

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Michelle Semelbauer, Paulette Bosch, Denise Vos, Crisa Brown, Latrece Baker, Tammy Speers, Londora Kitchens, and Stashia Collins, individually and on behalf of all similarly situated persons,

Plaintiffs,

vs.

Muskegon County, a municipal corporation;
Dean Roesler, in his official capacity as Muskegon County Sheriff; **Lt. Mark Burns**, in his official capacity as Jail Administrator; Correctional Officers **Ivan Morris**, **Grieves**, **DeYoung**, and **David Gutowski**, in their individual capacities; and unknown correctional officers, in their individual capacities

Defendants.

Case No. 1:14-cv-01245-JTN

HON. JANET T. NEFF

**DEFENDANTS' SURREPLY
PLAINTIFFS' MOTION FOR
CLASS CERTIFICATION**

ORAL ARGUMENT REQUESTED

ACLU Fund of MI
Miriam J. Aukerman (P63165)
Marc S. Allen (NY 5230008)
1514 Wealthy Street SE-Suite 242
Grand Rapids MI 49506
616-301-0930
maukerman@aclumich.org

Sofia V. Nelson (P77960)
Daniel S. Korobkin (P72842)
Michael J. Steinberg (P43085)
Kary L. Moss (P49759)
2966 Woodward Avenue
Detroit MI 48201
313-578-6800
snelson@aclumich.org

Pitt, McGehee, Palmer & Rivers, P.C.
Michael L. Pitt (P24429)
Beth M. Rivers (P33614)

Allan C. Vander Laan (P33893)
Andrew J. Brege (P71474)
CUMMINGS, MCCLOREY, DAVIS &
ACHO
Attorneys for Defendants
2851 Charlevoix Dr., S.E. - Suite 327
Grand Rapids MI 49546
616-975-7470
avanderlaan@cmda-law.com
abrege@cmda-law.com

Douglas M. Hughes (P30958)
Horia Neagos (P73550)
Williams Hughes PLLC
Attorneys for Defendants
120 W Apple Ave
PO Box 599
Muskegon, MI 49443
Phone: **(231) 727-2119**
Fax: (231) 727-2130

Kevin M. Carlson (P67704)
Andrea J. Johnson (P74596)
Cooperating Attorneys, American Civil
Liberties Union Fund of MI
117 West Fourth Street-Suite 200
Royal Oak MI 48067
248-398-9800
mpitt@pittlawpc.com
brivers@pittlawpc.com
kcarlson@pittlawpc.com
ajohnson@pittlawpc.com

doughughes@williamshugheslaw.com
HRN@williamshugheslaw.com

**DEFENDANTS' SURREPLY TO PLAINTIFFS' MOTION FOR
CLASS CERTIFICATION**

FACTUAL SUMMARY OF CLAIMS MADE BY NEWLY ADDED PLAINTIFFS

The following is a summary of the allegations by the newly added Plaintiffs:

- A. Dorn claims she puts up paper to cover the window on the door of her cell, but officers rip them down. (**Dkt. No. 18**, Am. Complaint at ¶ 79) She claims male officers regularly observe her using the toilet. (**Id.** at ¶ 86) She has only used the gym twice in three months, and believes this is effecting her health. (**Id.** at ¶ 101) She had to wait “hours” to receive toilet paper. (**Id.** at ¶ 120)
- B. Wickliffe claims she is regularly observed by male officers while using the toilet. (**Id.** at ¶ 86) She claims she only used the gym twice in two months. (**Id.** at ¶ 103) She had to wait almost a day for sanitary napkins, and another day for new clothing. (**Id.** at ¶ 119) She claims to have filed five grievances without response (though does not indicate what she was allegedly grieving). (**Id.** at ¶ 196)
- C. Pauley claims that during a previous incarceration, she was required to wear a one-piece jumpsuit. (**Id.** at ¶ 68) She claims she tries to put up paper on her door when using the toilet, but guards take it down. (**Id.** at ¶ 80) She claims she is regularly observed by male officers while using the toilet. (**Id.** at ¶ 86) She claims she has only used the gym three times in eight months. (**Id.** at ¶ 102) She fears that lack of exercise will affect her recovery from surgery. (**Id.** at ¶ 107) She claims she was placed in the

holding cell for three days with up to 17 other inmates. (*Id.* at ¶ 143)¹ She claims she also filed grievances, but received no responses.²

1. Plaintiffs' Allegation that Defendants Are Frustrating Their Efforts Because Certain Inmates Have Been Released is Incorrect

Plaintiffs allege Defendants are “frustrating” their efforts to certify an injunctive class because some of their clients have been released from jail—the same jail they claim is overcrowded. First, Defendants cannot release inmates subject to jail sentences. A release from sentence can only be made by a state or federal court. Secondly, Plaintiffs’ primary claim in this lawsuit is the jail is overcrowded. They assert Defendants have violated state statutes regarding jail overcrowding. (See **Dkt. No. 1**, at ¶¶ 146-164) Yet, Plaintiffs’ counsel now complains when their clients are released from confinement—the exact relief they request from the Defendants as part of a jail overcrowding plan.

