

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

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LEE DUPUIS
CLERK

HAYES WILLIAMS, RAUL RAMOS
THAD TATUM, LESLIE SHERIDAN
ALBERT LANDRY, ROBERT MCCUIN,
TERRENCE BUTLER, MARK HALL,
THOMAS LAWDINS, CHARLES
HAMILTON AND LEONARD GRIFFIN

CIVIL ACTION

92-0001-3

VERSUS

NUMBER:

MAGISTRATE - 1

BRUCE LYNN, SECRETARY OF
THE DEPARTMENT OF CORRECTIONS
AND JOHN P. WHITLEY, WARDEN

HONORABLE
MAGISTRATE JUDGE

COMPLAINT

CLASS CERTIFICATION REQUESTED

The complaint of Hayes Williams, Raul Ramos, Thad Tatum, Leslie Sheridan, Albert Landry, Robert McCuin, Terrence Butler, Mark Hall, Thomas Lawdins, Charles Hamilton and Leonard Griffin, inmates at Louisiana State Penitentiary (LSP) at Angola, respectfully suggest as follows:

1.

Jurisdiction arises herein under 42 U.S.C. § 1983, § 1988, 28 U.S.C. § 1331 and 28 U.S.C. § 1343 in that complainants allege violations of their civil rights under the Eighth and Fourteenth Amendments to the United States Constitution and under the doctrines established in Estelle v. Gamble regarding provision of medical care.

DEFENDANTS NAMED

1.

Named defendants herein are:

FEE _____
PROCESS _____
INDEX _____
ORDER _____
HEARING _____
DOCUMENT NO. _____

014

1. Bruce Lynn, Secretary of the Department of Public Safety and Corrections. At all times pertinent hereto, Mr. Lynn had supervisory roles at Louisiana State Penitentiary (LSP or Angola) and is sued herein in his official capacity.
2. John Paul Whitley, Warden of LSP. Warden Whitley is likewise sued in his official capacity.

CLASS ACTION REQUESTED, LOCAL RULE 1.12

2.

Movers request that this matter be made a class action as the issues effect all concerned at Angola. The issues raised herein concern all incarcerated at LSP and numerosity and commonality are extant. This putative class meets the requisites of F.Rule 23 for the reasons set forth below in compliance with local rule 1.12.

3.

The number of persons affected by the conditions complained of herein exceeds 5000 and are therefor so numerous as to make joinder of all impracticable. Additionally, new inmates are constantly being taken into the system and yet other inmates discharging making joinder impossible.

4.

The questions of law presented involve conditions of confinement at LSP and in particular, provision of constitutional medical care and are common to the class as a whole.

5.

The claims of the plaintiffs are typical of those of the putative class and meet the Rule 23 typicality requirement.

6.

The named plaintiffs will fairly and adequately represent the class and are representative of the problems experienced by the class as a whole. The problems cited below are systemic and long standing in nature making the class action the superior procedural vehicle for determination of the issues in this case.

7.

This action is maintainable under Fed. Rule 23 (b)(1)(A) and (B) in that individual prosecution risks varying and inconsistent adjudication as well as might adjudicate the interests of the class as a whole and under Fed. Rule 23 (b)(2) in that the DOC opposes the relief on grounds generally applicable to the class making appropriate injunctive relief for the entire class.

HISTORY AND BACKGROUND

8.

Louisiana State Penitentiary was placed under consent decree in or about 1982 having previously been found guilty of constitutional violations of inmate rights including the right to adequate medical care as established in Estelle v. Gamble and progeny.

9.

As a result, certain requirements were made of the institution by the federal courts including but not limited to adequate staffing and adequate provision of medical care for inmates.

INADEQUATE STAFF, VIOLATIONS OF CONSENT DECREE
IN HAYES WILLIAMS V. MCKEITHEN, 71-98
ON THE DOCKET OF THE UNITED STATES DISTRICT COURT,
MIDDLE DISTRICT OF LOUISIANA

10.

Complainants show that the medical care staffing patterns at Louisiana State Penitentiary are inadequate, and in violation of the consent decree rendered in Williams v. McKeithen, number 71-98 on the docket of this Honorable Court.

11.

In particular, plaintiffs show that the consent decree and adequate staffing requires nine (9) physician positions of which only five (5) positions are filled. One (1) of those five (5) positions is occupied by the medical director which in reality means only four (4) physicians are available to practice medicine.

12.

The shortage of staff physicians causes unconstitutional delays and denials of medical care both in direct deprivations and in the form of subtle but pervasive coercion against seeking medical care in the first instance.

13.

