

DANE COUNTY COURTHOUSE
213 CITY-COUNTY BUILDING
210 MARTIN LUTHER KING JR. BLVD.
MADISON, WIS. 53709

Civil Action

CASE NO. 02-CV-1057

Code No. 30707, 30701

MEMORANDUM OF LAW

Honorable

Before proceeding with the enclosed - Petition it must be clarified that the court in its Review must take Judicial Notice and Judicial Review and Statutory Requirement, pursuant to ss. 227.40 Wis. Stats., when offered on demand, therein, or is prescribed, wherein ss. 801.02(5) Wis. Stats. allows the additional option of using an order to shorten the time for filing a Response to the complaint in lieu of Summons.

This option is for emergency situation when the case may be moot before a Response would be fixed - (Plaintiff - Petitioner's herein request that court issue order for the Defendants - Respondents to Respond within 15 days lesser than time fixed.)

Wherein the Plaintiffs - Petitioners have a protected right to procedure due process where Regulation Framework governing the ~~scope~~ administration of a state Prison, in giving rise to a right to due process by going beyond simple procedural guidelines and by using language of an unmistakably character requiring that certain procedure must be employed.

Whereby Plaintiffs-Petitioner's has been afforded the ~~statutory~~ statutory right to commence this petition of writ of certiorari in conjunction with a civil action pursuant to 42 § U.S.C. 1983, as mandated under ss. 781.01 Wis. stats.

ADMINISTRATIVE REMEDIES EXHAUSTION

The Plaintiffs-Petitioner's contends that they have exhausted their administrative remedies on Doc complaint no. # SMC I-2000-29942, Doc complaint no. # SMC I-2000-36792, Doc complaint no. # SMC I-2000-28899, Doc complaint no. # SMC I-2000-33425, Doc complaint no. # SMC I-2000-15543, Doc complaint no. # SMC I-2000-13522, Doc complaint no. # SMC I-2000-30935, Doc complaint no. # SMC I-2000-13424, Doc complaint no. # SMC I-2000-30605, Doc complaint no. # SMC I-2001-8553, Doc complaint no. # SMC I-2001-9428, Doc complaint no. # SMC I-2001-8855, Doc complaint no. # SMC I-2001-13904, Doc complaint no. # SMC I-2001-24266, Doc complaint no. # SMC I-2001-11458, Doc complaint no. # SMC I-2001-33480.

All complaints have been to both ICE and CEE - secretary of Doc and any issue not so exhausted are not required as they have been brought either in past complaints before the (ICRS) inmate complaint review system and re-filing them would be futile... see: TRATE-US-ZUNKER 550 N.W. 2d. 141 (Wis. App. 1996)

That the Plaintiffs-Petitioner's have filing by certified mail the attached NOTICE OF CLAIMS to the Attorney General office on 10-16-00, 7-11-00, 1-10-02, etc. Thereby having fully exhausted all their administrative

Remedie's and Neaby brings forth this civil action for Redress.

Dated 30th day of April, 2002

subscribed and sworn to before me
on 30 day of April, 2002
Supreme N. Mann
Notary Public/State of Wisconsin
My Commission Expires: 8/28/05,

Respectfully Submitted

Tom G. Mera/Weather
151 Tom G. MERA/WEATHER #188123

Steven D. Stewart
151 STEVEN D. STEWART #143599

William Medina
151 William Medina #125988

Calvin Banks
151 CALVIN Banks #121575

Rufus L. Lynch
151 RUFUS L. LYNCH #273158

Eric M. Washington
151 ERIC M. WASHINGTON #242170

David Hudson
151 DAVID HUDSON #147930

Glenn Owens
151 GLENN OWENS #257673

Christopher J. Scarver
151 CHRISTOPHER SCARVER #241452

State of Wisconsin circuit court DANE COUNTY

Tony G. MARIWEATHER; STEVEN D. STEWART, William
MEDINA, CALVIN BANKS, RUFUS L. LYNCH, ERIC M.
WASHINGTON, DAVID HUDSON, GLENN OWENS,
CHRISTOPHER SCARVER and all those similar
situated inmates

Plaintiffs - Petitioners

(SUMMONS)

-VS-

CASE NO. 02-CV-1057

CODE NO. 30707, 30701

Gerald BERGE - Warden, Vickie SHARPE -
Program Director, Jolene MILLER - NURSE,
Pamela BRATTES;

SUMMONS

State of Wisconsin to:

To each Person named as Defendants - Respondents:

Gerald BERGE - Warden, Vickie SHARPE - Program
Director, Jolene MILLER - NURSE, Pamela
BRATTES, 1101 Morrison Dr., P.O. Box 1000
Boscobel, Wis. 53805-1000

You are hereby notified that: The Plaintiffs - Petitioners' named
above has filed a lawsuit or other legal action above against
you. The complaint which is attached states the nature
and basis of the legal action...

Within 45 day of receiving this summons
you must respond with a written answer, as that term
is used in chapter 802 of the Wisconsin statutes
to the complaint.

The court may reject or disregard an
answer that does not follow the requirements of the
statutes.

The answer must be sent or delivered to the court
whose address is Dane County Courthouse, 213 City-County

Building, 210 Martin Luther King Jr. Blvd., Madison, Wis. 53709 and to the Plaintiffs - Petitioners' who address is Supermax Correctional Institution P.O. Box 9900, Joscobet, Wis. 53805-9900...

You may have an attorney help or represent you. IF you do not provide a proper answer within 45 days, the court may grant judgment against you for the award of money or other legal actions requested in the complaint and lose your right to object to anything that is or maybe incorrect in the complaint...

A judgment maybe enforced as proposed by law. A judgment awarding money may become enforced as provided by law or a lien against any real estate you own now or in the future and may, also be enforced by property or garnishment...

