

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA**

JESSIE CRITTINDON AND  
LEON BURSE,

Plaintiffs,

v.

MARLIN GUSMAN, GARY MAYNARD,  
COREY AMACKER, WYDETTE  
WILLIAMS, JOHNNY HEDGEMON,  
EDWARD KNIGHT, JAMES LEBLANC,  
PERRY STAGG, and ANGELA GRIFFIN,

Defendants.

Case No.

**COMPLAINT**

**INTRODUCTION**

1. Personal liberty is one of the most, if not the most, elemental rights guaranteed by the Constitution of the United States. When a person is found to have violated the law in such a manner as to forfeit that right, he is placed in custody during the term of imprisonment required by applicable law. But when that term has been served, and the convicted person has satisfied the penalty imposed, their fundamental right to liberty is restored and they are to be set free.

2. This did not happen in the case of Plaintiffs Jessie Crittindon and Leon Burse. Instead, despite being entitled to immediate release on the date they resolved their criminal charges in August 2016, Mr. Crittindon and Mr. Burse remained in custody until January 2017 – five months later.

3. Mr. Crittindon’s and Mr. Burse’s over detention was caused by a series of acts and omissions by officials with the Orleans Parish Sheriff’s Office (“OPSO”), the East Carroll Parish

Sheriff's Office ("ECPSO"), and the Louisiana Department of Public Safety and Corrections ("DPS&C"). These officials demonstrated a callous indifference to the deprivation of Mr. Crittindon's and Mr. Burse's freedom, and failed in their duty to release Plaintiffs from custody when their terms of imprisonment had ended.

4. This action seeks redress of violations of the Due Process Clause of the Fourteenth Amendment to the United States Constitution, as well as violations of the Louisiana Constitution and state law. Mr. Crittindon and Mr. Burse, by and through their attorneys, seek all relief as detailed throughout this complaint and as requested below.

#### **NATURE OF THE ACTION**

5. Mr. Crittindon and Mr. Burse bring this action under 42 U.S.C. § 1983 for deprivation of their rights secured by the Fourteenth Amendment to the United States Constitution.

6. Mr. Crittindon and Mr. Burse also bring this action pursuant to Article 1, Section 2 of the Louisiana Constitution for violations of their right to due process of law, and seek redress of the false imprisonment and intentional infliction of emotional distress perpetrated on them by Defendants, pursuant to LA. CODE CIV. PROC. art. 2315.

#### **JURISDICTION AND VENUE**

7. This Court has jurisdiction over Plaintiffs' claim for violation of the Fourteenth Amendment and 42 U.S.C. § 1983 pursuant to 28 U.S.C. §§ 1331 and 1343. This Court also has supplemental jurisdiction over Plaintiffs' state law claims pursuant to 28 U.S.C. § 1367 as the state law claims are so related to Plaintiffs' federal claim as to form part of the same case or controversy.

8. Venue in this Court is proper pursuant to 28 U.S.C. § 1391(b)(1).

## PARTIES

9. Plaintiff Jessie Crittindon is a 30-year-old male. He is a resident of Orleans Parish, Louisiana. Mr. Crittindon was entitled to release from incarceration on August 2, 2016. He was not released from custody until January 13, 2017. Because of the actions and inactions of the Defendants, he was held in custody 164 days (over five months) past his eligible release date.

10. Plaintiff Leon Burse is a 44-year-old male. He is a resident of Jefferson Parish, Louisiana. Mr. Burse was entitled to release from incarceration on August 8, 2016. He was not released from custody until January 11, 2017. Because of the actions and inactions of the Defendants, he was held in custody 156 days (over five months) past his eligible release date.

11. Defendant Marlin Gusman is Sheriff of Orleans Parish. He is a resident of full age of majority of the Eastern District of Louisiana. Until October 2016,<sup>1</sup> he had control and authority over the operation of the Orleans Parish jail facilities and the prisoner population in the custody of the Orleans Parish Sheriff's Office.