2. The Inherently Transitory Doctrine is Inapplicable Here

Plaintiffs’ reliance on the inherently transitory doctrine is misapplied. Plaintiffs assert this doctrine is applicable to class action claims where the individual plaintiffs

¹ Like the original Plaintiffs, the records refute this. Pauley had been incarcerated twice in the three years preceding Plaintiffs’ amended complaint adding her as a party. On May 5, 2014, she was booked in shortly before midnight, and released four hours later. (**Ex. 1**, Pauley inmate log, 5-2014) On July 15, 2014, she was booked into the jail, and on July 16, moved from the holding cell to the Third Floor dayroom. (**Ex. 2**, Pauley inmate log, 7-2014)

² Attached as **Ex. 3** are the grievances filed by Pauley, all of which were filed shortly before her name was added to the amended complaint. These grievances border on the absurd. For example, there is a grievance alleging that in 2002 she was not allowed to use the phone, and another stating that in 2011, she had to wear a one-piece uniform.

Pauley’s grievance regarding the 2011 situation where she claims she was forced to wear a one-piece uniform is particularly problematic. She was not added into this suit until February 6, 2015. Plaintiffs assert that they have an unfettered right to amend the complaint once as a matter of law, which would include adding new parties and plaintiffs. Amended pleadings relate back to the time of the original pleading. However, allowing Plaintiffs to add new plaintiffs at their whim, and then allow the claims of those new plaintiffs to relate back to the time the original complaint was filed, would allow these new plaintiffs to avoid application of the statute of limitations, which would otherwise bar Pauley’s damages claim relating to what occurred in 2011. Plaintiffs cannot be allowed to avoid application of the statute of limitations at their whim.

lack standing before a class is certified where the individual claims would otherwise evade review. Plaintiffs assert the very nature of their claims in this case are such that without application of this doctrine, they, too, would evade review. A careful review of the doctrine, however, shows that it does not support Plaintiffs' position. It has only been applied to specific *claims* that are of such a short and specific duration that they may evade review. It has not been applied in situations where the very nature of the claim requires more than a short or limited duration of exposure to the allegedly offensive conditions.

Plaintiffs rely on ***Gerstein v. Pugh***, 420 U.S. 103 (1975), and ***County of Riverside v. McLaughlin***, 500 U.S. 44 (1991), for the proposition that because they are inmates in a county jail, they are not required to establish standing at the time of class certification. In each of those cases, the issue was whether the county defendants were providing prompt probable cause hearings for pretrial detainees after warrantless arrests. The very nature of the alleged constitutional violation, denial of a prompt probable cause hearing, was itself transitory and incapable of review. That is, the alleged constitutional violation occurred at the moment a prompt probable cause hearing was not provided. In those claims, it would be extremely unlikely, if not impossible, for a pre-trial detainee to be denied prompt probable cause hearing in time to seek federal-court redress.

The claims in ***Gerstein*** and ***Riverside*** involved the 4th amendment right to a probable cause determination, which occurs at the very moment a prompt hearing is not provided. The claims here involve allegations that, by their very nature, require more than a single instance or brief period of discomfort. That is, the 8th Amendment is not

implicated for every discomfort complained of by an inmate. Even extreme deprivation for brief periods of time does not constitute a constitutional violation. See, e.g., **Hutton v. Finney**, 437 U.S. 678, 686–87 (1978); **Metcalf v. Veita**, No. 97–1691, 1998 WL 476254, at *2 (6th Cir. Aug. 3, 1998) (finding that an eight-day denial of showers, trash removal, cleaning, and laundry did not result in serious pain or offend contemporary standards of decency under the Eighth Amendment); **Gilland v. Owens**, 718 F.Supp. 665, 685 (W.D.Tenn.1989) (“Short term deprivations of toilet paper, towels, sheets, blankets, mattresses, toothpaste, toothbrushes and the like do not rise to the level of a constitutional violation.”). Therefore, the constitutional violations alleged here must be something the inmates are subjected to for more than the brief periods alleged in the complaint. These are not the type of allegations that will evade review. They necessarily require the condition to exist for a sufficient time before a constitutional violation becomes cognizable. As such, they are not similar to the “inherently transitory” allegations in **Gerstein** and **Riverside**.

