

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEBRASKA

HAROLD BRYAN WILSON
RILEY NICOLE SHADLE

FILED
US DISTRICT COURT
DISTRICT OF NEBRASKA
NOV 30 2016
OFFICE OF THE CLERK

8:16cv524

COMPLAINT

RECEIVED

NOV 30 2016

CLERK
U.S. DISTRICT COURT

V

JASON GEERDES
FRED BRITTEN
CATHY SHEAIR
SCOTT FRAKES

I. A. Place of confinement: Lincoln Correctional Center.

B. Parties to this civil Complaint:

(1) Plaintiff Harold B Wilson # 37418 and Riley Nicole Shadle a.k. Dillon

Address; Box 22800 Lincoln, NE 68542-2800

(2) Defendants: Jason Geerdes is employed as a Unit Manger at the

Lincoln Correctional Center (LCC)

All Defendants are employees of the Nebraska Dept of Corrections.

II Previous Civil Actions

A. Have you begun other lawsuits in state or federal Court dealing with the same facts involved in this action?

Yes ___ No X

(1-11) Not applicable

III Grievance Procedure

A. Does your insitution have a greivance procedure? XYes ___ No

B. Did you present the facts relating to your complaint through the administrative grievance procedure? Yes X No ___

C. What was the result? Presmission to get married was denied by the parties.

D. If you did not file a grievance state the reasons. *N/A parties transfer
It is well known that the defendants will not allow marriage & due to parties transfer
the grievance was not to be officially signed off on - oral discussion has been done*

E. Please aattach any responses as exhibits to this complaint.

F. If there is no prisoner grievance process at your institution, did you complain to prison authorities? X Yes ___ No

G. If your answer to F is yes,

A. What steps did you take and what was the result? We sought permission to marry as soon as it was evident that the defendants were taking illegal discriminatory steps to keep us from being together in any meaningful way and yet allowed other evidenced couples to remain in relationships openly in general population.

IV Jurisdiction

A. Is this complaint brought for a violation of your federal constitutional rights by a person employed by the state, county, or municipal government or acting with such government officals? Yes X No---

If "yes" please state the agency the officials are employed by or why you believe the defendants were acting in conjunction with government officials:

All Defendants are employed by the Nebraska Dept. Of Corrections.
Jason Geerdes is the Unit Manager for Unit A-1.
Fred Britten is the Warden of LCC
Cathy Sheair is the acting Deputy Warden of LCC
Scott Frakes is the Director of Corrections for the Neb DCS

B. Is this complaint brought for a violstion of state or local law? Yes X No

If so, please specifiy (without alleging any supporting facts) the state law you beleive was violated: The Constituional right of free association and the new ~~ly~~ created right to marry anyone of ones choice

Are the Defendants residents of the same state as you? Yes X NO

V. Statement of Claim

On October 31. Plaintiff Shadle was removed from LCC Housing Unit A 1 on an unsubtaniated charge of solitation for sexual favors. Plaintiff Shadle is a transgender female residing in a male facility. Prior to this the Plaintiffs had been both harrassing and charged with misconduct for "sitting to Close" on the prison yeard and for non-sexual casual physcial contact in one having his arm around the other. The plainitffs were often harrassed by numerous staff under the orders and direction of the Defendants and unknown others to ensure that the Plaintiffs were not allowed to sit too close or display any openly affectionate acts as the Plaintiffs are currently both considered to be male.

On November 23, 2016, after Plaintiff Wilson was informed by Defedant Geerdes that either him or Shadle "had to go" that they would never be allowed to be in the same institution because they had formed a non sexual relaitonship of romantic nature. Even though the Plaintiffs have never engaged in any sexual behaviour or any act that would constitute a threat to the safety and security of the institution. As a result Plaintiff Wilson has been reclassified for transfer to a more violent institution, the state penitentiary simply becuse the Plainitffs wish to formalize their relationship and excercise their right to marry. They wish to have equal treatment to the similarly situated couple of MR & Mrs Paul Gilpatrick, both inmates of the Department of Corrections who were legally married earily this year, in 2016. Plaintiffs also wish to be given equal tteatment to other known couples in openly amorous realtionships that are allowed to remain in the same institution.

B. State briefly your legal theory or cite appropiate authority: Plainitffs state that the First Amemdment right to freely associaote with others has been violated and that their 14th Amendment rights to equal protection has been violated

± "The United States Supreme Court makes it abundantly clear that the right to marry underlies the purpose of the constitution although not mentinoned therein, and is a fundamental right afforded by the First, Fifth and 14th Ame Amendments of the Untied States Constitution."