12. As Sheriff, Defendant Gusman was responsible for formulating and administering the policies, procedures, operations, and supervision of OPSO, its divisions, employees, agents, assigns, and jail facilities. As the final policymaker for OPSO, Defendant Gusman was responsible for establishing policies and procedures for processing prisoners into, within, and out of OPSO custody. He was also responsible for the implementation of the policies and procedures governing pretrial prisoner housing, classification, and transfer of prisoners to the custody of the Louisiana Department of Public Safety and Corrections ("DPS&C"), including specifically OPSO

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<sup>1</sup> On June 21, 2016, the United States District Court for the Eastern District of Louisiana entered a Stipulated Order for Appointment of Independent Jail Compliance Director in Jones v. Gusman, 2:12-cv-00859. Defendant Gary Maynard began in the position of Independent Jail Compliance Director in October 2016. The Order provides that the Compliance Director will have the authority to operate the Orleans Parish jail facilities and authority over the prisoner population in the custody of the Orleans Parish Sheriff's Office. Defendant Gusman remains the elected Sheriff for Orleans Parish, but as of October 2016, he is no longer responsible for the management of the Orleans Parish jail facilities and the Orleans prisoner population.

Policy No. 501.13, “Department of Corrections Pre-Classification,” signed by Defendant Gusman on July 22, 2016.

13. Defendant Gusman had final authority for the operation of the Orleans Parish jail facilities and the prisoner population in the custody of OPSO in August 2016 when Mr. Crittendon and Mr. Burse were moved to the River Bend Detention Center in East Carroll Parish after resolution of their criminal charges in Orleans Parish Criminal District Court.

14. Defendant Gusman failed to create and implement policies or practices to ensure that OPSO only incarcerated those individuals it was legally authorized to detain. He also failed to adequately train and supervise his staff regarding proper practices to guard against unlawful incarceration. He authorized and allowed staff practices that predictably resulted in unlawful detention, including specifically the practice of “releasing” OPSO detainees to ECPSO’s physical custody upon sentencing without proper processing, time calculation, or analysis of the propriety of their continued detention. He also failed to train and supervise his staff to promptly and thoroughly respond to prisoner assertions of illegal detention.

15. Defendant Gusman has a constitutional obligation to ensure that he only incarcerates those individuals that he has the lawful authority to detain. He also has a state statutory obligation to ensure that individuals sentenced to the state Department of Corrections (“DOC”) are timely and properly transferred to the state correctional institution designated by the DOC; this duty includes delivery (with the prisoner) of all documents and statements required by state law. From August 2016 through January 2017, Defendant Gusman failed to provide for Plaintiffs’ release from custody despite their criminal charges having been resolved, their lawful sentences having been served, and there being no continuing legal basis for their detention. Defendant Gusman is sued in his individual and official capacities.

16. Defendant Gary Maynard is the Independent Jail Compliance Director in Orleans Parish. Pursuant to a Stipulated Order in Jones v. Gusman, 2:12-cv-00859, in the United States District Court for the Eastern District of Louisiana, he has the final authority to operate the Orleans Parish Jail and all jail facilities. This includes authority over the entire prisoner population in the custody of the Orleans Parish Sheriff's Office, whether housed inside or outside of Orleans Parish. He is a resident of full age of majority of the Eastern District of Louisiana.

17. Defendant Maynard began work in this position in October 2016. Since that time, he has been responsible for formulating and administering the policies, procedures, operations, and supervision of the criminal division of OPSO, its employees, agents, assigns, and jail facilities. As the final policymaker for OPSO, Defendant Maynard is responsible for establishing policies and procedures for processing prisoners into, within, and out of OPSO custody. He implements the policies and procedures governing pretrial prisoner housing, classification, and transfer of prisoners to the custody of the Louisiana Department of Public Safety and Corrections ("DPS&C").

18. Defendant Maynard failed to create and implement policies or practices to ensure that OPSO only incarcerated those individuals it was legally authorized to detain. He also failed to adequately train and supervise his staff regarding proper practices to guard against unlawful incarceration. He authorized and allowed staff practices that predictably resulted in unlawful detention, including specifically the practice of "releasing" OPSO detainees to ECPSO's physical custody upon sentencing without proper processing, time calculation, or analysis of the propriety of their continued detention. He also failed to train and supervise his staff to promptly and thoroughly respond to prisoner assertions of illegal detention.

19. Defendant Maynard has a constitutional obligation to ensure that he only incarcerates those individuals that he has the lawful authority to detain. He also has a state statutory obligation to ensure that individuals sentenced to the state Department of Corrections are timely and properly transferred to the state correctional institution designated by the DOC; this duty includes delivery (with the prisoner) of all documents and statements required by state law. From October 2016 to January 2017, Defendant Maynard failed to provide for Plaintiffs' release from custody despite their criminal charges having been resolved, their lawful sentences having been served, and there being no continuing legal basis for their detention. Defendant Maynard is sued in his individual and official capacities.

