



PC-MI-0007-0001

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

UNITED STATES OF AMERICA,)
)
 Plaintiff)
)
 v.)
)
 STATE OF MICHIGAN, JAMES J. BLANCHARD,)
 Governor of Michigan; MICHIGAN CORRECTIONS)
 COMMISSION; GWEN ANDREW, Chairman,)
 Michigan Corrections Commission;)
 THOMAS EARDLEY, G. ROBERT COTTON,)
 DWAYNE WATERS, DON LE DUC, Members,)
 Michigan Corrections Commission; MICHIGAN)
 DEPARTMENT OF CORRECTIONS; PERRY M.)
 JOHNSON, Director, Michigan Department)
 of Corrections; ROBERT BROWN, JR.,)
 Deputy Director, Michigan Department of)
 Corrections; Dale FOLTZ, Regional)
 Administrator, State Prison of Southern)
 Michigan; JOHN JABE, Warden, Michigan)
 Reformatory; THEODORE KOEHLER, Warden,)
 Marquette Branch Prison; JOHN PRELESNIK,)
 Administrator, Reception and Guidance)
 Center, State Prison of Southern Michigan;)
 and JACK BERGMAN, Administrator, Michigan)
 Intensive Programming Center;)
)
 Defendants.)
)

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CIVIL NO. _____
COMPLAINT

COMPLAINT

The United States of America alleges:

1. The United States of America, by and through its Attorney General, William French Smith, brings this action for the purpose of enjoining unconstitutional conditions in three Michigan state prisons: the State Prison of Southern Michigan (including the Reception and Guidance Center),

located in Jackson, Michigan; the Michigan Reformatory, located in Ionia, Michigan; and the Marquette Branch Prison (including the Michigan Intensive Programming Center), located in Marquette, Michigan. Such conditions deprive persons confined in said institutions of rights secured by the First, Sixth, Eighth and Fourteenth Amendments to 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. Attached hereto, and incorporated herein by reference as Exhibit A, is the Certificate of the Attorney General required by that statute.

4. Venue in the Western District of Michigan is proper. 28 U.S.C. §1392.

PARTIES

5. Defendant JAMES J. BLANCHARD, Governor of Michigan, heads the executive branch of the state government. He has ultimate responsibility for conditions in state correctional facilities.

6. Defendant MICHIGAN CORRECTIONS COMMISSION is vested under Michigan law with exclusive administrative authority over the Michigan Department of Corrections.

7. Defendants G. ROBERT COTTON, THOMAS EARDLY, DON LE DUC, DWAYNE WATERS, and GWEN ANDREW are members of the Michigan Corrections Commission.

8. Defendant MICHIGAN DEPARTMENT OF CORRECTIONS is the state agency responsible for management and control of state penal institutions.

9. Defendant PERRY M. JOHNSON is the Director of the Michigan Department of Corrections. Under Michigan law, he is empowered, subject to rules and regulations adopted by the Corrections Commission, to supervise and control the affairs of the Department, including the promulgation of rules and regulations that provide for the management and control of state penal institutions.

10. Defendant ROBERT BROWN, JR., is Deputy Director of the Michigan Department of Corrections. As such, he directs the Bureau of Correctional Facilities, which administers the State Prison of Southern Michigan, the Michigan Reformatory and the Marquette Branch Prison.

11. Defendant DALE FOLTZ is the Regional Administrator of the State Prison of Southern Michigan. As such, he has certain powers and duties related to the control, governance and supervision of that facility.

12. Defendant JOHN JABE is the Warden of the Michigan Reformatory. As such, he has certain powers and duties related to the control, governance and supervision of that facility.

13. Defendant THEODORE KOEHLER is the Warden of the Marquette Branch Prison. As such, he has certain powers and duties related to the control, governance and supervision of that facility.

14. Defendant JOHN PRELESNIK is the Administrator of the Reception and Guidance Center. As such, he has certain powers and duties related to the control, governance and supervision of that facility.

15. Defendant JACK BERGMAN is the Administrator of the Michigan Intensive Programming Center. As such, he has certain powers and duties related to the control, governance and supervision of that facility.

GENERAL ALLEGATIONS

16. The State Prison of Southern Michigan (including the Reception and Guidance Center), the Michigan Reformatory and the Marquette Branch Prison (including the Michigan Intensive Programming Center)("the subject prisons") are prison institutions within the meaning of 42 U.S.C. §1997(1)(A) and (1)(B)(ii).

