

**UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

TWANDA MARSHINDA BROWN;
SASHA MONIQUE DARBY;
CAYESHIA CASHEL JOHNSON;
AMY MARIE PALACIOS; NORA ANN
CORDER; and XAVIER LARRY GOODWIN and
RAYMOND WRIGHT, JR., on behalf of
themselves and all others similarly situated;

Plaintiffs,

v.

LEXINGTON COUNTY, SOUTH CAROLINA;
GARY REINHART, in his individual capacity;
REBECCA ADAMS, in her official and individual
capacities as the Chief Judge for Administrative
Purposes of the Summary Courts in Lexington
County and in her official capacity as the Judge of
the Irmo Magistrate Court; ALBERT JOHN
DOOLEY, III, in his official capacity as the
Associate Chief Judge for Administrative Purposes
of the Summary Courts in Lexington County;
BRYAN KOON, in his official capacity as the
Lexington County Sheriff; and ROBERT MADSEN,
in his official capacity as the Circuit Public
Defender for the Eleventh Judicial Circuit of South
Carolina,

Defendants.

Case No.
3:17-cv-01426-MBS-SVH

**DECLARATION OF ERIC R. NUSSER IN SUPPORT OF
PLAINTIFFS' MOTION FOR CLASS CERTIFICATION**

I, Eric R. Nusser, declare as follows:

1. I am an attorney with the law firm of Terrell Marshall Law Group PLLC ("Terrell Marshall"). I am licensed to practice law in the State of Washington, and have been admitted to

this Court pro hac vice. I make this declaration based on personal knowledge, and I am competent to testify regarding the following facts.

2. From May 1 through May 28, 2017, I visited or directed my legal assistant to visit the Lexington County Sheriff's Department Jail Inmate Search website, which is publicly available and lists all inmates whom the Lexington County Sheriff's Department ("Sheriff's Department") reports as being incarcerated in the Lexington County Detention Center ("Detention Center") on the date the website is visited.¹

3. Each day during this 28-day period, I converted or directed my legal assistant to convert the daily list of inmates incarcerated in the Detention Center ("Daily Inmate List") to a PDF document using the computer's print function. No daily list was converted on May 6 or May 17 because neither of us had the opportunity to do so. No daily list was converted on May 12 because the Inmate Search would not allow the conversion function to properly convert the list into a PDF document. I have noted below where information from these days is excluded from calculations.

4. Each of the remaining 25 days, I reviewed or directed my legal assistant to review the Daily Inmate List to identify all inmates with a primary charge of either "Magistrate Court Bench Warrant" or "Magistrate/Municipal Court Bench Warrant" (collectively "Bench Warrant Charge"). There were 95 inmates identified through this process. Information from the Daily Inmate List was recorded for each such inmate along with additional information gathered from the inmate's public booking record, which was available through a link on the Inmate Search website. I also reviewed or directed my legal assistant to review cases associated with each inmate on the Lexington County Public Index Search ("Public Index").² Attached hereto as

¹ The internet address for the Inmate Search website is <http://jail.lexingtonsheriff.net/p2c/jailinmates.aspx>.

² The internet address for the Public Index website is <http://cms.lex-co.com/scjdweb/publicindex/>.

Exhibit A is a true and correct copy of information recorded from the Daily Inmate List, public booking records, and the Public Index identifying the 95 inmates, their primary charges, and the fines and costs associated with their primary charge.

5. For each of the 25 days for which the Daily Inmate List was converted to PDF, I compared or directed my legal assistant to compare the Daily Inmate List for that day against the list for the previous day and to identify any names that had been newly added (i.e., booked in the previous 24 hours). We also compared the two lists to identify any names that had been on the previous day's list but were not on the current day's list. A person who appeared on the previous day's list but not on the current day's would have been released at some point in the previous 24 hours.

6. Between May 1 and May 28, 2017, there were 95 unique inmates who appeared on at least one Daily Inmate List with a Bench Warrant Charge as the primary charge.

7. For 19 of these inmates, the primary charge was listed as "Magistrate Court Bench Warrant." *See* Exhibit A. For the other 76 inmates, the primary charge was listed as "Magistrate/Municipal Court Bench Warrant." A review of the Public Index indicates that at least 38 of these 76 individuals were arrested on a bench warrant issued by a Lexington County magistrate court. *Id.* (The issuing courts for the remaining 38 individuals could not be determined.) Thus, at least 57 of the 95 unique inmates were arrested and jailed on bench warrants issued by magistrate courts—the 19 listed as "Magistrate Court Bench Warrant" plus the 38 listed as "Magistrate/Municipal Court Bench Warrant" but confirmed to be from magistrate courts.

8. All seven Lexington County magistrate courts—i.e., the Central Traffic Court and each of the six District Courts—issued a bench warrant for the arrest and jailing of at least one of these 57 inmates. *Id.*

9. On May 26, 2017, the Daily Inmate List included a total of 609 inmates incarcerated in the Detention Center. On that same day, there were 63 inmates—or 10.34% of all inmates—whose primary charge was listed as a Bench Warrant Charge.

10. On May 27, 2017, the Daily Inmate List included a total of 625 inmates incarcerated in the Detention Center. On that same day, there were 63 inmates—or 10.08% of all inmates—whose primary charge was listed as a Bench Warrant Charge.


11. On any given day from May 1 to May 28, 2017, there was an average of 43 inmates incarcerated in the Detention Center whose primary charge was listed as a Bench Warrant Charge. Attached hereto as Exhibit B is a true and correct copy of the data used to determine this average. Note that data from May 6, May 12, and May 17 is excluded from the average; therefore, only the data from the remaining 25 days is averaged.

12. On average for the period from May 1 to May 28, 2017, 7.22% of all inmates on the Daily Inmate List had a Bench Warrant Charge listed as their primary charge. *See* Exhibit B. Note that data from May 6, May 12, and May 17 is excluded from the average; therefore, only the data from the remaining 25 days is averaged.

13. The Daily Inmate Lists and public booking records included statements of debts owed for 58 of the 95 unique inmates incarcerated for Bench Warrant Charges. The greatest amount owed by any one of these inmates was \$3,470.00. The least amount owed by any one of these inmates was \$232.50. Eleven of these inmates—i.e., 11% of all inmates, and 18.6% of inmates whose debt is listed—owed \$262.50 or less in fines and costs.

14. The total debt listed for all 58 people combined was \$55,714.87. Dividing this amount by 58 indicates that the average debt owed among these 58 inmates was \$960.60.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct and that this declaration was executed in Seattle, Washington on this 20th day of July, 2017.

By: 
Eric R. Nusser, WSBA #51513