20. Defendant Corey Amacker is a Deputy 1 with the Orleans Parish Sheriff's Office. Defendant Amacker is the DPS&C Classification Manager and works within the Intake and Processing division of OPSO. In this role, Defendant Amacker is responsible for the documentation, processing, and pre-classification of Orleans Parish prisoners who have been sentenced to time in DPS&C (also referred to as the Department of Corrections ("DOC")) by the Orleans Parish Criminal District Court. He is also responsible for compiling or reviewing transfer lists to the Department of Corrections for those prisoners whose DPS&C paperwork has been completed. Defendant Amacker is responsible both for supervising OPSO staff and for personally entering sentencing orders and case dispositions into OPSO's electronic database. Defendant Amacker has access to and knowledge of prisoners' arrest dates and time served in OPSO custody, as well as any open charges, warrants, or holds. Defendants Maynard and Gusman delegated to Defendant Amacker final policymaking authority for the purposes of establishing and implementing practices and procedures pertaining to processing prisoners.

21. Defendant Amacker is also responsible for recording the “release” of prisoners leaving OPSO’s physical custody.<sup>2</sup> He recorded the “release” of Mr. Crittindon (on August 2, 2016) and Mr. Burse (on August 8, 2016) in OPSO’s database; the reason for release (for both Plaintiffs) was listed as “released to ECP as DOC inmate.” Defendant Amacker then authorized Mr. Crittindon’s and Mr. Burse’s transport to the River Bend Detention Center in August 2016. He both personally implemented policy and acted under direction and supervision of Defendants Gusman and Maynard. Defendant Amacker personally was aware of Plaintiffs’ unlawful detention and failed to take steps to investigate or secure their release. Defendant Amacker is sued in his individual and official capacities. He is a resident of full age of majority of the Eastern District of Louisiana.

22. Defendant Wydette Williams is the Sheriff of East Carroll Parish and the custodian of prisoners housed at the River Bend Detention Center in Lake Providence, Louisiana. Since September 2015, Defendant Williams has contracted with the Orleans Parish Sheriff’s Office to house Orleans pretrial detainees at the River Bend facility. A written cooperative endeavor agreement to this effect – with an effective date of November 1, 2016 – was signed by Defendants Gusman, Maynard, Williams, and Hedgemon. In addition to Orleans pretrial detainees, the River Bend Detention Center houses pretrial detainees from East Carroll Parish and other Louisiana parishes, as well as prisoners sentenced to time in DPS&C.

23. As Sheriff of East Carroll Parish, Defendant Williams is responsible for formulating and administering the policies, procedures, operations, and supervision of East Carroll Parish Sheriff’s Office (“ECPSO”), its divisions, employees, agents, assigns, and jail

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<sup>2</sup> Here, the term “release” refers to an entry made in the OPSO database that a prisoner is no longer considered – by OPSO – to be in its custody. It does not necessarily coincide with a physical release from custody or a transfer to another agency or facility.

facilities. As the final policymaker for ECPSO, Defendant Williams is responsible for establishing policies and procedures for processing prisoners into, within, and out of ECPSO custody. He implements the policies and procedures governing pretrial and DPS&C prisoner housing, classification, and transfer of prisoners to other facilities and agencies.

24. Defendant Williams was responsible for the housing of Mr. Crittendon and Mr. Burse as Orleans pretrial detainees at the River Bend facility. He was also responsible for their receipt and continued custody at the facility in August 2016 when Plaintiffs had completed their legal sentences and should have been released. From August 2, 2016 to his release on January 13, 2017, Mr. Crittendon was listed in ECPSO's database as a DOC prisoner; from August 18, 2016 to his release on January 11, 2017, Mr. Burse was listed in ECPSO's database as a DOC prisoner.

25. Defendant Williams failed to create and implement policies or practices to ensure that ECPSO only incarcerated those individuals it was legally authorized to detain. He also failed to adequately train and supervise his staff regarding proper practices to guard against unlawful incarceration. He authorized and allowed staff practices that predictably resulted in unlawful detention, including specifically the practice of accepting OPSO detainees into ECPSO's physical custody as "DOC prisoners" upon sentencing without proper processing, time calculation, or analysis of the propriety of their continued detention. Defendant Williams also failed to train and supervise his staff to promptly and thoroughly respond to prisoner assertions of illegal detention. Defendant Williams is sued in his individual and official capacities. He is a resident of full age of majority of the Western District of Louisiana.

