

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
FORT WAYNE DIVISION

VINCENT MORRIS, on his own	)	
behalf and on behalf of a class of those	)	
similarly situated,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 1:20-cv-34
	)	
SHERIFF OF ALLEN COUNTY, in	)	
his official capacity;	)	
ALLEN COUNTY, INDIANA,	)	
	)	
Defendants.	)	

**Class Action Complaint for Declaratory and Injunctive Relief Pursuant to Federal  
Rule of Civil Procedure 23(b)(2)**

**Introduction**

1. The Allen County Jail is chronically and seriously overcrowded. As a direct result, violence between prisoners is common and prisoners are denied the minimal levels of life's necessities. Conditions in the Jail violate the requirements of the United States Constitution. Declaratory and injunctive relief should issue to address and remedy the systemic problems in the Jail.

**Jurisdiction**

2. This Court has jurisdiction of this case This Court has jurisdiction of this case pursuant to 28 U.S.C. §§ 1331 and 1343.

3. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391.

4. Declaratory relief is authorized by 28 U.S.C. §§ 2201, 2201, and by Rule 57 of the Federal Rules of Civil Procedure.

5. This action is brought pursuant to 42 U.S.C. § 1983 to redress the deprivation, under color of state law, of rights secured by the United States Constitution.

### **Parties**

6. Vincent Morris is an adult person who is currently confined in the Allen County Jail.

7. The office of the Allen County Sheriff is sued pursuant to Rule 25(d)(2) of the Federal Rules of Civil Procedure.

8. Allen County, Indiana is a county located in northeast Indiana. Its executive is the Allen County Commissioners and its fiscal body is the Allen County Council.

### **Class action allegations**

9. This action is brought by plaintiff on his own behalf and on behalf of a class of those similarly situated pursuant to Rule 23(a) and (b)(2) of the Federal Rules of Civil Procedure.

10. The class is defined as:

all persons currently confined, or who will in the future be confined, in the Allen County Jail.

11. All the requirements of Rule 23(a) are met in this cause in that:

a. The class is so numerous that joinder of all members is impractical. Although the Jail has 741 operational beds, it regularly houses more than this

number of persons and the membership of the class is constantly changing as prisoners enter and leave the facility.

b. There are questions of law or fact common to the class: whether conditions in the Allen County Jail violate the United States Constitution.

c. The claims of the representative party are typical of those of the class.

d. The representative party will fairly and adequately protect the interests of the class.

12. The further requirements of Rule 23(b)(2) are met in this cause as at all times defendants have acted or have refused to act in a manner generally applicable to the class, thereby making final injunctive and declaratory relief appropriate with respect to the class as a whole.

13. Undersigned counsel are appropriate persons to be appointed as counsel for the class pursuant to Federal Rule of Civil Procedure 23(g) and should be appointed.

### **Legal background**

14. Indiana law provides that the sheriff of a county must “take care of the county jail and the prisoners there.” Ind. Code § 36-2-13-5(a)(7).

15. The county commissioners of each Indiana county, as the county executive, have the statutory duty to “establish and maintain a . . . county jail.” Ind. Code § 36-2-2-24(a).

This includes not only providing a jail, but also keeping it in good repair. *Weatherholt v. Spencer County*, 639 N.E.2d 354, 356 (Ind. Ct. App. 1994).

### **Factual allegations**

16. The Allen County Jail was built in 1981, although it was added onto in 1994, 1998 and 2004.

17. At the current time the Jail has 741 operational beds.

18. However, the Jail often houses more than 800 prisoners.

19. Under Indiana law, county jails are inspected annually by the Indiana Department of Correction (“DOC”) jail inspectors. In the most recent report, dated August 8, 2019, the inspector found that on the date of the Jail’s inspection there were 741 operational beds, but there were 863 persons housed in the Jail: 728 adult males, 130 adult females, and 5 male juveniles who had been waived to adult court.

20. A jail facility is deemed to be overcrowded long before it gets to 100% of its capacity.

21. This is because when a jail exceeds approximately 80% of its capacity it becomes difficult, if not impossible, to conduct classification of prisoners much beyond separating men and women.

22. Classification is essential to protect the safety of both prisoners and staff. For example, prisoners with mental and physical disabilities should be separated from those without disabilities, prisoners who are prone to be preyed upon should be separated from predators, prisoners who have previous problems with each other should be separated, etc.

23. The population pressures on the Allen County Jail prevent effective classification.

24. As a result of the overcrowding, some blocks have prisoners who are sleeping on mattresses on plastic platforms, called “boats,” on the floors of cells because the permanent beds are occupied. This causes an enormous amount of tension as space is extremely tight. Toilets are in each cell and when prisoners are on the floor they have to be stepped over for the prisoners in the permanent beds to use the toilets. The “extra” prisoners in each cell are forced to sleep near toilets.

25. The prisoners are locked into their cells for the evening and much of the day and there simply is insufficient room in the cells when they have someone sleeping on the floor.

26. Although the Jail has an outside and indoor recreation area, recreation is provided infrequently and some cell blocks receive no recreation outside of their cell areas.

