

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
CENTRAL DIVISION
Electronically Filed

ALBERT JONES,)
)
)
Plaintiff) Case No. _____
)
v.)
)
JOHN TILLEY)
)
Serve: 125 Holmes Street)
Frankfort, Kentucky 40601)
)
JAMES ERWIN)
)
Serve: 275 East Main Street)
Frankfort, Kentucky 40601)
)
KIMBERLY POTTER-BLAIR)
)
Serve: 275 East Main Street)
Frankfort, Kentucky 40601)
)
DON BOTTOM)
)
Serve: Northpoint Training Center)
Walter Reed Road)
Burgin, Kentucky 40310)
)
JOHN HALL)
)
Serve: 275 East Main Street)
Frankfort, Kentucky 40601)
)
ANDREA BENTLEY)
)
Serve: 275 East Main Street)
Frankfort, Kentucky 40601)
)
ROBERT BELEN)

Serve: 275 East Main Street)
Frankfort, Kentucky 40601)
)
)
Defendants.)

COMPLAINT

PRELIMINARY STATEMENT

1. Albert Jones languished in prison for at least seven months longer than his sentence required. This unconscionable disaster—a man locked in prison when he should have been free—occurred because Defendants refused to credit Jones with the jail time credit the sentencing judge ordered, despite Jones’ repeated requests.

PARTIES AND JURISDICTION

2. Albert Jones is a resident of the state of Illinois. At all times relevant to this complaint, the Kentucky Department of Corrections incarcerated Jones at Northpoint Training Center in Burgin, Kentucky.

3. At all times relevant to this Complaint, Defendant John Tilley was Commissioner of the Kentucky Justice & Public Safety Cabinet. He was responsible for ensuring KDOC incarcerated only people under a valid sentence of confinement. He is sued in his individual capacity.

4. At all times relevant to this Complaint, Defendant James Erwin was Acting Commissioner of the Kentucky Department of Corrections, Deputy

Commissioner of the Kentucky Department of Corrections, or both. He was responsible for ensuring KDOC incarcerated only people under a valid sentence of confinement. He is sued in his individual capacity.

5. At all times relevant to this Complaint, Defendant Kimberly Potter-Blair was Deputy Commissioner of the Kentucky Department of Corrections. She was responsible for ensuring KDOC incarcerated only people under a valid sentence of confinement. She is sued in her individual capacity.

6. At all times relevant to this Complaint, Defendant Don Bottom was Warden at Northpoint Training Center. He was responsible for ensuring NTC incarcerated only people under a valid sentence of confinement. He is sued in his individual capacity.

7. At all times relevant to this Complaint, Defendant John Hall was Director of the Kentucky Department of Corrections Division of Probation and Parole. He was responsible for ensuring KDOC incarcerated only people under a valid sentence of confinement. He is sued in his individual capacity.

8. At all times relevant to this Complaint, Defendant Andrea Bentley worked in the Kentucky Department of Corrections Offender Information Services. She was responsible for ensuring KDOC incarcerated only people under a valid sentence of confinement. She is sued in her individual capacity.

9. At all times relevant to this Complaint, Defendant Robert Belen worked in the Kentucky Department of Corrections Offender Information Services.

He was responsible for ensuring KDOC incarcerated only people under a valid sentence of confinement. He is sued in his individual capacity.

10. This Court has subject matter jurisdiction over this action and venue is proper. Plaintiff's claims involve an amount more than the jurisdictional limit of this Court and a substantial amount of the conduct giving rise to this matter occurred in this judicial District.

FACTUAL ALLEGATIONS

11. On April 19, 2010, Jones entered into a plea agreement with the Commonwealth. In exchange for a guilty plea, the Commonwealth agreed to recommend a 10-year prison sentence. The Commonwealth further agreed to recommend that Jones' 10-year sentence run concurrently with federal sentences he was already serving.

12. The Commonwealth explicitly agreed to recommend that Jones receive credit for time in custody, "beginning on January 28, 2008, when the bench warrant for this arrest was issued."

13. The Jefferson County Circuit Court, Division 11, Hon. Brian C. Edwards accepted the Commonwealth's recommendations and Jones' guilty plea, and sentenced Jones consistently with his agreement with the Commonwealth.

14. Despite the Court's admonition that, "Parole shall credit time served," the Division of Probation and Parole refused to credit Jones for his time in custody beginning on January 28, 2008.

15. Upon realizing Probation and Parole's refusal to credit him correctly for time served, Jones sought multiple remedies, including administrative processes, circuit court motions, and state habeas actions.

16. In those various processes, Jones put each defendant on notice that he did not receive appropriate credit for his time in custody.

17. Jones notified Defendants Tilley, Erwin, Potter-Blair, Hall, Bentley, and Belen by at least November 25, 2014.

18. Jones notified Defendant Bottom by at least August 8, 2016.

19. Despite specific notice from Jones, Defendants refused to credit Jones for his time in custody consistent with his plea agreement.