26. Defendant Johnny Hedgemon is a warden of the River Bend Detention Center in East Carroll Parish. He is responsible for setting and administering the policies, procedures, operations, and supervision of ECPSO, its employees, and the River Bend Detention Center.



Defendant Hedgemon is also responsible for enforcing the policies and procedures governing pretrial and DPS&C prisoner housing, classification, and transfer of prisoners to other facilities and agencies. Defendant Hedgemon was responsible for the housing of Mr. Crittindon and Mr. Burse as Orleans pretrial detainees at the River Bend facility. He was also responsible for their receipt and custody at the facility in August 2016 when Plaintiffs had completed their legal sentences and should have been released. From August 2, 2016 to his release on January 13, 2017, Mr. Crittindon was listed in ECPSO's database as a DOC prisoner; from August 18, 2016 to his release on January 11, 2017, Mr. Burse was listed in ECPSO's database as a DOC prisoner.

27. Defendant Hegemon personally was aware of Plaintiffs' unlawful detention and failed to take steps to investigate or secure their release. He failed to respond to Plaintiffs' grievances or Plaintiffs' families' pleas for assistance. Defendant Hedgemon took no action to free Plaintiffs despite being put on notice that their detention was unlawful. He seemingly did nothing in response to their claims of unlawful incarceration, despite the passage of five months. Defendant Hegemon had in his possession documents sufficient to show Plaintiffs' unlawful incarceration but did not act on that information. Defendant Hedgemon is sued in his individual and official capacities. He is a resident of full age of majority of the Western District of Louisiana.

28. Defendant Edward Knight is a warden of the River Bend Detention Center in East Carroll Parish. He is responsible for setting and administering the policies, procedures, operations, and supervision of the River Bend Detention Center and its employees. Defendant Knight is also responsible for enforcing the policies and procedures governing pretrial and DPS&C prisoner housing, classification, and transfer of prisoners to other facilities and agencies. Defendant Knight was responsible for the housing of Mr. Crittindon and Mr. Burse as Orleans pretrial detainees at the River Bend facility. He was also responsible for their receipt and

continued custody at the facility in August 2016 when Plaintiffs had completed their legal sentences and should have been released. From August 2, 2016 to his release on January 13, 2017, Mr. Crittendon was listed in ECPSO's database as a DOC prisoner; from August 18, 2016 to his release on January 11, 2017, Mr. Burse was listed in ECPSO's database as a DOC prisoner.

29. Defendant Knight personally was aware of Plaintiffs' unlawful detention and failed to take steps to investigate or secure their release. He failed to respond to Plaintiffs' grievances or Plaintiffs' families' pleas for assistance. Defendant Knight took no action to free Plaintiffs despite being put on notice that their detention was unlawful. He seemingly did nothing in response to their claims of unlawful incarceration, despite the passage of five months. Defendant Knight had in his possession documents sufficient to show Plaintiffs' unlawful incarceration but did not act on that information. Defendant Knight is sued in his individual and official capacities. He is a resident of full age of majority of the Western District of Louisiana.

30. Defendant James LeBlanc is Secretary of the Louisiana Department of Public Safety and Corrections. The Louisiana DPS&C is headquartered in East Baton Rouge Parish, Louisiana. As Secretary, Defendant LeBlanc is responsible for formulating and administering the policies, procedures, operations, and supervision of the DPS&C, its divisions, employees, agents, assigns, and correctional facilities, including those divisions of DPS&C responsible for time calculation and release processing.

31. Defendant LeBlanc is ultimately responsible for the constitutional housing of state prisoners regardless of where they are located, including prisoners in the Orleans Parish jail and the River Bend Detention Center. He also supervises the custody of all adult prisoners in the state who are under the supervision of Probation and Parole.

32. As the final policymaker for DPS&C, Defendant LeBlanc is responsible for establishing policies and procedures for processing prisoners into and within the DPS&C system. He also supervises implementation of the rules and policies governing parole eligibility dates, classification, and release dates of prisoners. He is responsible for the computation of felony sentences arising from criminal convictions in courts throughout the state, and for the timely release of persons sentenced to the DPS&C upon completion of their sentences.

33. As supervisor and final policymaker for the DPS&C, Defendant LeBlanc is responsible for ensuring that DPS&C does not allow housing of state prisoners at unsafe or unconstitutional facilities, and that DPS&C contract facilities honor constitutional rights of prisoners. He also is responsible for ensuring that facilities with which DPS&C contracts to house prisoners are timely and accurately processing prisoners into DPS&C custody, including prompt provision of any records or pre-classification documents necessary to completion of the time calculation and release assessment process.

