Doe v. Burwell
JI-OH-001-001

IN THE UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF OHIO

DEBORAH DOE, a minor, by and through her Next Friend, John Doe; and ROBERT ROE, a minor, by and through his Next Friend, Richard Roe; on behalf of themselves and all others similarly situated,

Plaintiffs,

vs.

LLOYD W. BURWELL, Juvenile Court Judge of Lawrence County, Ohio, in his official capacity;

MARK A. MALONE, DONALD LAMBERT, and DR. CARL T. BAKER, as the County Commissioners of Lawrence County Ohio, individually and in their official capacities;

DANIEL HIERONIMUS, Sheriff of Lawrence County, Ohio, individually and in his official capacity; and

LAWRENCE COUNTY, OHIO,

Defendants.

Civil Action No. C-1-81-415

CIVIL RIGHTS COMPLAINT FOR INJUNCTIVE, DECLARATORY AND EQUITABLE RELIEF AND DAMAGES

(CLASS ACTION)

I. PRELIMINARY STATEMENT

Plaintiffs bring this action on behalf of themselves and all other juveniles similarly situated, to remedy the violation of their fundamental civil rights by the Defendants' unlawful operation of the Yakima County Juvenile Detention Center. Plaintiffs seek injunctive and declaratory relief.

II. JURISDICTION

1. This court has jurisdiction over the Defendants under 28 U.S.C. 1343, the jurisdictional counterpart of the Civil Rights Act of 1964.

III. PARTIES

2. Clarence M. is a 16 year old resident of Yakima County, currently being held in detention at the Yakima County Juvenile Detention Ceter.

3. The Board of Commissioners of Yakima County, and Commissioners Graham Tollefson, Charles J. Klarich, and Les Conrad, have responsibility under RCW 13.04.135, and 13.16.030, et seq., for the Juvenile Detention Facility in Yakima County.

4. The Yakima County Superior Court, and the Honorable Bruce Hanson, the Honorable Carl Loy, the Honorable Walter Stauffacher, the Honorable Blaine Hopp, and the Honorable Howard Hettinger, have responsibility for the care and commitment of children in detention under RCW 13.04.035, 13.04.053, and for the appointment of persons in charge of detention facilities under RCW 13.04.040.

5. Defendant Paul Peterson is the Director of the Juvenile Department of Yakima County and as such is responsible for the operation of the Juvenile Detention Center in Yakima County.

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304 LARSON BUILDING
YAKIMA, WASHINGTON 98901
(509) 575-5500

IV. CLASS ACTION ALLEGATIONS

6. This action is properly maintainable as a class action under FRCP 23(a) and 23(b)(2). The class is defined as all children in Yakima County, who are now or may be confined at the Yakima County Juvenile Detention Center.

7. The class is so numerous that joinder of all members is impracticable. Approximately 30,000 to 40,000 children reside in Yakima County, and may in the future be confined at the Detention Center, and the population of children actually confined there is constantly shifting.

8. Questions of law and fact are common to all members of the class. The conditions of confinement at the Yakima County Detention Center are similar for all children confined there; all class members share the civil rights violated by these conditions.

9. The claims of the representative party are typical of the claims of the class. Plaintiff Clarence M. is currently confined at the Yakima County Juvenile Detention Center and has experienced the conditions which are or may be imposed on other members of the class.

10. The Plaintiff in this action will fairly and adequately represent the interests of the class. Clarence M. has no interests adverse to the interests of other members of the class, and is represented by counsel who are competent and committed to the prosecution of this action.

11. Defendants have acted, and refused to act, on grounds generally applicable to the class, by maintaining and operating the Juvenile Detention Center at which all members of the class are or may be confined.

V. STATEMENT OF FACTS

12. The named plaintiff, Clarence M., is confined at the Yakima County Juvenile Detention Center pursuant to an order

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of the Superior Court of Yakima County.