27. Much of the Jail is linear in structure and there is inadequate audio and video surveillance equipment in the Jail to monitor the prisoners.

28. In order for the safety of prisoners to be assured, there must be frequent inspections by Jail staff where they can walk through and observe what is happening.

29. The prisoners are not adequately monitored by staff.

30. As a result, assaults between prisoners are frequent, aggravated by the overcrowded conditions.

31. Additionally, if prisoners are in medical or other forms of distress, it is difficult, if not impossible, to get prompt attention from guards.
32. There have been at least 4 suicides in the Jail since 2011.
33. Vincent Morris has been in the Allen County Jail since March 18, 2019.
34. Originally, he was a pretrial detainee, but he has pled guilty to criminal offenses.
35. Mr. Morris has resided in the following cell blocks in the Jail: A, E, K.
36. He is currently in K-block. There are 10 cells in the block with 2 permanent beds in each cell. However, due to the population pressures in the Jail there are frequently persons sleeping on the floor of a number of the cells.
37. Prior to K-block, Mr. Morris was housed in E-block, a disciplinary block.
38. In E-block there are 6 cells with two permanent beds and each cell had an extra person in it who slept on the floor in a plastic "boat."
39. Prior to E-block, Mr. Morris spent time in A-block. He was in a cell with only one permanent bed and was forced to sleep on the floor in a "boat" for almost 6 months. The other cells in the block all had two permanent beds and there were frequently persons forced to sleep on the floor in boats in each cell because of overcrowding.
40. Although there are cameras in the blocks where Mr. Morris has been, and is currently, housed, the cameras only show the area immediately outside of the cells. They do not show the interior of the cells and they allow for blind spots in the areas immediately outside of the cells.

41. There is no intercom or similar system allowing communication with staff in the blocks where Mr. Morris has been housed.

42. Guards do not frequently come into the cell blocks to check on prisoners.

43. There is a control area that looks into the blocks but there is frequently not staff there. This is the same in the other blocks in which Mr. Morris was housed.

44. Fights between prisoners often occur and the correctional officers frequently do not know that they have happened as they are not in the cell blocks and cannot see into all areas of the cell blocks with cameras and are not in the control areas.

45. The overcrowding causes a great deal of tension that leads to fights. Mr. Morris is aware that sometimes prisoners are hospitalized as a result of the fights. He estimates that there are at least four physical fights a week in the cell blocks where he has been placed.

46. Part of this tension is because of the sheer fact that there are too many people in too small of a space.

47. The tension is also caused or aggravated by the inability of the Jail to engage in proper classification of prisoners. For example, a prisoner facing 50 years might be housed with a prisoner who is getting out in two months and there will be a fight because the person facing 50 years does not want to hear about the other prisoner soon being a free person.

48. The dangerous conditions that exist in the cell blocks without the knowledge of guards include more than just the fights that go on. For, as noted, it is often impossible to attract the attention of the correctional staff to respond to such things as medical emergencies.

49. For example, Mr. Morris had a medical need in the evening. His cell mate had to kick on the door for 30 minutes before a correctional officer came and took Mr. Morris out for medical observation.

50. At the current time Mr. Morris does not receive any recreation outside of his cell area. Although he is allowed out of his cell into the area immediately outside of his cell area for a brief period of time each day, he is not able to engage in vigorous physical exercise in this area.

51. He believes that other prisoners who have a higher behavioral rating than he does are offered 1 hour a week of recreation outside of their immediate cell areas.

52. Recreation outside of the cell area is necessary so prisoners can “blow off steam” and minimize the tension that can, and frequently does, lead to violence. Mr. Morris and the other prisoners are adversely affected by the lack of recreation.

53. The lack of recreation, the overcrowding, and the lack of staff supervision has caused, and continues to cause, tension and dangerous conditions in the blocks where Mr. Morris has been housed and where he is housed currently.



54. Mr. Morris is concerned not only for his own safety, but for the safety of other prisoners who are similarly injured by conditions in the Jail. He believes that all prisoners are negatively affected by the overcrowding, lack of sufficient staff, lack of recreation, and the other problems that all this causes.

55. Mr. Morris has filed grievances to challenge the overcrowded conditions. On November 28, 2019, he filed a grievance that states, without any editing or correction, "This cell is over crowded theres 3 men in this cell theres no room to walk around everywhere I step Im stepping on someone or someones belongings we need room!!." This was returned to him marked "noted." He filed another grievance addressing overcrowding on November 30.

56. The responses to his grievances did not resolve them. At no point was he informed how to appeal the lack of resolution to a higher level. The grievance forms do not contain any information concerning appeals and he is not aware of any appeal procedure.

57. He has therefore exhausted all grievance remedies that were available to him.

58. Defendants have been on notice for some time concerning the deficiencies in the Jail, but have failed to take the necessary steps to resolve the overcrowding and other problems. At all times they have acted in a deliberate and purposeful manner and a reasonable person would objectively perceive their behavior as deliberately indifferent to these serious deficiencies.