Plaintiffs’ reliance on **U.S. Parole Commission v. Geraghty**, 445 U.S. 388 (1980) is similarly misplaced. The Court held that mootness of the named plaintiff’s claim would not defeat a case where the claims were inherently transitory. However, the Court still required certification before expiration of the named plaintiff’s claim:

When, however, there is no chance that the named plaintiff’s expired claim will reoccur, mootness can still be avoided through certification of a class **prior to** expiration of the named plaintiff’s personal claim. **Id.** at 398 (emphasis added).

Plaintiffs’ reliance on **Ball v. Wagers**, 795 F.2d 579 (6th Cir. 1986) is also misplaced. That case involved a delay of more than 3 years by the court on plaintiff’s

motion for class certification, by which time the claims had long been moot. There is no indication in that opinion, however, that had the district court conducted a timely review of the allegations, that standing would not have been required of the named plaintiffs. Rather, the Court specifically ordered the district court, on remand, to “consider whether Ball is yet a proper party to represent the class asserted in this case, or whether, as represented, there are presently before the district court other plaintiffs asserting similar claims who might be in a better position to pursue the petition for declaratory and/or injunctive relief” *Id.* at 582.

Further, *Olson v. Brown*, 594 F.3d 577 (7th Cir. 2010), is not helpful for Plaintiffs’ claims. In that case, the plaintiff sought injunctive and declaratory relief on four claims, only two of which were based on 1983 claims for constitutional rights violations. The only two constitutional rights claims involved the Tippecanoe County Jail’s policy of opening court and other legal mail outside the presence of the inmate, in violation of the First Amendment. That constitutional violation occurs at the very moment the jail staff open the mail without the inmate’s presence, and therefore, is inherently transitory by its very nature, similar to the 4th Amendment probable cause hearings at issue in *Gerstein* and *Riverside*. Again, a fundamentally different type of claim than what is at issue here.

Here, Plaintiffs must still establish standing to assert their claims for injunctive relief. That requires an inmate to still have an active controversy at the time of class certification for the injunctive class. None of the inmates in the original complaint have such standing, even though Ms. Collins may have at the time the complaint was filed. None of the newly added plaintiffs have standing, as, upon information and belief, they

have either been released, their sentences have been commuted, or they have been granted access to second chance programs by their respective criminal court judges.

Without standing, the injunctive classes cannot be certified.

3. Plaintiffs' Reliance on the Inherently Transitory Doctrine Undermines Their Claims, Which Further Establishes the Named Plaintiffs Cannot Adequately Represent the Class or Present Claims Typical of the Purported Classes

By relying on the inherently transitory doctrine, Plaintiffs have essentially conceded their claims do not rise to the level of constitutional violations. That is, if the alleged conditions Plaintiffs have been subjected to are so brief as to evade judicial review, they cannot be typical of the purported class, who Plaintiffs assert are subjected to unconstitutional conditions of confinement.

In the cases where the inherently transitory doctrine has been applied, the constitutional violations at issue were of the type that occur at a specific point or event. For example, the pretrial detainees in *Gerstein* and *Riverside* had their 4th Amendment right to a prompt probable cause hearing violated at the very moment the probable cause hearing could have been, but was not, held. The plaintiffs in *Geraghty* had their rights violated when their legal mail was opened outside their presence. Here, however, Plaintiffs must establish that the conditions of confinement they claim to have been subjected to rise above mere inconvenience and extend beyond brief periods of discomfort. That is, the claims themselves require the inmates to be subjected to more than an isolated incident before their allegations ripen into actual constitutional violations. See, e.g., *Gilland, supra*; *Metcalf, supra*; *Grzelak v. Ballweg*, No. 2:14-31, 2014 WL 5101333 (W.D.Mich. Oct. 10, 2014) (limitation of out-of-cell exercise to 6 one-hour sessions over twelve months did not state a valid constitutional claim). Here, the

claims are not so transitory so as to evade review, particularly since the claims, to be valid, require more than a single instance of inconvenience.

4. This Court Must Consider the Factual and Legal Merits to Plaintiffs Before Class Certification

Plaintiffs further assert that Defendants' argument regarding the validity of their claims is misplaced, indicating it is inappropriate for the Court to consider the validity of their claims when determining whether their claims are "typical" of the class. Plaintiffs' assertion if followed, would undermine the entire process. See, e.g., **Smith v. Leis**, 408 Fed. Appx. 917, at fn. 5 (6th Cir. 2007) (finding that under 2003 amendments to Rule 23(c), court is not required to make class certification determination *before* it considers the merits of any individual plaintiff's claims); see also Fed. R. Civ. P. 23 commentary to 2003 amendment (noting that the change in (c)(1)(A) from "as soon as practicable" to "at an early practicable time" reflects the numerous considerations that may affect timing of class certification, including situations where "[t]he party opposing the class may prefer to win dismissal or summary judgment as to the individual plaintiffs without certification and without binding the class that might have been certified.").