13. The conditions at the Detention Center include the following:

a) Disciplinary measures at the Detention Center are imposed without reference to any written rules, and without opportunity for a prior hearing. The named Plaintiff and other children confined at the Center are continually subjected to violence and threats of violence by the Center staff as a means of behavior control. Children are commonly placed in a small, dark, unventilated room for periods of up to 24 hours, punishment for alleged rule violations.

b) Staff at the Detention Center are psychologically abusive to the children placed in their care. The named Plaintiff and other children at the Center are subjected to vulgar taunts and insults from members of the staff, are expected to shower within sight of staff members of the opposite sex, and are routinely subjected to a degrading strip search after visitation with their families.

c) Conditions of confinement at the Center are unduly restrictive. The named Plaintiff and other children at the Center spend 18 hours per day confined to individual cells. The named Plaintiff has been confined at the Center for over one month, and during this time, he and the other children at the Center have been allowed one outdoor recreation period of less than 20 minutes. The recreation yard was full of sharp weeds and the children, including the named Plaintiff, were not supplied with shoes.

d) The management of the Detention Center is disruptive to the integrity of the families of children confined there. Visitation is restricted to one hour per day. Gifts from family members are not permitted. Children, including the named Plaintiff

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are not permitted to wear their own clothes. Outgoing, as well as incoming mail is censored by the Center staff. Telephone conversations, except to attorneys, are not permitted. Visitation is restricted to family members.

e) Medical care at the Center is inadequate.

f) Educational facilities and staff at the Center are inadequate.

g) The named Plaintiff and other children at the Detention Center have no access to personal counseling, and inadequate access to the probation counselors assigned to them by law.

h) Sanitation at the Center is not adequate.

i) Children at the Center, including the named Plaintiff, are not released from their cells during fire alarms.

j) The totality of the matters described in subparagraphs a) through i) constitute a total condition of confinement that violates the legal grounds for juvenile incarceration.

VI. CLAIMS FOR RELIEF

14. Defendants' operation of the Yakima County Juvenile Detention Center constitutes cruel and unusual punishment, in violation of the Eighth Amendment of the United States Constitution and Article 1, Section 14 of the Washington State Constitution.

15. Defendants' operation of the Yakima County Juvenile Detention Center denies to the Plaintiffs placement in the least restrictive environment available, in violation of the Due Process and Equal Protection guarantees of the Fourteenth Amendment of the United States Constitution.

16. Defendants' operation of the Yakima County Juvenile Detention Center denies to the Plaintiffs individual care and treatment, in violation of the Due Process and Equal Protection

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guarantees of the Fourteenth Amendment of the United States Constitution.

17. Defendants' operation of the Yakima County Juvenile Detention Center violates the purpose of Washington's Juvenile Court Act, which provides that dependent and delinquent children shall be provided necessary treatment, supervision, and custody.

VII. PRAYER FOR RELIEF

Plaintiff, Clarence M., on behalf of himself and all members of the class, requests the following relief:

1. A judgment, pursuant to 42 U.S.C. 1983 and 28 U.S.C. 2201, declaring that Defendants' operation of the Yakima County Juvenile Detention Center violates the civil rights of the children confined there, by subjecting them to cruel and unusual punishment, denying them individualized care and treatment, denying them placement in the least restrictive environment available, and denying them proper care, custody and discipline.

2. An injunction, pursuant to 42 U.S.C. 1983 and 28 U.S.C. § 2202, restraining Defendants from confining children in the Yakima County Juvenile Detention Center in violation of their civil rights, as described above.

3. Attorneys' fees and costs, as provided for by 42 U.S.C. 1988.

4. Further relief which the court deems proper.

DATED: February ____, 1979.

EVERGREEN LEGAL SERVICES

By _____
Millard M. Rowlette

By _____
Paulette L. Kohman
Attorneys for Plaintiff

EVERGREEN LEGAL SERVICES
YAKIMA OFFICE
204 LARSON BUILDING
YAKIMA, WASHINGTON 98901
(509) 575-5900

III. ABUSES OF JUDICIAL AUTHORITY

44. Defendant LLOYD W. BURWELL, Juvenile Court Judge of Lawrence County, regularly subjects plaintiffs to arbitrary and capricious abuses of his judicial authority.

45. Defendant BURWELL, as a matter of policy and practice, arbitrarily and capriciously confines in the Lawrence County Jail plaintiffs who are charged with offenses which would not be crimes if committed by adults. For example, defendant BURWELL confines alleged truants in the jail, ordering such juveniles held in detention one day for each day such juveniles are allegedly truant from school.