Yet other areas of medical staffing are constitutionally inadequate and in violation of minimum staffing required by the consent decree (as of August 6, 1991) including the staff areas of:

<u>POSITION</u>	<u>SHORTAGE UNDER CONSENT DECREE</u>
a. Registered Nurses	10
b. Practical Nurses	4
c. EKG Technician	1

- d. Nurse Assistant 2
- e. Recreation therapists 2

14.

As of October 23, 1991, the staffing situation remained largely unchanged:

- a. Medical records administrator 1
- b. Staff physicians 5
- c. Registered Nurses 6
- d. Practical Nurses 6
- e. Nurses assistants 2

15.

As can be seen from the above, serious staff shortages exist and have existed for an extended period of time.

16.

The staffing that was adequate under a consent decree in 1982 is inadequate today due to an increased number of inmates, an aging inmate population and increased severity of illness that accompanies an aging population.

17.

Clerical support is inadequate for the tasks required to properly and constitutionally run a medical facility. In particular, the medical files of inmates are chronically out dated in terms of lab work, filing and the like. Inability to access recent materials regarding an inmate contributes to and causes deficiencies in the overall delivery of health care at LSP. Lab work that is not in the inmate's chart due to inadequate staff is the same as no lab work at all.

THE HOSPITAL, PHYSICAL PLANT AND FACILITIES

18.

The facilities at Louisiana State Penitentiary are woefully inadequate and outdated. The hospital was built 30 years ago when the population of Louisiana State Penitentiary was approximately 2500. Today the inmate population of the penitentiary is approximately 5200 to 5300 and thus has almost doubled. The hospital has not doubled in size along with the population.

19.

Furthermore, the physical facility is overcrowded and does not allow sufficient space for essential medical functions. In particular, the medical records room is working at excess of capacity. The X-ray room and pharmacy likewise do not have adequate space to properly render medical care. There is inadequate computerization for the number of records and inmates that must be accommodated by the system.

20.

The deficiencies contribute to or render the provision of medical care to inmates at Louisiana State Penitentiary so woefully inadequate as to constitute deliberate indifference to the lives and safety of the inmates.

21.

In particular, the inadequacy of the physical plant precludes the physicians that are available from maximizing the number of patients seen a day. Further, inefficiencies created by the lack of space contribute to or cause fewer patients to be seen than

could be seen with a more spacious facility. The lack of adequate physical plant, in combination with the shortage of physicians, denies adequate medical care to the inmate population.

22.

It is physically impossible for a physician to see more than approximately 35 or so patients a day due to both time constraints and particularly physical space constraints. There are an inadequate number of examining rooms in order to sequentially place patients in order to maximize use of the physician's time. As many more than 35 inmates request to be seen by a physician on any given day, it is obvious that many inmates "back up" on the list and are never seen. The inability to see a physician when a complaint is had, leads to frustration and repetitive attendance at sick call with the sick call technician. This circular pattern leads to friction as the inmate cannot achieve the needed medical care and the technician cannot do anything to "hurry him to the head of the list". Furthermore, the system constraints of limited physicians and limited space insure that inmates with medical needs will not have those needs met.

23.

Dr. Kenneth Perego, the medical director of the LSP hospital recently was interviewed by THE ANGOLITE. In that published interview he stated that if the hospital had one hundred more beds that he could fill those beds with inmate patients needing medical care. The physical plant is constitutionally deficient due to a shortage of bed space. At least one hundred inmates who should be hospitalized are not due to lack of facilities.

SICK CALL, INADEQUATELY TRAINED SICK CALL TECHNICIANS

24.

Medical care is initiated at Angola either by declaration of emergency, or by attending sick call. The sick call procedure has recently been changed to allow inmates to attend sick call in the late afternoon. Prior to August of 1991 however inmates were awakened at approximately 2:00 a.m. in order to report to sick call. Under the current system of sick call, there are approximately 4 to 5 sick call "technicians" who travel to all parts of the prison to listen to medical complaints.

25.

The sick call technicians (SCT) are not trained in medicine. Most are high school graduates with little or no training in medicine. Only one or two of the SCT's are emergency medical technicians and or have any formal training in any of the medical arts.

26.

The SCT is not provided any equipment other than a clipboard and pen. No equipment such as stethoscope, blood pressure cuff, or even a flashlight is provided.

27.

Access to medical care at LSP begins with a visit to a SCT. The process consists only of a short verbal history being taken and some notes taken on the clipboard. No physical exam is performed.

28.

The sick call process is constitutionally deficient and inadequate and insures that a denial or delay of medical care will

occur. In one sick call observed on October 7, 1991, the inmates were being seen one after the other on an average of one minute twenty eight seconds (1 minute, 28 seconds) each. "Processing" inmates so rapidly as to allow less than a minute and one half per inmate virtually assures that serious medical needs will go unnoted and unmet and is deliberately indifferent to those medical needs.