Dated 30th day of April, 2002

Respectfully submitted

Jeff G. Merrinweather
1st Jeff G. Merrinweather #188123

Steven D. Stewart
1st Steven D. Stewart #143599

William Medina
1st William Medina #125928

Calvin Banks
1st Calvin Banks #121575

Rufus L. Lynch
1st Rufus L. Lynch #2731

Eric M. Washington
1st Eric M. Washington #242170

David Hudson
1st David Hudson #147930

Glenn Owens
1st Glenn Owens #257673

Christopher A. Scarnor
1st Christopher Scarnor #241452

State of Wisconsin

Circuit Court

DANE COUNTY

Tony G. McEwen, Steven D. Stewart, William Medina, Calvin Banks, Eric M. Washington, Rufus L. Lynch, David Hudson, Christopher Scarver, Glenn Owens and all those similarly situated inmates

Plaintiffs - Petitioners

-VS-

CASE NO. 01-CU-1057

Gerald Berge, Vicki Sharpe, Tolene Miller, Pamela Bentley

Defendant(s) - Respondent(s)

First Amended Complaint

The Plaintiffs - Petitioners and those similarly situated inmates, in the above action commence this civil action against the Defendant(s) - Respondent(s) in their individual and personal capacities for acts and omissions consistent with ss. 801.05 (2)(3) Wis. Stats., Title 42 § U.S.C. 1983, in conjunction with extraordinary writ of certiorari and writ of mandamus, per. 781.01 Wis. Stats. Wisconsin Common Law and ss. 806.04 Wis. Stats. contrary to their ministerial duties to their office and employment acting under color of law and as a result the Plaintiffs - Petitioners (hereinafter as "Petitioners") all persons and properties were injured thereby...

Costs of providing security for such fees and costs pursuant to ss. 814.29 (1) Wis. Stats. from the affidavits of indigency accompanying the Plaintiff's proposed complaint should be concluded that the Plaintiff is unable to pay the costs and fees of instituting this civil action.

LEGAL CORRESPONDENCE

Jurisdiction

This Court pursuant to Title 28 U.S.C. § 1343(2)(2)(3) Article 7 & 8 Wis. Const. in issuing a 42 § U.S.C. 1983, with article 3 § 2, cl. #1 U.S.C. in conjunction with ss. 781.01 Wis. Stats. & 783.01 ss. 783.08 Wis. Stats. and ss. 803.08 Wis. Stats., the Court shall exercise its judicial Powers over all cases arising under the United States Constitution and Laws of this Land, affecting Persons and things.

Preliminary Statement

This is a action brought pursuant to 42 U.S.C. § 1983, seeking Punitive, Declaratory Judgment, compensatory and injunctive Relief on behalf of Prisoners confined at the Supermax Correctional Institution ("SMCI") in Roscoe, Wisconsin. This action alleges that by housing prisoners at SMCI, Defendants-Respondents (hereinafter as "Defendants") are knowingly subjecting them (Plaintiffs) to conditions that constitute cruel and unusual punishment in violation of 8th and 14th amendments, Deprives Plaintiffs of Due Process and Equal Protections of Law under 4th, 5th, 6th and 14th Amendment U.S.C., Deprives plaintiffs of Freedom of speech, expression, Association, Press and Free Exercise of Religion under 1st amendment U.S.C. and under the Religious Land & Institutionalized Persons Act, 42 § U.S.C. § 2000 cc et. seq. and Deprivations of Right under United Nation Minimum Standard - Treatment of Prisoners - Bill of Rights and Wisconsin Constitution & Laws.

Plaintiffs - Petitioners

Tony G. Meadweather, Steven D. Stewart, William Medina, David Hudson, Calvin Banks, Eric M. Washington, Rufus L. Lynch, ~~Christopher Scarver~~ Christopher Scarver and those similar situated inmates, having had their 1st, 4th, 5th, 6th, 8th & 14th amendments Rights U.S.C. Violated who are a naturally born Persons and Residents of the United States, Residing at Supermax Correctional Institution P.O. Box 9900, Roscoe, Wisconsin 53805-9900 and whose mailing address is the same;

DEFENDANTS - RESPONDENTSGerald Berge - Warden, Mickie Shugre - Program Director

• both citizens of the United States, employed by the State of Wisconsin Dept. of Corrections and responsible for the discipline, safety, and welfare of all residents of adult prisoners at Supermax Correctional Institution P.O. Box 1000, 1101 Morrison Dr., Moscobel, Wisconsin 53805-1000, whose mailing address is the same;

Jolene Miller - nurse, Pamela Knapp - nurse supervisor,

both citizens of the United States, employed through private contractor Michael Catalano of Prison Health Services at 105 West Park Dr., Brentwood, Tenn. 37027, by contract with the Wisconsin Dept. of Corrections responsible for the medical care and health of all residents and prisoners at Supermax Correctional Institution, and nurses' address being that of Supermax Correctional Institution P.O. Box 1000, 1101 Morrison Dr., Moscobel, Wisconsin, 53805-1000

STATEMENT OF FACTS

1.) SMC I is a 509-bed facility located in Moscobel, a remote, rural town in western Wisconsin, approximately 2 hours from Madison and 3 1/2 hours from Milwaukee. Well over half of the prisoners at SMC I come from Southeastern Wisconsin.

There is no public transportation to Moscobel.

It is very difficult for families to visit prisoners at SMC I.

- 2.) SMCI opened in November 1999 and currently house's approximately 365 prisoners. The Dept. of Corrections did not request, nor identify a need for SMCI to be built. Rather, SMCI was the result of a poor policy and political decision by the Dept. of Administration.
- 3.) African-American prisoners are grossly over-represented at SMCI. The population of SMCI is 61% African-American, while the General Wisconsin state prison population is 46% African-American.
- 4.) According to SMCI's mission statement, it is designed to house prisoners who demonstrate "serious behavioral problems" and provide them the opportunity to acquire skills needed for their integration into the General Prison Population. However, most of the prisoners at SMCI have not demonstrated "serious behavioral problems" and for those who do, SMCI offers no programs which provide them with the skills to reintegrate into other institutions.
- 5.) A prisoner may spend years or even decades, subjected to the conditions described in this complaint and may not be released from SMCI until his mandatory "Release" date.

