

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

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| ISREL DILLARD, both individually and on behalf of a class of others similarly situated, | : | CLASS ACTION COMPLAINT |
| Plaintiff, | : | Civil Action Number: |
| v. | : | |
| CAMDEN COUNTY, | : | JURY TRIAL DEMANDED |
| Defendant. | : | |

INTRODUCTION

This is a class action brought to redress the deprivation by Camden County (“Defendant”) of rights secured to Isrel Dillard (“Plaintiff”) and the proposed Class by the Constitution of United States of America and the laws of State of New Jersey. For the past several years, Camden County has required that all individuals placed into the custody of the Camden County Correctional Facility be subject to strip searches upon admission, nearly all of whom have not appeared before a judge. Upon information and belief, these policies are, in part, derived from the written procedures of the Camden County Correctional Facility. They also stem, in part, from Camden County’s deliberate indifference to the rights of persons detained in the Camden County Correctional Facility.

The Plaintiff’s case has two facets. First, the Plaintiff sues on behalf of himself as well as a proposed class of thousands of other detainees who were arrested on non-indictable offenses and illegally strip searched without any justification. Pursuant to a Camden County policy, Plaintiff, who was charged with not paying child support, was strip

searched before he was arraigned and given the opportunity to contest his detention, despite the fact that there was no particularized reasonable suspicion that he possessed drugs, weapons, or other contraband. Defendant's blanket strip searches of individuals detained for non-indictable offenses in the absence of reasonable suspicion violated, and continues to violate, the New Jersey Strip Search statute and the New Jersey Civil Rights Law. The manner in which these searches occurred was also excessive and unnecessary for issues of jail security.

Second, Plaintiff sues on behalf of himself and a sub-class of individuals who were not only stripped searched after being arrested on minor offenses, but who were stripped searched either (a) prior to an appearance before a judge or judicial officer with authority to release the detainee and/or (b) without being given a reasonable opportunity to post bail. These searches were conducted despite the fact that it is easily feasible to segregate pre-arrainment detainees from the general population at the Camden County Correctional Facility. Blanket searches conducted in this fashion constitute a violation of the constitutional rights of Plaintiff and the class members he seeks to represent. Specifically, these actions—which were carried out pursuant to Camden County policy—were taken against the Plaintiff in violation of his rights under the Fourth Amendment to the United States Constitution.

Plaintiff seeks monetary damages from Defendant for himself and each member of the Proposed Class, a declaration that Defendant's policies are unconstitutional and in violation of New Jersey law, and an injunction precluding Defendant from continuing to violate the rights of those placed into the custody of the Camden County Correctional Facility. With this as a background, Plaintiff complains as follows:

JURISDICTION

1. This Court has jurisdiction over this action under the provisions of 28 U.S.C. §§ 1331, 1341 & 1343 because it is filed to obtain compensatory damages and injunctive relief for the deprivation, under color of state law, of the rights of citizens of the United States secured by the Constitution and federal law pursuant to 42 U.S.C. § 1983. This Court also has jurisdiction over this action under the provisions of 28 U.S.C. §2201, as it is filed to obtain declaratory relief relative to the constitutionality of the policies of a local government. This Court has supplemental jurisdiction over Plaintiff's pendant state law claim under 42 U.S.C. § 1367(a) inasmuch as Plaintiff's state law claim is so related to Plaintiff's federal claims that it forms part of the same case or controversy as the federal claims.

2. Venue is proper under 28 U.S.C. § 1391(e)(2) because a substantial part of the events or omissions giving rise to Plaintiff's and Class claims occurred within this judicial district.

PARTIES

3. Defendant Camden County is a county government organized and existing under the laws of the State of New Jersey. At all times relevant hereto, Camden County, as well as its agents, servants, and employees, was responsible for the polices, practices, supervision, implementation and conduct of all matters pertaining to the Camden County Correctional Facility, as well as for the appointment, training, supervision, and conduct of all Camden County Correctional Facility personnel. In addition, at all relevant times, Camden County was responsible for enforcing the rules of the Camden County

Correctional Facility and for ensuring that personnel employed at the Camden County Correctional Facility obey the Constitution and laws of the United States and the State of New Jersey.

