

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

KEVIN P. ROOKS, JOHN PAUL
OWENS, KENNETH EARL WILLIAMS,
BYNUM PAUL TRIVETT, CYNTHIA A.
FAIR and TAMMY M. MIXON,
individually and on behalf of
all inmates in the Conecuh
County Jail in Evergreen, Alabama,

Plaintiffs,

UNITED STATES OF AMERICA,

Plaintiff-Intervenor,

vs.

TOMMY HERRING, Commissioner of
the Alabama Department of
Corrections in his official
capacity; CONECUH COUNTY; FREDDIE
STALLWORTH, JEROLD DEAN, LEONARD
MILLENDER, HUGH BARROW, and FRANK
PATE, in their official capacities
as Conecuh County Commissioners;
EDWIN L. BOOKER, individually and
in his official capacity as
Sheriff of Conecuh County; and
LEROY FERRELL, individually and
in his official capacity as Chief
Deputy of Conecuh County,

Defendants.

CASE NO. 92-0316-M

SEP 27 3 12 PM '94

Rooks & U.S. v. Herring



JC-AL-007-003

CONSENT ORDER

I. DEFINITIONS:

For the purposes of this Consent Order, the following
definitions shall apply:

REFERRED TO JUDGE Mulling

For Ruling or Appropriate Action

DATE 9-7-94 mhp

1. "Plaintiffs" and "inmates" for purposes of injunctive and declaratory relief shall refer to the class of all persons who are now, have previously or in the future will be incarcerated at the Conecuh County Jail.

2. "Plaintiff-Intervenor" refers to the United States of America.

3. "Defendants" as it relates to declaratory and injunctive relief shall refer to Conecuh County; Conecuh County Commissioners Freddie Stallworth, Jerold Dean, Leonard Millender, Hugh Barrow, and Frank Pate; Sheriff Edwin L. Booker and Chief Deputy Leroy Ferrell, their agents, successors in office, employees and all persons in concert or participation with them.

4. "State Defendants" as it relates to declaratory and injunctive relief shall refer to the Alabama Department of Corrections and Tommy Herring as Commissioner of the Alabama Department of Corrections and his successors in office.

5. "Jail" shall refer to the Conecuh County Jail.

6. "Qualified Health Care Personnel" shall refer to nurses, physicians, dentists and other professional and technical workers licensed to engage in the various fields of medical care by the State of Alabama.

7. "Health Trained Staff Member" refers to deputies and/or other employees of Conecuh County who are not licensed to engage in medical care but who have received training in limited aspects of health care. A health staff member must receive training in

withdraw opposition to that Motion and to file a Joint Stipulation asking the Court to grant the Motion.

11. In an effort to resolve this action without further litigation, the parties have agreed to the matters set forth herein. Defendants contend they have made a concerted effort to operate the Jail in a lawful and humane manner. By entering this Order, Defendants do not admit liability or wrongdoing.

IV. GENERAL PROVISIONS:

12. This Court has jurisdiction over the subject matter of this action and the parties hereto.

13. This agreement may be modified only by court order. The parties consent to the United States Magistrate Judge conducting all proceedings related to this Order, including entering it as a final order.

V. SUBSTANTIVE PROVISIONS:

A. RENOVATION OF THE JAIL

14. Defendants shall replace the roof of the Jail which shall comply with all applicable building codes. Defendants shall submit approved plans for State approval within 90 days from the entry of this Order. Construction shall be completed no later than one year from the date of entry of this order.

15. Defendants shall construct a shelter of reasonable size which may be located in the outdoor exercise yard. The shelter

22. The Conecuh County Attorney will investigate alternative sentencing and with the Conecuh County Commission will make a recommendation to the Conecuh County Judiciary.

23. Any time inmate population exceeds the number of bunks, inmates shall be given a cot and adequate cover and allowed to sleep in the dayroom. All such cots and covers shall be retrieved and stored off the floor between the hours of 7:00 am and 10:00 pm.

24. State Defendants shall remove state-ready inmates from the Jail within thirty (30) days following receipt of transcript.

25. Pre-trial detainees shall be provided with a list of their charge(s) and schedule for disposition of their case as such information is provided to defendants by the applicable court system. Inmates requesting information regarding computation of time served, remaining time to serve and fines owed shall be furnished such information as it is provided to defendants. The parties recognize that such information must be furnished defendants from the judicial system. Upon a request for information, defendants shall request said information and furnish the response promptly to the requesting inmate.

C. STAFFING AND TRAINING:

26. Each shift at the Jail shall have not less than two officers. The parties recognize that dispatcher duties shall be a

inmate rules and regulations, rights and responsibilities of inmates, fire and emergency procedures, and key controls.

29. Any present staff who has not already received forty (40) hours of orientation and training shall do so within a year. All future staff shall be required to complete forty (40) hours of orientation and training prior to job assignment including CPR and basic first aid. Each year thereafter, staff shall be required to complete forty (40) hours of in-service training per year.

D. POLICIES AND PROCEDURES:

30. To the extent not already covered in the existing policies and procedures manual, the Sheriff and his staff shall write and implement and follow a policies and procedures manual which, at a minimum, covers each substantive area of this Order. This policy and procedures manual shall be submitted to the Conecuh County Commission for approval within thirty (30) days of the entry of this Order. This manual shall include policies and procedures for follow-up investigation and reports after any incidents or disturbances that threaten the safety and security of the inmates. Defendants shall include a procedure for ensuring that staff read and understand the manual and updating the manual annually, if needed.

31. An inmate handbook describing inmate procedures in the jail, including disciplinary procedures, shall be provided to all incoming inmates within twenty-four (24) hours after arrival at the

jail. The inmate handbook shall notify inmates of materials in the law library and shall provide information on bond release as set forth in Appendix "B" attached hereto. Inmates who are not able to read shall be told the substance of the policies and procedures as set out in said handbook.