CONDITIONS OF CONFINEMENT

- 6.) Conditions at SMCI are designed to subject prisoners to almost total social isolation and sensory deprivation.
- 7.) Prisoners are locked in their cells for 24 hours a day, although some prisoners have their cells up to 4 hours per week. The cells are made of concrete walls and a solid "boxcar door." The cells have no windows. Prisoners never see the outdoors during their incarceration at SMCI.

8.) Prisoners at SMC I receive no outdoor exercise, and indeed are never permitted to go outside at all. The only exercise space accessible to prisoners is a windowless concrete cell in which the temperature is the same as that of the outside air. This cell contains little or no exercise equipment. Before a prisoner enters and after they ~~leave~~ exit the recreation cell, they are subjected to a strip search. Because conditions are so harsh, many prisoners choose not to use the recreation cell and simply remain locked in their cells 24 hours a day.

9.) Many prisoners at SMC I are allowed only 1-6 minute telephone calls per month.

10.) Prisoners at SMC I are permitted no family or other personal visits, except "video visits," in which the prisoner and his visitor see each other only on a video screen, which provides distorted, delayed and poor quality images. Due to the remote location of SMC I and the burdensome requirements SMC I imposes on visitors, many prisoners do not even receive these "video visits." Wisconsin Dept. of Corrections (WDoc) has the technology to provide distance visiting by video, which would allow families to visit a prisoner without traveling to SMC I, but has failed to provide that option to families of detainees in its use thereof.

11.) Prisoners' cells are fully illuminated 24 hours a day, and prisoners are instructed to sleep with their heads (under) facing the lights without covering their heads. Those who do not comply are awakened hourly throughout the night by security staff. These conditions result in chronic sleep deprivation, as well as physical symptoms including chronic headaches, blurred vision, eye pain and psychological symptoms including chronic ~~depression~~ confusion and depression.

Whereas the Plaintiff's Tony G. McQuinn, Steven D. Stewart, William Medina, Rufus L. Lynch, David Hudson, Glenn Owens, ~~and~~ Calvin Branks and Christopher Scavage, have all undergone chronic sleep deprivation due to extreme lights and has had to under-take Benadryl or other medications to help them sleep, which does not help the Plaintiff against the 24 hour lights per day which violates the Plaintiff's 8th Amendment U.S.C. Rights against cruel, unusual and corporal punishment causing the Plaintiff's mental anguish, emotional distress and the notion of Psychological harm, being subjected to the 24 hour lights on in their cells.

The Plaintiff's have all been subjected to all the conditions set forth above and has suffered physical injury, and Psychological Pain as a result.

12.) That Defendant's Gerald Berge and Vickie Sharpe have arbitrarily enforced the (SMCI) Supermax Correctional Institution, Policy and Procedure No. # 300.00, upon the Plaintiff's which violates the Plaintiff's McQuinn, Stewart, Medina, Branks Lynch, Washington, Hudson, Owens and Scavage 1st, 4th, 5th, 6th, 8th and 14th Amendment U.S.C. Rights, whereby it imposes punishment upon the Plaintiff's without providing Plaintiff's with the minimum amount of due process requirements vested in Wolff - vs - Mc Donnell, 418 U.S. 539 (1974). Whereas Defendant failed to follow their own Rule, pursuant to DOC 309.20 (1)(3) (a) Wis. Adm. Code, to have SMCI Policy # 300.00 be approved by Wisconsin Dept. of Corrections Administrator prior to it being enforced upon Plaintiff's, whereby Defendant's SMCI Rule # 300.00 allows the Plaintiff's properties and privileges to be taken without prior hearing being provided,

13.) That Defendant's actions in promulgating and enforcing SMCI Policy and Procedure No. # 300.00 requiring inmate's in administrative confinement (hereinafter as "A.C.") status, at a minimum of seventeen (17) months, prior to being removed from A.C. status and the extreme conditions

OF CONFINEMENT AT SMCZ, WHICH CONSTITUTES AN intentional violation of Plaintiff's Right to Procedural Due Process as Guaranteed by article I, section #1 (and equality) of the Wisconsin constitution. The statute's Laws and Regulations of the State of Wisconsin and Doc 308.04 (6) (10) Wis. Adm. Code, and the Liberty Interest created therein to the Plaintiff's MERRIWETHER, STEWART, MEDINA, LYNCH, WASHINGTON, OWENS, BRANKS, and SCARVER;

14.) That Defendant's actions in using the (SMCZ Rule # 300.00) Warning - level system as a ~~such~~ vehicle of punishment on non-punitive status "A.C." Plaintiff's, in ways that directly affect the Plaintiff's access to Properties and Privileges and Amenities that allowed to Plaintiff's under Doc 308.04 (12) (b) Wis. Adm. Code in their assigned area, regardless of the level they on. By using ~~warnings~~ warnings to prevent level increase's or to demote Plaintiff's in lower levels and to affect the evaluations of the Plaintiff's Administrative confinement Review Hearings' decisions, without providing Plaintiff's any opportunity to Due Process to contest the warnings or be notified of having received such a warning and to affect the length of time the Plaintiff's all will spend at SMCZ, constitutes intentional violations of the Plaintiff's MERRIWETHER, STEWART, MEDINA, LYNCH, WASHINGTON, OWENS, BRANKS, and SCARVER Rights to Due Process and Equal Protection as Guaranteed by article I, section #1 of the Wisconsin constitution. The statute's Laws and Regulations of the State of Wisconsin and the Liberty Interest created therein;

15.) That the Defendant's ~~arbitrary~~ arbitrary subjecting the Plaintiff's to the arbitrary punitive level - warning system that was not legally promulgated nor approved by (W.D.O.C.) Wisconsin Dept. of Corrections administrator prior to implementation upon the Plaintiff's MERRIWETHER, STEWART, MEDINA, BRANKS, WASHINGTON, OWENS, HUDSON, SCARVER, as mandated by Doc 309.20 (1) (3) (a) Wis. Adm. Code and the punitive restrictions sanctions for warnings for Plaintiff's, depriving Plaintiff's of Equal Protection when inmates in the same "A.C." at other Wisconsin maximum penal institutions are not being subjected to the same punitive restrictions of Property, Privileges and Amenities for warnings, that are allowed to

