

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

KASEEM COLEMAN, a minor, : CIVIL ACTION NO. 81-2215  
by his mother and next :  
friend, Delores Lee; :

AARON MATTOX, a minor, by :  
his mother and next friend, :  
Doris Mattox; :

LAWRENCE LEE WIGGINS and : CLASS ACTION  
FREDDIE LEE WIGGINS, minors, :  
by their mother and next :  
friend, Barbara Wiggins, :  
on their own behalf and on :  
behalf of all others :  
similarly situated, :

Plaintiffs : FIRST AMENDED COMPLAINT

vs. :

LEROY S. ZIMMERMAN, individually :  
and in his official capacity as :  
Attorney General, Commonwealth :  
of Pennsylvania; :

COMMONWEALTH OF PENNSYLVANIA; :

JOSEPH H. STANZIANI and LAWRENCE A. :  
BROWN, individually and in their :  
official capacities as Judges of :  
the Montgomery County Court of :  
Common Pleas, Juvenile Division, :  
on their own behalf and on behalf :  
of all other Juvenile Court Judges :  
similarly situated in the :  
Commonwealth of Pennsylvania; :

ANTHONY GUARNA, individually and :  
in his official capacity as Chief :  
Juvenile Probation Officer, :  
Montgomery County, on his own behalf :  
and on behalf of all other juvenile :  
probation officers similarly :  
situated in the Commonwealth of :  
Pennsylvania; :

THE MONTGOMERY COUNTY COURT OF :  
COMMON PLEAS, JUVENILE DIVISION; :  
and :

MONTGOMERY COUNTY, PENNSYLVANIA, :  
Defendants :

### COMPLAINT

#### I. INTRODUCTORY STATEMENT

1. This is a civil rights class action under 42 U.S.C. §1983, to redress the deprivation, under color of state law, of rights secured to plaintiffs by the Sixth, Eighth, and Fourteenth Amendments to the United States Constitution, and Article I, Section 9 of the Pennsylvania Constitution.

2. Specifically, plaintiffs challenge the constitutionality of Section 6325 of the Pennsylvania Juvenile Act, 42 Pa.C.S. §6325, on its face and as applied, insofar as it authorizes the preventive detention of allegedly delinquent or adjudicated juveniles when their detention is "required to protect the person or property of others or of the child." Plaintiffs allege that this statutory scheme authorizing the preventive detention of juveniles is violative of their rights to due process and equal protection of the laws. Named plaintiffs bring this action on their own behalf and on behalf of all other allegedly delinquent and adjudicated juveniles in Pennsylvania who are now or will in the future be detained prior to trial or disposition in violation of their constitutional rights. Plaintiffs seek declaratory and injunctive relief, as well as damages for the named plaintiffs,

KASEEM COLEMAN and AARON MATTOX, to redress past violations.

## II. JURISDICTION

3. Jurisdiction is conferred on this Court by 28 U.S.C. §1343(3),(4) which provides for original jurisdiction in this Court of all suits brought pursuant to 42 U.S.C. §1983, to redress the deprivation, under color of state law, of any right, privilege, or immunity secured by the Constitution or laws of the United States.

4. Jurisdiction is also conferred on this Court by 28 U.S.C. §1331(a), because the action arises under the Constitution and laws of the United States.

5. Plaintiffs' action for declaratory and injunctive relief is authorized by 28 U.S.C. §§2201, 2202, and 42 U.S.C. §1983.

6. Independent of any federal cause of action, this Court has pendent jurisdiction over claims asserted pursuant to the Constitution of the Commonwealth of Pennsylvania.

## III. PARTIES

7. Plaintiff KASEEM COLEMAN is a seventeen (17) year old minor child who resides in Philadelphia and who brings this action through his mother and next friend, Delores Lee.

8. Plaintiff AARON MATTOX is a seventeen (17) year old minor child who resides in Philadelphia and who brings this action through his mother and next friend, Doris Mattox.

9. Plaintiff LAWRENCE LEE WIGGINS is a sixteen (16) year old minor child who resides in Philadelphia and who brings this action through his mother and next friend, Barbara Wiggins.

10. Plaintiff FREDDIE LEE WIGGINS is a thirteen (13) year old minor child who resides in Philadelphia and who brings this action through his mother and next friend, Barbara Wiggins.

11. Defendant LEROY S. ZIMMERMAN is the chief law enforcement officer of the Commonwealth of Pennsylvania, pursuant to Article 4.1 of the Pennsylvania Constitution. As such, he is responsible for the enforcement of all laws in the Commonwealth, including the provisions of the Pennsylvania Juvenile Act challenged herein. He is sued in his individual and official capacity.

12. Defendant COMMONWEALTH OF PENNSYLVANIA is sued for declaratory and injunctive relief purposes only.

13. Defendant JOSEPH H. STANZIANI is a Judge of the Court of Common Pleas, Montgomery County, who at all times pertinent hereto was sitting as a Judge in the Juvenile Division, Court of Common Pleas, Montgomery County. As such, he was and remains responsible for handling, inter alia, matters involving allegations of delinquency or dependency, in accordance with 42 Pa.C.S. §§6301 et seq. He has the specific authority, pursuant to 42 Pa.C.S. §6332, to determine which youths will be detained in the Montgomery County Youth Center, including the length of stay and

release of all such juveniles, pending further hearings. He is sued individually and in his official capacity, on his own behalf and on behalf of all other Juvenile Court Judges similarly situated in the Commonwealth of Pennsylvania. Defendant Stanziani, as well as the class of Juvenile Court Judges whom he represents, is sued for declaratory and injunctive relief purposes only.