E. FIRE SAFETY:

32. The Sheriff and his staff shall draft and the Commission shall approve policies and procedures which provide for inmate safety and comply with all applicable fire codes. The policies and procedures shall establish an institutional fire protection plan, describe fire prevention methods, identify location of fire fighting equipment, outline a plan for evacuations during fire emergencies and provide for training of staff in fire safety and emergency evacuation. The policies and procedures shall be approved by local or state fire officials qualified to perform fire inspections.

33. The fire protection plan shall include a provision for the regular monitoring and maintenance of fire control equipment and procedures to comply with state and local fire and safety codes.

34. No inmate shall be locked in any cell or living area secured with chains or padlocks. All doors shall be equipped with locks and emergency release mechanisms as required by the state fire marshall and maintained in working order. Keys shall be marked so they can be identified by touch only if necessary.

35. Defendants shall provide inmates with a durable, non-flammable container in which to store personal items the inmates are allowed to keep in their cells.

36. Defendants shall bring the jail into compliance with the Alabama Fire Code and obtain documentation from the Fire Marshal that the jail is in compliance.

F. HEATING, COOLING, VENTILATION AND LIGHTING:

37. The roof ventilation system shall be maintained in working order to provide adequate ventilation in the jail. Temperatures shall be maintained at a reasonable temperature twelve months a year. Fans will be furnished on request. Ventilation shall be maintained at least at ten (10) cubic feet of fresh outdoor air per minute per person.

38. All light fixtures in the cell areas shall be fluorescent lighting and said light fixtures shall be maintained in such a manner as to provide adequate lighting in the cell areas. Lighting shall be maintained at least at twenty (20) foot candles in living areas. Shower curtains shall be of white opaque materials and installed at 4-1/2 feet above the floor.

G. SANITATION, MAINTENANCE AND PEST CONTROL:

39. The Sheriff and his staff shall write and implement policies and procedures, which shall be approved by the Commission, for effective sanitation, maintenance and pest control programs at the jail including procedures for ensuring compliance with all

applicable health, safety and sanitation laws and the requirements set out in this Order.

40. Hot and cold water in the showers and sinks shall be available to inmates for bathing and drinking. Hot water temperatures should be approximately 110 degrees fahrenheit and never exceed 120 degrees fahrenheit.

41. The jail's drinking water supply shall be certified by appropriate health officials to ensure compliance with applicable laws.

42. To provide effective sanitation, maintenance and pest control practices, staff shall conduct weekly inspections of the jail to be recorded in writing. One officer shall be assigned to conduct such inspections which shall include confirmation that all areas are clean and orderly, that lighting, heating, cooling and ventilation equipment function properly, and that all equipment and fixtures perform properly and the facilities are maintained in good repair. Any deficiencies shall be noted and steps taken to correct same.

43. All holes and other damage to walls, ceilings and floors and all broken or leaking plumbing throughout the jail have or shall be repaired and defendants shall take reasonable steps to maintain said items in working order.

44. Damage to the jail by inmates, including walls, ceilings, floors, plumbing, electrical appliances, etc. shall be dealt with in accordance with disciplinary procedures to be written and implemented by the Sheriff.

45. Defendants shall provide for regular licensed pest control services. Defendants shall clean, fumigate and paint the jail as needed but not less than twice a year. At least twice per year, all ventilation screens shall be thoroughly cleaned to permit maximum air flow.

46. Defendants shall include in the policies and procedure a written sanitation plan for all areas of the Jail. The sanitation plan shall require a cleaning schedule for the area, instructions for cleaning which indicate areas to be cleaned, instructions for acquisition of cleaning supplies and equipment and a review by a staff member of the areas cleaned to ensure thorough cleaning.

47. Inmates shall be provided with cleaning supplies including a brush for use on the toilet only, a brush for use on the shower and sink only, mop, bucket, clean hot water and detergent. Inmates shall be required to clean the entire cell and day room areas daily. Defendants shall at least once a month use commercial cleaning products to remove old stains and scale and shower film, and a bleach solution to eliminate bacteria in each cell area. If this cleaning is done by inmates, it shall only be done under direct staff supervision and inmates shall be supplied with appropriate protective clothing and gear.

48. Defendants shall furnish each inmate with a clean mattress and one mattress cover, one sheet, one blanket by 10:00 pm on the first day of the inmate's incarceration at the jail. A clean wash cloth, towel and clean sheet shall be furnished twice

per week. Mattresses, blankets and covers shall be cleaned and sanitized once a week, and if needed, repaired between users.

49. All eating and drinking utensils shall be gathered and thoroughly cleaned after every meal.

H. HYGIENE:

50. Defendants shall provide inmates with an adequate supply of soap, shampoo, toothbrush, toothpaste, toilet paper, combs, barbering and shaving equipment free of charge. Inmates may, if they wish, provide their own hygiene articles. Clean clothing exchange shall be available to all inmates at least twice a week. Inmates shall be allowed to have personal clothing laundered as necessary.

I. FOOD SERVICE:

51. The Sheriff and his staff shall write and implement policies and procedures, which shall be approved by the Commission, for the Jail food service program that include at a minimum the requirements set out in this section.

52. All inmates and staff assigned to food services shall be examined by medical personnel to ensure they are free from diseases transmittable through food service. This examination shall be completed before assignment to food services and annually thereafter.

53. Food handlers shall wear clean clothing, gloves and hair nets or caps. Food handlers shall be free from open and infected

not use the outdoor exercise area as storage space and shall keep the outdoor exercise area free of debris and trash.