Plaintiffs in their assigned locations - AREAS and when other inmates in same A.C. status in the same location or near at same time allowed such Properties, Privileges and amenities, and when other inmates at same time by virtue of being on "level 5" in the same level system, receive such Properties constitute a violation of Plaintiffs equal protection Right per. Article I, section #1 Wis. Constitution, and the statutes, Laws and Regulations of the state of Wisconsin

16.) That Defendant's arbitrary actions in creating and enforcing same Policy + Procedure # 300.00 level-warning system, without legislative authority failed to properly promulgate the Rule pursuant to either ch. ss. 227 Wis. stats. and Doc 309.20 (1)(3)(a) Wis. Adm. Code. and whereby the arbitrary Rule #300.00 directly affects the correct interpretation and application of the Procedures, Chapter and Due Process and equal protection vested in ch. Doc 302, Doc 308 Wis. Adm. Code, and ss. 302.08 Wis. stats. and its imposition and sanctions upon Plaintiffs violates the Due process and equal protection of the plaintiffs Messinweather, Stewart, Medina, Lynch, Owens, Washington, Banks, Hudson, Scriver and those similar situated inmates noted in article I, section #1 Wis. Const. article #1, section #17 (2) Wisconsin constitution, the statutes, Laws and Regulation of the state of Wisconsin and the Liberty interest created therein...

17.) That the Defendant's hodge - sodge implementation + enforcing of the same policy # 300.00, has subjected the Plaintiffs Messinweather, Stewart, Medina, Banks, Owens, Lynch, Hudson, Washington, Scriver and those "A.C." similar situated inmates confined at same time to Prolong social isolation, perceptual and sensory as well as sleep deprivations in violation of Plaintiff 8th Amendment U.S.C.; Article #1, sec. #6 Wisconsin constitution and ss. 302.08 Wis. stats. against cruel, unusual and corporal punishment wherein Plaintiffs can be subjected to longer stay in level system or promoted to certain level's based upon warnings received causing Plaintiff to stay in social isolated conditions which is contrary to the Plaintiffs stated reported Liberty interest against subjecting to Prolong social isolation as mandated pursuant to Doc 308.04 (3) - appendix, especially wherein the

Plaintiffs have been subjected to extreme periods of social isolation in administrative confinement ranging from 1-8 years, violating rights vested in *Walker-vs-Shinsky*, 28 F.3d. 666 (7th Cir. 1994) *Merrillweather-vs-Faulkner*, 821 F.2d. 408 (7th Cir.) cert. denied 484 U.S. 935 (1987)

18.) That the Defendants BEIGE - Sharpe arbitrary implementation & enforcement of SMC I Level - Warning system #300.00 deprives the Plaintiffs of their equal protection & due process rights, whereas under the level - warning system the Plaintiffs may be deprived of the participation in the rehabilitative, educational or religious programs that are needed for Plaintiffs to ~~return~~ be reintegrated back into General Prison Population as was the alleged purpose for sending Plaintiffs to SMC I in the first instance. Whereas, the Plaintiffs are all subjected to deprivation of such programs if they are not on a certain level or receive warnings causing them not to be on a certain level under SMC I Policy #300.00 thereby depriving Plaintiff of participating in any rehabilitative, educational or religious programs thereby violating Plaintiffs 1st, 8th & 14th amendment U.S.C. Rights. Article I section 1 Wisconsin constitution. DOC 308, 04 (p) Wis. adm. code. Rehabilitation Act 29 U.S.C. (8) 794 and the minimum amount of due process and equal protection as mandated in *CANTERINO-vs-Wilson*, 546 F. Supp. 174 (1982), *Madrid-vs-Gomez*, 889 F. Supp. 1146 (1995), in violation of Human Rights section # H-34, no. #41-42, #78-81, # H-35 no. #1, #6 #7, standard minimum rules for treatment of prisoners and basic Principles for the treatment of prisoners and United Nation constitutional declarations; whereby Defendants have arbitrarily violated Plaintiffs *Merrillweather*, *Stewart*, *Medina*, *Lynch*, *Washington*, *Hudson*, *Banks*, *Owens*, *Scarver* rights thereby subjecting them to a punitive means of confinement contrary to legislative intent vested under ch. DOC 308 Wis. adm. code to operate in a non-punitive manner;

19.) That the Defendants BEIGE - Sharpe arbitrary implementation and enforcing of SMC I Policy & Procedure deprives the Plaintiffs *Merrillweather*, *Stewart*, *Medina*, *Lynch*, *Washington*, *Owens*, *Hudson*, *Banks*, and several of the minimum due

PROCESS AND Equal Protection Vested in NW ROC AND HOME-US-DEPT OF HEALTH, 546 NW 2d 562 (Wis. App. 1996), whereas the same Policy + Procedure #300-00 Level-Warning system decision-makers ARE bias and impartial whereas many of them are individuals who have previously or currently recommended Plaintiffs to be kept or placed in administrative confinement and continues to conduct both the Plaintiff's administrative confinement review hearings decisions, the Plaintiff level promotion/demotion assessments, program review hearings decisions, custody/classification evaluations, and every aspect of Plaintiff's prison life, thereby depriving Plaintiff's all of fair and unbiased/impartial level review or advancements or release from administrative confinement.

Whereas several of the Plaintiff's have been denied, retained and kept at certain levels without justifications by bias + impartial staff at same even were Plaintiff's have committed no rule violations or received warnings and have participated in all required programs and maintain good behavior/conduct there by subjecting the Plaintiff's to discriminatory and bias decision makers who seek vindictiveness against Plaintiff's for their doc employed colleagues thereby depriving Plaintiff's of equal protection and fair hearing decisions and evaluations in violation of article I, section #1 Wisconsin Constitution, the statutes, laws and regulations of the state of Wisconsin and the liberty interest created therein.