14. Defendant LAWRENCE A. BROWN is a Judge of the Court of Common Pleas, Montgomery County, who at all times pertinent hereto was sitting as a Judge in the Juvenile Division, Court of Common Pleas, Montgomery County. As such, he was and remains responsible for handling, inter alia, matters involving allegations of delinquency or dependency, in accordance with 42 Pa.C.S. §§6301 et seq. He has the specific authority, pursuant to 42 Pa.C.S. §6332, to determine which youths will be detained in the Montgomery County Youth Center, including the length of stay and release of all such juveniles, pending further hearings. He is sued individually and in his official capacity, on his own behalf and on behalf of all other Juvenile Court Judges similarly situated in the Commonwealth of Pennsylvania. Defendant Brown, as well as the class of Juvenile Court Judges whom he represents, is sued for declaratory and injunctive relief purposes only.

15. Defendant ANTHONY GUARNA is the Chief Juvenile Probation Officer of Montgomery County. As such, and pursuant to 42 Pa.C.S. §6304, he is granted authority by the Montgomery County Court of Common Pleas, Juvenile Division, to conduct procedures for the

custody and detention of juveniles charged with unlawful behavior. He is directly responsible for developing and implementing the policies and procedures of the Montgomery County Juvenile Probation Department, including the Criteria for Detention and other intake procedures challenged herein. In addition, in his capacity as Chief Juvenile Probation Officer, he has direct supervisory authority over the manner in which Montgomery County juvenile probation officers carry out these policies and procedures in the execution of their duties. He is sued individually and in his official capacity, on his own behalf and on behalf of all other juvenile probation officers similarly situated in the Commonwealth of Pennsylvania.

16. Defendant MONTGOMERY COUNTY COURT OF COMMON PLEAS, JUVENILE DIVISION, is part of the unified judicial system of the Commonwealth of Pennsylvania, pursuant to 42 Pa.C.S. §301, and serves the thirty-eighth judicial district, 42 Pa.C.S. §901(a). The Juvenile Division is an administrative unit, 42 Pa.C.S. §954, composed of those judges of the court responsible for handling, inter alia, matters involving allegations of delinquency or dependency in accordance with 42 Pa.C.S. §§6301 et seq. The judges of the Montgomery County Court of Common Pleas, Juvenile Division, have the specific authority, pursuant to 42 Pa.C.S. §6331, to determine which youths will be detained in the Montgomery County Youth Center, including the length of stay and release of all such juveniles, pending further hearings. Defen-

dant Montgomery County Court of Common Pleas, Juvenile Division, is sued for injunctive and declaratory relief purposes only.

17. Defendant MONTGOMERY COUNTY is a political subdivision of the Commonwealth of Pennsylvania, and is classified as a city of the second class. Pursuant to 11 P.S. §§421, 429, Montgomery County is required to provide and maintain a juvenile detention facility for the reception of juveniles charged with unlawful behavior. The policies, practices, acts, and omissions of the Montgomery County Court of Common Pleas, Juvenile Division, and of Joseph H. Stanziani, Lawrence A. Brown, and Anthony Guarna and his agents and employees in the Montgomery County Juvenile Probation Department, complained of herein, represent the official acts, policies, practices, and customs of Montgomery County.

18. All actions taken by the above-named defendants were and are done under color of state law, custom, and practice.

19. At all times pertinent hereto, all defendants knew or should have known that their acts, practices, policies or omissions regarding the preventive detention of allegedly delinquent youth prior to trial or adjudicated delinquent youth prior to disposition was violative of plaintiffs' constitutional rights, and should have taken action to correct them. Having failed to do so, defendants are in violation of 42 U.S.C. §1983, the Sixth, Eighth, and Fourteenth Amendments to the United States

Constitution, and Article I, Section 9 of the Pennsylvania Constitution.

#### IV. CLASS ACTION ALLEGATIONS

20. Named plaintiffs bring this action on behalf of themselves and all others similarly situated, pursuant to Rule 23(a), (b)(2) of the Federal Rules of Civil Procedure. The class consists of all allegedly delinquent juveniles in the Commonwealth of Pennsylvania who are currently, or will in the future, be detained prior to trial in violation of their civil and constitutional rights, and all adjudicated juveniles in the Commonwealth of Pennsylvania who are now, or will in the future, be detained prior to disposition in violation of their civil and constitutional rights.

21. The members of the class are so numerous that joinder of all members is impracticable. Statistics compiled by the Pennsylvania Juvenile Court Judges' Commission reveal that in 1979 8,486 children were detained in juvenile detention centers or jails in Pennsylvania, of which 3,000 had no prior delinquency or dependency referral. In 1980 7,668 children were detained in juvenile detention centers or jails, of which 2,830 had no prior delinquency or dependency referral.