59. Inmates in general population shall be provided access to a dayroom area outside their cells for at least twelve hours per day. Inmates shall be provided access to television cable service in the cell areas.

60. At their own expense, inmates may receive by mail direct from the publisher, and keep for a limited period of time, a reasonable number of periodicals and books, so long as such materials do not create a hazard.

61. Inmates shall be permitted to keep radios in the cell areas, subject to reasonable restrictions imposed for safety, security and discipline purposes. Such radios must be battery powered and must be equipped with ear plugs or headphones so as not to disturb other inmates.

K. RELIGIOUS SERVICES:

62. The Sheriff and his staff shall write and implement policies and procedures, which shall be approved by the Commission, providing inmates with opportunities to participate in religious services at the jail and to speak with religious counselors, not at the defendants' expense.

L. MEDICAL CARE:

63. The Sheriff and his staff shall write and implement policies and procedures, with the advice and approval of a licensed

physician; which shall be approved by the Commission, which provide for the delivery of health care services to inmates including medical, dental and mental health services. Written policies and procedures shall cover health intake screening, medical problems and emergency care. Inmates shall be advised in the Inmate Handbook on how to receive health care.

64. Health intake screening shall be performed by a qualified health care personnel or health trained staff member on all inmates upon arrival at the jail or as soon thereafter as the inmate is capable of responding to health screen questions. Additions or changes to the form shall be approved by a licensed physician. At least once per year a licensed physician shall review and update the health intake screening form. These findings are to be recorded on a health screening form approved by a licensed physician.

65. The health screening process shall include the following procedures:

a. Questioning inmate regarding current illnesses, conditions and health problems, including serious dental problems, mental health problems, tuberculosis, venereal disease and other infections and communicable diseases, medications taken and special health requirements, use of alcohol or drugs, including type of prescription drugs or over the counter drugs used, mode of use, amounts used, frequency used, date or time of last use, and history of problems that

have occurred after ceasing use; past and present treatment or hospitalization for mental disturbance or suicide;

b. Observation of behavior, including state of consciousness, mental status, appearance, conduct, tremors and sweating; body deformities and ease of movement; condition of skin including trauma markings, bruises, lesions, jaundice, rashes, infestations and needle marks or other indications of drug abuse; and

c. Disposition of inmate, such as immediate referral to appropriate health authority, placement in general population and later referral to the appropriate health authority or placement in general population.

66. Each completed health screening form shall be reviewed by qualified health care personnel on a bi-weekly basis or immediately if it appears from the health intake screening that there is a danger either to the inmate or to the Jail population. Any inmate who in the opinion of qualified health care personnel, after review of the health screening form, requires immediate examination or treatment shall receive such examination or treatment as directed by qualified health care personnel.

67. The Sheriff and his staff shall write and implement policies and procedures, which shall be approved by the Commission, requiring that inmates who indicate or exhibit signs that they are suffering from serious mental illness, including suicidal tendencies, shall be referred to the proper mental health authority for treatment.

68. All jail officers shall be trained to conduct health intake screening. All jail officers shall receive training in the recognition and handling of the mentally ill, including recognition of signs and symptoms of chemical dependency and suicide.

69. Each inmate held in jail more than fourteen (14) days shall be given a physical examination by a person trained to conduct such exams, unless already provided.

70. Should health care be delivered in the jail, Defendants shall supply adequate space, equipment, supplies and materials, the adequacy of which shall be determined by qualified health care personnel. Space shall be provided where inmates can be examined and treated in private.

71. Sick call shall be conducted by a qualified health care provider at least two times per week. If health care personnel recommend that an inmate needs further medical treatment or review, defendants shall arrange for such treatment and shall transport the inmate to obtain such treatment. On non-sick call days any request for serious dental or medical treatment will be reviewed by a health care trained staff member and that member will review the request with a qualified health care provider.

72. Emergency care shall include arrangements for emergency evacuation of inmates from the jail, use of emergency medical vehicles, use of one or more designated hospital emergency departments, and security procedures for the immediate transfer of inmates when it is necessary. In the event of emergency room treatment, out-patient care or treatment in a doctor's office or

hospital, the deputy or jailer taking the inmate to the doctor or dentist shall request written instructions from the health care provider to be given to the jail's health care personnel and to be placed in the inmate's medical file.

73. Defendants shall provide dental care for serious dental problems. Such care or treatment shall not be limited to extractions.

74. A first aid kit approved by qualified health care personnel shall be available in the jail.

75. Inmate medications shall be subject on intake to verification that the contents of the medicines are as indicated on the label of the container by use of a Physician's Desk Reference (PDR) or other manual. Defendants must develop a system to store individual medications that includes a master log of all inmate medications. Defendants must develop a written procedure for medication delivery system that includes a medication administration record system that allows appropriate staff to document the dispersal and receipt of each dose of medication with the inmate's signature (with use of a refusal form when medications are refused).

76. Drugs shall be kept in a locked place.

77. Medications shall be distributed to inmates by staff members. Under no circumstances shall medication be distributed by other inmates or trustees. All medication distributed to inmates shall be taken in the presence of the staff member distributing the medication.

78. A medical file for each inmate shall be retained and shall include the health intake screening form, any physical or mental examination forms, medication records, sick call requests, out-patient medical visits, emergency room referrals, treatment and directions for any follow-up. Medical records shall be kept in a locked place.

79. The Sheriff and his staff shall write and implement policies and procedures, which shall be approved by the Commission, which provide that all treatment prescribed or ordered by physicians or other qualified health care personnel, including follow-up examinations, are followed.

80. The Sheriff and his staff shall write and implement policies and procedures, which shall be approved by the Commission, providing that non-law enforcement restraints, such as four-point restraints, shall be used only for medical and psychiatric purposes as ordered by a licensed physician. In all cases where such non-law enforcement restraints are used, the designated physician shall issue orders setting forth when, where, how long and in what manner restraints may be used. When used, such non-law enforcement restraints shall be loose enough to allow full blood flow.