Volchahoska v Grand Island 194 Neb 175

We cite Allurado v Kim 2012 U.S. DIst Lexis 108118 in which the court granted a preliminary injunction allowing the couple to marry. Additionally we cite Zablocki v Redhail 434 U.S. 374, 383, 98 S.Ct 673 and Loving v Virginia 388 U.S. 1 and Reed v Kemper 2015 U.S. Dist Lexis 68898.

"The turner Court held that the right to marry and many important attributes of marriage survive incarceration such as expectations of emotional support and the excercise of religious faith...the court plainly envisions that while the intangible and emotional aspects of marriage survive incarceration, the physical aspects do not see Herenadez 18 F.3rd at 137."

Gerber v Johnson 291 F.3d 617

In United States v Harvy 1991 U.S. App. Lexis 27270 two inmates were allowed to marry each other Also the U.S Supreme Court has established the criteri on marriage as:

1. Is there a valid, rational nexus between the restriction and the legitimate interest the government alleges to justify it?
2. Do prisoners have an alternate means of exercising the restricted constitutional right?
3. What impact will allowing prisoners to exercise the restricted constitutional right have on guards, inmates and prison resources.
4. Are there readily available alternatives to restricting the constitutional right?

In the Instant case:

1. There is no legitimate penological interest in banning such a marriage as it has already been allowed in the Gilpatrick case.
2. There is no alternate way to legally marry, but to marry.
3. There would be only a negligible impact on guards and prisoners as the Plaintiffs do not share a living location and one plaintiff is physically incapable of sexual activity due to medication for kidney failure and diabetes.
4. There are no readily available alternative to this restriction of the right

to legally marry. And release of Plaintiff. Shadle from Segregation
VI Relief

- A. Do you request damages YES ___ NO X
- B. Do you request a jury Trial? YES ___ NO X

C. State briefly exactly what you want the court to do for you Make no legal arguments. Cite no cases or statutes.

We ask the court for an injunction allowing the Plaintiffs to marry and squashing the impending transfers of either Plaintiff as being retaliatory in nature and a component of denying the plaintiffs the right to marry. Plaintiffs seek no extraordinary relief or rights but simply want the right to marry and to freely associate with each other as other similarly situated same gender couples are being allowed to do.

VII Request for Apptoinment of Counsel

We request no appointment of counsel.

I declare under penalty of perjury that the foregoing is true and correct.

Signed the 24th day of Nov, 2016

Harold Bryan Wilson 3748

I Declare under penalty of perjury that the forgoing is true and correct.

Signed the 20th day of Nov, 2016

Rley Nicole Shadle
Rley Nicole Shadle # 82297

Box 22800
Lincoln Np
64542-2800

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEBRASKA

HAROLD WILSON
RILEY NICOLE SHADLE

Plaintiffs

V
JASON GEERDES
FRED BRITTEN
CATHEY SHEAIR
SCOTT FRAKES

Defendants

CASE NUMBER CI 16 _____

MOTION FOR TEMPORARY RESTRAINING
ORDER AND/OR PRELIMINARY
INJUNCTION

Plaintiffs Harold Wilson and Riley Nicole Shadle pursuant to Rule 65 of the Federal Rules of Civil Procedure request this court to grant them a temporary restraining order and/or Preliminary Injunction denoting defendants Jason Geerdes et al to immediately order and be restrained from the following actions:

1. Immediately grant the Plaintiffs request to marry after the tradition of Quakers.
2. Restrain the defendants from the retaliatory act of transferring either Plaintiff to any other facility other than Lincoln Correction Center (LCC) until the Plaintiffs are able to marry, or return either to the LCC for this purpose
3. Immediately release Plaintiff Shadle from Segregation and return her to General Population in A-1 Unit. The defendants have acted in retaliation for Plaintiff Shadle's successful civil lawsuit 9:15-cv-3132 by falsely accusing her of soliciting for sexual favors and holding her in isolation in an effort to illegally deny her the constitutional right to marry Plaintiff Wilson.

STATEMENT OF CASE

This motion seeks a temporary restraining order and/or Preliminary injunction for immediate restraint of any transfer of either Plaintiff to any other facility until such time as the Plaintiffs legally marry under the care of the local Society of Friends local Meeting and for the court to have time to act upon the merits of their case.