4. The Camden County Correctional Facility is located at 330 Federal Street, Camden, New Jersey.

5. Plaintiff Isrel Dillard is a citizen of the United States, and currently resides in Camden County.

CLASS ACTION ALLEGATIONS

6. Plaintiff brings this action pursuant to Rules 23(b)(1), 23(b)(2) and 23(b)(3) of the Federal Rules of Civil Procedure on behalf of himself and a class, including one subclass, of similarly situated individuals who were charged with or convicted of non-indictable offenses or minor crimes and were strip searched upon their entry into the Camden County Correctional Facility.

7. Specifically, the Class and Sub-Class that the Plaintiff seeks to represent are defined as follows:

THE NON-INDICTABLE STRIP SEARCH CLASS

All detainees who have been or will be placed into the custody of the Camden County Correctional Facility after being charged with non-indictable offenses, summary violations, violations of probation, traffic infractions, civil commitments or other minor crimes, including failure to pay fines, and were strip searched in the absence of reasonable suspicion upon their entry into the Camden County Correctional Facility (“the Non-Indictable Strip Search Class”). The class period commences July 2, 2016, and extends to the date on which Camden County is enjoined from, or otherwise ceases, enforcing its policy, practice, and custom of

conducting blanket strip searches on all detainees admitted to the Camden County Correctional Facility. Specifically excluded from the Strip Search Class are Defendant and any and all of its respective affiliates, legal representatives, heirs, successors, employees, or assignees;

THE NON-INDICTABLE STRIP SEARCH SUB-CLASS

All detainees who have been or will be placed into the custody of the Camden County Correctional Facility after being charged with non-indictable offenses, summary violations, violations of probation, traffic infractions, civil commitments or other minor crimes, including failure to pay fines, and were strip searched in the absence of reasonable suspicion upon their entry into the Camden County Correctional Facility (a) prior to an appearance before a judge or judicial officer with authority to release the detainee and/or (b) without being given a reasonable opportunity to post bail (“the Non-Indictable Strip Search Sub-Class”). The class period commences May 15, 2013, and extends to the date on which Camden County is enjoined from, or otherwise ceases, enforcing its policy, practice, and custom of conducting blanket strip searches on all detainees admitted to the Camden County Correctional Facility before they appear before a judge or judicial officer. Specifically excluded from the Strip Search Sub-Class are Defendant and any and all of its respective affiliates, legal representatives, heirs, successors, employees, or assignees;

8. This action has been brought and may properly be maintained as a Class Action under Federal Law and satisfies the numerosity, commonality, typicality, and adequacy requirements for maintaining a class action under Fed. R. Civ. P. 23(a).

9. The members of the Class are so numerous as to render joinder impracticable. Upon information and belief, there are hundreds of citizens arrested for non-felony offenses who are placed into custody of the Camden County every month – most, if not all, of whom are members of the Proposed Class. Upon information and belief, the size

of each of the Proposed Class totals at least thousands of individuals, some of whom have had their civil rights violated on multiple occasions.

10. Upon information and belief, joinder of all of these individuals is impracticable because of the large number of Class Members and the fact that Class Members are likely dispersed over a large geographical area, with some members presently residing outside of New Jersey and this Judicial District. Furthermore, upon information and belief, many members of the Class are low-income persons, may not speak English, and likely would have great difficulty in pursuing their rights individually.

11. Common questions of law and fact exist as to all members of the Class, in that all members of the Non-Indictable Strip Search Class and the Non-Indictable Strip Search Sub-Class had their right to be free from unreasonable searches and seizures violated by Defendant's conduct of performing illegal strip searches of detainees. All members of the Non-Indictable Strip Search Class were charged with non-indictable offenses or summary violations when placed into the custody of the Camden County Correctional Facility, and all were illegally searched in violation of New Jersey law. All members of the Non-Indictable Strip Search Sub-Class were charged with non-indictable offenses or summary violations when placed into the custody of the Camden County Correctional Facility, and all were illegally searched prior to an appearance before a judge or judicial officer with authority to release the detainee, in violation of the Fourth Amendment to the United States Constitution. In light of the *de minimis* alternatives to these offensive procedures, these searches are clearly unconstitutional under the Fourth Amendment.