20.) That the Defendants BEAGE, has arbitrarily imposed a Policy/Rule that violates the Plaintiff's Marion, Stewart, Medina, Lynch, Hudson, Washington, Banks, Owens, Scriver and those similar situated inmates at same 1st and 14th amendment U.S.C. Rights of FREEDOMS OF SPEECH, ASSOCIATION, EXPRESSION, PRESS, and the FREE EXERCISE OF RELIGION and the Religious Land and Institutionalized Persons Act, 42 § U.S.C. § 2000cc et seq. and Human Rights #H-34 no. #37, #39, #41 #H-35 no. #6, #8 standard minimum Rules for the treatment of prisoners and BASIC Principles for the treatment of prisoners United Nations Constitutional Declaration Rights and the minimum DUE PROCESS

* Equal Protection of Law Mandated in *Pacurina vs. Martinez*, 94 S.Ct. 1800, 416 U.S. 396, 40 L.Ed. 2d. 224 (1974), *Stone vs. Schmidt*, 398 F. Supp 768 (E.D. Wis. 1974), ~~Shaw~~ and *Montcalm Publishing Corp. vs. Beck*, 80 F.3d. 105 (7th Cir. 1996), whereas, the Defendant's having issued a "Blanket Policy" requiring Plaintiffs all to leave all their out-going mail to Family, Friends; etc. left opened for the smcI staff to monitor, which as a result of this arbitrary mail policy Plaintiffs have had all of their personal mail fully read by staff who have made comments on inmates' relationships and who have refused to deliver mail and who have censored certain words and phrase Plaintiffs have attempted to express to the family, friends or love ones through the U.S. mail, wherein such blanket mail policy and censorship of Plaintiffs' mail is done regardless if prisoner has been suspected of mail violation and regardless of whether smcI officials have probable cause or reason to believe that a prisoner is attempting to send out contraband or commit a rule violation; whereby such policy and practices by smcI officials are being done without any penological security interest whereas the Plaintiffs' free exercise of Religion is also infringed upon whereas Plaintiffs' can not make their confidential religious confession to their respective clergy, pastor, imams, priest's etc. without being subjected censorship and unlawful invasion of their religious privacy;

21.) That all the Plaintiffs at smcI are subjected to extreme cold temperatures during the winter and extreme hot temperatures as smcI has no proper ventilation system and leaves the Plaintiffs exposed to the elements of the outside temperature which are increased in the confinements of the Plaintiffs' cell; and due to the poor temperature control at smcI the Plaintiffs too Milwaukee, Stuart, Medina, Owens, Lynch, Washington, Banks, Hudson, Scarver have been subjected to cruel & unusual punishment in violation of 8th amendment U.S.C. ss. 302.08 Wis. stats. and article I, sec. 6 Wis. constitution

by the Defendant Gerald Beage; and as a result the Plaintiffs have all been subjected to suffer physical injury and psychological pain as a result of Defendant's disregard for their health.

Medical, Mental Health and Dental Care

22.) Medical, mental health and dental care at SMCI are wholly inadequate. An October 2000 Report by the National Commission on Correctional Health ~~and~~ Care ("NCHC") noted a "backlog of mental health and dental request." The Reporter further noted that there were many grievances filed by prisoners "due to serious issues regarding delayed dental and psychiatric services and in general being denied medical treatment." The Report also noted a "great deal of nursing staff turnover" and observed that there was no continuous quality improvement ("CQI") program for health services at SMCI.

Medical Care

23.) Medical care at SMCI is systematically inadequate. According to a May 2001 Report by the Wisconsin Legislative Audit Bureau ("Legislative Audit") over one-quarter of SMCI prisoners suffer from a chronic illness. Defendants have failed to provide the medical staff and other resources to properly care for the serious medical needs of these chronically ill prisoners.

24.) Medical care at SMCI is provided by a private for-profit contractor. The legislative audit concluded that this contractor has not provided the medical services contracted for at SMCI.

25) AS A RESULT OF INADEQUATE MEDICAL STAFFING OF DEFENDANT'S DELIBERATE INDIFFERENCE, PRISONERS AT SOME DO NOT RECEIVE NECESSARY TREATMENT FOR PAINFUL, DEBILITATING AND SOMETIMES LIFE-THREATENING CONDITIONS.

26.) PLAINTIFF TONY G. MERRIWEATHER, SINCE HIS ARRIVAL ON FREQUENT OCCASIONS AT SOME HAS EXPERIENCE LARGE AMOUNTS OF BLOOD IN HIS FEES AND HAS FOUND IT VERY DIFFICULT TO BREATHE IN THE SOME CELLS AND MEDICAL STAFF HAS PROVIDED INADEQUATE TREATMENT OR NO TREATMENT FOR THE PLAINTIFF'S MEDICAL PROBLEMS.

27.) THAT ALL PLAINTIFFS HAVE BEEN FORCED TO TAKE TUBERCULOSIS SKIN TEST UNDER THE THREAT OF PUNISHMENT OR LOSS OF PROPERTY AND PRIVILEGES BY DEFENDANT BEGGE, MILLER, AND BEATTIE, ESPECIALLY THE PLAINTIFF MERRIWEATHER ON 5-11-00 WAS FORCED UNDER THREAT OF PUNISHMENT AND LOSS OF PROPERTY AND PRIVILEGES BY NURSE JOLANE MILLER TO TAKE AN INJECTION OF THE TUBERCULOSIS SKIN TEST VIRUS, WHICH CAUSED THE PLAINTIFF MENTAL AND PSYCHOLOGICAL PAIN AND SUFFERING, WHICH THERE WAS NO REASONABLE CAUSE TO FORCE PLAINTIFF TO TAKE THE TUBERCULOSIS SKIN TEST WHEREAS PLAINTIFF POSSESSED NO SYMPTOMS OF SUCH VIRUS AND WERE PLAINTIFF DEMANDED AND ALTERNATIVE CHEST X-RAY, INSTEAD OF INJECTION OF THE ACTUAL TUBERCULOSIS VIRUS INTO HIS BODY, WHEREBY PLAINTIFF SUBMITTED COMPLAINT TO NURSE SUPERVISOR PAMELA BEATTIE THAT THE NURSE FAILED TO CHECK WITHIN 3 DAYS OF THE FORCED INJECTION THE REQUIRED DIAGNOSIS READ-RESULTS OF THE TEST ADDING TO THE PSYCHOLOGICAL TORMENT OF PLAINTIFF OF WHETHER PLAINTIFF POSSESSED THE DEADLY VIRUS OR NOT, WHICH SUCH DIAGNOSIS WAS NOT CONDUCTED UNTIL SOME 33 DAY AFTER DURESS INJECTION OF THE TUBERCULOSIS SKIN TEST WHEREAS DEFENDANTS HAVE FORCED PLAINTIFF'S MERRIWEATHER, STEWART, MEDINA, LYNCH, OWENS, BEATTIE, HUDSON, WASHINGTON, AND SCARVER, TO TAKE THE TUBERCULOSIS SKIN TEST.

