

EDWARD BAROCAS
JEANNE LOCICERO
ALEXANDER SHALOM (021162004)

American Civil Liberties Union of New Jersey Foundation
89 Market St., P.O. Box 32159
Newark, New Jersey 07102
973-854-1714
ashalom@aclu-nj.org

Attorneys for Plaintiff P.D.

P.D. (a pseudonym)	:	SUPERIOR COURT OF NEW JERSEY
	:	Law Division
<i>Plaintiff,</i>	:	Middlesex County
	:	Civil Part
v.	:	
	:	
	:	DOCKET NO. _____
	:	
MIDDLESEX COUNTY,	:	CIVIL ACTION
	:	
<i>Defendant.</i>	:	
	:	
	:	VERIFIED COMPLAINT, JURY
	:	DEMAND AND DESIGNATION OF
	:	TRIAL COUNSEL
	:	

Plaintiff P.D., by way of his Complaint against Defendant,
says:

NATURE OF ACTION

1. This is a civil rights action for preliminary injunctive relief, permanent injunctive relief, declaratory relief, and damages, seeking relief for violations of the State Constitution's promise of due process and prohibition on cruel and unusual punishment as well as violations of the Law Against

Discrimination. Specifically, this case is brought by a pretrial detainee with a long, serious history of mental illness to challenge the Defendant's confinement of him in long-term solitary confinement.

2. The term "solitary confinement" generally refers to conditions under which detainees are held in isolation, without human contact for more than 22 hours each day. There is a general consensus that solitary confinement has an extremely harmful effect on the human brain. The impact of solitary confinement is especially acute on people with mental illnesses. In instances, such as here, where extended solitary confinement is imposed on a member of a vulnerable population, like the mentally ill, the jail denies Plaintiff due process of law, violates the State Constitution's command that "cruel and unusual punishments shall not be inflicted," and has failed to make a reasonable accommodation for a person with a disability.

PARTIES

3. Plaintiff P.D. is currently incarcerated in the Middlesex County Adult Correction Center, located at Route 130 and Apple Orchard Lane, North Brunswick, NJ.

4. Defendant MIDDLESEX COUNTY is county in New Jersey, and, through its Department of Corrections, operates the Middlesex County Adult Correction Center. The mailing address

for the County Administrator is John F. Kennedy Square, P.O. Box 871, New Brunswick, NJ 08901. The Department of Corrections mailing address is PO Box 266, New Brunswick, NJ 08903-0266. The Adult Correction Center is located at the Corner of Route 130 and Apple Orchard Lane in North Brunswick, NJ.

VENUE

5. Venue properly lies in this vicinage pursuant to R. 4:3-2(a)(2) and 4:3-2(a)(3).

FACTS

6. Since approximately October [REDACTED] 2013, Plaintiff P.D. has been incarcerated in the Middlesex County Adult Correction Center ("MCACC"), awaiting trial on criminal charges stemming from his arrest on October [REDACTED] 2013 [REDACTED].

7. Plaintiff P.D. has a long, well-documented psychiatric history and an extensive history of special education.

8. Plaintiff P.D. has been diagnosed as suffering from bipolar disorder, intermittent explosive disorder and cognitive impairments and has been hospitalized for psychiatric evaluation and treatment several times.

9. Defendant Department of Corrections of Middlesex County was aware, at least since February of 2014, when Dennis H. Sandrock, Ph.D. evaluated Plaintiff P.D., of his mental health history. Defendant had reason to believe that Plaintiff

P.D. had a biologically-based, neurological and psychiatric condition that had a significant impact upon him.

10. Dr. Sandrock noted that Plaintiff P.D. "is an amalgam of psychiatric, neurological, and intellectual deficiencies. . . ." The evaluation noted that P.D. had "a long history of psychiatric medication, treatment and hospitalization."

11. Plaintiff P.D. has been receiving medications while at the MCACC, including mood stabilizers and anti-depressants.

12. In early February, Plaintiff P.D. was transferred to Lower-C, a housing unit at the MCACC where he is held in solitary confinement.