29.

Medical care can be constitutionally deficient if there are obstructions or delays in medical care. The current sick call procedure is such a delay in that inmates must depend on "gatekeepers" in the form of the sick call technicians to adequately screen and triage the inmate complaints. No direct form of access to trained medical personnel is provided either in the form of a registered nurse or a physician. Many inmates reporting to sick call do not ever get to see a doctor.

30.

Other inmates report complaints and symptoms that would certainly mandate a visit to an emergency room in the "free world" however are ignored in the prison context. Plaintiffs believe that many of these complaints are serious and could lead to life threatening disorders or even death if ignored. An example of this is failure to diagnose classic heart attack symptoms.

31.

Upon an inmate being seen by a technician, the technician returns to the hospital, pulls the inmate records and writes a summary of the complaint. Those records are then reviewed by

nurses the next morning. Physicians then review the charts chosen by the nurses and inmates are chosen to be placed for hospital call. The summary viewed by the screener is usually void of any physical examination and is totally dependant upon accurate history being taken from the inmate. An inmate who is ill or has an injury may wait 3 to 5 days before actually receiving care. Often the inmate is not seen until repeated sick call visits are made.

32.

The above and foregoing deficiencies are unconstitutional and the DOC has actual notice of these problems. The United States Department of Justice conducted a study beginning in 1989 (hereinafter simply "DOJ") which noted the glaring deficiencies in the current sick call procedure. The DOJ report was forwarded to the Louisiana DOC making DOC aware of these problems. Further, the deficiency in the SCT system was noted in THE ANGOLITE (September-October, 1980) at page 68 and thus the DOC is on notice and is deliberately indifferent regarding this constitutional inadequacy.

33.

Further, the security staff apparently have veto power over the decisions of the sick call technician. For example, an inmate was seen in the late afternoon of October 16, 1991 with an ankle injury. The ankle was swollen and the inmate was obviously in severe pain. The sick call technician requested that the ranking security officer have the inmate transported from the out camp to the hospital. As of midnight when undersigned counsel left LSP, the inmate was still not at the hospital. A delay of six hours to transport an inmate in pain is a violation of the constitution, is

deliberately indifferent and is intentional infliction of unnecessary pain and suffering.

34.

Additionally, there is an absolute inability to deal with minor issues such as the cold and flu. There is an inherent friction that seems to exist between the sick call technicians and medical personnel on the one hand and inmates on the other hand with regard to such illnesses. Illnesses such as the cold and flu which in the free world would be handled by over the counter medications as well as a few days in bed cause tremendous discomfort and deliberate indifference toward the inmate population. The medical staff perceives all such complaints as "malingering" whereas any time an inmate population reaches the 5,000 mark, there are obviously going to be widespread "epidemics" of flu and colds during the winter season. It is inhumane and violative of the Eighth Amendment to force inmates with flu maladies and severe colds to go to work. Many times inmates are required to work in freezing temperatures when they have high fevers and are throwing up. There is no mechanism in place to allow this sort of medical care to be adequately rendered.

THE MALINGERING RULE, COERCION TO AVOID MEDICAL CARE

35.

In addition, the rules and regulations of the penitentiary call for "write ups" for malingering. This is considered a fairly severe offense within the prison and results in disciplinary action.

36.

The use and threat of malingering write ups encourages delays and provides an obstruction to adequate receipt of medical care in that inmates who are truly sick will often refuse to seek medical treatment due to the real fear and perceived fear of a write up. Thus, inmates who are legitimately sick or perceive that they are sick are denied access to medical care because of the threat of a malingering write up.

37.

A related problem is that of declaring oneself an emergency. An inmate who feels ill "between sick calls" has no adequate access to medical care without the very severe threat of a malingering write up. In other words, if one is not sick at 5:30 p.m. at the time sick call is held, one should not be sick until the next 5:30 p.m. sick call. Illnesses that develop at night or the early hours of the morning or even while at work must go untreated until the next sick call. Even then, there is a 24 hour delay until the earliest possible medical care can be provided.

38.

If an inmate attempts to achieve medical care outside of the sick call process it is by declaration of an emergency. If the medical staff then decides, even after treating the inmate, that an emergency did not exist, a write up is given. Thus, the issuance of disciplinary write ups is solely dependent upon a physician's definition of "emergency". Quite obviously there is a variance between what an illiterate, medically unschooled inmate might consider significant and that which a physician considers

life threatening.

39.

It is a violation of the Eighth Amendment to punish an inmate for being "wrong" on the self diagnosis when the only alternative is referral to care by a SCT with no more training than the inmate. No actual finding of malingering need be had to punish; only a finding of no emergency.