22. There are questions of law and fact common to the class, including but not limited to:

- a) whether the pre-trial secure detention of allegedly delinquent juveniles to protect the



person or property of others or of themselves or for reasons other than the need to ensure their presence at trial, is constitutionally valid;

b) whether the pre-disposition secure detention of adjudicated delinquent juveniles to protect the person or property of others or of themselves or for reasons other than the need to ensure their presence at their disposition hearing, is constitutionally valid;

c) whether 42 Pa.C.S. §6325 is so vague and overbroad that its enforcement is arbitrary and capricious, in violation of the due process rights of plaintiffs.

23. The claims of the named plaintiffs are typical of the claims of the members of the class, and the named plaintiffs will fairly and adequately represent the interests of the class. Plaintiffs are represented by counsel who have extensive experience litigating civil rights class actions, including actions involving juvenile pre-trial detention issues.

24. By their persistent policies and practices of detaining allegedly delinquent and adjudicated delinquent youth in juvenile detention centers and jails in violation of their due process

and equal protection rights, defendants have acted and continue to act on grounds and in a manner generally applicable to the class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the class as a whole.

25. The injuries suffered by plaintiffs and the members of the plaintiff class as a result of the defendants' policies and practices alleged herein are capable of repetition yet may evade review because of the inherently short nature of juvenile pre-trial detention, thereby making class relief appropriate.

26. Defendants JOSEPH H. STANZIANI and LAWRENCE A. BROWN are sued individually, and as representatives of all other Juvenile Court Judges and Masters similarly situated in the Commonwealth of Pennsylvania, pursuant to Rule 23(a)(b)(2) of the Federal Rules of Civil Procedure. This defendant class consists of all Juvenile Court Judges and Masters in the Commonwealth of Pennsylvania who are now or will in the future be responsible for hearing matters involving allegations of delinquency, pursuant to 42 Pa.C.S. §§6301 et seq., and, specifically, for determining which Pennsylvania youth will be detained in secure detention centers or jails prior to trial or disposition, including the length of stay and release of all such juveniles, pursuant to 42 Pa.C.S. §6331.

27. The members of this defendant class are so numerous that joinder of all members is impracticable. There are approximately 100 Juvenile Court Judges or Masters in Pennsylvania.

28. There are questions of law and fact common to this defendant class, including but not limited to:

a) whether their continued enforcement and application of 42 Pa.C.S. §6325, which authorizes them to detain members of plaintiffs' class prior to trial or disposition to protect the person or property of others or of plaintiffs themselves, is violative of plaintiffs' civil and constitutional rights;

b) whether their continued enforcement and application of 42 Pa.C.S. §6325 to the plaintiff class, whereby they are not required to limit their inquiry in matters of detention to whether the juvenile is likely to flee or be removed from the jurisdiction, is violative of plaintiffs' civil and constitutional rights;

c) whether their continued enforcement and application of 42 Pa.C.S. §6325 in the absence of any standards, guidelines, or burden of proof to guide them in their

decision-making results in the arbitrary and capricious detention of plaintiff class members, in violation of their civil and constitutional rights.

29. The claims and defenses of the named defendants will be typical of the claims and defenses of the members of the class, and the named defendants will fairly and adequately represent the interests of the class. The authority of these class defendants to detain juveniles in secure detention centers or jails is grounded in the same statute, which is of statewide application, and all defendants are required to act pursuant to the challenged statutory provision.

30. Since the challenged statutory provision is of general, statewide application, is challenged on the basis of its unconstitutionality, and all members of defendants' class are required to enforce it and to act pursuant to it, the issuance of final declaratory and injunctive relief applicable to defendants' class as a whole is appropriate.

31. Defendant ANTHONY GUARNA is sued individually, and as a representative of all other juvenile probation officers similarly situated in the Commonwealth of Pennsylvania, pursuant to Rule 23(a)(b)(2) of the Federal Rules of Civil Procedure. This defendant class consists of all juvenile probation officers who are now or will in the future be responsible for conducting

procedures for the custody, intake, and detention of juveniles charged with unlawful behavior, prior to the informal detention hearing before the judge or master, pursuant to 42 Pa.C.S. §6304 and §6325.

32. The members of this defendant class are so numerous that joinder of all members is impracticable. Each county in Pennsylvania, of which there are sixty-seven (67), has at least one juvenile probation officer responsible for intake and detention prior to the 72-hour detention hearing. Many counties have more than one juvenile probation officer.

33. There are questions of law and fact common to the class, including but not limited to:

a) whether their continued detention of juveniles prior to the 72-hour detention hearing pursuant to 42 Pa.C.S. §6325, which authorizes and permits them to detain juveniles when necessary to protect the person or property of others or of the juveniles themselves, is violative of plaintiffs' civil and constitutional rights;

b) whether their continued detention of juveniles prior to the 72-hour detention hearing for reasons other than the need to protect the jurisdiction of the court is violative of plaintiffs' civil and constitutional rights;

c) whether their continued detention of juveniles prior to the 72-hour detention hearing pursuant to 42 Pa.C.S. §6325 which, in the absence of standards to guide their decision-making, results in the arbitrary and capricious detention of members of plaintiffs' class, is violative of plaintiffs' civil and constitutional rights.