The Sixth Circuit recently addressed a similar issue in **Young v. Nationwide Mut. Ins. Co.**, 693 F.3d 532 (6th Cir. 2012). The Court stated that "the district court should not merely presume that the plaintiff's allegations in the complaint are true for the purposes of class motion without resolving factual and legal issues." *Id.* at 537, citing **Wal-Mart Stores, Inc. v. Dukes**, — U.S. —, 131 S.Ct. 2541, 2550, 180 L.Ed.2d 374 (2011) and **Gooch v. Life Investors Ins. Co. of Am.**, 672 F.3d 402, 417 (6th Cir. 2012). In **Gooch**, the Sixth Circuit cited with approval the Seventh Circuit's opinion in **Szabo v. Bridgeport Machines, Inc.**, 249 F.3d 672, 676 (7th Cir. 2001),

which reversed a district court's class certification decision where the district court accepted as true both factual and legal assertions made by the plaintiffs. Before deciding whether to certify a class, the Court should engage in rigorous analysis of all "factual and legal issues" that "strongly influence the wisdom of class treatment." *Id.*

Here many of the underlying allegations of the individual Plaintiffs fail to state cognizable constitutional claims. It is a prime example of a situation where the Court should deny class certification until the merits of Plaintiffs' allegations can be considered.³ That is, if the individually named Plaintiffs cannot present allegations sufficient to establish constitutional violations, then they cannot adequately represent a class of individuals they allege have actually suffered constitutional violations. For example, Plaintiffs want to represent female inmates who have been denied feminine hygiene products. Yet not one of the Plaintiffs addresses the factual basis for this claim or states anything beyond one short term delay in receiving hygiene products. This does not rise to the level of a constitutional violation or support a claim for municipal liability for a widespread practice of constitutional deprivations. If feminine hygiene products had been denied, without justification to female inmates, the named Plaintiffs would not be "typical" of those who may have actually suffered a constitutional deprivation.⁴

Similarly, Plaintiffs' allegations regarding the lack of out-of-cell exercise do not rise to the level of a constitutional violation. However, they want to represent a set of

³ It is clear from this Court's decisions issued pursuant to the Prison Litigation Reform Act, that had the allegations made in this complaint been raised by pro se litigants, they would have been summarily dismissed. The fact they are presented here by attorneys representing former inmates does not provide any more legal merit to the insufficiency of the allegations.

⁴ Defendants deny there are any female inmates that have ever actually been denied hygiene products.

inmates that may have been denied all exercise opportunity or been on lockdown for the duration of their incarceration. If there were female inmates that actually suffered a constitutional violation regarding a lack of exercise, it is clear from the allegations in the complaint that it is not any of the named Plaintiffs. Therefore, they cannot assert their claims are typical of the class they want to represent.

If the Court does not consider the underlying validity of the individually named Plaintiffs' claims when making a class certification decision, it invites abuse and the potential that unnamed class members who may have actual claims could lose their right to proceed on those claims. See Fed. R. Civ. P. 23, commentary to 2003 amendment, *supra*. That is, if the court granted class certification for Plaintiffs to represent all female inmates with regard to the alleged overcrowding, lack of exercise, and denial of feminine hygiene products, even though none of the claims of the named individuals rise to the level of a constitutional violation, they face the potential of having all the claims dismissed upon summary judgment, a decision on the merits that would affect all members of the class.

The same would apply to the alleged claim regarding impermissible, extended stays in the holding cell. The allegations made by Plaintiffs are directly refuted by the record evidence. Most of the Plaintiffs only remained in the holding cell for a few hours. Only one remained there for two days. The Court may not simply take Plaintiffs' allegations as true, particularly where there is direct contradictory record evidence. Since the records refute any actual unconstitutional extended stays in the holding tank by the named Plaintiffs, they cannot adequately represent, and do not have claims

typical of, the class they purport to represent—those who may have suffered from unconstitutional extended stays in the holding tank.

Defendants have recently filed a request for pre-motion conference to file a motion for partial summary judgment. (See **Dkt. No. 28**) It would be error for this Court to certify the requested classes where there is little likelihood on the success of most, if not all, of the allegations related to the class action claims, without first having an opportunity to review the merits of Defendants' motion. Such an analysis is supported by the U.S. Supreme Court's recent decision in *Dukes*, *supra*, and the Sixth Circuit's recent decisions in *Gooch*, *supra*, and *Young*, *supra*.

