

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

_____)
LASHAWN JONES, ET AL,)
Plaintiffs; and)
UNITED STATES OF AMERICA,)
Plaintiffs in Intervention)
))
v.)
))
))
MARLIN N. GUSMAN, ET AL,)
Defendants)
_____)
))
MARLIN N. GUSMAN,)
Third-Party Plaintiff)
))
v.)
))
THE CITY OF NEW ORLEANS,)
Third-Party Defendant)
_____)

Civil Action No. 2:12-cv-00859
Section I, Division 1
Judge Lance M. Africk
Magistrate Judge Sally Shushan

THIRD-PARTY COMPLAINT
BY ORLEANS PARISH SHERIFF MARLIN N. GUSMAN
AGAINST THE CITY OF NEW ORLEANS RE: THE UNITED STATES OF AMERICA

NOW INTO COURT, through undersigned counsel, comes Defendant Marlin N. Gusman, in his capacity as the the Sheriff of Orleans Parish, who pursuant to Rule 14(a) of the Federal Rules of Civil Procedure, files the following Third-Party Complaint against the City of New Orleans:

PARTIES TO THIS THIRD-PARTY COMPLAINT

1. Third-Party Plaintiff, Marlin N. Gusman, is the presently acting, duly authorized and elected Sheriff of the Parish of Orleans, State of Louisiana. Pursuant to La. R.S. 15:704, Sheriff Gusman is the keeper of the public jail in the Parish of Orleans and is responsible for the care and custody of its inmates.

2. Third-Party Defendant is the City of New Orleans, which is a political subdivision of the State of Louisiana, organized and operating pursuant to a duly adopted Home Rule Charter.

OTHER PARTIES AND THEIR CLAIMS

3. Original Plaintiffs Lashawn Jones, et al., are present or former inmates of jail facilities operated by Sheriff Gusman. In their Complaint (Doc. 1), they allege that the conditions of confinement therein violate the United States Constitution. They seek declaratory and injunctive relief to remedy such alleged violations, and also seek certification of a class of present and future inmates in the custody of the Orleans Parish Sheriff. Their Complaint the subject of a separate Third-Party Complaint tendered by the Sheriff for contemporaneously herewith.

4. The United States of America has been granted leave by this Court to file a Complaint in Intervention in this action (Doc. 70). The allegations of its Complaint are similar to those made by original plaintiffs Lashawn Jones, et al., but also include alleged violations of 42 U.S.C., Title VI. The United States seeks declaratory and injunctive relief to remedy such alleged violations. A copy of its Complaint in Intervention is attached hereto as Exhibit "A".

JURISDICTION AND VENUE

5. Jurisdiction of the causes of action in the Complaint in Intervention is asserted pursuant to 28 U.S.C. §§ 1331 and 1345.

6. As the Complaint in Intervention asserts claims within this Court's federal question jurisdiction, this Court also has jurisdiction of the claims asserted in this Third Party Complaint pursuant to 28 U.S.C. § 1367(a).

7. Venue is proper in this District because all of the events or omissions recited herein

arose in this District. 28 U.S.C. § 1391(b)(2).

FACTUAL ALLEGATIONS

8. The City of New Orleans is responsible for funding jail facilities of the Orleans Parish Sheriff's Office pursuant to various provisions of Louisiana law. The City of New Orleans has acknowledged its funding obligations and has provided funding with respect to the Sheriff's jail facilities in the numerous consent decrees or settlement agreements executed and filed into the record in Hamilton, et al. v. Morial, et al., Case No. 69-2443, Section "A"(5).

9. To the extent that the Court should conclude that the Sheriff must provide prospective relief in the form of additional staffing, training, care, treatment or other services to Orleans Parish inmates which will necessitate funding over and above that currently provided by the City of New Orleans, judgment should also be entered in favor of the Sheriff ordering the City of New Orleans to pay the Sheriff the full cost, as determined by the Court, of providing such prospective relief.

PRAYER FOR RELIEF

Third-party plaintiff, Marlin N. Gusman, the Sheriff of Orleans Parish, prays that:

1) Third-party defendant, the City of New Orleans, be required to appear and answer, all and singular, the allegations of this Third-Party Complaint;

2) After due proceedings had, should judgment be rendered granting any prospective relief against third-party plaintiff in favor of the United States of America on its Complaint in Intervention, then, in that event, third-party plaintiff be awarded judgment herein against third-party defendant, ordering the City of New Orleans to pay the Orleans Parish Sheriff the full cost, as determined by the Court, of providing any prospective relief ordered by this Court pursuant to 18 U.S.C. § 3626; and

3) For all other general and equitable relief to which third-party plaintiff may be entitled under the law.

Respectfully submitted,

USRY, WEEKS & MATTHEWS

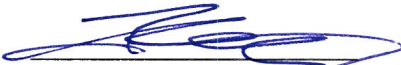
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**COUNSEL FOR DEFENDANT AND
THIRD PARTY PLAINTIFF**

CERTIFICATE OF SERVICE

I do hereby certify that on this 28th day of September, 2012, a copy of the foregoing was filed electronically with the Clerk of Court using the CM/ECF system. Notice of this filing will be sent by operation of the court's electronic filing system.


T. Allen Usry