46. Defendant BURWELL, as a matter of policy and practice, arbitrarily and capriciously confines plaintiffs in the Lawrence County Jail when detention of such juveniles is not required to protect the person and property of others or those of the juveniles, there is no danger that the juveniles would abscond or be removed from the jurisdiction of the court, and there are parents, guardians, or custodians or other persons able to provide supervision and care for the juveniles and return them to court when required.

47. Defendant BRUWELL, as a matter of policy and practice, arbitrarily and capriciously orders that plaintiffs confined in the Lawrence County Jail be denied needed medical care and medication.

48. Defendant BURWELL, as a matter of policy and practice, arbitrarily and capriciously orders that plaintiffs be prohibited from having visits from parents or relatives. Said defendant threatens to hold such parents and relatives in contempt of court, and to summarily incarcerate them, if they attempt to visit said plaintiffs.

49. Defendant BURWELL, as a matter of policy and practice, arbitrarily and capriciously denies plaintiffs prompt

detention hearings, for the purpose of punishing plaintiffs by confining them in the Lawrence County Jail for periods longer than the seventy-two hour maximum established by Rule 7 of the Ohio Rules of Juvenile Procedure.

50. Defendant BURWELL, as a matter of policy and practifce, arbitrarily and capriciously threatens, intimidates, and harasses plaintiffs and their parents and relatives during court proceedings, including threatening plaintiffs with corporal punishment by large paddles which said defendant keeps in his courthouse.

51. Defendant BURWELL, as a matter of policy and practice, arbitrarily and capriciously confines and detains plaintiffs in the Lawrenc County Jail on the basis of extrajudicial information which has not been properly received in evidence at detention hearings.

52. Defendant BURWELL, as a matter of policy and practice, arbitrarily and capriciously coerces and intimidates plaintiffs into waiving plaintiffs' constitutional right to counsel.

53. Defendant BURWELL, as a matter of policy and practice, arbitrarily and capriciously commits plaintiffs to the Lawrence County Jail when other more appropriate and less restrictive alternatives are available.

54. Defendant BURWELL, as a matter of policy and practice, arbitrarily and capriciously threatens to confine and detain plaintiffs in Lawrence County Jail if they do not leave Lawrence County permanently.

55. Defendant BURWELL, as a matter of policy and practice, arbitrarily and capriciously threatens to have plaintiffs arrested without probable cause if they appear in the city of Ironton.

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56. Defendant BURWELL, as a matter of policy and practice, arbitrarily and capriciously orders plaintiffs placed in programs in other states, when appropriate placements are available in the state of Ohio.

57. The arbitrary and capricious abuses of judicial authority by defendant BURWELL will continue unless plaintiffs are granted the relief requested herein.

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IV. SECURE DETENTION OF STATUS OFFENDERS AND OTHER JUVENILES PRESENTING NO DANGER TO THEMSELVES OR OTHERS

58. Since 1976, the State of Ohio has received funds totalling more than $14,000,000. from the federal office Office of Juvenile Justice and Delinquency Prevention, an agency of the Law Enforcement Assistance Administration, which is part of the United States Department of Justice. Said funds have been granted to the State for implementation of the Juvenile Justice Act.

59. Section 223(12) of the Juvenile Justice Act, 42 U.S.C. §5633(12), provides that, in order to receive funding under the Act, a State must comply with the requirement that juveniles who are charged with or who have committed offenses which would not be criminal if committed by an adult ("status offenses"), or offenses which do not constitute violations of valid court orders, and such nonoffenders as dependent or neglected children, shall not be placed in secure juvenile detention or correctional facilities. Instead, a State must require that such juveniles, if placed in facilities at all, are placed in facilities which are the least restrictive alternatives appropriate to the needs of the child and the community, are in reasonable proximity to the family and the home community, and provide "community-based" services, as defined in 42 U.S.C. §5603(1).

60. The defendants regularly confine and detain in the Lawrence County Jail juveniles who are charged with or who have committed offenses which would not be criminal if committed by an adult, where such offenses do not constitute violations of valid court orders. During 1979, at least 33 status offenders were confined and detained in the jail. Similar numbers of status offenders have been confined in the Lawrence County Jail in previous years, and similar numbers will be confined in the

future unless plaintiffs are granted the relief requested herein.