12. Plaintiff's claims are typical of the claims of the members of the Class. Plaintiff and all members of the Class sustained damages arising out of Defendant's course

of conduct. The harms suffered by the Plaintiff are typical of the harms suffered by the members of the Class.

13. The representative Plaintiff has the requisite personal interest in the outcome of this action and will fairly and adequately protect the interests of the Class. Plaintiff has no interests that are adverse to the interests of the members of the Class.

14. Plaintiff has retained counsel with substantial experience in the prosecution of class action and civil rights litigation, including successful litigation of civil rights cases. Plaintiff's counsel has the resources, expertise, and experience to successfully prosecute this action against Camden County. Counsel for the Plaintiff knows of no conflicts among members of the Class or between counsel and members of the Class.

15. This action, in part, seeks declaratory and injunctive relief. As such, the Plaintiff seeks Class Certification under Fed. R. Civ. P. 23(b)(2), in that all Members of the Proposed Class were subjected to the same policies and acts of deliberate indifference. In short, Camden County personnel acted on grounds generally applicable to all members of the Class.

16. In addition to certification under Rule 23(b)(2), and in the alternative, Plaintiff seeks certification under Rule 23(b)(3).

17. Common questions of law and fact exist as to all members of the Class and Sub-Class, and predominate over any questions that affect only individual members of the Class and Sub-Class. These common questions include: whether Defendant's written and/or *de facto* policy of conducting uniform strip searches on all individuals charged with non-indictable offenses or other minor crimes is a violation of New Jersey law; whether Defendant's written and/or *de facto* policy of conducting uniform strip searches on all individuals charged with non-indictable offenses or other minor crimes prior to their

appearance before a judge or judicial officer and/or before they have a reasonable opportunity to make bail is a violation of the Fourth and Fourteenth Amendments to the United States Constitution; whether the Defendant's local jail is capable of housing pre-arraignment detainees in separate quarters from the general population pending their arraignment; and whether such written and/or *de facto* policies existed during the Class period.

18. A Class action is superior to other available methods for the fair and efficient adjudication of this controversy, since joinder of all of the individual members of the Class is impracticable given the large number of members of the Class, and the fact they are dispersed over a large geographical area. Furthermore, the expenses and burden of individual litigation would make it difficult or impossible for individual members of the Class to redress the wrongs done to them. The cost to the federal court system of adjudicating thousands of individual cases would be enormous. Individualized litigation would also magnify the delay and expense to all parties and the court system. By contrast, the conduct of this action as a Class action in this District presents far fewer management difficulties, conserves the resources of the parties and the court system, and protects the rights of each member of the Class.

19. Upon information and belief, there are no other actions pending to address the Defendant's flagrant violation of the civil rights of thousands of individuals, even though upon information and belief the Defendant has maintained its illegal practices for several years.

20. In the alternative to certification under Fed. R. Civ. P. 23(b)(3), Plaintiff also seeks partial certification under Fed. R. Civ. P. 23(c)(4).

FACTS

Facts Applicable to the Non-Indictable Strip Search Class and Non-Indictable Strip Search Sub-Class

21. The New Jersey Strip Search Statute, N.J.S.A. 2A:161A-1, provides that “[a] person who has been detained or arrested for commission of an offense other than a crime shall not be subjected to a strip search unless,” among other things, “a. The search is authorized by a warrant or consent; [and] b. The search is based on probable cause that a weapon, controlled dangerous substance” The phrase “offenses other than a crime” refers to charges that are not indictable under New Jersey law.

22. The New Jersey Statute delegates to the New Jersey Attorney General authority to issue strip search Guidelines. N.J.S.A. 2A:161A-8b. The guidelines for strip searching detainees are directed at persons not arrested for crimes, and so includes all persons as identified in the Strip Search Class Definition above, *i.e.*, all persons arrested/detained on non-indictable matters who were strip search both prior to and after being seen by a judge. Under New Jersey State law, including the Attorney General Guidelines, an Officer in Charge must authorize the Strip Search and there must be a search warrant and/or voluntary consent or reasonable suspicion the person is concealing a weapon, contraband or controlled dangerous substances.

23. Moreover, the Fourth Amendment of the United States Constitution prohibits the blanket strip searches of detainees who have neither been arraigned nor provided with a reasonable opportunity to post bail, as does Article 1, paragraph 7 of the New Jersey Constitution.