CONCLUSION

The inherently transitory doctrine is not applicable to the claims made by Plaintiffs. No Plaintiff has standing to request injunctive relief, and therefore, is not a proper representative of the injunctive classes. No Plaintiff can adequately represent either the injunctive or damages classes, as their actual factual assertions fail to state cognizable constitutional violations. Therefore, no Plaintiff can show their claims are typical of the alleged constitutional violations they claim other class members have suffered. For the reasons above, those stated in Defendants' original response, and Defendants Reply and surreply to the motion for preliminary injunction, Defendants respectfully request this Court deny Plaintiffs' motion for class certification. Alternatively, Defendants continue to request discovery regarding the individual Plaintiffs' claims before a class certification decision. Defendants further request this Court consider the merits of the named Plaintiffs' allegations, and proceed with Defendants' request for a premotion conference.

Respectfully submitted,

CUMMINGS, McCLOREY, DAVIS & ACHO, P.L.C.

/s/ Allan C. Vander Laan

Allan C. Vander Laan (P33893)

Andrew J. Brege (P71474)

Attorneys for Defendants

Cummings, McClorey, Davis & Acho. P.L.C.

2851 Charlevoix Drive, SE, Ste. 327

Grand Rapids, MI 49546

616/975-7470

E-mail: avanderlaan@cmda-law.com

abrege@cmda-law.com

Dated: March 4, 2015

LIST OF EXHIBITS

1. Pauley Inmate Log May 2014
2. Pauley Inmate Log for July 2014
3. Pauley Grievances

Exhibit 1

User: MCSDTTG1

MUSKEGON COUNTY SHERIFF

02/12/2015 14:25:44

Inmate Log: PAULEY, JUDY DINAH**(Booking #: 57777)**

#	Event	Date Time	Log Notes	Booking #	User ID	Wkst
1	RELS	05/06/2014 03:55:21	Inmate Released To Self For Reduce Or Eliminate Bond 05/06/2014 03:55:21 - Bar3	57777	mcsdjrt1	
2	BOND	05/06/2014 03:52:36	Bond Status Changed From Acti To Post	57777	mcsdjrt1	
3	BOND	05/06/2014 03:52:36	Bond Status Date Changed From 05/05/2014 23:58:40 To 05/06/2014 03:52:36	57777	mcsdjrt1	
4	INMT	05/06/2014 00:00:00	Assigned To Cell Location: Jail,1st,thf 6,07	57777	mcsdjrt1	
5	BOND	05/05/2014 23:59:48	Bond Status Changed From <blank> To Acti	57777	mcsdjrt1	
6	BOND	05/05/2014 23:59:48	Bond Status Date Changed From <blank> To 05/05/2014 23:58:40	57777	mcsdjrt1	
7	BOND	05/05/2014 23:59:48	Bond Type Changed From <blank> To Pr	57777	mcsdjrt1	
8	BOOK	05/05/2014 23:56:00	Started Booking Process	57777	mcsdjrt1	