61. Rule 7 of the Ohio Rules of Juvenile Procedure provides that a child taken into custody shall not be placed in detention or shelter care prior to final disposition unless his detention or care is required to protect the person and property of others or those of the child, or the child may abscond or be removed from the jurisdiction of the court, or he has no parent, guardian, or custodian or other person able to provide supervision and care for him and return him to the court when required.

62. The defendants regularly confine and detain in the Lawrence County Jail juveniles for whom detention or care is not required to protect the person or property of others or those of the child, there is no danger that the child will abscond or be removed from the jurisdiction of the court, and there are parents, guardians, or custodians or other persons able to provide supervision over him and return him to the court when required. Many of the 178 juveniles detained in th jail during 1979 were not properly detained under Rule 7 of the Ohio Rules of Juvenile Procedure. Similar numbers of juveniles have been confined in the Lawrence County Jail in previous years, and similar numbers will be confined in the future unless plaintiffs are granted the relief requested herein.

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V. DETENTION OF JUVENILES IN JAIL WITHOUT ADEQUATE SEPARATION FROM ADULT OFFENDERS.

63. Section 223(13) of the Juvenile Justice Act, 42 U.S.C. §5633(13), provides that, in order to receive funding under the Act, a State must comply with the requirement that juveniles alleged to be or found to be delinquent, and youths within the purview of section 223(12) of the Act [described in Paragraph 57 above], shall not be detained or confined in any institution in which they have regular contact with adult persons incarcerated because they have been convicted of a crime or are awaiting trial on crininal charges.

64. The defendants regularly confine and detain juveniles alleged to be or found to be delinquents, and juveniles alleged to be or found to be status offenders, in the Lawrence County Jail, where such juveniles have regular contact with adult persons incarcerated because they have been convicted of a crime or are awaiting trial on criminal charges. During 1979, 178 such juveniles were confined and detained in said jail. Similar numbers of juveniles have been confined and detained in the Lawrence County Jail in previous years, and similar numbers will be confined and detained in the future unless plaintiffs are granted the relief requested herein.

65. Ohio Revised Code §§2151.312 and 2151.34 and Rule 7 of the Ohio Rules of Juvenile Procedure provide that no child shall be placed in or committed to any prison, jail, lockup or any other place where such child can come into contact or communication with any adult convicted of crime, under arrest or charged with crime. Ohio Revised Code §§2151.312 and 2151.34 and Rule 7 further provide that a child may be detained in a jail or other facility for detention of adults only if (1) the child is alleged to be delinquent, (2) there is no detention center or other appropriate facility available, (3) the

detention is in a room separate and removed from those for adults, and (4) public safety or protection of the child or others reasonably requires such detention.

66. The defendants regularly confine and detain juveniles in the Lawrence County Jail in violation of the requirements of Ohio Revised Code §§2151.312 and 2151.34 and Rule 7 of the Ohio Rules of Juveniles Procedure. Juveniles have been similarly confined and detained in the Lawrence County Jail in previous years, and juveniles will be similarly confined and detained in the future unless plaintiffs are granted the relief requested herein.

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IV. FAILURE AND REFUSAL TO PROVIDE AND UTILIZE APPROPRIATE COMMUNITY-BASED ALTERNATIVES TO PLACEMENT OF JUVENILES IN LAWRENCE COUNTY JAIL

67. Section 223(12) of the Juvenile Justice Act, 42 U.S.C. §5633(12), requires States receiving funding under the Act to provide non-secure placements for status offenders and nonoffenders as alternatives to placement in jails and other secure facilities. Such non-secure placements must be the least restictive alternative appropriate to the needs of the children and the community, must be in reasonable proximity to the children's families and the home communities, and must provide "community-based" services. Section 103(1) of the Juvenile Justice Act, 42 U.S.C. §5603(1), defines "community based" facility, program or service as "a small, open group home or other suitable place located near the juveniles's home or family and programs of community supervision and service which maintain community and consumer participation in the planning, operation, and evaluation of their programs which may include, but are not limited to, medical, educational, vocational, social, and psychological guidance, training, counseling, alcoholism treatment, drug treatment, and other rehabilitative services."