MENTAL HEALTH CARE

28.) Mental illness is endemic at SMC I. Although WDOC initially provided by Policy that no mentally ill prisoners would be transferred to SMC I, that Policy has been abandoned, if it was ever in effect. Although WDOC maintains no statistics on the number of prisoners who have been diagnosed with a mental illness, the legislative audit concluded that at least 15% of SMC I prisoners are mentally ill.

29.) The conditions described in this complaint make SMC I an incubator of psychosis. Previously mentally healthy prisoners become mentally ill as a result of confinement under these conditions. With regards to prisoners who are already mentally ill upon their arrival, conditions at SMC I cause serious and sometimes catastrophic deterioration in their mental health. As a result, numerous prisoners at SMC I hear voices and are obsessed with suicidal thoughts; others smear feces, swallow metal objects, cut their flesh, attempt suicide by drug overdose, attempt to hang themselves and otherwise attempt to harm or kill themselves.

30.) Despite this overwhelming need, mental health care at SMC I is systematically inadequate. The October 2000 NCCFC Report noted that two of three psychologist positions, as well as the only psychiatrist position, were vacant. Although SMC I was originally planned to have full-time psychiatrist, it now has only 4 hours per week of psychiatrist time. Because defendants fails to provide qualified staff and other mental health resources, the needs of the serious mentally ill have often been ignored.

31.) Despite recent court order to Remove inmate Christopher, Scriver from SMCZ, he has been incarcerated at SMCZ since April 11, 2000. He has suffered from mental health problems such as anxiety and hearing voices for many years and in 1992 was diagnosed as having either schizophrenia or bipolar disorder. Since his transfer to SMCZ, his mental health problem have worsened. He has begun to feel suicidal. On May 12, 2001, Mr. Scriver, attempted suicide by swallowing 30 tablets of Thorazine. He is not receiving adequate psychiatric treatment at SMCZ and is unable to advance through the level system due to his illness and the SMCZ officials contrary to Federal Judge Barbara Cobb Ruling to send Plaintiff Scriver to the Wisconsin Resource Center or other suitable facility in Jones-et-us-Berge case no. 00-C-421-C, the Defendant continues to subject Plaintiff to SMCZ extreme conditions.

DENTAL CARE

32.) Dental care at SMCZ is systematically inadequate. Although SMCZ was originally planned to have at least one full time dentist, it now has only four hours a week of dentist time. Because of defendant's deliberate indifference or failure to provide adequate staff and resources, even prisoners with painful and debilitating dental conditions must wait months or years for treatment. Plaintiff Tony B. McPherson, has been waiting since his arrival on December 9, 1999, to be seen by a dentist and has had to undergo constant pain in his upper-back wisdom teeth and because such lengthy delay in dental care Plaintiff continues to suffer extreme pain and physical injury including bleeding gums and cavities. Further, Plaintiff has requested to have his teeth cleaned, but continues to receive no response from the Dentist Dept.

Violations of Religious Freedoms

- 33.) Prisoners of various religious faiths are denied access to SACRED texts and objects that are necessary to their religious EXERCISE..
- 34.) Defendants impose substantial burdens on Plaintiffs religious exercise, these burdens are not rationally related to legitimate penological objectives. Moreover, these burdens are not imposed in furtherance of a compelling governmental interest, nor are they the least restrictive means of furthering a compelling governmental interest.
- 35.) These substantial burdens affect, and removal of these substantial burdens would affect, commerce with foreign nations and among the several states.
- 36.) WDC and smc receive federal financial assistance.
- 37.) Plaintiffs Meakinweather, Hudson, Lynch and Washington are Muslims. They have been denied HANDCOVER, Qur'ans (Holy Books) have been denied their religious Kufis (Religious head coverings) and PRAYER RUGS. These objects are necessary for their religious observance.
- Plaintiff Tony G. Meakinweather, has been a Muslim prior to his incarceration in 1988 and is an ordained minister of Universal Life Church and has been denied access to the 4-Volume set of Sahih Muslim Hadiths and 9-Volume set of Sahih Bukhari Hadiths and 2-Volume set of Everyday Fiqh books that are obligatory upon all Muslims, by HANDCOVER by smc blanket policy banning all hand cover books, whereby these books are only made in hand cover and are necessary for Plaintiffs' daily prayers and everyday duties and religious

studies. Plaintiffs contends that he as well as Co-Plaintiff Hudson, Washington, Lynch, have been denied the Right to practice their Religious faith and have denied the Right to participate in the Islamic feast held at the end of Ramadan (Fast) of both Eid-Al-Fitr and Eid-Al-Adha; and additionally, the fact that female officers can see Plaintiffs in the nude when they are showering violates their Islamic beliefs.