34. The claims and defenses of the named defendant will be typical of the claims and defenses of the members of the class, and the named defendant will fairly and adequately represent the interests of the class. The authority of these class defendants to detain juveniles in secure detention centers or jails is grounded in the same statute, which is of statewide application, and all defendants are required to act pursuant to the challenged statutory provision.

35. Since the challenged statutory provision is of general statewide application, is challenged on the basis of its unconstitutionality, and all members of defendants' class are required to enforce it and to act pursuant to it, the issuance of final declaratory and injunctive relief applicable to defendants' class as a whole is appropriate.

V. FACTUAL ALLEGATIONS

A. ALLEGATIONS REGARDING NAMED PLAINTIFFS

36. Plaintiffs Kaseem Coleman and Aaron Mattox were arrested in Montgomery County by members of the Cheltenham Police Department on April 4, 1981, and charged with Unauthorized Use of Vehicle, Receiving Stolen Property, Aggravated and Simple Assault, Recklessly Endangering Another Person, and Criminal Conspiracy.

37. Following their arrest, plaintiffs were detained in the Montgomery County Youth Center overnight on April 4, 1981, pursuant to the recommendation of the juvenile probation officer/intake worker on duty that evening.

38. The Montgomery County Youth Center is a secure juvenile detention facility for allegedly delinquent youth or for adjudicated delinquent youth awaiting disposition or placement. Pennsylvania Department of Public Welfare Detention Center Service Regulations, Section 2-28-5.

39. At the time of his arrest, plaintiff Coleman was on a Consent Decree in Philadelphia, pursuant to 42 Pa.C.S. §6340. A

consent decree is a pre-adjudication probationary status, and does not represent a finding of guilt on the underlying charge.

40. Other than the arrest leading to the entry of the Consent Decree, plaintiff Coleman had no prior arrests or referrals to juvenile court.

41. At the time of his arrest, plaintiff Mattox had no prior arrests or referrals to juvenile court.

42. On Monday, April 5, 1981, a detention hearing for plaintiffs was held before Judge Joseph H. Stanziani, of Montgomery County Juvenile Court, pursuant to 42 Pa.C.S. §6325 and §6332(a).

43. Plaintiff Coleman's mother, Delores Lee, and grandmother were in attendance at the detention hearing, as well as plaintiff Mattox's mother, Doris Mattox.

44. At this hearing the charges against plaintiffs were read, and the probation officer recommended their detention based on the "nature of the charges and their prior record." No other direct evidence relative to the charges was offered.

45. The District Attorney concurred in the recommendation of the probation officer that plaintiffs be detained.

46. Following the recommendation of the probation officer and District Attorney, Judge Stanziani ordered plaintiffs detained in the Montgomery County Youth Center until April 15, 1981, at



which time an adjudicatory hearing would be held.

47. At no time prior to entry of the detention order did Judge Stanziani, the probation officer, or the District Attorney inquire as to whether plaintiffs' parents were present, and whether they were available to provide supervision and assurances to the Court that plaintiffs would appear for trial.

48. At no time did the Court or any of its officers inquire as to whether plaintiff Coleman had any record of failure to appear for his hearings arising out of his prior Philadelphia delinquency proceeding.

49. Following the entry of the detention order, plaintiff Coleman's mother, Delores Lee, asked to be heard, at which time she and plaintiff's grandmother spoke on his behalf. Plaintiff Mattox's mother, Doris Mattox, also asked to be heard, and also spoke on her son's behalf. Judge Stanziani nevertheless refused to alter his prior order.

50. Montgomery County is a county contiguous to Philadelphia County. The Montgomery County Juvenile Court is no more than a forty-minute drive from plaintiffs' homes. At no time did the Court, the District Attorney, or the probation officer assert that the fact of plaintiffs' residences in Philadelphia was a justification for their detention.

51. On April 15, 1981, an adjudicatory hearing was held for

plaintiff Coleman before Judge Lawrence A. Brown sitting as a Judge of the Montgomery County Common Pleas Court, Juvenile Division. Because plaintiff Mattox's attorney was unable to appear, his case was continued until April 25, 1981, during which time he remained in detention.

52. At the close of plaintiff Coleman's hearing, Judge Brown took the case under advisement. Plaintiff's lawyer requested that plaintiff Coleman be released to the custody of his mother and stepfather, who were in attendance at the hearing, pending the court's determination. Judge Brown refused to release plaintiff, stating that the need for his detention was "evident" from the fact that he was on a Consent Decree for a weapons offense.

53. On April 21, 1981, Judge Brown dismissed all charges against plaintiff Coleman, and he was released from the Youth Center.

54. Plaintiff Coleman spent a total of seventeen days in detention at the Youth Center.

55. On April 24, 1981, an adjudicatory hearing for plaintiff Mattox was held before Judge Joseph H. Stanziani. At the close of the hearing, plaintiff Mattox was adjudicated delinquent on charges of Receiving Stolen Property, Unauthorized Use of Vehicle, Recklessly Endangering Another Person and Simple Assault. The charge of Aggravated Assault was taken under advisement and dismissed by the Court a few days later.

56. A disposition hearing for plaintiff Mattox was scheduled for May 8, 1981. Plaintiff Mattox was ordered detained in the Youth Center pending his disposition hearing.