Exhibit 2

User: MCSDTTG1

MUSKEGON COUNTY SHERIFF

02/12/2015 14:22:10

Inmate Log: PAULEY, JUDY DINAH**(Booking #: 59386)**

#	Event	Date Time	Log Notes	Booking #	User ID	Wkst
1	INMT	02/07/2015 05:54:53	Moved From Old Cell Location: Jail, 3rd, 3e, 04b To New Cell Location: Jail,3rd,36,04	59386	mcsdmg	
2	INCI	02/07/2015 05:30:26	Jail Incident # 2015350275.	59386	mcsdmg	
3	INCI	12/15/2014 01:05:17	Jail Incident # 2014352948.	59386	mcsdmg	
4	INMT	12/14/2014 22:22:11	Moved From Old Cell Location: Jail, 2nd, 2e, 17 To New Cell Location: Jail,3rd,3e,04b	59386	mcsdsdb	
5	INMT	12/13/2014 22:56:27	Moved From Old Cell Location: Jail, 2nd, 2e, 23 To New Cell Location: Jail,2nd,2e,17	59386	mcsdjsp	
6	INMT	12/13/2014 22:54:12	Moved From Old Cell Location: Jail, 2nd, 2e, 14a To New Cell Location: Jail,2nd,2e,23	59386	mcsdjsp	
7	INMT	12/13/2014 22:21:08	Moved From Old Cell Location: Jail, 2nd, 2e, 05a To New Cell Location: Jail,2nd,2e,14a	59386	mcsdjsp	
8	INMT	12/03/2014 18:49:29	Moved From Old Cell Location: Jail, 3rd, 3e, 02 To New Cell Location: Jail,2nd,2e,05a	59386	mcsdjsp	
9	VSMO	11/26/2014 16:17:07	Visitor Checks Out. (jones, Mablen) By Mcsdlmf1	59386	mcsdlmf	
10	VSMO	11/26/2014 16:17:06	Visitor Checks Out. (golden, Yolanda Shawan) By Mcsdlmf1	59386	mcsdlmf	
11	VIST	11/26/2014 14:30:00	Visitor: Jones, Mablen Checked In.	59386	mcsdlmf	
12	VIST	11/26/2014 14:30:00	Visitor: Golden, Yolanda Shawan Checked In.	59386	mcsdlmf	
13	RECL	11/18/2014 15:20:11	Inmate Was Reclassified From - Med5 To Med4. Inmate Was Reclassified From - Med5 To Med4. Sent To Jail	59386	mcsdjrt1	
14	BOND	11/18/2014 15:17:05	Bond Type Changed From Revk To Nobd	59386	mcsdjrt1	
15	VSMO	11/06/2014 11:16:47	Visitor Checks Out. (henton, Robert Earl) By Mcsdlmf1	59386	mcsdlmf	
16	VIST	11/06/2014 10:00:00	Visitor: Henton, Robert Earl Checked In.	59386	mcsdlmf	
17	OFCN	11/02/2014 04:00:00	Taken Down For Drug Test To Qualify For Pib. Tested Negative On All. [12/05/2014 23:54, Mcsdlaj1, 12370, Mcsd]	59386	mcsdlaj1	
18	VSMO	10/31/2014 11:20:58	Visitor Checks Out. (henton, Robert Earl) By Mcsdkle1	59386	mcsdkle	
19	OFCN	10/30/2014 15:00:00	Spoke With Mr Hinton Who States He Visited Pauley Today And Her Legs And Feet Are Swelling. Also States She Has Nose Bleeds And Is Not Getting Her Meds. I Spoke With Nurse Pat About These Complaints. [10/30/2014 15:35, Mcsdtjb1, 581, Mcsd]	59386	mcsdtjb1	
20	VIST	10/30/2014 14:00:00	Visitor: Henton, Robert Earl Checked In.	59386	mcsdkle	
21	OFCN	10/29/2014 16:24:00	Upset Because She Doesnt Like Newburn Pauly Stated That Newbern Talks Day And Night. Tells Lies About Deputies, And Stands Infront Of The Tv And Talks. Moving Newbern Down To Holding As She Will Not Move From Her Room 8 To 11 She Can Be Brought Up Later Tonight. [10/29/2014 17:55, Mcsdllj1, 544, Mcsd]	59386	mcsdllj1	
22	VSMO	10/23/2014 11:06:01	Visitor Checks Out. (henton, Robert Earl) By Mcsdlmf1	59386	mcsdlmf	
23	VIST	10/23/2014 10:04:11	Visitor: Henton, Robert Earl Checked In.	59386	mcsdlmf	