20. Despite specific notice from Jones, Defendants refused to provide him a hearing regarding his jail time credit or the appropriate length of his confinement, or failed to institute readily available procedures for decreasing the risk of erroneous detention, or both.

21. On April 16, 2015, Judge Edwards put on notice Defendants Hall, Bentley, and Belen when he ordered the Department of Probation and Parole to recalculate Jones' jail time credit.

22. Despite Judge Edwards' order, Defendants refused to credit Jones for his time in custody consistent with his plea agreement.

23. Despite Judge Edwards' order, Defendants refused to provide Jones a hearing regarding his jail time credit or the appropriate length of his confinement.

24. Jones satisfied the sentence from Judge Edwards' court by at least July 26, 2016.

25. On July 26, 2016, Jones had no other outstanding sentence or detainer that would have required KDOC to keep him incarcerated.

26. On February 21, 2017, Judge Edwards ordered KDOC to give Jones "custody time credit ... for all time spent in custody beginning on January 28, 2008."

27. Despite Judge Edwards' order, KDOC and Defendants Tilley, Erwin, Potter-Blair, and Bottom, did not release Jones until February 27, 2017.

28. Due to Defendants' actions, KDOC incarcerated Jones for at least seven months past the time to which Judge Edwards sentenced him.

**COUNT 1:
EIGHTH AMENDMENT – 42 U.S.C. § 1983
(ALL DEFENDANTS)**

29. Plaintiff incorporates by reference the allegations previously set forth in this Complaint.

30. Defendants acted under color of law.

31. Jones had a liberty interest in being released at the end of his term of imprisonment.

32. Defendants were deliberately indifferent in that they knew of a substantial risk of serious harm to Jones, specifically that he was at risk of confinement beyond a valid sentence, and disregarded that risk by failing to take reasonable measures to deal with it.

33. Jones would have been released from prison earlier if Defendants had not been deliberately indifferent.

34. In addition to compensatory damages, expenses, and court costs, Jones is entitled to punitive damages and an award of attorney fees in prosecuting this action, pursuant to 42 U.S.C. § 1988.

**COUNT 2:
FOURTEENTH AMENDMENT – 42 U.S.C. § 1983
(ALL DEFENDANTS)**

35. Plaintiff incorporates by reference the allegations previously set forth in this Complaint.

36. Defendants acted under color of law.

37. Jones had a liberty interest in being released at the end of his term of imprisonment, which is the most important of all liberty interests.

38. Defendants' procedures, or lack of procedures, for decreasing the risk of erroneous detention posed a significant risk to Jones' liberty interest.

39. The burden on Defendants, if any, of instituting readily available procedures for decreasing the risk of erroneous detention is minimal.

40. The procedures afforded to Jones failed to provide him due process.

41. In addition to compensatory damages, interest, expenses, and court costs, Jones is entitled to punitive damages and an award of attorney fees in prosecuting this action, pursuant to 42 U.S.C. § 1988.

**COUNT 3:
EIGHTH AMENDMENT - 42 U.S.C. § 1983
(DEFENDANTS TILLEY, ERWIN, POTTER-BLAIR, AND HALL)**

42. Plaintiff incorporates by reference the allegations previously set forth in this Complaint.

43. Defendants Tilley, Erwin, Potter-Blair, and Hall encouraged Defendants Erwin, Potter-Blair, Hall, Bentley, and Belen's deliberate indifference, in that each officially authorized, approved, or knowingly went along with their subordinates' unconstitutional conduct.

44. Defendants Tilley, Erwin, Potter-Blair, and Hall knowingly refused to terminate a series of acts by Defendants Erwin, Potter-Blair, Hall, Bentley, and Belen, which each knew or reasonably should have known would cause their subordinates to be deliberately indifferent.

45. In addition to compensatory damages, interest, expenses, and court costs, Jones is entitled to punitive damages and an award of attorney fees in prosecuting this action, pursuant to 42 U.S.C. § 1988.

**COUNT 4:
FALSE IMPRISONMENT
(ALL DEFENDANTS)**

46. Plaintiff incorporates by reference the allegations previously set forth in this Complaint.

47. Defendants intentionally confined Jones or instigated his confinement.

48. Jones was aware of his confinement at the time.

49. No Defendant enjoyed a privilege or immunity to confine Jones.

50. In addition to compensatory damages, interest, expenses, and court costs, Jones is entitled to punitive damages and an award of attorney fees in prosecuting this action.

PRAYER FOR RELIEF

Accordingly, Albert Jones, requests that the Court grant the following relief:

1. Judgment in his favor against Defendants and an award of monetary damages, including punitive damages, for Defendants' unlawful actions;
2. An award of attorney fees, costs, and expenses incurred in prosecuting this action, pursuant to 42 U.S.C. § 1988;
3. Trial by jury; and
4. All other relief to which Jones may be entitled.

Respectfully submitted,

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