57. At his disposition hearing on May 8, 1981, Judge Stanziani placed plaintiff Mattox on probation.

58. Plaintiff Mattox spent a total of 34 days in detention at the Youth Center.

59. At the time of his arrest and detention, plaintiff Coleman was a full-time student at the Urban Career Education Center in Philadelphia, a component of the Opportunities Industrialization Center.

60. At the time of his arrest and detention, plaintiff Mattox was employed full-time as a cook's helper by the Howard Johnson's Restaurant in Glenside, Pennsylvania. As a result of his unlawful detention plaintiff Mattox lost his job, and a minimum of four weeks wages.

61. Plaintiffs Lawrence Lee Wiggins and Freddie Lee Wiggins were arrested in Delaware County on or about June 28, 1981, and charged with Criminal Conspiracy, Robbery, Receiving Stolen Property, Aggravated and Simple Assault, and Theft, said allegations arising from a purse-snatching incident.

62. Following their arrest, plaintiffs Wiggins were detained in the Delaware County Juvenile Detention Center at Lima

pursuant to the recommendations of the Delaware County juvenile probation officer(s) until their detention hearing on June 30, 1981.

63. The Delaware County Juvenile Detention Center at Lima is a secure juvenile detention facility for allegedly delinquent youth, or for adjudicated delinquent youth awaiting disposition or placement. Pennsylvania Department of Public Welfare Detention Center Service Regulations, Section 2-28-5.

64. At the time of his arrest, plaintiff Freddie Lee Wiggins had never been arrested before nor referred to juvenile court for any reason.

65. At the time of his arrest, plaintiff Lawrence Lee Wiggins had never been arrested before nor referred to juvenile court for any reason.

66. On Wednesday, June 30, 1981, a detention hearing for plaintiffs Wiggins was held before Master Paul Nelson of the Delaware County Juvenile Court.

67. At the detention hearing before Master Nelson the arresting officer testified as to the facts set forth in the petition, although he had no personal knowledge of the events leading up to the arrest. No other testimony regarding the incident was presented.

68. Following the police officer's testimony, the District

Attorney recommended that plaintiffs Wiggins be detained pending trial, due to the serious nature of the charges, the danger to the community that would result from their release, and the fact that their residence in Philadelphia would make it difficult to serve a subpoena should they fail to appear for trial.

69. The public defender representing plaintiffs contended, in response, that detention was not appropriate in light of the fact that neither plaintiff had ever been previously arrested and that their mother, who was present at the hearing, had a car and could give assurances to the Court that plaintiffs would appear for trial. The public defender also informed the Court that plaintiffs' mother was currently at home full-time, and would be able to provide supervision for plaintiffs pending trial. Plaintiffs live approximately twenty minutes, by car, from the Delaware County Courthouse.

70. Master Nelson recommended that plaintiffs be detained in the Delaware County Juvenile Detention Center at Lima, pending their adjudicatory hearing on July 10, 1981.

71. The recommendation of the Master in Delaware County is typically forwarded to the Juvenile Court Judge, who may accept or reject it.

72. On information and belief, the recommendation of Master Nelson that plaintiffs Wiggins be detained pending trial was forwarded to Judge Howard Reed, sitting as Juvenile Court Judge, Delaware County Court of Common Pleas.

73. On information and belief, Judge Reed accepted the recommendation of Master Nelson and entered an order that plaintiffs Wiggins be detained pending an adjudicatory hearing on July 10, 1981.

74. At the time of his arrest, plaintiff Lawrence Lee Wiggins was employed by the maintenance department at Longstreth Elementary School, at 57th and Willows Streets in Philadelphia. Since his arrest and detention, plaintiff has lost a minimum of eight days wages.

75. At the present time, plaintiffs Wiggins remain in detention in the Delaware County Juvenile Detention Center at Lima, and have suffered, do suffer, and will continue to suffer immediate and irreparable injury unless this Court grants the declaratory and injunctive relief which plaintiffs seek. Plaintiffs have no adequate remedy at law.

B. ALLEGATIONS REGARDING MONTGOMERY COUNTY DEFENDANTS

76. In 1979, there were 1,272 delinquency cases referred to the Montgomery County Court of Common Pleas, Juvenile Division. Of these, 322, or 25.1%, resulted in detention in the Montgomery County Youth Center. Of these 322 instances of detention, 169, or over 50%, involved children with no prior delinquency or dependency referral. By contrast, the judges of the Montgomery County Juvenile Court committed only 36 children to public institutions, and 79 children to private institutions, in 1979, following their delinquency adjudications, for a combined commit-

ment rate at disposition of only 8.04%.

77. In 1980, of the 1,340 delinquency cases referred to the Montgomery County Juvenile Court, 376 resulted in the detention of the juvenile in the Montgomery County Youth Center, or 28.06%. Of those detained, 185 were children with no prior delinquency or dependency referral, or nearly 50%. The Montgomery County Juvenile Court's commitment rate to public and private facilities at disposition in 1980 was 6.40%.