40.

All of the above, taken collectively, constitute deliberate indifference to the serious medical needs of inmates and thus rendered the system as currently imposed unconstitutional under the Eighth Amendment to the United States Constitution. Deliberately discouraging the use of medical care inevitably leads to serious medical conditions not being treated.

41.

In addition to denial of medical care, medical care can be delayed or obstructed such as to cause undue suffering or the threat of tangible residual injury. Under such conditions, the system can also be unconstitutional because of its effect.

42.

Hayes Williams was written up and found guilty of malingering for seeking medical care. The write up and subsequent punishment will serve to discourage and deny plaintiff from seeking medical care in the future. The obstacle of "having to be right" on a medical decision or suffer punishment places obstructions in the way of adequate medical care, is unconstitutional and effectively denies care.

43.

In the original decision of the District Court in Hayes Williams, 71-98, Judge West ordered that no inmate shall be harassed, punished or in any way discriminated against because he seeks medical diagnosis or treatment. The malingering rules as currently written and enforced do exactly what Judge West forbade.

44.

Loyer Ford is 57 years of age. In 1991, Mr. Ford began suffering from pain in his abdomen. He went to the hospital and was given castor oil. When the castor oil did not alleviate his pain, Ford returned to the hospital. Dr. Susan Bankston threatened Ford with a write up and returned him to his dorm. The next day Ford, with continued and increased pain, returned to the hospital and in fact received a "write up" for malingering. Two days later, Mr. Ford began vomiting blood and was transported by ambulance to the hospital and then to Earl K. Long Hospital where he was diagnosed as having a bleeding ulcer. Only by accepting punishment in the form of a write up was Ford able to obtain medical care.

45.

Calvin Duncan is an Inmate Counsel Substitute and as part of his duties works in the hospital area. Duncan suffered from a cyst on his arm for 3 months rather than risk a write-up.

46.

Thomas Lawdins is age 56 and is diabetic. He also suffers from high blood pressure and has had several heart attacks. Lawdins was written up for malingering when he attempted to request medical care for his known, documented illnesses. These disease

processes can not be handled by the SCT and Lawdin's only recourse for medical care is to accept the write up. Lawdin is scared to seek medical care because of the probable disciplinary report.

DOC REGULATIONS CREATE A LIBERTY
INTEREST ENFORCEABLE UNDER THE FOURTEENTH AMENDMENT

47.

In addition, the Fourteenth Amendment to the United States Constitution creates a liberty interest enforceable by the inmates as to certain levels of medical care. The Louisiana Department of Corrections has prescribed various regulations including regulation 30-6 promulgated October 16, 1978. In particular, Section 3(g) of that regulation indicates that an inmate shall be seen by a physician or a qualified medical technician at the next daily sick call. Further, Section 3(h) indicates that there will be no punishment for seeking medical diagnosis or treatment. Clearly the current policy of issuing aggravated malingering charges or malingering charges in the form of disciplinary write ups contravenes the regulation of the Department. As the Department's regulation is in mandatory language "will" - then the Fourteenth Amendment mandates that the liberty interest will be observed and followed and the inmate's expectation of no write ups granted. Further, the term qualified mandates that other than an untrained lay person with a clipboard become the gatekeeper to medical access.

NO ANNUAL EXAMS, AGING POPULATION

48.

Prior to November 1990, DOC regulations mandated annual physical exams for inmates over age 40. Subsection 3(b) indicated that the warden is responsible to provide each inmate over age 40 a complete annual health evaluation. Subsection 3(c) defined a health evaluation as a medical evaluation conducted by a medical doctor and subsection 3(d) set forth what must be done in the course of an evaluation. In November 1990, the regulation was changed to delete the annual examination requirement.

49.

No inmate over age 40 receives routine and consistent evaluation on any basis much less annual. Although the regulation requiring annual physical has been superseded, the reasons for mandating examinations on a yearly basis remains. Failure to provide routine annual examinations to inmates over the age of 40 causes diseases to go unchecked and undiscovered thus causing unconstitutional pain and suffering.

50.

The result of the deprivation of annual physical examinations is that older inmates will have serious medical needs go unmet. The regulation requiring annual exams was a valid state expression of the minimum medical care required and routine examinations should be ordered by the Court as part of any remedial order herein.

51.

The interest in these medical evaluations for inmates over age

40 is not just theoretical or academic. Movers would show that the population at Angola is "aging" due to the large number of lifers which now exceed 2200. The "practical lifer" population exceeds 1500. Due to the large lifer population at Louisiana State Penitentiary, the average age of inmates will increase rapidly over the next few years thus providing a much larger population over age 40. It is this age group that tends to have more medical problems and are exposed to significant risks of various disease processes such as heart disease, prostate cancer, colon and other significant medical problems. Annual physical exams would enable physicians to discover these disease processes prior to death occurring or inability to care for these diseases occurs.