34. Defendant LeBlanc failed to implement, supervise, and train on policies to prevent the unlawful over detention of persons being transferred from Orleans pretrial custody to DPS&C “sentenced” custody. He personally was on notice of flawed procedures pertaining to Orleans-sentenced prisoners housed in East Carroll Parish but did not take prompt corrective or responsive action. Further, Defendant LeBlanc failed to establish policies whereby DPS&C staff would take prompt corrective and responsive action upon receipt of an allegation of over detention. Defendant LeBlanc is sued in his individual capacity only. He is a resident of full age of majority of the Middle District of Louisiana.

35. Defendant Perry Stagg is the Assistant Deputy Secretary for Adult Services for the Department of Public Safety and Corrections. Defendant Stagg is responsible for setting and

administering DPS&C policy pertaining to processing prisoners into and within the DPS&C system. He is responsible for the computation of felony sentences arising from criminal convictions in courts throughout the state, and for the timely release of persons sentenced to the DPS&C upon completion of their sentences. Defendant Stagg personally was aware of flawed procedures pertaining to Orleans-sentenced prisoners housed in East Carroll Parish but did not take prompt corrective or responsive action. Further, Defendant Stagg failed to establish policies whereby his staff would take prompt corrective and responsive action upon receipt of an allegation of over detention. Defendant Stagg is sued in his official capacity only. He is a resident of full age of majority of the Middle District of Louisiana.

36. Defendant Angela Griffin is the Administrative Program Director for Adult Services for the Department of Public Safety and Corrections. Defendant Griffin is responsible for setting and administering DPS&C policy pertaining to processing prisoners into and within the DPS&C system. She oversees the processing of pre-classification paperwork and the transfer of prisoners from parish to state custody. She is responsible for the computation of felony sentences arising from criminal convictions in courts throughout the state, and for the timely release of persons sentenced to the DPS&C upon completion of their sentences. Defendant Griffin personally was aware of flawed procedures pertaining to Orleans-sentenced prisoners housed in East Carroll Parish but did not take prompt corrective or responsive action. Further, Defendant Griffin failed to establish policies whereby her office would take prompt corrective and responsive action upon receipt of an allegation of over detention. Defendant Griffin is sued in her official capacity only. She is a resident of full age of majority of the Middle District of Louisiana.

## FACTUAL BACKGROUND

37. Plaintiffs incorporate by reference the allegations previously set forth in this complaint.

### **I. Jessie Crittindon's Incarceration**

38. On July 2, 2014, Mr. Crittindon was arrested and placed in the custody of the Orleans Parish Sheriff's Office; this arrest is associated with Orleans Parish Criminal District Court case no. 521590. On July 28, 2014, Mr. Crittindon was also separately charged in case no. 521975.

39. The Orleans Parish Sheriff's Office housed Mr. Crittindon at the River Bend Detention Center in Lake Providence, Louisiana under an agreement with the Sheriff of East Carroll Parish, beginning in May of 2016. Mr. Crittindon was housed as an Orleans pretrial detainee at the River Bend facility from May 25, 2016 to August 2, 2016 – the date Mr. Crittindon was sentenced to DOC time, completed his imposed sentence, and was entitled to release. With the exception of return travel to Orleans Parish for court dates, Mr. Crittindon remained in East Carroll Parish until his eventual release from physical custody in January 2017.

40. The Orleans Parish Criminal District Court sentenced Mr. Crittindon to serve two years DOC (state) time on August 2, 2016, in case no. 521975. He also was sentenced to six months concurrent (as well as 12 years DOC suspended, 5 years active probation) in case no. 521590. The Court awarded him credit for time served in both cases. Mr. Crittindon has no prior criminal convictions.

41. Because Plaintiff Crittindon had been in custody for longer than two years he was immediately eligible for release. Following his sentencing in Orleans Parish, rather than processing his paperwork, completing his pre-classification, coordinating his time calculation with DPS&C,

and releasing him from custody, the OPSO Defendants<sup>3</sup> returned Mr. Crittindon to the River Bend Detention Center in East Carroll Parish.

42. The OPSO Defendants could have completed Mr. Crittindon's pre-classification and processed him directly out of Orleans Parish but they did not. The OPSO Defendants were aware that the practice they followed with Mr. Crittindon had a significant likelihood of resulting in unlawful detention but they chose to "release" him to East Carroll Parish (rather than releasing him into the community, as he was entitled to).