78. Pursuant to the Pennsylvania Juvenile Act, 42 Pa.C.S. §6331, Montgomery County juvenile probation officers are directly responsible for determining which allegedly delinquent juveniles shall be detained prior to the holding of a detention hearing, and for making recommendations to the Court regarding the continued detention of said juveniles pending the adjudicatory hearing.

79. Montgomery County juvenile probation officers are employees of Montgomery County and officers of the Montgomery County Juvenile Court.

80. The "Criteria for Detention" promulgated by the Montgomery County Probation Department, and which probation officers are expected to employ in deciding and recommending which juveniles should be detained, include the following guidelines:

1. Detention should be considered in all cases where a child commits a serious offense.

2. Detention should be considered in all cases where a child commits a crime of violence or a crime involving a weapon.

\* \* \*

4. Detention should be granted where there is a likelihood that a child would harm himself or others.

81. The above "Criteria for Detention" contain no provisions requiring Montgomery County probation officers to consider the juvenile's family or community ties, school record, employment, or any other factors specifically relevant to whether the juvenile is likely to flee or be removed from the jurisdiction.

82. The above "Criteria for Detention" represent the official policy of the Montgomery County Juvenile Probation Department, and of Montgomery County, were enacted under the authority of Anthony Guarna, Chief Juvenile Probation Officer, and were in effect and relied on at all times pertinent to the allegations herein.

83. On information and belief, Montgomery County Juvenile Court Judges regularly fail to inquire, at detention hearings, whether the juvenile before them has any record of wilful failure to appear at prior hearings or if there is any evidence on which to base an opinion that the juvenile is likely to abscond, or be removed from the jurisdiction. Said judges regularly base their decisions concerning whether or not to detain a juvenile on



their own subjective feelings about the nature of the offense and whether the juvenile is likely to commit crimes against the person or property of others in the future.

84. In making their predictions about future dangerousness, these judges rely on the recommendations of the probation officers, who in most cases have no advanced training regarding the prediction of future delinquent behavior, and who in many cases have no more than twenty-four hours to investigate each juvenile.

85. Judges who sit as Judges of the Montgomery County Juvenile Court are elected by the residents of Montgomery County.

86. The excessively high rate of detention of first offenders in Montgomery County by the Montgomery County Juvenile Court Judges and Montgomery County juvenile probation officers, as well as the persistent failure on the part of these county officials and employees to limit their inquiry in matters of detention to whether the juvenile is likely to abscond or be removed from the jurisdiction, represents and implements the official policies, practices, and customs of Montgomery County regarding juvenile pre-trial and pre-disposition detention.

87. Said official policies, practices and customs were directly responsible for the unlawful and unconstitutional detention of named plaintiffs Coleman and Mattox.

C. ALLEGATIONS REGARDING STATE DEFENDANTS

88. Defendant Attorney General LeRoy Zimmerman is the chief law enforcement officer of the Commonwealth of Pennsylvania, pursuant to Article 4.1 of the Pennsylvania Constitution, and as such is directly responsible for the enforcement of the provisions of the Pennsylvania Juvenile Act challenged herein.

89. The provisions of the Pennsylvania Juvenile Act challenged herein, 42 Pa.C.S. §6325, are of statewide application, and were relied on and in force at all times pertinent hereto.

90. Pursuant to 42 Pa.C.S. §6325, 8,486 children were detained in juvenile detention centers or jails in Pennsylvania in 1979, of which 3,007 had no prior delinquency or dependency referral. In 1980, 7,668 children were detained pursuant to this statutory scheme, of which 2,830 had no prior delinquency or dependency referral.

91. The statewide application and enforcement of 42 Pa.C.S. §6325 was, and is, directly responsible for the continuing unlawful and unconstitutional detention of plaintiff class members herein.

D. ALLEGATIONS REGARDING THE OPERATION AND EFFECT OF THE PENNSYLVANIA JUVENILE ACT

92. The Pennsylvania Juvenile Act, 42 Pa.C.S. §§6301 et seq. applies exclusively to proceedings in which a child is alleged to be delinquent or dependent.

93. Pursuant to 42 Pa.C.S. §6302, a delinquent act is

defined as "an act designated a crime under the law of this Commonwealth, or of another state if the act occurred in that state, or under local ordinances." It does not include the crime of murder, or summary offenses, unless the child fails to pay a fine levied thereunder.

94. A delinquent child is a child between the ages of 10 and 18 whom the court has found to have committed a delinquent act and is in need of treatment, supervision, or rehabilitation.

95. A child taken into custody under the Act, pursuant to 42 Pa.C.S. §6324, may be held in detention, in accordance with 42 Pa.C.S. §6325, when his detention is

required to protect the person or property of others or of the child, or because the child may abscond or be removed from the jurisdiction of the court or because he has no parent, guardian, or custodian or other person able to provide supervision and care for him and return him to the court when required, or an order for his detention . . . has been made by the court pursuant to this chapter.

96. Pursuant to 42 Pa.C.S. §6332, the court must hold an informal detention hearing not later than 72 hours after the child has been placed in detention, to determine whether his continued detention is required under 42 Pa.C.S. §6325, above,

and whether probable cause exists that the child has committed a delinquent act.

97. If the child is ordered detained pursuant to 42 Pa.C.S. §6332 and §6325, the court must schedule an adjudicatory hearing on the petition not later than ten (10) days after the petition is filed, 42 Pa.C.S. §6335, which section also authorizes the court to detain the child for an additional single ten-day period.

