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Class Action Challenges Federal Detention Center of Philadelphia's Visitation Policy as Cruel and Unconstitutional

Draconian policy keeps inmates awaiting trial from visiting with their children

PHILADELPHIA – Today pre-trial inmates being held at the Federal Detention Center of Philadelphia (FDC) filed a federal class action lawsuit against the jail’s Warden because they cannot see their children. The FDC maintains one of the most restrictive visitation policies in the country. The plaintiffs, represented by attorney Dana Bazelon, Drinker Biddle & Reath LLP and the Public Interest Law Center, allege the Warden’s visitation policy for pre-trial detainees violates their First and Fifth Amendment rights under the U.S. Constitution.

In 2016, the FDC instituted a new visitation policy for inmates being held while awaiting trial or sentencing. Pre-trial inmates are the majority of those held at the facility, and they may remain at the FDC for months or years. The new policy limits the people who can visit these inmates to a narrowly defined group of “immediate family” members. While an inmate’s children are part of his “immediate family,” they are barred from visiting unless accompanied by an adult who is also a member of the inmate’s immediate family. Both plaintiffs in this lawsuit are not currently married to their children’s mothers, and thus the mothers are not “immediate family” members allowed in with the children. Like the plaintiffs, many FDC pre-trial inmates have no adult immediate family members who are available to bring their children to visit. With the adoption of this new policy, many have no visitors at all. As a result, the inmates go months or years without any chance to see their children while awaiting trial.

“I have a good relationship with the mother of my child, and she is willing to bring our child to the jail, but she can’t because she’s not technically my immediate family member,” said Allen Woods, a pre-trial inmate who has been held at the FDC for the last 15 months awaiting trial. “So I haven’t seen my son in over a year. On my son’s sixth birthday, I couldn’t even wish him a happy birthday in person. I had to mail him a card. That’s just wrong.”

According to the complaint, the FDC has less restrictive visitation rules for inmates who have been *convicted and sentenced* than for pre-trial inmates, allowing visits with distant relatives and unrelated friends. The plaintiffs allege the FDC’s policy violates their constitutional rights to association under the First Amendment, in this case with their children; and their rights to freedom from cruel and unusual conditions of confinement and to equal protection of the law under the Fifth Amendment.

“Inmates who maintain relationships with their children and their communities are much more successful at reintegrating after release,” said Dana Bazelon, one of the attorneys representing the plaintiffs. “But the FDC’s unconstitutional and nonsensical policy instead

forces inmates to be further isolated from their loved ones. This isn't just cruel; it makes it more likely that the inmates will wind up back in jail after they're released."

"The FDC's visitation policy is absurd. It is more restrictive for pre-trial inmates than for sentenced inmates in the FDC. It's even more restrictive than visitation policies at high-security U.S. Penitentiaries," said Benjamin Geffen, an attorney with the Public Interest Law Center. "Right now the plaintiffs in this case are presumed innocent while awaiting trial, but if they end up being convicted, they'll win the chance to have visits from their children. That makes no sense."

According to the complaint, a lack of visits from children can seriously impact an inmate. If an inmate is convicted and sentenced, the Bureau of Prisons reviews his visitation history to inform its decision about where he will serve his sentence. Inmates who had few or no visits prior to sentencing can find themselves at a severe disadvantage at this stage.

"Sometimes pre-trial inmates are detained for months or years before they are tried and sentenced, meaning they can go a long time without seeing their children," said Mira Baylson, an associate with Drinker Biddle & Reath LLP. "We're asking the Court to step in and declare this policy unconstitutional and order the FDC to fix it."

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