81. In all cases of inmates confined to the Jail for more than fourteen (14) days, the Defendants shall administer PPD test for TB with results forwarded to qualified health care personnel designated by defendants. If the test is positive, the inmate shall be immediately scheduled for a chest x-ray, with appropriate

the status of inmates who have indicated, either verbally or through behavioral indicators, suicidal intentions.

88. Said policies and procedures shall provide that jail administrators shall be notified of suicides or attempted suicides. Additionally, notification shall be provided to known family members of such inmates and appropriate authorities.

89. Defendants shall include in the policies and procedures a requirement that an administrative review procedure take place if a suicide or suicide attempt does occur.

2. Intoxication:

90. The Sheriff and his staff shall write and implement policies and procedures, which shall be approved by the Commission and by qualified and licensed physician or other qualified person, outlining steps for dealing with inmates under the influence of alcohol or drugs or undergoing withdrawal. Inmates experiencing severe, life-threatening intoxication, overdose or withdrawal shall be transferred to an emergency care facility.

91. Any inmate who is thought to be a risk of injury to himself or others shall be placed in a segregation cell to minimize the risks of injury and shall be kept segregated from other inmates.

92. Intoxicated persons shall be checked every fifteen (15) minutes.

3. Assault:

93. The Sheriff and his staff shall write and implement policies and procedures, which shall be approved by the Commission, for responding to any allegation of an assault of an inmate, including rape, and reviewing each incident to correct problems with practices, policies or procedures that contributed to the occurrence of the assault.

94. Policies and procedures on assaults and assaults involving rape shall include referral to a community facility for treatment and gathering of evidence. If these functions are performed in-house the policies and procedures shall include a requirement that a history be taken, a physician make an examination to document the extent of any physical injury and to determine if referral to a medical facility is indicated; with the victim's consent the examination shall also include the collection of evidence, prophylactic treatment of venereal disease to be offered to the victim; following the physical exam, crisis intervention counseling and follow-up care shall be offered the victim and the victim and assailant should be separated from each other in housing assignment.

N. SECURITY AND CONTROL:

95. The Sheriff and his staff shall write and implement policies and procedures, which shall be approved by the Commission, for the security and control of the jail which shall include inmate classification, physical plant inspections and searches, inmate

counts, weapons and chemical agents control, contraband, key control, tool and equipment control, cell equipment control, emergency procedure, and inmate programs and activities.

96. Said policies and procedures shall include procedures for responding to and documenting allegations of assaults or use of excessive force and reviewing each incident to correct problems with practices, policies or procedures that contributed to the occurrence of the assault.

97. Jail staff shall conduct inspections of the jail not less than every thirty (30) minutes and said inspections shall include direct visual inspection of every cell and day room area. To document adequate and verifiable safety and security inspections, Defendants shall relocate the watchclocks in the catwalk area directly outside the eight man cells.

98. An audio system shall be provided to enable inmates in the cell areas to contact jail staff. At no time shall Jail staff disable the monitoring system or turn down the volume of the system so as to render the system ineffective.

99. No inmate shall be given authority over other inmates or institutional practices. No inmate shall carry keys.

100. The policy and procedures on inmate searches shall specify approved methods for use by officers to search inmates, inmates' quarters and other areas of the facility. Methods shall be designated for a frisk search (a search during which an inmate is not required to remove his clothing, a strip search (a search during which an inmate is required to remove his clothing), a body

cavity search (a visual, manual or instrument inspection of an inmate's anal cavity), and a cell search (an inspection of a room).

101. Searches shall be conducted in a manner which avoids unnecessary force, embarrassment or indignity to the inmates.

102. Body cavity searches shall be done only with reasonable cause and when authorized by the Chief Deputy, Sheriff or Sergeant. This search shall be conducted only by medically trained personnel or a health trained staff member.

103. Strip searches and body cavity searches shall be conducted in a private, sanitary location. When body cavity or strip searches are conducted by a person of gender different from the inmate, at least one deputy or medical personnel of the same gender as the inmate shall be present. Strip searches shall be conducted by officers of the same gender as the inmate being searched.

104. Body cavity searches shall be fully documented. X-rays or instrument intrusions shall be used for medical reasons only as authorized by qualified health care personnel.

105. Work release inmates, at a minimum, shall be frisk searched each time they return to the jail in a thorough and professional manner.

106. After cell searches, cells shall be left the way they were found. Inmate personal property shall be respected and not willfully discarded, broken or misplaced.

107. The Sheriff and his staff shall write and implement policies and procedures, which shall be approved by the Commission,

on the use of force and security equipment by Jail staff in the lawful performance of their duties. When any type of force is used, a written report, prepared by the officer who employed the force shall be completed before the end of that shift and include an accounting of events leading to the use of force, an accurate and precise description of the incident and reason for employing force, a description of the weapon if any and the manner used, a description of the injuries suffered if any and the treatment received, and a list of all participants and witnesses to the incident.

108. Where chemical agents are used or when an injury is alleged, inmates shall be examined by qualified health care personnel immediately. In no instance shall chemical agents be used on inmates who are behind locked doors and pose no immediate threat of bodily injury to officers, inmates or themselves.

109. Defendants shall implement a system which prohibits Jail staff, or anyone else, from bringing weapons, including service weapons, into any part of the Jail other than the main office area. Upon arrival with new prisoners, the jail will go on lock down status. The officers shall then proceed directly to the front office area to secure any weapons in a locked cabinet.