SURGICAL CARE IS DENIED UNCONSTITUTIONALLY

52.

Rendering of surgical care is also unconstitutional at Louisiana State Penitentiary. Only minor surgery is done "in house" and all major surgery cases are referred out for surgery. Although there is no law or regulation indicating that surgeries must be done by the state charity system, by policy and practice, surgeries are accomplished only through the state hospital systems.

53.

As of May 28, 1991, there was a backlog status for surgeries of 268 inmates. Additionally there were 355 inmates backlogged for oral surgery, twenty two inmates backlogged for ENT surgery, 165 inmates backlogged for visits to the optometrist, 16 inmates

backlogged for neurological visits and 66 inmates backlogged for radiology. Although some small amount of relief has been gained since late May of 1991, significant numbers of inmates still must wait months if not years before receiving necessary surgery.

54.

A significant number of the surgeries on backlog are to discover the nature of "lumps" and other conditions that could be malignant. The extreme wait for surgery causes unnecessary pain and suffering to those deferred.

55.

Leslie Sheridan has a colostomy which is due for takedown. Surgeons at CHNO and EKL have recommended the surgery. No surgery has been performed.

56.

Albert Landry has had a severe knee problem for which surgery has been recommended by Angola physicians and others for over twelve years. The knee buckles and prevents Landry from walking. Surgery has not been performed even though recommended many times for many years.

57.

Mark Hall has a disease of his lower colon that has required three previous operations. Recently, Mr. Hall has developed "lumps and bumps" on his arms which may or may not be malignant. Although medical staff at LSP has recommended biopsy, none has been performed. Further, approximately 5 months ago Mr. Hall developed a growth or tumor in his throat. It took two months to get radiographs studies of the throat and then Mr. Hall was told that

removal of the growth was indicated. No surgery has been scheduled nor has Mr. Hall received any indication of when surgery might be performed.

58.

Charles Hamilton has a hernia which was first reported to medical personnel prior to March 1990. He has been seen by surgeons 5 times in 1991 who have all told him that surgery was needed but has not been provided.

INADEQUATE CARE OF THE CHRONICALLY ILL

59.

Many inmates are on medications on a more or less permanent basis. There is no routine check of medication levels nor is there any sort of routine check to determine whether or not the medicines have any continued efficacy. The inmates may go as long as 3 to 5 years once being placed on medication without any sort of follow up to determine whether or not the medications are needed or whether or not the medications are providing the relief sought.

60.

Additionally, there is no follow up lab work done on a consistent and routine basis to determine whether or not inmates are receiving adequate medications or whether side effects are occurring.

61.

An additional concern is the use of correctional guards as emergency medical technicians. Various accreditation organizations do not believe that correctional guards should be involved in the medical care process. At Louisiana State Penitentiary, the

emergency medical technicians are all correctional guards. This inherently creates tension and friction between inmate and medical staff with the resulting problems being denied medical care or failing to seek medical care due to the belief that same will not be rendered.

62.

LSP is on notice that the care provided to the chronically ill is deficient as the areas of inadequate lab work, lack of long range planning for the chronic patient, failure to provide proper diet and inadequate medication procedures were all found by the DOJ study.

63.

Checo Yancy is an inmate at LSP and has been on medication for high blood pressure since entering the prison in 1984. Mr. Yancy has never had a routine physical or any lab work to monitor the medications that he is taking.

64.

Joseph Woods is age 58 and has been taking medications for arthritis and high blood pressure for approximately 13 years. He has never seen a physician for routine monitoring nor has any follow up for side effects been provided. His last physical examination was in 1984. Several years ago Mr. Wood had frightening side effects as a result of one of the medications taken for high blood pressure.

65.

Thomas Lawdins suffers from high blood pressure, diabetes, has had several heart attacks, varicose veins and ulcerated legs. He

takes insulin daily. There is and has been no glucose monitoring or urine checks done on any routine basis, much less daily. Lawdins also is on daily medication for high blood pressure. No monitoring is performed nor are medication levels ever checked. Mr. Lawdins has been written up for attempting to complain about medical problems.

66.

Lawdins also suffers from other diabetic complications. He has been told that his foot might have to be amputated. Further, his eyes are deteriorating. Eye problems with diabetics are a known complication and with proper care is preventable. No one has given Mr. Lawdins a physical exam in many years.

67.

Failure to routinely examine and monitor patients on long term medications is gross deviation from the standard of care expected of physicians and medical personnel and is gross indifference to the medical needs of inmates.