98. If the child is adjudicated delinquent, the court may proceed immediately to disposition, or continue the matter to a later date. If the child is detained, the disposition hearing must be held within twenty (20) days of the date on which the delinquency adjudication is entered. 42 Pa.C.S. §6341.

99. Pursuant to 42 Pa.C.S. §6305, hearings under the Act may also be heard before a Master, who must be a member of the bar of the Commonwealth. 42 Pa.C.S. §6305(a).

100. Upon the conclusion of any hearing before a Master, the Master shall transmit written findings and recommendations for disposition to the judge. 42 Pa.C.S. §6305(c).

101. A rehearing before the judge may be ordered by the judge at any time for cause shown. Unless a rehearing is ordered, the findings and recommendations of the Master become the findings and order of the Court when confirmed in writing by the judge. 42 Pa.C.S. §6305(d).

E. ALLEGATIONS REGARDING PRE-TRIAL RELEASE PROCEDURES  
FOR ADULTS CHARGED WITH CRIMES IN PENNSYLVANIA

102. In Pennsylvania, adults eighteen years of age or older charged with crimes which if committed by juveniles would be within the jurisdiction of the juvenile court, are presumed innocent until proven guilty, pursuant to the Fifth, Eighth, and Fourteenth Amendments to the United States Constitution, and are therefore entitled to pre-trial release unless their detention is required to protect the jurisdiction of the court.

103. Pursuant to Article I, Section 14 of the Pennsylvania Constitution, and Rule 4001, Pennsylvania Rules of Criminal Procedure, adults criminally charged are entitled to be admitted to bail, or released on their own recognizance, prior to trial.

104. In setting pre-trial bail, the criminal court is required to set bail only in that amount necessary to ensure the presence of the accused at trial. The court may only consider factors that are relevant to whether the accused has strong ties in the community or whether he is likely to flee the jurisdiction. Rule 4004, Pennsylvania Rules of Criminal Procedure.

105. After the verdict and before sentencing, the adult offender's right to remain at liberty continues, contingent once again upon his giving the court adequate assurances that he will submit to sentencing. Fifth, Eighth and Fourteenth Amendments to the United States Constitution; Rule 4010, Pennsylvania Rules of Criminal Procedure.

F. ALLEGATIONS REGARDING THE INABILITY TO PREDICT  
FUTURE DANGEROUSNESS

106. At the present time, there is general agreement among criminologists and social scientists that no diagnostic tools have as yet been devised which would enable even the most highly trained professionals to predict reliably which juveniles will engage in future violent crime.

107. In the absence of any standards to guide judicial decision making, it is considered that a judge's subjective prognosis about the future possibility of crime is only 4% better than chance-- essentially wholly unpredictable.

108. To the extent that dangerousness can be predicted at all, there is a substantial problem of overprediction, that is, to identify potentially dangerous persons who, if subsequently released, would engage in no further violent or even criminal activity.

109. To the extent that dangerousness can be predicted at all, there is no reliable method currently available to predict the time period in which such future criminal activity would take place.

VI. STATEMENT OF CLAIMS

110. For plaintiffs' claims, each enumerated below, plaintiffs reallege paragraphs 1-109 above, as if fully set forth herein, in each and every statement of claim.

111. 42 Pa.C.S. §6325, insofar as it authorizes the preventive pre-trial detention of allegedly delinquent youth when it is "required to protect the person or property of others or of the child," is unconstitutional on its face and as applied, in that:

a. It permits the infliction of punishment, prior to an adjudication of guilt, in violation of plaintiffs' rights to due process as guaranteed by the Fourteenth Amendment to the United States Constitution and Article I, Section 9 of the Pennsylvania Constitution;

b. It is vague and therefore empowers a juvenile court judge to act arbitrarily and capriciously in determining which juveniles are likely to engage in future delinquent conduct, there being no concrete or reasonably determinable criteria or methods for predicting future delinquency, and there being no burden of proof set forth in the statute, in violation of plaintiffs' due process rights, as guaranteed by the Fourteenth Amendment to the United States Constitution and Article I, Section 9 of the Pennsylvania Constitution;

c. It is overbroad, in that it encourages, permits, and results in the overprediction of dangerousness among juveniles, thereby re-

sulting in the detention of juveniles who are not dangerous to the person or property of others, in violation of the due process clause of the Fourteenth Amendment to the United States Constitution and Article I, Section 9 of the Pennsylvania Constitution;

d. Insofar as it authorizes the pre-trial detention of juveniles for reasons other than the need to ensure their appearance in court, it is violative of the due process clause of the Fourteenth Amendment to the United States Constitution and Article I, Section 9 of the Pdnnsylvania Constitution, and of the Sixth and Eighth Amendments to the United States Constitution;

e. Insofar as it authorizes the pre-trial detention of juveniles when they are likely to flee or be removed from the jurisdiction, but fails to require a burden of proof or set forth any criteria or factors to be considered in determining whether a juvenile is likely to flee or be removed from the jurisdiction, it empowers a juvenile court judge to act arbitrarily and capriciously in detaining juveniles, in violation of plaintiffs' due process rights,



as guaranteed by the Fourteenth Amendment to the United States Constitution and Article I, Section 9 of the Pennsylvania Constitution;

f. Insofar as it establishes different criteria for the pre-trial detention of juvenile offenders as compared to adult offenders charged with the same crimes in Pennsylvania, it is violative of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