O. CLASSIFICATION:

110. The Sheriff and his staff shall write and implement policies and procedures, which shall be approved by the Commission, implementing a classification policy which identifies and addresses

the risks and needs presented by inmates upon intake and during their incarceration. The classification policy shall include the use of an intake screening form for identifying potential threats or risks posed by a particular inmate. The classification policy shall include a provision for transferring inmates to other correctional facilities or a medical facility as needed to provide for the safety of the inmate or other inmates. Trustees shall not perform booking activities.

111. Priority shall be given to separating those inmates with violent charges or convictions, violent behavior or violent tendencies from the rest of the population.

112. The Sheriff and his staff shall write and implement policies and procedures, which shall be approved by the Commission, for intake and booking procedure that includes a procedure for staff to search and process inmates before they are admitted into any portion of the general population area of the jail. Intake pat down searches shall be conducted in the jailer's office.

113. Juveniles shall not be housed at the jail. Persons under eighteen (18) years of age who are charged or convicted as adults, shall be separated from other inmates, when in the assessment of the Sheriff, their age exposes them to risk of harm.

P. DISCIPLINARY PROCEDURES:

114. The Sheriff and his staff shall write and implement policies and procedures, which shall be approved by the Commission, which specify acts prohibited within the facility and penalties

that may be imposed for various degrees of violations. These rules shall be provided to all inmates upon admission.

115. Under no circumstances shall the Jail penalties include an increase in Jail time. However, nothing contained herein shall prevent the Defendants from pursuing charges through the judicial system against any inmate for violations of law committed while in the custody of the Conecuh County Sheriff's Department.

116. Proposed rules for disciplinary procedures shall be provided to all counsel who shall have ten days to file comments with defendants.

117. Disciplinary reports shall be prepared when rule violations occur. Disciplinary reports shall include but are not limited to specific rules violated, explanation of the event including names of people involved, what transpired, time and location of incident, witnesses, disposition of physical evidence, any immediate action taken and date and time of report and signature of person making report.

118. When alleged rule violation occurs an investigation shall begin within forty-eight (48) hours of the time the violation is reported.

119. Any pre-hearing detention shall be reviewed by the Sheriff, Chief Deputy or Sergeant within twenty-four (24) hours and every seven days thereafter. Inmates shall not be punished or segregated before a hearing except in a riot or situation where the life, health or property of an inmate or other person is endangered.

120. Inmates charged with rule violations shall be given a written copy of the alleged violation within twenty-four (24) hours of notice of the violation and a hearing shall be scheduled within seventy-two (72) hours after notice, excluding weekends and holidays.

121. Disciplinary hearings shall be conducted by the Sheriff, Chief Deputy or Sergeant. In no instance shall the hearing be conducted by the person complained of. Inmates shall be given an opportunity to make a statement and present documentary evidence and witnesses at the disciplinary hearing. Witnesses may be excluded from being physically present at the hearing if their presence severely jeopardizes the life or safety of themselves or other persons or the security of the jail. In such instances, the inmate shall be provided with the reason for such denial.

122. Upon request of an inmate, a staff member may be designated to assist the inmate with his representation at the hearing.

123. There shall be a written statement by the fact finder, including references to the evidence relied on, the reasons for punishment, the length of punishment, and the names of witnesses testifying both for the jail and for the accused. The decision shall be based solely on the evidence presented at the hearing. Such statements shall be filed in the folder of the accused. The hearing may be tape recorded.

124. Group punishment shall not be allowed.

125. The duration of segregation shall not exceed the length of time needed for legitimate classification reasons.

Q. INMATE COMMUNICATIONS, MAIL, VISITS, TELEPHONE:

126. Inmate policies and procedures shall set forth information regarding inmate communications by mail, visits and telephone. The rules shall clearly set out those items which an inmate is allowed to send or receive through mail or visits.

127. Visitation with inmates shall be allowed two (2) days per week from 2:00 pm through 4:00 pm. (one of the two days should be on Saturday or Sunday). Special visits due to visitors traveling long distances may be requested and granted upon approval by the Sheriff, Chief Deputy or Sergeant. No more than two persons shall be allowed to visit with any one inmate at any given time.

128. In the discretion of the Sheriff, inmates who are not deemed to be a security risk may be allowed to visit with family in the day room area or outdoor exercise area.

129. Children under eighteen (18) shall be allowed to visit members of their immediate family upon special request. Arrangements for visitation shall be made and approved by the Sheriff, Chief Deputy or Sergeant. All children under eighteen (18) must be accompanied by an adult.

130. Visits by persons providing services such as clergy, physicians, mental health or drug counselors, probation officers, attorneys and legal assistants shall not count against general visitation opportunities. Visits by such persons shall be allowed

at any reasonable time except meal time between 8:30 a.m. and 5:00 p.m. for reasonable periods of time. In emergency cases or cases where there is an urgent need for the inmate to obtain such services, such people shall be allowed to visit at other times by arrangement with the Sheriff, Chief Deputy or Sergeant.

131. In order to maintain community ties, upon request, indigent inmates shall receive postage and stationery sufficient to send at least two (2) letters per week. All other inmates shall be provided the opportunity to purchase such supplies.

132. Mail addressed to an inmate who has been transferred or released shall be forwarded within forty-eight (48) hours of receipt to the address provided.

133. General correspondence and packages may be opened and inspected without reading the contents to prevent transmission of contraband. Inspection and distribution of general mail shall be by a staff member.

134. Where items received by an inmate are not allowed, the inmate shall be notified and said items will be returned to the sender, with postage to be paid by the sender or inmate. Any illegal items will be turned over to law enforcement authorities. When removal of an item from incoming mail is deemed necessary, a written record shall be made of such action and shall include the inmate's name, a description of the item, a description of the action taken, reason for such actions, the disposition of the item involved and the signature of the officer.