43. The ECPSO Defendants<sup>4</sup> accepted Mr. Crittindon at the River Bend facility and continued to hold him in custody despite his entitlement to release.

44. The ECPSO Defendants did not timely process Mr. Crittindon's paperwork, complete his pre-classification, coordinate his time calculation with DPS&C, or release him from custody.

45. The DPS&C Defendants<sup>5</sup> did not timely complete Mr. Crittindon's time calculation, release assessment, or otherwise process him into and out of the DPS&C system.

46. Defendants did not release Mr. Crittindon until January 2017 despite his being entitled to release on August 2, 2016.

47. Mr. Crittindon's continued detention past his eligible release date violated his federal and state right to due process of law, and caused injury due to false imprisonment and intentional infliction of emotional distress.

48. As of August 2, 2016, there were no open charges, warrants, or holds pursuant to which Defendants were entitled to keep Mr. Crittindon in their custody. Every Defendant herein –

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<sup>3</sup> "OPSO Defendants" include Gusman, Maynard, and Amacker.

<sup>4</sup> "ECPSO Defendants" include Williams, Hedgemon, and Knight.

<sup>5</sup> "DPS&C Defendants" include LeBlanc, Stagg, and Griffin.

including the officials from OPSO, ECPSO, and DPS&C – had access to law enforcement databases, agency documents, and court records which provided for Mr. Crittindon’s date of arrest, his time served, and the disposition of his only open criminal charges.

49. Between August 2016 and January 2017, Plaintiff Crittindon’s family called and visited the Orleans Parish Sheriff’s Office on multiple occasions in an effort to secure his release. His mother contacted East Carroll Parish Sheriff’s Office once a week to inquire about his status. The family was informed that Mr. Crittindon was eligible for release but that his paperwork was being processed. Over the course of his unlawful incarceration, Mr. Crittindon’s family and loved ones repeatedly contacted OPSO, ECPSO, and DPS&C on his behalf. Mr. Crittindon personally wrote letters to DPS&C, as well as to ECPSO, advising of his over detention. He filed grievances complaining of his illegal detention to ECPSO and DPS&C. He also verbally requested assistance from officials at ECPSO but was only told to contact DPS&C – which he did to no avail.

50. Counsel for Mr. Crittindon and Mr. Burse, attorneys with the Roderick & Solange MacArthur Justice Center in New Orleans, represent the plaintiff class in the Jones v. Gusman litigation regarding unconstitutional conditions in the Orleans Parish jail. In that capacity, the MacArthur Justice Center began receiving calls in late 2016 from persons housed at the River Bend Detention Center in East Carroll Parish with complaints of over detention. These persons were former Orleans pretrial detainees who had been sentenced to time in the Department of Corrections but who had not been released upon completion of their sentences.

51. Undersigned counsel brought this matter to the attention of Defendants Gusman, Maynard, LeBlanc, and Hedgemon via letter on December 28, 2016 and requested resolution.

52. When Mr. Crittindon remained in custody weeks later, on January 12, 2017, counsel filed a petition for writ of habeas corpus in the Orleans Parish Criminal District Court, seeking his immediate release.

53. In the face of obvious unlawful detention, rather than assisting with facilitating the release of Mr. Crittindon, Defendant Maynard filed an exception of improper venue to the writ of habeas corpus.

54. Mr. Crittindon was released from custody on January 13, 2017. Subsequent to his release, the petition for habeas corpus was voluntarily dismissed.

55. As Mr. Crittindon was entitled to release on August 2, 2016, at the time of his release from custody, he had been over detained for more than five months, including having missed the holidays and important personal events with his family.

56. All Defendants named in this Complaint share responsibility for Mr. Crittindon's over detention. The Orleans Parish Sheriff's Office caused Mr. Crittindon to be housed at the River Bend Detention Center, both pending resolution of his criminal case(s) and following sentencing by the Orleans Parish Criminal District Court. This action was taken in agreement with the East Carroll Parish Sheriff's Office who houses Orleans pretrial detainees and DPS&C prisoners at its River Bend facility. Despite being entitled to release, Mr. Crittindon remained in custody in East Carroll Parish from August 2, 2016 to January 13, 2017.

57. Upon information and belief, when the MacArthur Justice Center reached out in December 2016 about the over detention of Orleans detainees in East Carroll Parish, DPS&C had not assigned Mr. Crittindon a DOC inmate number, nor was he listed in the DPS&C telephonic inmate locator. DPS&C had not calculated Mr. Crittindon's release date and had not timely released Mr. Crittindon from custody.