13. While housed in Lower-C, Plaintiff is alone within his cell for 23 hours per day. He eats, sleeps, and passes his day within his small cell, with two small windows that do not open.

14. On weekdays, Plaintiff is allowed out of his cell for one hour per day. In that time he is allowed to either shower or spend time within a "secure recreational enclosure."

15. The secure recreational enclosures are two small, chain-link cages situated in the middle of Lower-C. There is not enough room within either cage to take more than three steps in any direction. The cages also contain the only telephones that prisoners can access with Lower-C.

16. While housed in Lower-C, Plaintiff P.D. is provided no opportunity to interact with, or even speak to, any other prisoners.

17. Since being placed in Lower-C, Plaintiff P.D.'s mental health problems have become more acute.

18. On May 29, 2014, Plaintiff P.D. was evaluated by a psychologist, Raymond Terranova, Ph.D. to determine whether he is competent to stand trial.

19. On June 2, 2014, Plaintiff P.D. was determined to be competent to stand trial. Dr. Terranova indicated that Plaintiff's current diagnosis was "Intermittent Explosive Disorder," "Unspecified Bipolar and Related Disorder" and a "History of Intellectual Disability."

20. Dr. Terranova recommended that, in order to maintain competence, Plaintiff remain compliant with his medication.

21. Plaintiff P.D. remains at the MCACC in Lower-C.

FIRST COUNT

ARTICLE I, PARAGRAPH 1 of the New Jersey Constitution
(Due Process) (brought directly under the New Jersey
Constitution and pursuant to N.J.S.A. 10:6-2(c))

22. Plaintiff repeats and realleges paragraphs 1 to 21 of this Complaint as if fully set forth herein.

23. Article I, Paragraph 1, of the New Jersey Constitution provides: "All persons are by nature free and independent, and have certain natural and unalienable rights, among which are

those of enjoying and defending life and liberty, of acquiring, possessing, and protecting property, and of pursuing and obtaining safety and happiness.”

24. Within the rights protected by Article I, Paragraph 1 of the New Jersey Constitution is the right of pre-trial detainees to be free from conditions that would amount to cruel and unusual punishment.

25. The confinement of Plaintiff, a pre-trial detainee with a history of mental illness, in solitary confinement for an extended period of time, violates Article I, Paragraph 1, of the New Jersey Constitution.

26. The harm being suffered by Plaintiff due to this violation is immediate and irreparable.

27. As a result of the described actions by Defendant, Plaintiff has suffered damages, including emotional distress.

SECOND COUNT

ARTICLE I, PARAGRAPH 12 of the New Jersey Constitution

(No Cruel and Unusual Punishment)

(brought directly under the New Jersey Constitution and pursuant to N.J.S.A. 10:6-2(c))

28. Plaintiff repeats and realleges paragraphs 1 to 27 of this Complaint as if fully set forth herein.

29. The actions of defendants described herein violate Article I, Paragraph 12, of the New Jersey Constitution, which

provides that "cruel and unusual punishments shall not be inflicted"

30. The harm being suffered by Plaintiff due to this violation is immediate and irreparable.

31. As a result of the described actions by Defendant, Plaintiff has suffered damages, including emotional distress.

THIRD COUNT
LAW AGAINST DISCRIMINATION

32. Plaintiff repeats and realleges paragraphs 1 to 31 of this Complaint as if fully set forth herein.

33. The Middlesex County Adult Correction Center constitutes a place of public accommodation within the meaning of the New Jersey Law Against Discrimination, *N.J.S.A. 10:5-1 to 14.1*.