135. Inmates shall be provided reasonable and equitable access to a telephone on a daily basis both during and after business hours.

136. If an inmate receives an incoming call of an emergency nature, the name and number of the calling party will be taken and the inmate allowed to place a call pertaining to the emergency.

137. Defendants shall provide inmates access to a telephone that allows receipt of collect calls by rotary phones.

R. ACCESS TO COURTS:

138. The Sheriff and his staff shall write and implement policies and procedures, which shall be approved by the Commission, allowing inmates access to courts by providing inmates with access to a law library, privileged communications with courts, attorneys or their representatives and public officials; appropriate legal supplies and services and protection from retaliation from exercising the foregoing rights. A copy of the Court calendar and Grand Jury Schedule will be kept in the law library.

139. An area where an inmate may discuss legal matters privately with his/her attorney shall be provided. Officers may visually observe such conversations but shall not listen to or record such conversations.

140. Outgoing mail to courts or attorneys shall be sent sealed. Incoming mail from courts or attorneys may be opened only in the presence of the inmate to whom they are addressed and then

only to search for contraband. Under no circumstances shall the contents be read or copied.

141. Defendants shall provide inmates access to uncensored telephone service for discussions with attorneys or legal staff.

142. Inmates shall be provided access to supplies and equipment to enable inmates to prepare legal documents including pens, papers, envelopes, stamps, carbon paper or access to a copying machine and notary services. Inmates shall be provided with sufficient supplies and equipment to satisfy court procedural requirements and to permit an inmate to retain a single copy of documents.

143. Inmates shall be given access to a law library Monday thru Friday 8:00 am to 4:00 pm. The law library shall contain the materials listed in Appendix C.

144. Jail staff shall not interfere with or prohibit inmates giving another inmate legal advice or assisting with the preparation of legal documents. No inmate shall be permitted to ask for or receive payment for such assistance.

S. GRIEVANCE PROCEDURE:

145. The Sheriff and his staff shall write and implement policies and procedures, which shall be approved by the Commission, implementing a grievance procedure by which inmates may seek formal review of a complaint. The grievance procedure shall include provisions requiring a written signed response within forty-eight (48) hours of complaint, one level of appeal, and a requirement

that grievance forms be made available upon request; prohibition against retaliation for filing grievances; prohibition against staff questioning such requests for grievances; procedures for expediting emergency complaints; and procedures for allowing a direct grievance directed to the Sheriff where the inmate fears possible adverse affects if the nature of the complaint is otherwise known at the jail.

146. Grievances may relate to any aspect of this Order or any other alleged condition or abuse at the Jail, including complaints about jail staff. All inmates shall be advised of their right to file grievances. Grievance forms shall be obtainable from any jail staff member.

T. TRUSTEE SYSTEM:

147. The Sheriff and his staff shall write and implement policies and procedures, which shall be approved by the Commission, setting forth how inmates are chosen to be trustees. All inmates who wish to be considered for a trustee position shall be considered. The procedure for applying for trustee shall set forth in the inmate handbook.

U. NON-DISCRIMINATION:

148. Defendants will not discriminate against any inmate on the basis of gender, race, religion, age or handicap and all inmates shall be afforded equal opportunity to participate in programs and receive services.

VI. DAMAGES:

149. Defendants shall pay the following individual plaintiffs, Cynthia Fair, Tammy Mixon and Kevin Rooks, who are seeking monetary damages, the amount agreed to by counsel for defendants and plaintiffs within ten days of the entry of this order. Counsel for plaintiffs represents that said plaintiffs have authorized counsel to accept the agreed upon sum on behalf of said plaintiffs. Further, said plaintiffs will sign a general release dismissing and releasing all claims of those three individual plaintiffs against defendants in consideration for the agreed upon sum.

VII. COMPLIANCE:

150. Defendants shall implement of all provisions of this Order within ninety (90) days, except where otherwise noted.

151. Defendants shall make monthly reports on their efforts to comply with this Order for 120 days following entry of this order and quarterly thereafter until such time as all provisions have been implemented.

152. Should any provision of this Order fail to be implemented as set forth herein, defendants shall notify the Court immediately of the reason for same.

153. Counsel for Plaintiff-Intervenor shall monitor compliance. All counsel shall receive and have access to copies of all documents which relate to the implementation of this Order. All counsel shall have access to all records and recordings which relate to the implementation of this Order. Upon reasonable notice

to the Conecuh County Attorney, counsel for Plaintiff-Intervenor and Plaintiffs shall have the right to conduct private interviews with inmates outside the presence of opposing counsel and Defendants and shall have access to all staff and facilities as necessary to address issues addressed by this Order. County attorney may be present at any meeting between counsel for Plaintiff-Intervenor or counsel for plaintiffs and staff members. Plaintiff-Intervenor may use experts to assess changes made to the jail and practices and policies implemented to comply with the terms of this order and such experts shall have access to the jail upon reasonable notice to the Conecuh County Attorney. Plaintiff-Intervenor shall compensate its experts retained to monitor compliance with the Order, unless Defendants are held in contempt for failure to abide by its terms.

VIII. ATTORNEYS' FEES:

154. The parties agree that defendants shall pay counsel for plaintiffs the sum set out in Appendix D in the manner described therein which represents all costs, expenses and attorneys' fees due counsel for plaintiffs.

IX. NOTICE:

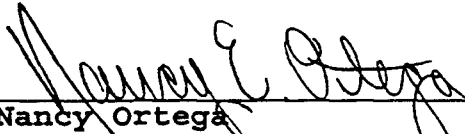
155. Defendants shall explain the terms of this Order to its employees and their agents, employees, representatives and successors, including jail staff and Sheriff's deputies, in order that said persons may understand the requirements of this Order and the

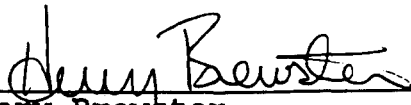
necessity for compliance therewith. All jail staff members shall sign a statement indicating they have read and understand this Order and defendants shall retain a copy of said statement. Defendants shall require strict compliance with this Order by their employees and agents.