25. Upon information and belief, Camden County has sufficient housing and/or booking capacity to hold pre-arraignment detainees separate from the Camden County

Correctional Facility's general population prior to their arraignment. In the alternative, the Defendant can, with limited effort and expense, modify the physical plant at the Camden County Correctional Facility to provide sufficient space to hold pre-arraignment detainees separate from the Jail's general population pending their arraignment.

27. Camden County's policies, practices, and customs, as addressed above, are both offensive and absurd—not to mention unlawful—considering that many class members have not been arraigned and/or have not been given an opportunity to post bail on minor offenses. Defendant's written and/or *de facto* policies, practices and customs mandating the blanket strip searches of detainees has been promulgated, effectuated and/or enforced in bad faith and contrary to clearly established law.

28. Pursuant to these written and/or *de facto* policies, each member of the Non-Indictable Strip Search Class, including Plaintiff, was the victim of a routine, compulsory blanket strip search upon their entry into the Camden County Correctional Facility. These strip searches were conducted without inquiry into or establishment of reasonable suspicion as to whether the Class Members harbored contraband, and in fact were not supported by reasonable suspicion. These strip searches have been conducted on individuals arrested for, among other innocuous offenses, driving while intoxicated, driving with a suspended license, harassment, non-payment of child support and trespassing.

29. As a direct and proximate result of the blanket strip searches conducted pursuant to these written and/or *de facto* policies, the victims of the unlawful practices – each member of the Class, including Plaintiff – has suffered or will suffer psychological pain, humiliation, suffering and mental anguish.

Facts Application to the Named Plaintiff Isrel Dillard

30. Plaintiff Isrel Dillard resides in Camden County, New Jersey. On or around November 4, 2018, Mr. Dillard was arrested on family law charges of willful nonsupport. Mr. Dillard has been admitted to the Camden County Correctional Facility on several occasions prior to the filing of this action, and was subjected to the same procedures detailed herein.

31. The circumstances of Mr. Dillard's arrest was void of any reasonable suspicion to believe that he was secreting a weapon or contraband in a private area.

32. Upon Mr. Dillard's arrival at Camden County Correctional Facility, Camden County Correctional Facility employees strip searched Mr. Lazaro. Specifically, an officer required Mr. Dillard to submit to a full strip and visual cavity search shortly after his admission to the Camden County Correctional Facility. Mr. Dillard had not seen a judicial officer prior to being admitted to the Camden County Correctional Facility, nor did he see a judicial officer prior to being strip searched.

33. Mr. Dillard was released two days later, on November 6, 2017, before seeing a judge. Upon information and belief, Mr. Dillard's child support warrant was issued in error, and he was released accordingly.

CAUSES OF ACTION

FIRST CAUSE OF ACTION AGAINST CAMDEN COUNTY

Strip Search in Violation of Fourth Amendment Rights (On behalf of the Non-Indictable Strip Search Sub-Class)

34. Plaintiff incorporates by reference and realleges each and every allegation stated herein.

35. The Fourth Amendment of the United States Constitution protects citizens from unreasonable searches and seizures by law enforcement officers, and prohibits officers from conducting blanket strip searches, especially strip searches performed on individuals who have been arrested for non-indictable offenses, and have not been arraigned or been provided with a reasonable opportunity to post bail. The Fourth Amendment also requires corrections officials to conduct any such searches only when supported by reasonable suspicion to believe a detainee has contraband secreted in a private area. The Fourth Amendment also protects citizens from being strip searched in a manner that is abusive and intentionally humiliating, including when those strip searches are conducted in the presence of other detainees.

36. The actions of Defendant detailed above violated the Plaintiff's rights under the United States and New Jersey Constitutions. Simply put, it was not objectively reasonable for Camden County Correctional Facility personnel to engage in blanket strip searches of detainees prior to their arraignment, or prior to their being provided with a reasonable opportunity to post bail. In short, it was completely unnecessary, as well as legally unjustifiable, for Defendant to require its corrections officers to engage in the mandatory strip searches of detainees who were not provided with an opportunity to post

bail, and where reasonable suspicion was not otherwise present. It is also completely inappropriate for these searches to be conducted in view of other detainees.