34. Plaintiff is disabled within the meaning of the New Jersey Law Against Discrimination, *N.J.S.A. 10:5-1 to 14.1*.

35. The actions of defendants violate the New Jersey Law Against Discrimination, *N.J.S.A. 10:5-1 to 14.1*, which provides:

All persons shall have the opportunity to obtain employment, and to obtain all the accommodations, advantages, facilities, and privileges of any place of public accommodation, publicly assisted housing accommodation, and other real property without discrimination because of race, creed, color, national origin, ancestry, age, marital status, affectional or sexual orientation, familial status, disability, nationality, sex, gender identity or expression or source of lawful income used for rental or mortgage

payments, subject only to conditions and limitations applicable alike to all persons. This opportunity is recognized as and declared to be a civil right.

36. The harm being suffered by Plaintiff due to this violation is immediate and irreparable.

37. As a result of the described actions by Defendant, Plaintiff has suffered damages, including emotional distress.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff demands judgment against the Defendant for:

1. A preliminary and permanent injunction prohibiting Defendants from housing Plaintiff P.D. in Lower-C or any housing unit where he is held in solitary confinement or other forms of extreme isolation.

2. A declaratory judgment that the actions of Defendants housing Plaintiff in solitary confinement is in violation of the New Jersey Constitution and the Law Against Discrimination.

3. Compensatory and consequential damages in an amount to be determined at trial;

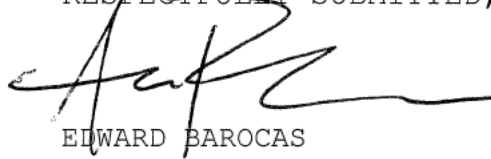
4. Punitive damages on all claims allowed by law, in an amount to be determined at trial;

5. Costs of suit, including reasonable attorney fees pursuant to the New Jersey Civil Rights Act, N.J.S.A. 10:6-2(f) and the Law Against Discrimination, N.J.S.A. 10:5-27.1.

6. Such further relief as the Court deems just and proper.

Dated: June 25, 2014

RESPECTFULLY SUBMITTED,



EDWARD BAROCAS
JEANNE LOCICERO
ALEXANDER SHALOM (021162004)
American Civil Liberties Union of New
Jersey Foundation
89 Market St., P.O. Box 32159
Newark, New Jersey 07102
973-854-1714
ashalom@aclu-nj.org
Attorneys for Plaintiff P.D.

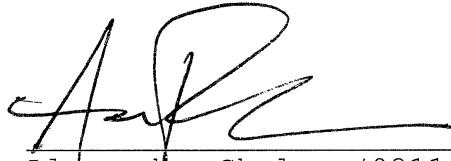
JURY DEMAND

Plaintiff demands trial by jury in this action.

DESIGNATION OF TRIAL COUNSEL

Plaintiff designates Alexander Shalom as trial counsel.

Dated: June 25, 2014

A handwritten signature in black ink, appearing to read 'AS', written over a horizontal line.

Alexander Shalom (021162004)
Senior Staff Attorney
ACLU-NJ Foundation
P.O. Box 32159
89 Market Street, 7th Floor
Newark, NJ 07102
973-854-1714
ashalom@aclu-nj.org

VERIFICATION

I, P.D. (a pseudonym), have read the foregoing Verified Complaint and the allegations contained therein or have had them read to me. The allegations contained therein are true to the best of my personal knowledge and belief, except as to those allegations which are made upon information and belief. As to the allegations made upon information and belief, I believe those to be true.

I understand that if any statements made herein are willfully false, I am subject to punishment.

Dated:

P.D. (a pseudonym)

CERTIFICATION PURSUANT TO RULE 4:5-1

Pursuant to Rule 4:5-1 of the Rules Governing the Courts of the State of New Jersey, it is hereby stated to the best of my knowledge and belief that the matter in controversy is not the subject of any other action pending in any court or of a pending arbitration proceeding. Also, to the best of my belief, no other action or arbitration proceeding is contemplated. Further, other than the parties set forth in this pleading, I know of no other parties that should be joined in the above action. Finally, I recognize the continuing obligation to file and serve all parties and the Court with an amended certification if there is a change in the facts stated here.

Dated June 25, 2014.


Alexander Shalom