156. Defendants shall provide continuous notice of this Order's terms to all members of the Plaintiff class by posting this Order after the signing of this Order for sixty (60) days in all living areas of the Jail. Continuous notice shall be provided thereafter by posting a summarized version in each cell and community area with a notation that a full copy will be made available upon request. In addition to the general posting of the Order, the inmate handbook described herein shall advise inmates of the fact that the Jail is being operated under the terms and conditions of an Order entered by the United States District Court for the Southern District of Alabama, and that upon request, any inmate will be afforded a copy of the complete Order.

This document may be executed in one or more counterparts, each of which shall be deemed an original, and which taken together shall constitute one and the same instrument, binding all parties to the agreement.

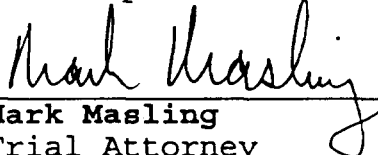
COUNSEL FOR PLAINTIFFS:


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Southern Center for Human Rights
83 Poplar Street, N.W.
Atlanta, GA 30303
404 688-1202

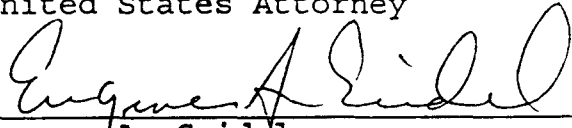

Henry Brewster
Stein & Brewster
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Mobile, AL 36633-1051
205 433-2002

COUNSEL FOR PLAINTIFF-INTERVENOR:

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**COUNSEL FOR ALL DEFENDANTS
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Ellen Leonard
Andrew W. Redd
Ellen Leonard
Alabama Department of Corrections
Legal Division
50 North Ripley Street
Montgomery, AL 36130
205 242-9400

It is hereby Ordered, this 27th day of September, 1994.

Burt W. Milling Jr.
UNITED STATES MAGISTRATE JUDGE

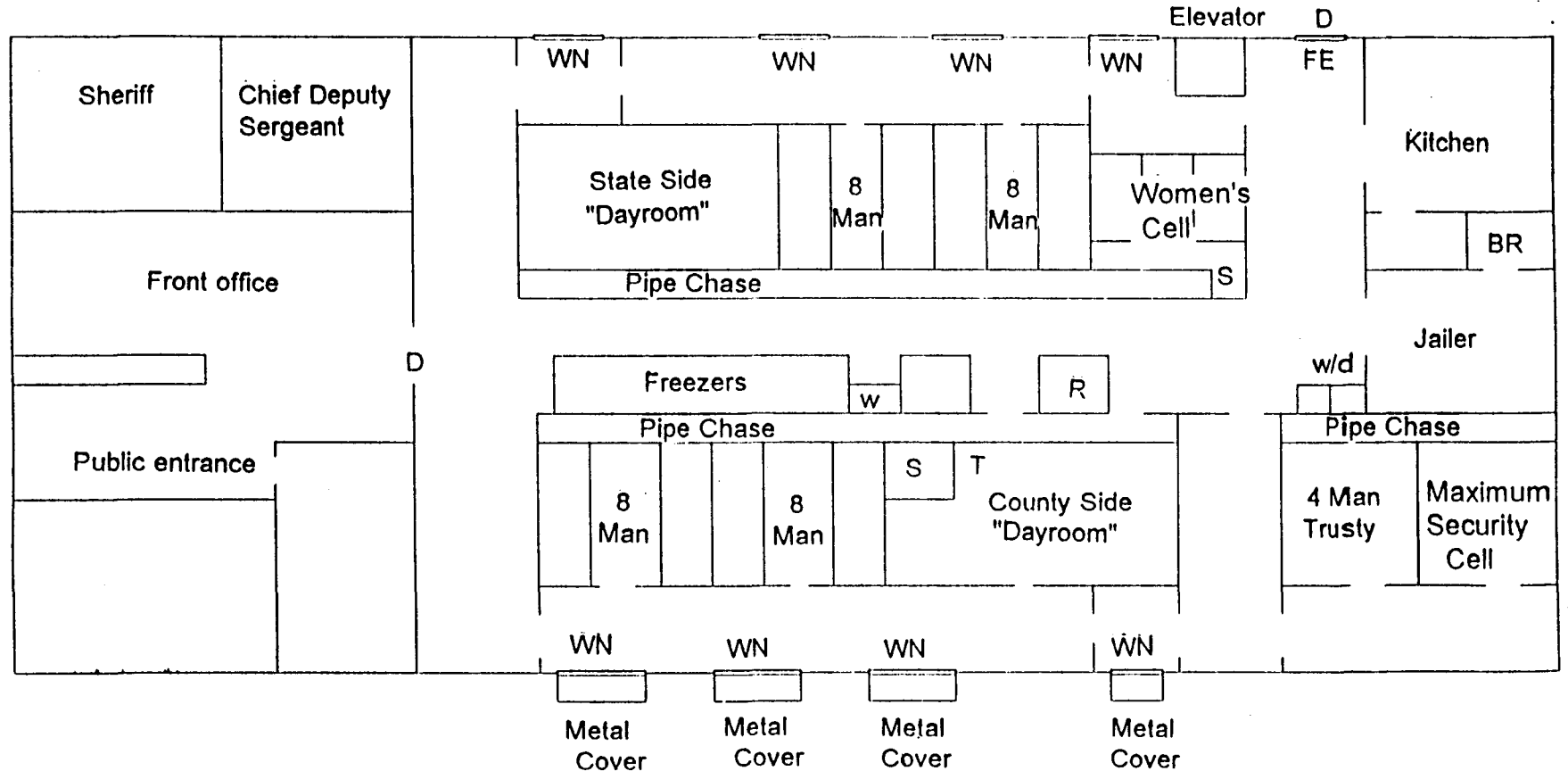
U.S. DISTRICT COURT
SOU. DIST. ALA.
FILED THIS THE
27th DAY OF Sept.
1994 JUDGEMENT ENTRY
NO. 3593
DEBORAH S. HUNT, CLERK
BY *B. J. Hunt*
DEPUTY CLERK

