jones

Joseph Curcio

Bill Finning

Michael J. Jeylin #1129552-A

Wayne Quillo

Robert W.

Dave BABER #803756

Bryan Kellen #1080959

Richard L. Whitney #1050408

J. Winter #1015267

Kristopher Johnson #1016548

James Hull