68. Ohio Revised Code §2151.34 provides that a detention home for juveniles shall be furnished and carried on, as far as possible, as a family home in charge of a superintendent or matron in a non-punitive neutral atmosphere; that an education program with competent and trained staff shall be provided for children of school age; that a sufficient number of trained recreational personnel shall be included among the staff to assure wholesome and profitable leisure-time activities; and that medical and mental health services shall be made available for the juveniles. Ohio Revised Code §2151.34 further provides that in any county in which there is no detention home, or which

is not served by a district detention home, the board of county commissioners shall provide funds for the boarding of juveniles in private homes, in certified or uncertified foster homes, or in other appropriate placements arranged by ther county department of welfare, county children services board, or other certified organization.

69. The defendants fail and refuse to provide and utilize an appropriate detention home or other community-based alternatives to placement of juveniles in the Lawrence County Jail. Instead the defendants regularly confine and detain juveniles in Lawrence County Jail. Defendant BURWELL also orders juveniles placed in programs in other states, when appropriate placements are available in the state of Ohio. Juveniles in Lawrence County are similarly been denied access to, and placement in, an appropriate detention home or other community-based alternatives in previous years, and juveniles in Lawrence County will be similarly denied such placements in the future unless plaintiffs are granted the relief requested herein.

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VII. CRUEL, UNCONSCIONABLE AND ILLEGAL CONDITIONS OF CONFINEMENT

70. Defendants regularly subject plaintiffs to the cruel, unconscionable and illegal conditions of confinement described above. Defendants have similarly confined and detained juveniles in Lawrence County Jail under such conditions in previous years, and defendants will continue to confine juveniles under such conditions in the future unless plaintiffs are granted the relief requested herein.

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VIII. KNOWLEDGE AND INTENT OF DEFENDANTS

71. Defendant LLOYD W. BURWELL, as the Juvenile Court Judge of Lawrence County, is responsible under Ohio Revised Code §§2151.10, 2151.23, 2151.312, 2151.34, and under Rules 6, 7, 8, and 9 of the Ohio Rules of Juveniles Procedure, for the detention, custody, care, placement and release of all children brought before the juvenile court who are alleged to be juvenile traffic offenders, delinquents, unruly, abused, neglected, or dependent. In such capacity, said defendant knew or should have known of the conditions and circumstances alleged herein and should have taken steps to correct said conditions and circumstances. Having failed to do so, said defendant is in violation of the federal laws and Ohio statutory sections listed above.

72. Defendants MARK A. MALONE, DONALD LAMBERT, and DR. CARL T. BAKER, as the County Commissioners of Lawrence County, are responsible under Ohio Revised Code §§2151.10 and 2151.34 for appropriating such sums of money as will provide for the maintenance and operation of juvenile detention facilities and placements, and for the care, maintenance, education, and support of neglected, abused, dependent, unruly and delinquent children. As such, said defendants knew or should have known of the conditions and circumstances alleged herein and should have taken steps to correct said conditions and circumstances. Having failed to do so, said defendants are in violation of the federal laws and Ohio statutory sections listed above.

73. Defendant DANIEL HIERONIMUS is the sheriff of Lawrence County, Ohio. As such, said defendant is responsible under Ohio Revised Code §341.01 for the safety and welfare of all persons confined in the Lawrence County Jail. As such, said defendant knew or should have known of the conditions and circumstances alleged herein and should have taken steps to

correct said conditions and circumstances. Having failed to do so, said defendant is in violation of the federal laws and Ohio statutory sections listed above.

74. As a proximate result of the policies, practices, acts, and omissions of defendants complained lof herein, plaintiffs have suffered and will continue to suffer serious physical, psychological, and emotional injuries.

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LEGAL CLAIMS

75. For plaintiffs' claims, each enumerated below, they reallege Paragraphs 1 through 74 above, as if fully set forth herein, in each and every statement of claim, and further allege:

FIRST CLAIM

76. Defendants' policies, practices, acts and omissions complained of herein, and specifically defendants' subjection of plaintiffs to the cruel, unconscionable and illegal conditions of confinement in the Lawrence County Jail, subject plaintiffs to denial of due process of law, guaranteed by the Fourteenth Amendment to the United States Constitution and the Ohio constitution; subject plaintiffs to cruel and unusual punishments, in violation of the Eighth and Fourteenth Amendments to the United States Constitution and the Ohio constitution; violate plaintiffs' rights to freedom of association and to the free exercise of religion, guaranteed by the First and Fourteenth Amendments to the United States Constitution and the Ohio constitution; violate plaintiffs' right to privacy, guaranteed by the First, Fourth, Fifth, Ninth, and Fourteenth Amendments to the United States Constitution and the Ohio constitution; violate plaintiffs' right to receive treatment in the least restrictive setting and under the least restrictive conditions, guaranteed by the Fourteenth Amendment to the United States Constitution, and the Ohio Constitution and Ohio statutes; violate plaintiffs' rights under 42 U.S.C. §1983; and violate plaintiffs' rights under the Ohio statutory sections cited herein.