#	Event	Date Time	Log Notes	Booking #	User ID	Wkst
24	BOND	10/13/2014 14:47:46	Bond Type Changed From Nobd To Revk	59386	mcsdtko	
25	BOND	10/13/2014 14:47:46	Bond Amount Changed From 0.00 To 0.00	59386	mcsdtko	
26	BOND	10/13/2014 14:47:43	Bond Type Changed From C/s To Nobd	59386	mcsdtko	
27	VSMO	10/02/2014 11:08:12	Visitor Checks Out. (henton, Robert Earl) By Mcsdkle1	59386	mcsdkle	
28	VIST	10/02/2014 09:30:00	Visitor: Henton, Robert Earl Checked In.	59386	mcsdkle	
29	BOND	09/30/2014 20:12:14	Bond Status Changed From Not Posted To Posted	59386	mcsdnjs	
30	BOND	09/30/2014 20:12:14	Bond Status Date Changed From 07/15/2014 01:55:42 To 09/30/2014 20:12:14	59386	mcsdnjs	
31	INMT	09/30/2014 18:53:42	Moved From Temp Location: Out To Court Back To Cell Location: Jail, 3rd, 3e, 02.	59386	mcsdjll1	
32	INMT	09/30/2014 11:42:17	Moved From Cell Location: Jail, 3rd, 3e, 02 To Temp Location: Out To Court.	59386	mcsdkw	
33	VSMO	09/25/2014 11:54:10	Visitor Checks Out. (valentine, Ryan Michael) By Mcsdlmf1	59386	mcsdlmf	
34	VIST	09/25/2014 10:00:00	Visitor: Valentine, Ryan Michael Checked In.	59386	mcsdlmf	
35	INMT	09/16/2014 14:31:47	Moved From Temp Location: Out To Court Back To Cell Location: Jail, 3rd, 3e, 02.	59386	mcsdnjs	
36	POC	09/16/2014 13:00:00		59386	mcsdnjs	
37	INMT	09/16/2014 12:56:42	Moved From Cell Location: Jail, 3rd, 3e, 02 To Temp Location: Out To Court.	59386	mcsdnjs	
38	VSMO	09/04/2014 17:10:19	Visitor Checks Out. (henton, Robert Earl) By Mcsdkle1	59386	mcsdkle	
39	VIST	09/04/2014 13:03:35	Visitor: Henton, Robert Earl Checked In.	59386	mcsdkle	
40	INMT	09/03/2014 22:13:29	Moved From Old Cell Location: Jail, 3rd, 3e, 21 To New Cell Location: Jail,3rd,3e,02	59386	mcsbdbp	
41	VSMO	08/28/2014 11:15:23	Visitor Checks Out. (henton, Robert Earl) By Mcsdlmf1	59386	mcsdlmf	
42	VIST	08/28/2014 10:04:47	Visitor: Henton, Robert Earl Checked In.	59386	mcsdlmf	
43	BOND	08/26/2014 16:05:53	Bond Type Changed From Revk To Nobd	59386	mcsdsma	
44	VSMO	08/21/2014 11:04:06	Visitor Checks Out. (henton, Robert Earl) By Mcsdkle1	59386	mcsdkle	
45	VIST	08/21/2014 10:00:00	Visitor: Henton, Robert Earl Checked In.	59386	mcsdkle	
46	VSMO	08/14/2014 10:50:28	Visitor Checks Out. (henton, Robert Earl) By Mcsdlmf1	59386	mcsdlmf	
47	VIST	08/14/2014 10:12:14	Visitor: Henton, Robert Earl Checked In.	59386	mcsdlmf	
48	VSMO	08/07/2014 11:07:11	Visitor Checks Out. (henton, Robert Earl) By Mcsdkle1	59386	mcsdkle	
49	VIST	08/07/2014 09:53:51	Visitor: Henton, Robert Earl Checked In.	59386	mcsdkle	
50	INMT	07/30/2014 15:35:13	Moved From Temp Location: Out To Court Back To Cell Location: Jail 3rd 3e 21 (mass Move)	59386	mcsdlml	
51	INMT	07/30/2014 08:20:06	Moved From Cell Location: Jail, 3rd, 3e, 21 To Temp Location: Out To Court (mass Move)	59386	mcsdlml	
52	VSMO	07/28/2014 08:01:49	Visitor Checks Out. (henton, Robert Earl) By Mcsdlmf1	59386	mcsdlmf	
53	VIST	07/24/2014 13:01:32	Visitor: Henton, Robert Earl Checked In.	59386	mcsdkle	
54	INMT	07/23/2014 23:54:05	Moved From Old Cell Location: Jail, 3rd, 3e, 12 To New Cell Location: Jail,3rd,3e,21	59386	mcsbdbp	
55	BOND	07/22/2014 17:05:27	Bond Amount Changed From 25000.00 To 25000.00	59386	mcsdtko	
56	VSMO	07/17/2014 12:48:54	Visitor Checks Out. (henton, Robert Earl) By Mcsdlmf1	59386	mcsdlmf	

#	Event	Date Time	Log Notes	Booking #	User ID	Wkst
57	VIST	07/17/2014 10:05:00	Visitor: Henton, Robert Earl Checked In.	59386	mcsdlmf	
58	INMT	07/16/2014 23:15:24	Moved From Old Cell Location: Jail, 1st, Thf 6, 02 To New Cell Location: Jail,3rd,3e,12	59386	mcsdcm	
59	BOND	07/15/2014 18:36:56	Bond Status Changed From <blank> To Acti	59386	mcsdlaj1	
60	BOND	07/15/2014 18:36:56	Bond Status Date Changed From <blank> To 07/15/2014 18:32:51	59386	mcsdlaj1	
61	BOND	07/15/2014 18:36:56	Bond Type Changed From <blank> To C/s	59386	mcsdlaj1	
62	BOND	07/15/2014 15:49:18	Bond Type Changed From Nobd To Revk	59386	mcsdcjm	
63	INCI	07/15/2014 04:52:48	Jail Incident # 2014351439.	59386	mcsdclg	
64	INMT	07/15/2014 02:13:22	Assigned To Cell Location: Jail,1st,thf 6,02	59386	mcsdclg	
65	BOND	07/15/2014 02:12:38	Bond Status Changed From <blank> To Acti	59386	mcsdclg	
66	BOND	07/15/2014 02:12:38	Bond Status Date Changed From <blank> To 07/15/2014 01:55:42	59386	mcsdclg	
67	BOND	07/15/2014 02:12:38	Bond Type Changed From <blank> To Nobd	59386	mcsdclg	
68	BOOK	07/15/2014 01:53:00	Started Booking Process	59386	mcsdclg	

Exhibit 3

INMATE GRIEVANCE FORM

Inmates Name MS. Judy Pauley

Date 01-30-2015

Cell 3 E.D.B

Below state your complaint, please print.

July-28-2014 "Officer" Mrs. Laws move me to room 302. From bulk 4, Flies were flying around in the room. Byd more mant was still in the Comol. I wrote said I will clean the room up. The inmates were Complaining about the smell. Coming from room# 302. I asked officer Laws call they spray the room. It's making me sick. I was ignored.