JUDGEMENT ENTERED
Date 10/4/94
DEBORAH S. HUNT, CLERK

APPENDIX A

CONECUH COUNTY JAIL, THIRD FLOOR COUNTY COURTHOUSE EVERGREEN, ALABAMA

This is not a scale drawing, but rather It is intended to give an approximate layout of the jail and the location of the cells.



KEY

| | | | | | |
|----|-----------|---|--------------|-----|----------------|
| b | bunk | T | toilet | s | sink |
| BR | bathroom | R | refrigerator | w | water fountain |
| D | door | S | shower | w/d | washer/dryer |
| FE | fire exit | | | WN | window |

APPENDIX B

RELEASE ON BOND

Your bond has been set before you are processed into the jail. The amount of your bond was determined by either the arresting officer or a judge of the Court. YOUR BOND IS NOT SET BY NOR CAN IT BE CHANGED BY ANY OFFICER OF THIS JAIL. If any change is made in the amount of bond, it must be done by the Court.

There are several methods of being released on bond. One, is to obtain the services of a professional bondsman. The names and numbers of the various bondsmen will be posted in each living area. Two, is that you get at least two property owners who have property valued at least as much as the bond amount, and that the property in question is not the signers homestead. Three, is that you may post a cash bond. Remember, all bonds are subject to approval by the Sheriff of Conecuh County.

If your bond was not set before you were brought to the jail we will contact the court and advise them of the situation. Usually the court will set a bond in no longer than three days.

APPENDIX C

BASIC HOLDINGS FOR ALABAMA JAIL LIBRARY

A. LEGAL RESEARCH, WRITING and REFERENCE MATERIALS

- | | |
|---|--|
| 1. Law dictionary | 10. Criminal law and procedure text-book |
| 2. Legal aid and legal defender directory | 11. Civil procedure textbook |
| 3. Legal manual for prisoners | 12. Constitutional law textbook, general |
| 4. Textbook on the law of prisoners' rights | 13. Constitutional law textbook on prisoner rights |
| 5. Freedom of Information Act Guide | 14. Evidence textbook |
| 6. Legal writing manual | 15. Criminal forms, federal and state |
| 7. Legal research manual | 16. Civil forms, federal and state |
| 8. Appellate advocacy manual | 17. Plea bargaining and guilty pleas manual |
| 9. Criminal procedure manual | |

B. FEDERAL MATERIALS

1. Either:
 - a. United States Code Annotated. West. or
 - b. United States Code Service. Lawyers Co-op.
2. One of the following:
 - a. United States Reports. U.S. Government Printing Office.
 - b. Supreme Court Reporter. West.
 - c. United States Supreme Court Reports, Lawyers Edition. Lawyers Co-op.
3. Federal Reporter. 2d and 3d Series. West.
4. Federal Supplement. West.
5. Shepard's United States Citations. Shepard's/McGraw-Hill.
6. Shepard's Federal Citations. Shepard's/McGraw-Hill.
7. Rules of local federal district court
8. West's Federal Practice Digest. 4th. West.

C. STATE MATERIALS FOR ALABAMA

1. Code of Alabama. Michie. 1975.
2. Alabama Criminal Code. Michie.
3. Alabama Reports. West.
4. Alabama Appellate Reports. West.
5. Alabama Reporter. West.
6. Alabama Rules of Court. West.
7. Alabama Rules Annotated. Michie.
8. Alabama Digest. West.
9. Shepard's Alabama Citations. Shepard's/McGraw - Hill.
10. Alabama Criminal Trial Practice. Harrison Co.
11. Alabama Criminal Trial Practice Forms. Harrison Co.

APPENDIX D

Defendants will pay to Nancy Ortega and Henry Brewster the total sum of ONE HUNDRED FORTY THOUSAND AND NO/100 (\$140,000.00) DOLLARS as attorney fees and expenses, made payable to Southern Center for Human Rights, in connection with the representation of plaintiffs in this matter. Said sum is inclusive and represents all sums to be paid by defendants as attorney fees or reimbursement of expenses in connection with the representation of plaintiffs in this litigation. Said sum is to be paid as follows:

- (1) Sixty Thousand and No/100 (\$60,000.00) Dollars to be paid to Nancy Ortega and Henry Brewster upon the entry of this Consent Order;
- (2) Four annual payments of TWENTY THOUSAND AND NO/100 (\$20,000), plus interest, to be paid to Nancy Ortega and Henry Brewster, with the first payment being due and payable one year from the date of entry of the Consent Order in this matter and continuing thereafter until paid in full.
- (3) The interest rate shall be set according to 28 U.S.C. §1961, as amended in 1982, which provides that the applicable interest rate shall be equal to the coupon issue yield equivalent (as determined by the Secretary of the Treasury) of the average accepted auction price for

the last auction of fifty-two week United States Treasury bills settled immediately prior to the date of judgment. The rate shall be obtained from the Director of the Administrative Office of the United States Courts who is required under 28 U.S.C. §1961 to distribute notice of that rate and any changes in it to all Federal judges.