Plaintiff Tony G. McQueen, has arbitrary had both his Holy Quran and Islamic Prayer Rug destroyed by the Defendant's promulgated Rules that was not authorized by DoC administrator per DoC 309 20(1)(3)(2) wis. adm code nor was it legally promulgated by legislature pursuant to ss 227 wis. stats. contrary to ss. 301.33 wis. stats. and DoC 309 I.M.P. #28 - Grandfather Property clause thereby depriving Plaintiff of their 1st amendment U.S.C., The Religious Land and Institutionalized Persons Act 42 § U.S.C. § 2000 cc. et. seq., Human Rights #H-34 no. #37, #39, #41, standard minimum Rules for the treatment of Prisoners and H-35 no. #3, #6 - Basic Principles for the treatment of Prisoners United Nations Constitutional Declaration Right

That the Plaintiffs are being denied the Right to use their Religious names or recognizable nicknames essential to their conversion to Islam contrary to DoC 303.31 - Appendix and minimum Due Process and Equal Protection mandated in Harris - vs - Milwaukee County Circuit Court, 886 F. 2d. 982 (7th Cir. 1989)

38.) The Defendants Gerald Berger has violated the Plaintiffs 14th amendment U.S.C. Rights, Article I, section #1, #15 Wisconsin Constitution and deprived the Plaintiffs of Equal Protection and Due Process as mandated in Bolling - vs - Sharpe, 347 U.S. 497, 74 S.Ct. 693 (1954), Minority Policy Officers - vs - South Bend 801 F. 2d. 964 (7th Cir. 1986), whereby the Defendants Medina subjected all Plaintiffs, McQueen, Stewart, Medina, having a ~~subjected~~ all Plaintiffs, Hudson, Lynch, Washington, Owens, and scanned to Banks, Hudson, Lynch, Washington, Owens, and scanned to Racial discrimination and Racial Profiling ~~wherein~~ wherein

The DEFENDANTS ARE ~~arbitrary~~ arbitrary, selectively and Racially Profiling Black and Latino prisoners as dangerous inmates due to their alleged Political views, Religious beliefs or AFFILIATIONS as opposed to those White European inmates being selected or confined to SMC I in administrative confinement, based upon their Political views, associations, AFFILIATIONS, or alleged memberships into alleged Street Gangs, or inmate Gangs as the Aryan Nations, Aryan Brotherhood, Bikers, Skin-Heads, or who have violent crimes, violent history of Batteries, assaults, Disruptive conduct, Threats, stabbings against staff and inmates, such as White-European inmate Glen Dorgan, #163545, who has 28 conduct Report violations for Threats, 6-For Batteries, 2-For Fighting, 45 for Disruptive conduct and 1-For manufacturing of weapons; white-European inmate EVERETT VON BURRETT has 2-For inmate murders, 7-For Possession of Weapons and multiple Physical Altercations with staff, and other White-European inmates such as MARK DAVIS #264495, KURT DEVER, CRIEG GREER, CHARLIE ANDERSON and SCOTT KONITZKY #105033 etc. whereby Black and Latino inmates are treated differently in the selection and profiling as who will be sent to SMC I as opposed to those European-White inmates ARE BE SENT AND CONFINED TO SMC I IN ADMINISTRATIVE CONFINEMENT,

39.) That Plaintiff's ~~names~~ names, Stewart, Medina, Lynch, Owens, Washington, Hudson, Searles, Banks have been subjected to arbitrary, selective and Racially discrimination and Racial Profiling under SMC I Policy # 300.00 - Level-Warning system, whereas Black and Latino inmates ARE OFTEN DENIED advancement to certain levels at SMC I, especially to level #4 + #5 as opposed to those White-European inmates ARE PROMOTED AND ADVANCED TO level #4 and #5 depriving Plaintiff's of equal protection in violation of Plaintiff's 14th amendment Rights U.S.C., ~~as~~ article #1, section, #1 Wisconsin Constitution, ss. 227.10 (3)(a)(c) Wis. Stats.

Deprivation of Liberty and Property without Due Process

40.) AS A RESULT OF THE FOREGOING CONDITIONS AT SMC I prisoners (Plaintiff's) are all subjected to regimes of deprivation and enforced idleness that is unique in the deprivations and (WDOC) Wisconsin Dept. of Corrections. Plaintiffs are subjected to denial of privileges, restrictions on alleged protected and discretionary activities and limitations on educational, employment opportunities that are more onerous than those at any other Wisconsin prison. Access to legal material and legal counsel is far more restricted at SMC I than at any other Wisconsin prison. SMC I prisoners are also subjected to a unique behavior modification program, known as the "Level-Warning System"

41.) The Plaintiff Tony G. Meagweather has arbitrarily been subjected to prolonged social isolation contrary to Doc 308.04 (3) - Appendix, in violation of his 8th Amendment U.S.C. Rights, whereas Plaintiff has been incarcerated at SMC I since December 9, 1999. In August 31, 1994, he was placed in segregation and on 10-20-95 was placed in administrative confinement. He participated in many counseling programs and continued to be a devout Muslim. He regretted his past mistakes and felt he had turned his life around. On August 11, 1999 at an administrative confinement hearing the committee unanimously recommended that clinical services' Psychological Services Supervisor at Waupun Correctional Institution Robert E. Wheeler Ph.D. develop a release plan to facilitate the process of ending Plaintiff's Meagweather's prolonged social isolation in administrative confinement to which Dr. Wheeler Ph.D. developed such a plan to:

- 1.) Place Plaintiff in a single cell

- 2.) EAT meals in cell
- 3.) Go on Passies Required by statute
- 4.) continue individual Psychotherapy with Dr. Wheeler
- 5.) Evaluation for participation in Cgip Phase 1 and 2
- 6.) increase movement upon agreement of clinical and security.

on 11-7-99, Dr. Robert E. Wheeler, Ph.D. completed mental illness screening tool for SMC I placement and Dr. Wheeler gave the following Recommendations:

Recommendation : NO

" currently has clinical Hold.
Do not Refer to SMC I. currently
(since 6/99) in treatment + making
Progress. Consider Releasing from Admin. Conf. "

Despite Plaintiff's megawatt's completion/participation in anger management and individual psychotherapy and the fact that Mr. megawatt had not received a conduct report and misbehaved since August 31, 1994 to receive a major conduct report violation disposition, despite all this Plaintiff was still subjected to the extreme social isolation of SMC I when he was transferred to SMC I on December 9, 1999.