17. At all times relevant to the claims and allegations herein, Defendants BLANCHARD, COTTON, EARDLEY, LE DUC, WATERS, ANDREW, JOHNSON, BROWN, FOLTZ, JABE, KOEHLER, PRELESNIK and BERGMAN, their respective predecessors, and each of them, has committed the acts or failures to act alleged herein under color of state law.

18. The subject prisons fail to provide and maintain basic elements of a safe and sanitary physical and environmental plant (including fire safety) for the inmates.

19. The subject prisons fail to provide medical services (including services for suicidal, psychotic, and self-mutilating inmates) minimally necessary to meet the inmates' serious needs, where the failure to provide such care manifests a deliberate indifference to these needs.

20. The subject prisons fail to protect inmates from harm, including from increased violence and serious threats to health associated with overcrowding.

21. The subject prisons fail to provide inmates minimally mandated access by mail to their attorneys, to courts, and to government officials; and the subject prisons fail to provide inmates sufficient access to minimal law library resources or legal assistance.

VIOLATIONS ALLEGED

22. Defendants' acts and practices, described above in paragraphs 18 through 20, constitute cruel and unusual punishment. They violate the guarantees of the Eighth and Fourteenth Amendments to the United States Constitution.

23. Defendants' acts and practices, described above in paragraph 21, deprive inmates of constitutionally mandated

access to the courts. They violate the guarantees of the First, Sixth, and Fourteenth Amendments to the United States Constitution.

24. There is no adequate remedy at law to address these violations.

25. Unless restrained by order of this Court, defendants will continue to engage in the above described practices to the immediate and irreparable injury of the United States.

REMEDY

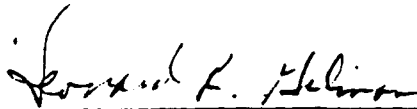
26. WHEREFORE, the United States prays that this Court enter an order permanently enjoining defendants, their officers, agents, agencies, employees, subordinates, successors in office, and all those acting in concert or participation with them from continuing the unconstitutional acts and practices described herein, from continuing to confine persons, if any, under such unconstitutional conditions, and from failing or refusing to confine persons, if any, under conditions which meet constitutional standards.

27. The United States further prays that this Court grant such other and further equitable relief as it may deem just and proper.

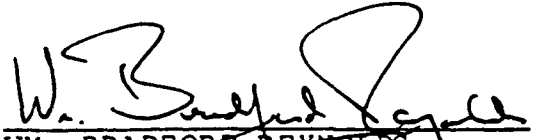
DATED: 12/15, 1983, at Washington, D.C.



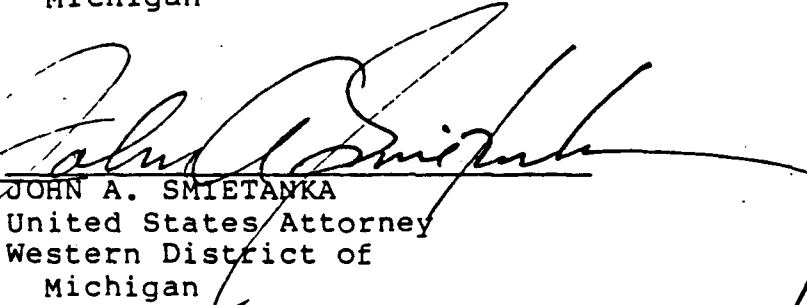
WILLIAM FRENCH SMITH
Attorney General of the
United States



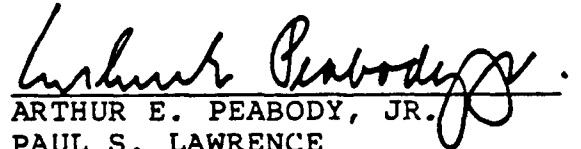
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CERTIFICATE OF THE ATTORNEY GENERAL

I, William French Smith, Attorney General of the United States, certify that with regard to the foregoing Complaint, I have complied with 42 U.S.C. §1997b(a)(1). I certify as well that I have complied with §1997b(a)(2). I further certify that this action by the United States is of general public importance; will materially further the vindication of rights, privileges, or immunities secured or protected by the Constitution of the United States; and in every respect complies with the requirements of §1997b(a)(3).

Accordingly, having determined that the action here initiated is fully consistent with §1997a, pursuant to §1997a(c), I have personally signed the foregoing Complaint. Pursuant to 42 U.S.C. §1997b(b), I have personally signed this Certificate.

I finally certify that all things that must be done as prerequisites to my initiating suit under 42 U.S.C. §1997 have been done.

Signed this 15 day of December, 1983, at Washington, D.C.



WILLIAM FRENCH SMITH
Attorney General of the
United States

EXHIBIT A