112. 42 Pa.C.S. §6325, insofar as it authorizes and permits the detention of adjudicated delinquent youth prior to disposition for reasons other than the need to ensure their presence at the disposition hearing, and insofar as Pennsylvania Rules of Criminal Procedure, Rule 4010 A(2), authorizes the admission to bail of convicted adult offenders prior to sentencing, the amount of said bail to be determined in accordance with the need to ensure the adult offender's presence at sentencing, violates plaintiffs' rights to due process and equal protection of the laws, as guaranteed by the Fourteenth Amendment to the United States Constitution, and Article I, Section 9 of the Pennsylvania Constitution.

113. The Montgomery County defendants' policies, practices, acts and omissions complained of herein, and specifically defen-

dants' pattern and practice of detaining juveniles prior to trial or disposition for reasons other than the need to ensure the juvenile's presence in court, and their persistent failure to consider whether there is a realistic likelihood that the juvenile will abscond or be removed from the jurisdiction of the court prior to the adjudicatory or disposition hearing, violates plaintiffs' rights to due process and equal protection, as guaranteed by the Fourteenth Amendment to the United States Constitution and Article I, Section 9 of the Pennsylvania Constitution.

114. The Montgomery County defendants' policies, practices, acts and omissions complained of herein, and specifically defendants' promulgation of detention criteria to be utilized by Montgomery County probation officers, which fail to require that the probation officer consider only whether there is a likelihood that the juvenile will abscond or be removed from the jurisdiction in deciding whether or not to recommend detention of a juvenile, violate plaintiffs' rights to due process and equal protection of the laws, as guaranteed by the Fourteenth Amendment to the United States Constitution and Article I, Section 9 of the Pennsylvania Constitution.

#### VII. NO ADEQUATE REMEDY AT LAW

115. As a proximate result of the defendants' policies, practices, acts and omissions complained of herein, and the conditions and circumstances described herein to which plaintiffs are subjected, the named plaintiffs and the members of the class

they represent have suffered, do suffer, and will continue to suffer immediate and irreparable injury. The named plaintiffs and the members of the class have no plain, adequate, or complete remedy at law to redress the wrongs described herein. Plaintiffs and the members of the plaintiff class will continue to be irreparably injured by the policies, practices, acts and omissions of the defendants unless this Court grants the declaratory and injunctive relief which plaintiffs seek.

VIII. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs individually and on behalf of all others similarly situated, pray that this Court:

116. Assume jurisdiction of this action;

117. Issue an order certifying this action as a class action pursuant to Rule 23(a), (b)(2) of the Federal Rules of Civil Procedure; as to both plaintiff and defendant classes;

118. Issue a declaratory judgment pursuant to 28 U.S.C. §2201 and §2202, and Rule 57 of the Federal Rules of Civil Procedure, that 42 Pa.C.S. §6325, on its face and as applied, violates plaintiffs' rights to due process and equal protection of the laws, as guaranteed by the Fourteenth Amendment to the United States Constitution and Article I, Section 9 of the Pennsylvania Constitution;

119. Issue a declaratory judgment pursuant to 28 U.S.C. §2201 and §2202, and Rule 57 of the Federal Rules of Civil Procedure, that the policies, practices, acts and omissions of

the Montgomery County defendants complained of herein subject plaintiffs to a denial of due process and equal protection of the laws, as guaranteed by the Fourteenth Amendment to the United States Constitution and Article I, Section 9 of the Pennsylvania Constitution.

120. Issue permanent injunctive relief as follows:

- a) that the continued application and enforcement of 42 Pa.C.S. §6325 be permanently enjoined;
- b) that the Commonwealth of Pennsylvania be permanently enjoined from authorizing the detention of allegedly delinquent or adjudicated juveniles under the unlawful circumstances complained of herein;
- c) that the Commonwealth of Pennsylvania be permanently enjoined and ordered to enact a statutory scheme for the detention of allegedly delinquent or adjudicated delinquent juveniles that authorizes detention only where there is a substantial likelihood that the juvenile will abscond or be removed from the jurisdiction, such likelihood to be determined by a consideration of specific criteria and burden of proof consistent with due process of law;
- d) that the Montgomery County Court of Common

Pleas, Juvenile Division, and the Montgomery County Juvenile Probation Department, be permanently enjoined from detaining juveniles for any reason other than the need to ensure their appearance in court.

121. Award named plaintiffs Kaseem Coleman and Aaron Mattox sums of compensatory and punitive damages against the Montgomery County defendants, exclusive of the Montgomery County judicial defendants, commensurate with the injuries suffered by them.

122. Retain jurisdiction over defendants and each of them until such time as the Court is satisfied that their unlawful policies, practices, acts and omissions complained of herein no longer exist and will not recur.

123. Award plaintiffs the cost of this proceeding, attorney's fees, and such other and further relief as to this Court seems just and proper.

Respectfully submitted,



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