

Mississippi prison inmates indefinitely detained and subject to “barbaric” conditions

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The American Civil Liberties Union (ACLU) filed two lawsuits this week claiming that prison inmates in the US state of Mississippi were being indefinitely detained and others were kept in conditions “tantamount to torture.”

The latest lawsuit, filed Thursday by the ACLU and the Southern Poverty Law Center, alleges that a prison housing mostly mentally ill inmates kept prisoners in “barbaric” conditions. Photos published by the ACLU show pools of blood on floors and feces on cell walls, recalling a medieval dungeon more than a “correctional facility.”

“Taken as a whole, the conditions in solitary confinement at EMCF (East Mississippi Correctional Facility) are the worst I have witnessed in my 40 years as a forensic psychiatrist investigating jail and prison conditions,” said Dr. Terry A. Kupers, an expert witness in the case. “These conditions can accurately be described as torture according to international human rights agreements and standards. They press the outer bounds of what most humans can psychologically tolerate.”

The lawsuit alleges that “inmates are beaten, exploited, and mistreated by gangs and others,” at the EMCF prison in Lauderdale County. The litigation states, “The prison is in chaos, with conditions so dangerous—violence, filth, callous denial of prisoners’ serious medical and mental health needs.”

Former Washington State Corrections Secretary Eldon Vail inspected the prison earlier this year on behalf of the plaintiffs as an expert. He wrote in his report that “this is a prison awash in contraband and easily accessible weapons, where severely chaotic conditions of confinement and no rational, functional way for prisoners to get legitimate issues addressed, put all prisoners as well as staff at ongoing risk of serious

harm.”

Vail noted bloody floors, exposed wiring in cells, dysfunctional water faucets and toilets that would not flush. “One man told me he had not had water in his sink for three weeks,” he said. “Another said he had been without water for four or five days. Another told me his toilet had not functioned for two weeks.”

The ACLU filed a separate class action lawsuit Wednesday against Scott County, Mississippi, on behalf of dozens of county jail inmates who are being detained indefinitely in violation of the US Constitution.

The lawsuit names two Scott County jail inmates who have been illegally detained without bail and with no indictment. However, the ACLU has stated that there are as many as 51 other inmates being indefinitely detained in Scott County and potentially many others across the state and the country.

“This is indefinite detention, pure and simple,” said ACLU Staff Attorney Brandon Buskey. “Scott County jail routinely holds people without giving them a lawyer and without formally charging them for months, with no end in sight,” he said. “For those waiting for indictment, the county has created its own Constitution-free zone. These prisoners’ cases are frozen, their lives outside the jail are disintegrating, and they haven’t even been charged with a crime.”

The introduction to the complaint charges that Scott County has violated the inmates’ “Sixth and Fourteenth Amendment rights to the assistance of counsel, their Sixth Amendment rights to a speedy trial, their Fourteenth Amendment rights against excessive and punitive pre-indictment detention, and their Fourteenth Amendment rights to an individualized bail hearing and determination.”

The first named plaintiff is Octavious Burks, who

was arrested on November 18, 2013 “for attempted armed robbery, possession of a weapon by a felon, disorderly conduct, and possession of paraphernalia.” During his first court appearance, which took place the same day, Scott County Judge Bill Freeman set Burks’ bail at \$30,000 “without any individualized hearing or consideration of the bail factors required under state or federal law, including ability to afford bail.”

According to the complaint, the fact that Burks is unable to pay the bond and that he does not have the resources to post any kind of property bond in such an “arbitrary” amount makes Judge Freeman’s order effectively a “denial of bail.”

On the same day, Burks completed an Affidavit of Indigence and Application for Appointment of Felony Indigent Counsel, a measure that allows the detainee to obtain legal counsel free of charge. Records show that Senior Circuit Judge Marcus Gordon approved Burks’ application on December 19, 2013, but has not formally appointed counsel to represent him.

Judge Gordon claims that it is common practice to wait until indictment to assign counsel, but ACLU representatives have pointed out that this puts the defendant entirely at the mercy of the prosecution, which in this case has already let 10 months pass with no further action. Burks was sent to the Scott Detention Center in Forest, Mississippi, where he remains to this day.

Leslie Lee, the Mississippi public defender, told the *New York Times*, “If you don’t have an attorney, how is a defendant supposed to know what his rights are? He doesn’t realize that he can ask for a bond reduction or he can ask for a preliminary hearing to find out if there is enough evidence.”

Burks has been held indefinitely two previous times in the Scott County jail, both for inordinate durations of time. He was held for 18 months between 2009 and 2011, on suspicion of aggravated assault and disturbing the peace, and again for a year between 2012 and 2013, for possession of a firearm.

On the first occasion, prosecutors waited 16 months before indicting him, and on the second he was never indicted but was subsequently released by the sheriff’s office “on his own recognizance without a hearing.”

Burks’ aunt told the *New York Times* that she would go for stretches of time without seeing her nephew and would then receive a call out of the blue asking her to

come pick him up from the jail. Altogether, Burks, who has spent more than three years in the Scott County jail since August 30, 2009, has only been indicted once, has never been to trial and has never been convicted.

The second named plaintiff is Joshua Bassett, who has experienced similar conditions to those of Burks. He was arrested on January 3, 2013 “pursuant to a warrant issued the same day for grand larceny and possession of methamphetamine.” Bassett made his first appearance two weeks later on January 16, also with no representation, and had his bail set by Judge Freeman at \$100,000.

Bassett completed his request for representation in March or April of this year and received approval from Judge Gordon in May, but has similarly not been appointed counsel and also remains in the same detention center in Forest, Mississippi.

ACLU Staff Attorney Brandon Buskey concluded, “Scott County, while extreme, isn’t alone. In too many places across the United States, poor people languish in jail for weeks and months ... because they can’t make bail and are waiting for an indictment or a public defender.”



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