Whereby Wapins officials alleged that they could not accommodate Plaintiff's release plan made by Dr. Wheeler, which to the contrary the Wapins official had accommodated this same similar plan by clinical services physician on white-European inmate Scott Kowitka #105033, even though inmate Kowitka continued to receive conduct reports for repeatedly

stabbing another inmate and who did not complete/participate in anger management nor individual psychotherapy and inmate Gordon Hammer # 187563, who repeatedly beat county sheriff and who escaped from custody, were both released to general prison population after very short periods of less than 1 1/2 years segregation in administrative confinement, while the Defendant's continued to subject Plaintiff Muggiweather to same level-warnings system of extreme social isolation in administrative confinement contrary to DOC 308.04 (3)-Appendix and contrary to the advice of Dr. Robert E. Wheeler Ph.D. as mandated by ss. 302.10 Wis. Stats. Subjecting the Plaintiff to cruel, unusual and corporal Punishments, especially where Plaintiff had been confined for over 8 years.

42.) That administrative confinement, denial of privileges, the arbitrary Rule # 300.00 and restrictions on protected and discretionary activities, the limitations on educational and employment opportunities, the behavior modification program and other programs and conditions at SMC I imposes an atypical and significant hardship on Plaintiff's in relation to the ordinary incidents of prison life in the Wisconsin prison system;

43.) Placement at SMC I, for those Plaintiff's who are or will be eligible for discretionary release, will inevitably result in such Plaintiff's spending more time in confinement than had they not been placed in SMC I. This is because of the length of time required to complete the program at SMC I, the stigma that attaches to any prisoner who has been confined at SMC I for any reason, and the resulting reluctance of Defendants and other WDOC officials to grant discretionary release to persons who have been confined at SMC I.

EXCESSIVE FORCE

44.) Excessive force is an everyday occurrence at SMC I. This excessive force is directed disproportionately, although not exclusively, at mentally ill prisoners. Due to the

oppressive conditions of confinement and inadequate mental health services at SMCI, prisoners become mentally ill or their mental illness worsens. Custodial staff are not properly trained in the identification and management of mentally ill prisoners. Thus, when prisoners manifest their illness by self-harm or other behaviors, SMCI staff often respond with force rather than with appropriate mental health interventions.

45.) Plaintiff Glenn Owens has many chronic mental health problems, he has been placed on observation status on several occasions of attempted suicide. On 9-13-01 he was physically injured by staff at SMCI, after he had informed staff that he could not walk on the floor due to the knee injury he obtained when he fell in the shower and Plaintiff requested that staff call nurse to verify. However, the contrary staff acted with total disregard to Plaintiff's medical condition and used excessive force upon Plaintiff who was handcuffed to the cell door and staff intention knee Plaintiff in his already injured knee causing the Plaintiff's injury to worsen.

46.) The majority of Plaintiffs do not meet the mandated criteria for placement at SMCI and placement at SMCI is arbitrary and capricious.

47.) Plaintiffs have a liberty and property interest, protected by the 14th Amendment U.S.C. in remaining out of SMCI.

48.) Before being placed at SMCI plaintiffs were denied hearings which complied with due process of law as required by WOLFE-VS-Mc DANIELL, 418 U.S. 539 (1974) and BONO-VS-SAXBE, 620 F.2d 609 (7th Cir. 1980), to determine that they met the criteria for placement at SMCI and that such decision was

based on credible and reliable evidence.

Therefore, as set forth in article 1 + 4 of the Wisconsin constitution, by right of the people, peaceably to assemble to consult for any department thereof, shall never be abridged....

Wherefore, the Plaintiffs all being natural persons born equally free and independent and being a part thereof - the people of Wisconsin being Grateful to Almighty God for our Freedom to obtain our right to this court for redress in our demand for Judgment...

Relief Sought

- 1.) INJUNCTIVE RELIEF: in that the arbitrary practice of the warning - demotion and level system process be stopped/banned on those inmates in administrative confinement non-punitive status;
- 2.) INJUNCTIVE RELIEF: in that the arbitrary blanket mail policy of prisoners having to leave their mail left open be banned/stopped and that mail only be left open upon reasonable grounds of probable cause that plaintiffs are attempting to commit mail violation, with respect to outgoing mail to family, + friends etc. as done in other maximum Wisconsin penal institutions.
- 3.) Declaratory Judgment: That a declaration that the defendant's policy \$ 300.00 and the implementation of the level - warning - demotion system program process or step process be deemed invalid and not authorized to govern inmates under Doc 308.04 Wis. adm. code, in administrative confinement non-punitive status, as it constitutes punishment or a penalty of punishment for misconduct contrary to Doc 308.04 (2) - Appendix and that it in its operation imposes extreme social isolation upon non-punitive inmates contrary to Doc 308.04 (3) - Appendix,

4.) That Defendants' Policy #300.00 be deemed invalid as it was not properly promulgated ~~by~~ nor approved by Wisconsin Dept. of Corrections Administrator as mandated pursuant to Doc 309.20 (1)(3)(a) Wis. Adm. Code

5.) That Defendants Policy #300.00 be deemed invalid as it was not properly promulgated by ~~leg~~ legislative committee as mandated under Chapter ss. 227 Wis. Stats.

PUNITIVE DAMAGES:

6.) Against the Defendants both jointly and severally for a sum of eight hundred dollars (\$800.00) per day to each Plaintiff separately, for each day Plaintiffs was held under SMCI warning Denotation Level system and that Plaintiffs all be released from administrative confinement immediately to regular prison General Population.

PUNITIVE DAMAGES:

7.) Against the Defendant both jointly and severally for the sum of one hundred thousand dollars (\$100,000.00) for the arbitrary forcing of Tuberculosis skin test.

COMPENSATORY DAMAGES:

8.) From Defendants both jointly and severally for the sum of seven hundred and ninety thousand dollars (\$795,000.00) dollars ...

Dated 30th day of April, 2002

Respectfully Submitted

Tony G. Merrinweather
1ST TONY G. MERRINWEATHER #188123

Steven D. Stewart
1ST STEVEN D. STEWART #143599

William Medina
1ST WILLIAM MEDINA #125928

Rufus L. Lynch
1ST RUFUS L. LYNCH #273158

Eric M. Washington
1ST ERIC M. WASHINGTON #242170

David Hudson
1ST DAVID HUDSON #147930

Calvin Banks
1ST CALVIN BANKS #121575

Glenn Owens
1ST GLENN OWENS #257673

Christopher Scrauer
1ST CHRISTOPHER SCRAUER #241952