MS. Judy Pauley
01-30-2015

Correction Officer receiving grievance _____
Comments from Officer: _____

Command Officer: GILCHRIST 2-3-15
Comments from command: UNTIMELY FILE OF GRIEVANCE, UNABLE

TO ACCOUNT FOR AN INCIDENT 7 MONTH AFTER
ALLEGED TO HAVE OCCURRED

ZL

This grievance form is to be used by inmates when there is a problem that is not solved with the officer working the floor. The shift commander will then review the complaint and return a copy to the inmate. If the inmate feels the problem is not addressed, the copy of the grievance form the inmate receives from the shift commander can then be sent to the Captain who will make a final decision. A copy of this grievance will be placed in the inmates jacket.

INMATE GRIEVANCE FORM

Inmates Name Judy Pawley

Date 01-31-2015

Cell 3 E. D. B.

Below state your complaint, please print.

I came to muskegon court jail in 2002.
I asked the officer on duty can I use the tele-
phone. He ignored me. I then started to hit on
the window yelling. "Can I use the telephone?"
Another lady was in the holding cell with me.
She started yelling and screaming could she use the
telephone. The lady then started cursing at the
officer and she started "I know you from
school." She called his name and then the officer
moved her to let her use the telephone. He called
another officer and they came in and put me in a chair
with straps on it the other "officer" Dave grabbed
me by my mouth and said "you are not yelling now
are you"? He broke my partial. The officer
name who put me in the chair is Troy Olson

Ms. Judy Pawley
01-31-2015

Correction Officer receiving grievance _____

Comments from Officer: _____

Command Officer: _____

GILCHRIST 2-3-15

Comments from command _____

THIS GRIEVANCE IS FROM 2002

AND THE UNTIMELINESS MAKES IT SELF AN UNABLE
TO COMPILE ANY VALID ANSWERS.

This grievance form is to be used by inmates when there is a problem that is not solved with the officer working the floor. The shift commander will then review the complaint and return a copy to the inmate. If the inmate feels the problem is not addressed, the copy of the grievance form the inmate receives from the shift commander can then be sent to the Captain who will make a final decision. A copy of this grievance will be placed in the inmates jacket.

INMATE GRIEVANCE FORM

Inmates Name Ms. Judy Paulay

Date 02-01-2015

Cell 3 E. D. R.

Below state your complaint, please print.

In 2011 I was here in Muskegon Court
Jail. I was forced to wear one piece
Jump suits. The officer on duty is name
is, "Heisel, Moshier, Ivan and Chris Griswold,
Dana Gutowski, George Sain, Darryl Harrisson
Tony Olson and "officer" PMS: Lewis, ms. Shaw
Thank you for your concern and God bless.

Sincerely,

Ms. Judy Paulay

02-01-2015

Correction Officer receiving grievance _____

Comments from Officer: _____

Command Officer _____

BILCHYST 2-3-15

Comments from command IN 2011, AS I RECALL ALL INMATES

WERE IN JUMPSUITS. TIMELINESS IS WITHIN

A DOUBT AN ISSUE WITH THIS GRIEVANCE.



This grievance form is to be used by inmates when there is a problem that is not solved with the officer working the floor. The shift commander will then review the complaint and return a copy to the inmate. If the inmate feels the problem is not addressed, the copy of the grievance form the inmate receives from the shift commander can then be sent to the Captain who will make a final decision. A copy of this grievance will be placed in the inmates jacket.

INMATE GRIEVANCE FORM

Inmates Name Ms. Judy Pauley

Date 02-07-2015

Cell 3 E.D. Room

Below state your complaint, please print.

"Officer" Mashar
Had a Inmate save breakfast. Only trustys
can save food. Not Inmates. They have four
trustys in the 3 E. Day room. Please no more
Inmates save ma. Please. After that office
Mashar came in the day room saying inmates
be lying to the Lawer to get a Lawsuit
for them. After that they moradma to call #36.
The shower is too tall for me to step up and
down
Ms. Judy Pauley
02-07-2015

Correction Officer receiving grievance

Mosher

Comments from Officer: Subject was moved by Dep. Breve and Patton to Cell 36. Subject is unable to get along with other inmates.

Command Officer

GILCHRIST

Comments from command NOTES MADE REGARDING BEHAVIOR MCT RESERVE RIGHT TO PLACE INMATES WHERE BEST SUITED FOR OUR JAIL.



This grievance form is to be used by inmates when there is a problem that is not solved with the officer working the floor. The shift commander will then review the complaint and return a copy to the inmate. If the inmate feels the problem is not addressed, the copy of the grievance form the inmate receives from the shift commander can then be sent to the Captain who will make a final decision. A copy of this grievance will be placed in the inmates jacket.