## **II. Leon Burse's Incarceration**

58. On July 8, 2015, Mr. Burse was arrested and placed in the custody of the Orleans Parish Sheriff's Office.

59. The Orleans Parish Sheriff's Office housed Mr. Burse at the River Bend Detention Center in Lake Providence, Louisiana under an agreement with the Sheriff of East Carroll Parish beginning on April 21, 2016. Mr. Burse remained at the River Bend Detention Center as an Orleans pretrial detainee until June 16, 2016, at which time he was transferred back to the Orleans Parish jail. Mr. Burse was then housed as an Orleans pretrial prisoner at the Orleans Parish jail from June 16, 2016 to August 8, 2016 when he was sentenced to DOC time, completed his imposed sentence, and was entitled to release.

60. On August 8, 2016 the Orleans Parish Criminal District Court sentenced Mr. Burse to serve five (5) years DOC (state) time, four (4) years suspended in case no. 526057. The Court awarded him credit for time served. Mr. Burse had no prior criminal convictions.

61. Because Plaintiff Burse had been in custody for longer than one year, he was immediately eligible for release. Following his sentencing, the OPSO Defendants could and should have processed his paperwork, completed his pre-classification, coordinated his time calculation with DPS&C, and released him from custody, but they did not. The OPSO Defendants were aware that the practice they followed with Mr. Burse had a significant likelihood of resulting in unlawful detention but they chose to "release" him to East Carroll Parish (rather than releasing him into the community, as he was entitled to).

62. OPSO continued to house Mr. Burse at the Orleans Parish jail until August 18, 2016.

63. On August 18, 2016, ten (10) days after Mr. Burse was entitled to release, the OPSO Defendants inexplicably transported Mr. Burse to the River Bend Detention Center.

64. The ECPSO Defendants accepted Mr. Burse at the River Bend facility and continued to hold him in custody despite his entitlement to release.

65. The ECPSO Defendants did not timely process Mr. Burse's paperwork, complete his pre-classification, coordinate his time calculation with DPS&C, or release him from custody.

66. The DPS&C Defendants did not timely complete Mr. Burse's time calculation, release assessment, or otherwise process him into and out of the DPS&C system.

67. Defendants did not release Mr. Burse until January 11, 2017 despite his being entitled to release on August 8, 2016.

68. Over the course of his unlawful incarceration, Plaintiff Burse's family and loved ones repeatedly contacted OPSO, ECPSO, and DPS&C on his behalf. Mr. Burse personally wrote letters to DPS&C, as well as to ECPSO, advising of his over detention. He filed grievances complaining of his illegal detention to ECPSO and to DPS&C. He also verbally requested assistance from officials at ECPSO but was only told to contact DPS&C – which he did to no avail.

69. Mr. Burse's continued detention past his eligible release date violated his federal and state right to due process of law, and caused injury due to false imprisonment and intentional infliction of emotional distress.

70. As of August 8, 2016, there were no open charges, warrants, or holds pursuant to which Defendants were entitled to keep Mr. Burse in their custody. Every Defendant – officials from OPSO, ECPSO, and DPS&C – had access to law enforcement databases, agency documents, and court records which provided for Mr. Burse's date of arrest, his time served, and the disposition of his only open criminal charges.

71. Undersigned counsel for Mr. Crittendon and Mr. Burse, attorneys with the Roderick & Solange MacArthur Justice Center in New Orleans, represent the plaintiff class in the Jones v. Gusman litigation regarding unconstitutional conditions in the Orleans Parish jail. In that capacity, the MacArthur Justice Center began receiving calls in late 2016 from persons housed at the River Bend Detention Center in East Carroll Parish with complaints of over detention. These persons were former Orleans pretrial detainees who had been sentenced to time in the Department of Corrections but who had not been released upon completion of their sentence.

72. Undersigned counsel brought this matter to the attention of Defendants Gusman, Maynard, LeBlanc, and Hedgemon via letter on December 28, 2016 and requested resolution.

73. Mr. Burse was released from custody on January 11, 2017.

74. As Mr. Burse was eligible for release on August 8, 2016, at the time of his release from custody, he had been over detained for more than five months.

75. All Defendants named in this Complaint share responsibility for Mr. Burse's over detention. The Orleans Parish Sheriff's Office caused Mr. Burse to be housed at the River Bend Detention Center, both pending resolution of his criminal case(s) and following sentencing by the Orleans Parish Criminal District Court. This action was taken in agreement with the East Carroll Parish Sheriff's Office who houses Orleans pretrial detainees and DPS&C prisoners at its River Bend facility. Despite being entitled to release, Mr. Burse remained in custody from August 8, 2016 to January 11, 2017.