37. This strip search regimen was conducted pursuant to the policy, custom or practice of Camden County. As such, Camden County is directly liable for the damages of Plaintiff and members of the Class.

38. Defendant Camden County is responsible for establishing the strip search procedures utilized in the Camden County Correctional Facility, and is further responsible for the implementation of written policies at these facilities.

39. This conduct on the part of Defendant represents a violation of 42 U.S.C. § 1983, given that the actions of the Camden County Correctional Facility personnel were taken under color of state law.

40. As a direct and proximate result of the unconstitutional acts described above, Plaintiff and the members of the Strip Search Sub-Class have been irreparably injured.

SECOND CAUSE OF ACTION AGAINST CAMDEN COUNTY

Strip Search in Violation of New Jersey Law (On behalf of the Non-Indictable Strip Search Class)

41. Plaintiff incorporates by reference and realleges each and every allegation stated herein.

42. The New Jersey Strip Search Statute, N.J.S.A. 2A:161A-1, as enforced by N.J.S.A. 10:6-2(c), provides that “[a] person who has been detained or arrested for commission of an offense other than a crime shall not be subjected to a strip search unless,” among other things, “a. The search is authorized by a warrant or consent; [and] b. The

search is based on probable cause that a weapon, controlled dangerous substance . . . ” is present.

43. The New Jersey Statute delegates to the New Jersey Attorney General authority to issue strip search Guidelines. N.J.S.A. 2A:161A-8b. The guidelines for strip searching detainees are directed at persons not arrested for crimes, and so includes all persons as identified in the Strip Search Class Definition above, *i.e.*, all persons arrested/detained on non-indictable matters who were strip searched both prior to and after being seen by a judge. Under New Jersey State law, including the Attorney General Guidelines, an Officer in Charge must authorize the Strip Search and there must be a search warrant and/or voluntary consent or reasonable suspicion the person is concealing a weapon, contraband or controlled dangerous substances.

44. The actions of the Defendant as detailed above violated Plaintiff’s and the members of the Strip Search Class’s rights under, *inter alia*, the New Jersey Strip Search Statute, N.J.S.A. 2A:161A-1 *et. seq.*, and the Attorney General Guidelines. The strip searches were conducted despite that fact that there were no search warrants, voluntary consent or reasonable suspicion that the individuals in question were concealing a weapon, contraband, or dangerous controlled substances.

45. It was not objectively reasonable for Defendant to have a blanket policy ordering/directing/training Camden County Correctional Facility personnel to conduct such searches on detainees held on non-indictable offenses absent a commanding officer’s authorization upon a warrant, consent, or reasonable suspicion.

46. Plaintiff and the Strip Search Class he seeks to represent were strip searched pursuant to a policy, custom, or practice of Camden County. As such, Defendant is directly liable for the damages of Plaintiff and members of the proposed Class and Subclass.

47. Defendant and/or its agents or employees and knew that the above described strip-search policy was illegal, and acted willfully, knowingly, and with specific intent to deprive Plaintiff and the members of the Strip Search Class of their statutory rights.

48. As a direct and proximate result of the unconstitutional acts described above, Plaintiff and the members of the Strip Search Class have been irreparably injured.

DEMAND FOR TRIAL BY JURY

49. The Plaintiff hereby demands a trial by jury.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Isrel Dillard, on behalf of himself and on behalf of others similarly situated, request that this Honorable Court grant them the following relief:

1. An order certifying this action as a Class Action pursuant to Fed. R. Civ. P. 23.

2. A judgment against Defendant Camden County on the Causes of Action detailed herein, awarding compensatory damages to Plaintiff and each Member of the Proposed Class in an amount to be determined by a jury and/or the Court on both an individual and a Class-wide basis.

3. A declaratory judgment against the Defendant declaring the Defendant's policies, practices and customs to be unconstitutional, violative of New Jersey law, and otherwise improper.

4. A preliminary and permanent injunction enjoining the Defendant from continuing to enforce its unconstitutional and unlawful policies, customs, and practices.

5. A monetary award for attorneys' fees and the costs of this action, pursuant to 42 U.S.C. § 1988, the New Jersey Civil Rights Act, and Fed. R. Civ. P. 23.

Respectfully Submitted By:

/s Elmer Robert Keach, III

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