There is no written policy regarding marriage of inmates residing in the same facility. There is no rule banning non-intimate contact between two inmates. If two females of the same custody were married they would likely both remain at the only women's facility for maximum custody inmates. The Plaintiffs have been discriminated against because they are the same gender, seeking to legally marry. They have been treated differently because one of them is transgender and has

successfully sued the Dept of Corrections in the past, and been treated differently, unconstitutionally than other known same gender couples at LCC because they openly display affection via non-intimate contact with each other, which LCC staff find offensive.

Other known couples have been allowed to co-habitate and move into the same Housing Units in order to maintain their relationships, while the Plaintiffs have been illegally separated and are pending being transferred. They have also been harrassed and humiliated for simply sitting close to each other and since and since October 31, 2016, been separated by the placing of inmate Shadle into Segregation for alledged conduct that has not been documented nor proven.

The defendants will suffer no harm by allowing the Plaintiffs to marry and to remain at LCC. Plaintiffs liklihood of winning final judgment on the merits of their case is overwhelming as cited by the case law below:

C SU SUMMATION

Plaintiffs seek only to be treated equally under the provisions of the Constitution and legal precedet. We wish to be able to remain at LCC and to solemnize our relationship in marriage as provided by the tenents of the Quaker Faith which require a meeting in person with the Marriage committee and to engage in exchange of in person vows at a regular Meeting for Worship conducted at LCC by the Members of the local Friends Meetings/ Members of the Meeting serve as both officants and witnesses of any marraige under the care of the local Meeting Group.

CASE CITES

1. Tuner v Safely 482 U.S. 78, 107 S.Ct 2254, First establishment of the right of inmates to marry while incarcerated.
2. Longor v Couglin 712 F.Supp 1061 Lifers have the right to marry.
3. Engel v Ricci U.S. Dist Lexis 40978, "The right to marry is part of the fundamental right of privacy implicate in the 14th Amendment, Duec Process clause"- Thus individuals (prisoners) are entitled to make decisions related to marriage without unjustified governmental interference.
4. Zablocki v Redhail 434 U.S. 374, 385-86, Prisoners allowed to marry without undue governemnt interference.
5. Gerber v Johnson 291 F.3d 617, marriage is an expression of religious faith and to marry under the Quaker faith, both parties need to be physically present/
6. Reed v Lemmon 798 F.3d 546, The right to marry includes the right to choose ones spouse.
7. Deleon v Perry, 975 F. Supp 2d 632, Marriage is central part of the liberty

protected by the Due Process Clause.

8. United States v Harvy 1991 U.S. App Lexis 28377, Two inmates allowed to marry while in custody.

9. Jones v Perry 2016 U.S. Lexis 143987, Clerk ordered to issue a marriage license with out appearing at the clerks office in person.

10. Volchahoske v Grand Island 149 Neb 175 (Marriage) is a fundamental right afforded by the First, Fifth, Ninth and Fourteenth Amendments.

11. Reiche v Howards 132 S.Ct 2088 at 2093, Qualified Immunity does not shield officials when they have violated a clearly established right such as marriage.

12. Lopez v City of New York 2004 U.S. Dist Lexis 2645, Supervisory official liable if grossly negligent in managing subordinates who caused the unlawful constitutional event.

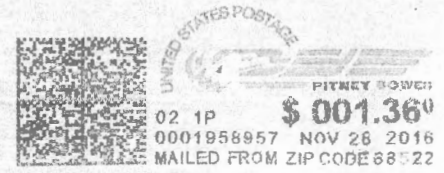
Plaintiffs have been separated while other known same gender couples at LCC are allowed to maintain their relationships and encouraged to remain in contact with each other by being able to move to other living locations ~~with~~ that afford them contact with their partner. Additionally Plaintiffs have been humiliated and falsley acussed of un-proved actions while all they have done is sit close to each other and express their constitutional right of freedom of association with each other in protected ways that do not violate the safety and security of the institution, in the same ways that other couples openly do, yet they are being separated in an effort by the defednats to deny them the opportunity to marry under the care of the Local Friends Meeting or any other way because they are of the same gender, While in 2016 Paul Gilpatrick of NSP was allowed to marry a female inmate of the same custody level at York. We ask for equal treatment to all other couples in the control of the Dept of Correctiosn.

Harold Wilson
Harold Wilson Plaintiff pro se # 37418

Riley Shadle
Riley Shadle Palintiff pro se # 92297
Box 22500
2106 W. Ave
Arlington VA 22204

Inmate Name Harold Wilson
(First) (Last)
Inmate # 37418
P.O. Box 22800
Lincoln, NE 68542-2800

Notice: This correspondence was mailed from an Institution operated by the Nebraska Department of Corrections. Its contents are uncensored.



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