SECOND CLAIM

77. Defendant LLOYD W. BURWELL's policies, practices, acts and omissions complained of herein, and specifically said defendant's subjection of plaintiffs to arbitrary and capricious

abuses of his judicial authority, subject plaintiffs to denial of due process of law, guaranteed by the Fourteenth Amendment to the United States Constitution and the Ohio Constitution; subject plaintiffs to cruel and unusual punishments, in violation of the Eighth and Fourteenth Amendments to the United States Constitution and the Ohio Constitution; violate plaintiffs' rights to freedom of association and to the free exercise of religion, guaranteed by the First and Fourteenth Amendments to the United States Constitution and the Ohio constitution; violate plaintiffs' right to privacy, guaranteed by the First, Fourth, Fifth, Ninth, and Fourteenth Amendments to the United States Constitution and the Ohio constitution; violate plaintiffs' right to receive treatment in the least restrictive setting and under the least restrictive conditions, guaranteed by the Fourteenth Amendment to the United States Constitution and the Ohio Constitution and Ohio statutes; violate plaintiffs' rights under 42 U.S.C. §1983; and violate plaitniffs' rights under the Ohio statutory sections cited herein.

THIRD CLAIM

78. Defendants' policies, practices, acts and omissions complained of herein, and specifically defendants' secure confinement and detention in Lawrence County Jail of status offenders and other juveniles presenting no danger to themselves or others, violate plaintiffs' rights under the Juvenile Justice Act, 42 U.S.C. §5633(12); subject plaintiffs to denial of due process of law, guaranteed by the Fourteenth Amendment to the United States Constitution and the Ohio Constitution's; subject plaintiffs to cruel and unusual punishments, in violation of the Eighth and Fourteenth Amendments to the United States Constitution and the Ohio Constitution; violate plaintiffs' rights to freedom of association and to the free exercise of

religion, guaranteed by the First and Fourteenth Amendments to the United States Constitution and the Ohio constitution; violate plaintiffs' right to privacy, guaranteed by the First, Fourth, Fifth, Ninth, and Fourteenth Amendments to the United States Constitution and the Ohio constitution; violate plaintiffs' right to receive treatment in the least restrictive setting and under the least restrictive conditions, guaranteed by the Fourteenth Amendment to the United States Constitution and the Ohio constitution and Ohio statutes; violate plaintiffs' rights under the Ohio statutory section cited herein.

FOURTH CLAIM

79. Defendants' policies, practices, acts and omissions complained of herein, and specifically defendants' detention and confinement of juveniles in Lawrence County Jail without adequate separation from adult offenders, violate plaintiffs' rights under the Juvenile Justice Act, 42 U.S.C. §5633(13); subject plaintiffs to denial of due process of law, guaranteed by the Fourteenth Amendment to the United States Constitution and the Ohio constitution; subject plaintiffs to cruel and unusual punishments, in violation of the Eighth and Fourteenth Amendments to the United States Constitution and the Ohio Constitution; violate plaintiffs' rights to freedom of association and to the free exercise of religion, guaranteed by the First and Fourteenth Amendments to the United States Constitution and the Ohio constitution; violate plaintiffs' right to privacy, guaranteed by the First, Fourth, Fifth, Ninth, and Fourteenth Amendments to the United States Constitution and the Ohio constitution; violate plaintiffs' right to receive treatment in the least restrictive setting and under the least restrictive conditions, guaranteed by the Fourteenth Amendment to the United States Constitution and the Ohio constitution and Ohio statutes; violate plaintiffs' rights under 42 U.S.C. §1983;

and violate plaintiffs' rights under the Ohio statutory sections cited herein.

