

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

JAMES B. GEITZ, et al.,)	
)	
Plaintiffs,)	
)	
v.)	No. 4:15CV269 JAR
)	
CHRIS KOSTER, et al.,)	
)	
Defendants,)	

MEMORANDUM AND ORDER

Plaintiffs, who are pretrial civil detainees moving to proceed in forma pauperis, bring this action under 42 U.S.C. § 1983 for alleged violations of their constitutional rights. Upon review of the complaint, the Court finds that defendants should be served with process.

Plaintiffs James Geitz, Roger Blum, and Kenneth Christner are currently detained at the Ste. Genevieve Detention Center pursuant to Missouri’s Sexually Violent Predator Act, Mo. Rev. Stat. §§ 632.480 - 632.513 (the “Act”). Named as defendants are Chris Kostner, Attorney General for the State of Missouri; George Lombardi, Director of the Missouri Department of Corrections; Ellis McSwain, Jr., Chairman of the Board of Probation and Parole; Julie Motley, Director of the Missouri Sex Offender Program; Keith Schafer, Director of the Missouri Department of Mental Health; and David Schmitt, Director of the Sex Offender Rehabilitation and Treatment Services (“SORTS”).

Plaintiffs allege that their rights to equal protection and to be free from cruel and unusual punishment have been infringed upon by an “unwritten policy” of the defendants. Plaintiffs were all imprisoned for sex-related crimes. During their incarceration, they participated in Missouri’s Sex Offender Treatment Program (the “Program”). In the Program, prisoners are

encouraged to prepare a Sexual Victim Disclosure packet. They are instructed to write down not only the victims for the crimes giving rise to their incarceration, but also victims for whom they had not been prosecuted.

Plaintiffs served determinate sentences. Plaintiffs claim that defendants treated them differently than inmates serving indeterminate sentences by using the information in their Sexual Victims Disclosures against them when they were due to be released to prosecute them under the Act. Plaintiffs say the result of this is that only prisoners serving determinate sentences are prosecuted under the Act. Plaintiffs contend that prisoners serving indeterminate sentences, who committed more violent crimes, are never detained to determine whether they are Sexually Violent Predators (“SVPs”) under the Act. Plaintiffs argue that this disparate treatment violates their rights to equal protection under the law.

Plaintiffs assert that the conditions of confinement at Ste. Genevieve Detention Center are deplorable. Plaintiffs complain that they are strip searched, deprived of exercise, and fed an unhealthy diet that has caused them to gain weight. Plaintiffs also complain that canteen items and phone minutes are much more expensive than in the Missouri Department of Corrections or at SORTS. Plaintiffs state, however, that they are not bringing suit for conditions of confinement. Plaintiffs say they mention the poor conditions to show that defendants have violated their Eighth Amendment rights to be free from cruel and unusual punishment.

At this time, the Court finds that the allegations should not be dismissed on review under 28 U.S.C. § 1915(e). Therefore, the Court will direct the Clerk to issue process on the complaint.

Plaintiffs have also filed a motion to add a defendant by interlineation. Under Rule 15, a party seeking to add new claims must file an amended complaint. The Federal Rules do not allow amendment by interlineation. Therefore, the motion is denied.

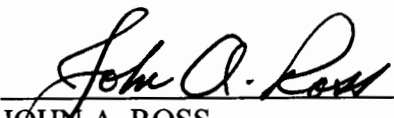
Accordingly,

IT IS HEREBY ORDERED that plaintiffs' motions for leave to proceed in forma pauperis [ECF Nos. 2, 3, and 4] are **GRANTED**.

IT IS FURTHER ORDERED that plaintiffs' motion to add a defendant [ECF No. 5] is **DENIED**.

IT IS FURTHER ORDERED that the Clerk shall issue process on the complaint.

Dated this 4th Day of March, 2015.



JOHN A. ROSS
UNITED STATES DISTRICT JUDGE