59. The conditions in the Allen County Jail result in the denial of basic human needs and the minimal civilized measure of life's necessities, and amount to punishment.

60. Allen County has failed in its mandatory duty to establish and maintain the Allen County Jail in a constitutional manner.

61. Defendant Sheriff has failed in his mandatory duty to take care of the Allen County Jail and the prisoners detained there in a constitutional manner.

62. The actions and inactions of the defendants are causing plaintiff and the putative class irreparable harm for which there is no adequate remedy at law.

63. At all times defendants have acted and have refused to act under color of state law.

**Claim for relief**

64. The conditions of the Allen County Jail violate the 14th Amendment to the United States Constitution as applied to pre-trial detainees and the 8th Amendment to the United States Constitution as applied to convicted prisoners.

**Request for relief**

WHEREFORE, plaintiff requests that this Court:

1. Accept jurisdiction of this case and set it for hearing at the earliest opportunity.
2. Certify this case as a class action with the class as defined above and class counsel as set out below.
3. Declare that the actions and inactions of defendants violate the United States Constitution for the reasons noted above.

4. Enter a permanent injunction requiring defendants to take all steps necessary to ensure that the conditions of confinement at the Allen County Jail comply with the United States Constitution.
5. Award plaintiff costs and reasonable attorney's fees pursuant to 42 U.S.C. § 1988.
6. Award all other proper relief.

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Attorneys for Plaintiff and the  
Putative Class

United States District Court

for the  
Northern District of Indiana

VINCENT MORRIS

*Plaintiff,*

vs.

SHERIFF OF ALLEN COUNTY, *et al.*,

*Defendants.*

Cause No: 1:20-cv-34

**SUMMONS IN A CIVIL ACTION**

TO:

Sheriff of Allen County  
715 S. Calhoun St.  
No. 101  
Fort Wayne, IN 46802

A lawsuit has been filed against you. Within 21 days after service of this summons on you (not counting the day you received it) or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Kenneth J. Falk  
ACLU of Indiana  
1031 E. Washington St.  
Indianapolis, IN 46202

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*CLERK OF COURT*

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

Civil Summons (Page 2)

Civil Action Number: 1:20-cv-34

**PROOF OF SERVICE**

*(this section should not be filed with the court unless required by Fed. R. Civ. P. 4(l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

☐ I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I returned the summons unexecuted because \_\_\_\_\_; or

☐ Other *(specify)*:

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's Signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc.

United States District Court

for the  
Northern District of Indiana

VINCENT MORRIS,

*Plaintiff,*

vs.

SHERIFF OF ALLEN COUNTY, *et al.*

*Defendants.*

Cause No: 1:20-cv-34

**SUMMONS IN A CIVIL ACTION**

TO:

Allen County, Indiana  
c/o Allen County Commissioners  
200 E. Berry St. #410  
Fort Wayne, IN 46802

A lawsuit has been filed against you. Within 21 days after service of this summons on you (not counting the day you received it) or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Kenneth J. Falk  
ACLU of Indiana  
1031 E. Washington St.  
Indianapolis, IN 46202

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*CLERK OF COURT*

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

Civil Summons (Page 2)

Civil Action Number: 1:20-cv-34

**PROOF OF SERVICE**

*(this section should not be filed with the court unless required by Fed. R. Civ. P. 4(l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

☐ I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I returned the summons unexecuted because \_\_\_\_\_; or

☐ Other *(specify)*:

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's Signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc.

## CIVIL COVER SHEET

USDC IN/ND case 1:20-cv-00034-DRL document 1-2 filed 01/21/20 page 1 of 2

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

Vincent Morris

(b) County of Residence of First Listed Plaintiff Allen  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)  
Kenneth Falk, Stevie Pactor, ACLU of Indiana, 1031 E. Washington St.  
Indianapolis, IN 46202, 317/635-4059; Samuel Bolinger, 803 S.  
Calhoun St., #300, Fort Wayne, IN 46802, 260/407-0040

**DEFENDANTS**

Sheriff of Allen County; Allen County Indiana

County of Residence of First Listed Defendant Allen  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF  
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)  
J. Spencer Feighner, Haller & Colvin, 444 E. Main St., Fort Wayne,  
IN 46802

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question  
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity  
(Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input checked="" type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

**V. ORIGIN** (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
42 USC s. 1983

Brief description of cause:

The conditions of the Allen Co. Jail are alleged to violate the 8th and 14th Amendments.

**VII. REQUESTED IN COMPLAINT:**

☒ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

01/19/2020

SIGNATURE OF ATTORNEY OF RECORD

/s/ Kenneth J. Falk

**FOR OFFICE USE ONLY**

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE



**USDC IN/ND case 1:20-cv-00034-DRL document 1-2 filed 01/21/20 page 2 of 2**  
**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.  
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.  
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.  
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.  
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the seven boxes.  
 Original Proceedings. (1) Cases which originate in the United States district courts.  
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.  
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.  
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.  
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.  
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.  
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.  
**PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.  
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.  
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.