FIFTH CLAIM

80. Defendants' policies, practices, acts and omissions complained of herein, and specifically defendants' failure and refusal to provide and utilize a detention home or other appropriate community-based alternatives to placement of juveniles in Lawrence County Jail, violate plaintiffs' rights under the Juvenile Justice Act, 42 U.S.C. §§5633(12), 5603(1); subject plaintiffs to denial of due process of law, guaranteed by the Fourteenth Amendment to the United States Constitution and the Ohio Constitution; subject plaintiffs to cruel and unusual punishments, in violation of the Eighth and Fourteenth Amendments to the United States Constitution and the Ohio Constitution; violate plaintiffs' rights to freedom of association and to the free exercise of religion, guaranteed by the First and Fourteenth Amendments to the United States Constitution and the Ohio constitution; violate plaintiffs' right to privacy, guaranteed by the First, Fourth, Fifth, Ninth, and Fourteenth Amendments to the United States Constitution and the Ohio constitution; violate plaintiffs' right to receive treatment in the least restrictive setting and under the least restrictive conditions, guaranteed by the Fourteenth Amendment to the United States Constitution, and the Ohio constitution, and Ohio statutes; violate plaintiffs' rights under 42 U.S.C. §1983; and violate plaintiffs' rights under the Ohio statutory sections cited herein.

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SIXTH CLAIM

81. Defendants' policies, practices, acts and omissions complained of herein, and specifically defendants' knowing confinement and detention of plaintiffs without plaintiffs' consent and without proper legal authority, constitute false imprisonment and subject plaintiffs to denial of due process of law, guaranteed by the Fourteenth Amendment to the United States Constitution and the Ohio Constitution, violate plaintiffs' rights under 42 U.S.C. §1983, and violate plaintiffs' rights under Ohio statutory law.

NO ADEQUATE REMEDY AT LAW

82. As a proximate result of the defendants' policies, practices, acts and omissions complained of herein, and the conditions and circumstances described herein to which plaintiffs are subjected, plaintiffs have suffered, do suffer, and will continue to suffer immediate and irreparable injury. Plaintiffs have no plain, adeuqate, or complete remedy at law to redress the wrongs described herein. Plaintiffs will continue to be irreparably injured by the policies, practices, acts and omissions of the defendants unless this Court grants the injunctive relief which plaintiffs seek.

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PRAYER FOR RELIEF

WHEREFORE, plaintiffs pray that this Court:

A. Assume jurisdiction of this action;

B. Immediately order that the named plaintiff be released from the Lawrence County Jail to the custody of officials of the county department of welfare for placement in an appropriate least restrictive setting, or released to the custody of parents or guardians until further order of this Court;

C. Issue an order certifying this action to proceed as a class action pursuant to Rule 23(a), (b)(1) and (b)(2) of the Federal Rules of Civil Procedure.

D. Issue a declaratory judgment pursuant to 28 U.S.C. §§2201 and 2202, and Rule 57 of the Federal Rules of Civil Procedure, that the policies, practices, acts and omissions complained of herein:

(1) violate plaintiffs' rights under the Juvenile Justice Act, 42 U.S.C. §5601 et seq.;

(2) subject plaintiffs to denial of due process of law, guaranteed by the Fourteenth Amendment to the United States Constitution and of the Ohio Constitution;

(3) subject plaintiffs to cruel and unusual punishment, in violation of the Eighth and Fourteenth Amendments to the United States Constitution and the Ohio Constitution;

(4) violate plaintiff's rights to freedom of association and to the free exercise of religion, guaranteed by the First and Fourteenth Amendments to the United States Constitution and the Ohio constitution;

(5) violate plaintiff's right to privacy, guaranteed by the First, Fourth, Fifth, Ninth, and Fourteenth Amendments to the United States Constitution and the Ohio constitution;

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(6) violate plaintiffs' right to receive treatment in the least restrictive setting and under the least restrictive conditions, guaranteed by the Fourteenth Amendment to the United States Constitution, the Ohio Constitution, and Ohio statutes;

(7) violate plaintiffs' rights under 42 U.S.C. §1983;

(8) violate plaintiffs' statutory rights under the Ohio Revised Code, as indicated above.

E. Issue preliminary and permanent injunctions sufficient to rectify the unconstitutional acts and omissions and statutory violations alleged herein, as follows:

(1) Restraining and prohibiting all defendants from failing to provide plaintiffs with any of the following during their period of confinement:

(a) regular changes of clean clothing or means and facilities for laundering plaintiffs' own clothing.