PHYSICAL THERAPY INADEQUATE OR NON-EXISTENT

67.

Physical therapy is unconstitutionally denied at Louisiana State Penitentiary and is not being provided adequately or at all. Many inmates who after being injured or who in the process of recuperating from disease, are in need of physical therapy. Louisiana State Penitentiary has no physical therapist at this time and any physical therapy (PT) that is being provided is being provided "ad hoc" and is inadequate.

68.

Additionally, the PT equipment is out dated, inadequate or non-existent such as to render any delivery of PT care unconstitutionally deficient.

69.

In particular, plaintiff shows that Thad Tatum, an inmate at Louisiana State Penitentiary, is in need of physical therapy. As a result of injuries received while incarcerated, Mr. Tatum is confined to a wheelchair. For a period of time, Mr. Tatum was sent to Charity Hospital of New Orleans and received extensive physical therapy. He was in the process of learning to walk again and was in fact walking when he was returned to Louisiana State Penitentiary. Subsequent to return to Louisiana State Penitentiary, Mr. Tatum is not receiving physical therapy of the same sort, quality or description as previously received and is now confined to his wheelchair. The gains that he had made in terms of relearning to walk have been lost. Other inmates have also been injured or ill, in need of physical therapy and are hampered, impaired or denied recovery from their illness or injury due to unconstitutional deprivation of physical therapy.

UNNECESSARY INFLICTION OF PAIN WITHOUT
PENOLOGICAL JUSTIFICATION

70.

Inmate Leonard Griffin is age 65. His arthritis is so severe as to preclude him from walking to daily meals. As a result of the arthritis in his knees and ankle swelling, he is spending all of the money he is able to obtain from his family (approximately

\$50.00 per month) to buy food at the "store" so that he does not starve. A medical system that was constitutionally adequate would provide either a wheel chair or would arrange for meals to be delivered to this inmate.

71.

Further problems exist in the overall delivery of care at Angola due to deliberate indifference and lack of training of security personnel. Further, medical personnel are involved in this lack of care or forethought all of which causes pain and suffering to the inmates. An example of this is the care of Raul Ramos. In September of 1991, Mr. Ramos had major surgery on his knee at Charity Hospital in New Orleans and received at least 57 stitches. He was returned to Louisiana State Penitentiary on September 14, 1991 and immediately released via wheelchair to his dormitory on the same day. His wheelchair was taken from him after he was deposited in the dorm. Mr. Ramos was unable to walk on his injured leg and could not walk to the mess hall which is many hundreds of feet away. Because of his inability to walk, he was disciplined and was placed on lock down on or about September 17, 1991. On or about that date he was taken to the hospital from which he was released September 30 with a light duty status. Notwithstanding the duty status, he was required to mop the walk and fell and was re-injured. On that same date Mr. Ramos was again taken to Charity Hospital of New Orleans. The hospital in New Orleans returned Mr. Ramos with no duty to be his status. On October 2, the penitentiary issued a light duty status and effectively overruled the physicians that were treating Mr. Ramos.

On October 10, 1991, as a result of the mandatory duty, Mr. Ramos fell down the stairs and fractured his knee. Again Mr. Ramos was taken to Charity Hospital in New Orleans.

72.

In addition, civil action 89-869 A on the docket of the Middle District of Louisiana (Walker v. Butler) indicates the sort of problems that occur. Inmate Walker was required to walk on an ankle that was causing him great pain from the mess hall all the way to the hospital. It was estimated that Walker was required to walk approximately a quarter of a mile. On arriving at the hospital, it was discovered that Mr. Walker's ankle was broken.

73.

In addition to the physical problems caused inmates in the pain and suffering results, inmates who are disabled are unable to participate in normal prison life and in fact are kept from such participation by physical restrictions. For example, there is at least one inmate in the mental health unit who is in a wheelchair full time. He is not able to go up and down stairs and there is no ramp or elevator available at camp A. For that reason, this inmate must stay in a facility that is overly restrictive for his security status and further, is precluded from availing himself of the programs at Camp A.

74.

Yet other inmates are denied medical care on a timely basis. For example, Terrence Butler broke his jaw playing football on July 27, 1991. He was sent to the hospital but given a return slip for the next day. He was given only two Tylenol for pain. After

returning to his dormitory he was sent back to the hospital and after a 10 hour wait was transported to Earl K. Long for wiring of his jaw.

75.

An area of medical care which will be increasingly important as the population ages is that of cardiac care.

76.