76. Upon information and belief, when the MacArthur Justice Center reached out in December 2016 about the over detention of Orleans detainees in East Carroll Parish, DPS&C had not assigned Mr. Burse a DOC inmate number, nor was he listed in the DPS&C telephonic inmate

locator. DPS&C had not calculated Mr. Burse's release date and had not timely released Mr. Burse from custody.

77. Mr. Crittendon was held by Defendants herein in custody 164 days (over five months) past his eligible release date in violation of his rights.

78. Mr. Burse was held by Defendants herein in custody 156 days (over five months) past his eligible release date in violation of his rights.

79. The Orleans Parish Sheriff's Office has continued this practice of "releasing" Orleans-sentenced prisoners to East Carroll Parish as "DOC prisoners" despite repeat communications from Plaintiffs' counsel about the consequences of this practice (including over detention and untimely processing of persons into DPS&C custody), and despite additional instances of over detention. The East Carroll Parish Sheriff's Office has continued to accept Orleans detainees pursuant to this practice.

## CLAIMS FOR RELIEF

### **I. Violation of the Fourteenth Amendment's Due Process Clause Pursuant to 42 U.S.C. § 1983 Due to the Continued Detention of Mr. Crittindon and Mr. Burse Past Their Release Dates**

80. Plaintiffs incorporate by reference the allegations previously set forth in this complaint.

81. This unreasonable and arbitrary deprivation of Plaintiffs' right to be free from detention following completion of their imposed sentences is a violation of their Due Process rights under the Fourteenth Amendment. As Defendants were acting under color of law when they violated Plaintiffs' constitutional rights, this claim for relief is brought pursuant to 42 U.S.C. § 1983.

82. As a result of Mr. Crittindon's and Mr. Burse's unlawful over detention, they suffered damages, including loss of liberty, mental anguish and emotional suffering, and other injuries.

### **II. Violation of the Due Process Clause of Article 1, Section 2 of the Louisiana Constitution Due to the Continued Detention of Mr. Crittindon and Mr. Burse Past Their Release Dates**

83. Plaintiffs incorporate by reference the allegations previously set forth in this complaint.

84. This unreasonable and arbitrary deprivation of Mr. Crittindon's and Mr. Burse's right to be free from detention following completion of their imposed sentences is a violation of their Due Process rights guaranteed by Article 1, Section 2 of the Louisiana Constitution.

85. The same acts and omissions of Defendants that violated Plaintiffs' rights under the Fourteenth Amendment to the United States Constitution also deprived Plaintiffs of the due process guarantee of the state constitution.

86. As a result of Mr. Crittindon's and Mr. Burse's unlawful over detention, they suffered damages, including loss of liberty, mental anguish and emotional suffering, and other injuries.

**III. State Law False Imprisonment**

87. Plaintiffs incorporate by reference the allegations previously set forth in this complaint.

88. Mr. Crittindon and Mr. Burse were falsely imprisoned when they were held in custody after all legal authority for their detention had expired.

89. As a result of Mr. Crittindon's and Mr. Burse's unlawful over detention, they suffered damages, including loss of liberty, mental anguish and emotional suffering, and other injuries.

**IV. State Law Intentional Infliction of Emotional Distress**

90. Plaintiffs incorporate by reference the allegations previously set forth in this complaint.

91. The conduct of Defendants was extreme and outrageous. Defendants were aware that their conduct would result in Plaintiffs being held in custody after all legal authority for their detention had expired. Defendants knew that this over detention would result in severe emotional distress to Mr. Crittindon and Mr. Burse.

WHEREFORE, Plaintiffs Jessie Crittindon and Leon Burse requests that this Court enter judgment against Defendants and issue the following relief:

- a. a declaratory judgement that Defendants violated Mr. Crittindon's and Mr. Burse's federal and state constitutional rights;
- b. a declaratory judgment that Defendants caused the false imprisonment of and intentional infliction of emotional distress on Mr. Crittindon and Mr. Burse;
- c. an award of damages in an amount to be determined at trial;
- d. an order and judgment granting reasonable attorney's fees and costs incurred pursuant to 42 U.S.C. § 1988; and
- e. any relief that this Court deems just and proper.

Respectfully submitted,

/s/ Katie M. Schwartzmann

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