(b) basic hygiene supplies, including but not limited to soap, shampoo, toothpaste, and toothbrushes;

(c) regular opportunities exercise and recreation;

(d) regular opportunities to telephone relatives, ministers, and friends;

(e) stamps and stationery for correspondence with family members, attorneys, and friends;

(f) opportunities to visit with family members each day of the week in a suitable and appropriate visiting area;

(g) a suitable and appropriate area for conferences with plaintiffs' attorneys;

(h) medical and psychological screening when plaintiffs are taken into custody, and regular medical and mental health services during plaintiffs' periods of confinement;

(i) personnel training in identifying and responding to problems of juveniles;

(j) an educational program with competent and trained staff for juveniles of school age;

(k) a sufficient number of trained recreational personnel to provide wholesome and profitable leisure-time activities;

(l) a homelike, non-punitive, neutral atmosphere and environment.

(2) Restraining and prohibiting defendant LLOYD W. BURWELL from any of the following policies or practices:

(a) ordering that any plaintiff confined in the Lawrence County Jail be denied needed medical care and medication;

(b) ordering that any plaintiff be prohibited from having visits from parents or relatives.

(c) denying any plaintiff a prompt detention hearing, such hearings to be held not later than seventy-two hours after plaintiff is taken into custody, or the next court day, whichever is earlier.

(d) threatening, intimidating, or harassing any plaintiff or his parents or relatives during court proceedings.

(e) detaining any plaintiff in the Lawrence County Jail on the basis of extrajudicial information which has not been properly received in evidence at a detention hearing;

(f) coercing and intimidating any plaintiff into waiving his constitutional right to counsel;

(g) committing any plaintiff to the Lawrence County Jail when other more appropriate and less restrictive alternatives are available;

(h) threatening to confine and detain any juvenile in the Lawrence County Jail if such juvenile does not leave Lawrence County permanently;

(i) threatening to have any plaintiff arrested without probable cause if he appears in the city of Ironton.

(3) Restraining and prohibiting all defendants from confining or detaining in the Lawrence County Jail or in any other secure facility any juvenile who is charged with or who has committed an offense which would not be criminal if committed by an adult, where such offense does not constitute a violation of a valid court order.

(4) Restraining and prohibiting all defendants from confining or detaining any juvenile in any detention facility unless such detention is required to protect the person and property of others or those of the juvenile, or there is a danger that the juvenile would abscond or be removed from the jurisdiction of the court, or the juvenile has no parent, guardian, or custodian or other person able to provide supervision and care for hilm and return him to court when required;

(5) Restraining and prohibiting all defendants from confining and detaining any juvenile in the Lawrence County Jail unless the child is alleged to be delinquent, there is no detention center or other appropriate facility available, the detention is in a room separate and removed from those for adults, and public safety and protection of the child or others reasonably requires such detention;

(6) Restraining and prohibiting all defendants from confining and detaining any juvenile in the Lawrence County Jail unless such juvenile is completely separated and removed from contact by sight or sound with adult inmates;

(7) Restraining and prohibiting all defendants from failing to provide and utilize appropriate community-based alternatives to placement of juveniles in the Lawrence County Jail.

F. Issue preliminary and permanent injunctions restraining and prohibiting all defendants from transferring any plaintiff to any other jail or any other facility where there exist the conditions complained of herein.

G. Order the defendant to develop and implement a comprehensive plan for the correction of the unlawful policies, practices, acts and omissions complained of herein, and to submit said plan to the court and to the attorneys for plaintiffs for review.

H. Appoint a Special Master to review and insure implementation of the plan submitted by defendants and to protect the rights of plaintiffs during the pendency of this action.

I. Issue a judgment assessing general and special damages against the defendants for injuries suffered by the named plaintiff as a proximate result of the policies, practices, acts and omissions complained of herein, in an amount to be established by the proof.

J. Issue a judgment on behalf of the named plaintiff assessing punitive damages against the defendants MARK A. MALONE, DONALD LAMBERT, DR. CARL T. BAKER, and DANIEL HIERONIMUS for the policies, practices, acts and omissions complained of herein, in the amount of $100,000 against each of said defendants.

K. Retain jurisdiction over defendants and each of them until such time as the Court is satisfied that their unlawful policies, practices, acts and omissions complained of herein no longer exist and will not recur.

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