Recently several inmates have died in their dormitories due to heart attacks. On at least one such occasion in October of 1991, the inmate in the bed next to an inmate near the stricken inmate was capable of performing CPR. Due to the rules and regulations of the prison and the security guards refusing to allow an inmate to touch another inmate, the one person in the dormitory who could have rendered assistance was not allowed to do so.

77.

Although it is claimed that the emergency medical technicians have excellent response time, analysis of any heart attack incident in a dormitory will reveal that the chances of an inmate living are slim if the heart attack is severe. For example, if an inmate in the main prison compound has a heart attack, the dorm sergeant must notify main security by beeper. The security office notifies the walk Lieutenant by radio, who then goes to the dormitory with a radio. Once the man with the radio understands the nature of the problem, he then must radio for EMT assistance who then must travel through a number of locked gates to get to the dormitory. Thus the "golden" few minutes that one has to initiate CPR have gone before any care or treatment can be rendered.

78.

It is deliberately indifferent not to adequately train this dorm security personnel or responsible inmates in CPR such that immediate response can be had to crisis situations such as a heart attack. Further, not training the only available "free person" (the dorm sergeant) in recognition of acute manifestations of chronic illness and in CPR is deliberately indifferent to the medical needs of the inmates living in these dormitories.

DENTAL CARE IS CONSTITUTIONALLY DEFICIENT

79.

Inmate Robert McCuin has not been rendered adequate medical care. Mr. McCuin has teeth problems and his teeth were pulled by the medical personnel at Angola beginning in 1988. On June 14, 1990, the last tooth in Mr. McCuin's mouth was pulled. One year later, on June 14, 1991, impressions were taken for false teeth. In October of 1991 these impressions were retaken because the previous impressions had been lost. It is not expected that Mr. McCuin will receive his teeth until June of 1993. He has been told that the June, 1993 date is only approximate.

80.

Mr. McCuin spends approximately \$12.50 of his own money each week to buy peanut butter and bread in order to eat. Mr. McCuin's gums are being worked down because he must "nub" the food and as a result, the dentures taken from the impressions will in all probability not fit when those dentures finally arrive.

81.

Inmate McCuin is only one such "horror story" of failure to render proper dental care. Others will be proven at the trial of this matter.

THE DUTY STATUS PROBLEM

82.

Inmates are assigned work and jobs at LSP based on "duty status". Inmates are being made to work on jobs that are beyond their capabilities thus subjecting the inmate to disciplinary action for a work offense unconstitutionally.

83.

Furthermore, placement of inmates in work positions or giving "duty status" beyond their physical limitations endangers the health and safety of other inmates.

84.

Inmate Robert Roy Randle has a seizure disorder and is missing all of the fingers on his right hand. Inmate Randle is assigned to work the farm lines and must often swing a ditch blade. Should Randle's hand slip (because of the missing right hand) or should Randle suffer a seizure, the inmates near Randle are subject to severe injury with the swing blade.

85.

Inmate Ramos was forced to work "light duty" even though the operating surgeon had prescribed bed rest. As a result of the duty, Ramos slipped and fell re-injuring the knee. Additional surgery was required.

86.

Yet other inmates with physical disabilities that render them dangerous to those around are required to work the fields with hazardous tools.

DIET

87.

Additionally, as is noted in the DOJ report, there are diabetic inmates who are receiving inadequate dietary counseling and inadequate diabetic diets. Combined with the lack of glucose monitoring which is the norm at LSP, the care rendered to diabetics is grossly unconstitutional.

88.

An inmate that is prescribed a prescription diet does not necessarily get the diet. In the event that the inmate is transferred from living quarters to a different living quarter, there is no way for the dietary people to track the inmate and make sure that the diet is given in the new living quarters. The same problem exists concerning prescriptions. If the inmate is no longer in the dormitory where he was living at the time of prescription, the medications are returned to the pharmacy as opposed to following the inmate.

DELIBERATE INDIFFERENCE, SERIOUS MEDICAL NEEDS

89.

Plaintiff shows that all of the problems described hereinabove have been known to the medical staff at Louisiana State Penitentiary and to supervisory personnel. Furthermore, numerous

articles have been written about the medical care problems at Angola in both newspapers in this state as well as in The Angolite.

90.

As a result of this actual knowledge, the Department of Corrections must be held to have knowledge of these problems and thus can be said to be deliberately indifferent in failing to remedy the medical problems that exist at Louisiana State Penitentiary. Furthermore, and as regards the deficiencies and shortages of staffing, the requirements are written requirements and thus all parties have actual knowledge.

91.

The problems referenced above are serious medical needs which left without treatment can cause pain and suffering to the inmate without any penological justification. In some cases, the failure to provide these medical needs can lead to amputation, blindness, side effects from medications and death.

92.

Perhaps because of the shortage of staff or for other reasons unknown to plaintiffs, there is very little quality assurance or quality control in the medical care field at Angola. There is no opportunity for the physicians to meet and review charts together other than on a very limited basis. There is virtually no peer review that can be accomplished because of the geographical isolation and the non overlapping shifts of the physicians. This contributes to the problems that exist at this penitentiary.

OTHER ISSUES

93.

Psychiatric coverage is clearly inadequate. The table of organization at Angola requires a full time psychiatrist. None has been hired. Additionally, considering the level of psychopathology at the prison, a single psychiatrist, even full time, is inadequate.

94.

A major problem in the health care delivery system at Angola is the lack of understanding of the system and of the nature of disease by the inmate population. No training is conducted to inform the inmate population how to access the medical care system. Sixty five percent of the inmates at Louisiana State Penitentiary are thought to read, write and function on a sixth grade level or below. With this high degree of illiteracy, it is not surprising that many inmates may consider illnesses far more severe than they actually are. It is cruel and unusual punishment to discipline an inmate and write him up for malingering when the inmate's perception of the disease process or the sickness is that it is severe. It is simply wrong to compare the knowledge of a trained physician with that of an inmate.

CUMULATIVE EFFECT

95.

The deficiencies complained of above are cumulative in effect and combine to render the system of provision of medical care at LSP unconstitutional.

Plaintiffs desire remedial and injunctive relief from this Honorable Court ordering the Department of Corrections and Louisiana State Penitentiary to immediately and forthwith:

- 1) retain adequate staff and correct the constitutional deficiencies noted above including physical plant deficiencies;
- 2) train staff in recognition and treatment of acute problems;
- 3) provide adequate physical therapy;
- 4) provide adequate tracking and treatment of long term patients;
- 5) maintain adequate diets for those in need of such diets;

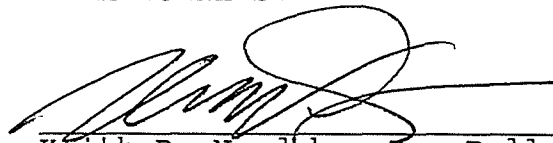
WHEREFORE PLAINTIFFS PRAY that after due proceedings had:

- 1) That a class be recognized under the provisions of Rule 23 and that certification be had; and
- 2) That remedial and injunctive relief be ordered herein as it is appropriate in the premises and as is necessary to remedy the constitutional violations hereinabove described.

PLAINTIFF FURTHER PRAY for reasonable attorneys fees and expenses together with interest thereon as may be allowed under 42 U.S.C. § 1988 and for all costs of these proceedings.

PLAINTIFFS FURTHER PRAY for all general and equitable relief as may be allowed by law.

BY ATTORNEYS:



Keith B. Nordyke, Bar Roll 8556
NORDYKE AND DENLINGER
P. O. Box 237
Baton Rouge, Louisiana 70821
Telephone: (504) 383-1601

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I (a) PLAINTIFFS Hayes Williams, Raul Ramos, Thad Tatum, Leslie Sheridan, Albert Landry, Robert McCuin, Terrence Butler, Mark Hall, Thomas Lawdins, Charles Hamilton and Leonard Griffin

DEFENDANTS Bruce Lynn, Secretary of Department of Corrections and John P. Whitley, Warden

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF _____
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Keith B. Nordyke
NORDYKE AND DENLINGER
P. O. Box 237
Baton Rouge, LA 70821 (504) 383-1601

ATTORNEYS (IF KNOWN)

II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)

DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY

This is a civil rights action under 42 USC 1983 seeking injunctive relief against medical conditions at Louisiana State Penitentiary.

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Water Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veterans' Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury—Med Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Emp. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395f) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DRC/DRCW (405(g)) <input type="checkbox"/> 864 SSD Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7809	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 610 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 630 General <input type="checkbox"/> 635 Death Penalty <input type="checkbox"/> 640 Mandamus & Other <input checked="" type="checkbox"/> 650 Other Civil Rights			

VI. ORIGIN

(PLACE AN X IN ONE BOX ONLY)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION DEMAND \$ _____
 UNDER F.R.C.P. 23

Check YES only if demanded in complaint:
JURY DEMAND: YES NO

VIII. RELATED CASE(S) (See instructions):
IF ANY see attached

JUDGE Polozola DOCKET NUMBER 71-98

DATE 1-2-92 SIGNATURE OF ATTORNEY OF RECORD 

001801

VIII. RELATED CASES

Williams v. McKeithen, 71-98 on the docket of the United States District Court for the Middle District of Louisiana is related in kind. Both the instant suit and Williams are prisoner cases seeking class injunctive relief. The Instant case involves medical care and seeks injunctive and remedial relief.