

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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RALPH VALVANO, et al., :

Plaintiffs, :

-against- :

Docket No. 70 C 1390

BENJAMIN MALCOLM, et al., :

Defendants. :

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DETAINEES OF THE BROOKLYN HOUSE OF  
DETENTION, et al., :

Plaintiffs, :

-against- :

Docket No. 73 C 261

PARTIAL FINAL JUDGMENT

BENJAMIN MALCOLM, et al., :

Defendants. :

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These actions came on to be tried before the Court, Honorable Orrin G. Judd, District Judge, presiding, and the Court having made and filed findings of fact and conclusions of law on the issues of double celling and overcrowding in a Memorandum of Decision and Order dated July 31, 1974, and the Court having entered a final judgment on October 2, 1974 and defendants having appealed to the United States Court of Appeals for the Second Circuit, and that Court having affirmed the District Court's findings of fact and conclusions of law that the overcrowding and double celling of detainees at the Brooklyn and Queens Houses of Detention create an unconstitutional deprivation of their due process and equal protection rights and that Court having remanded this case to the District Court for the purpose of fashioning a remedy, and the Court having issued a First Memorandum on Remand on September 9, 1975 and having entered an Interim Judgment dated September 10, 1975, and both

parties having submitted proposals in writing and at a conference held with the Court on November 19, 1975 as to the final relief that would be appropriate in light of the opinion of the Court of Appeals in this case, and the Court having issued a Second Memorandum on Remand on December 17, 1975, and the Court determining there is no just reason for delay in the entry of final judgment as to the issue of double celling and overcrowding, it is hereby

ORDERED, ADJUDGED and DECREED that defendants, their agents, servants and employees are enjoined from confining more than one detainee in a cell with another person at the Queens House of Detention without the voluntary written consent of both persons and it is further

ORDERED, ADJUDGED and DECREED that beginning from the date of entry of this Final Partial Judgment up to and including February 29, 1976 defendants, their agents, servants and employees are enjoined from confining any detainee at the Brooklyn House of Detention in a cell with another person for a period longer than thirty (30) days unless on the voluntary written consent of both persons and it is further

ORDERED, ADJUDGED and DECREED that beginning March 1, 1976 up to and including May 31, 1976 defendants, their agents, servants and employees are enjoined from confining any detainee at the Brooklyn House of Detention in a cell with another person for a period longer than twenty (20) days unless on the voluntary written consent of both persons and it is further

ORDERED, ADJUDGED and DECREED that beginning June 1, 1976 defendants, their agents, servants and employees are enjoined from confining more than one detainee in a cell with another person at the Brooklyn House of Detention, unless on the voluntary written consent of both persons, and it further

ORDERED, ADJUDGED and DECREED, that involuntary confinement with another detainee at the Brooklyn House of Detention and Queens House of Detention shall be permitted in the following other instances:

a. In the case of a person in need of mental observation, certified in writing by a staff psychiatrist, for a period not to exceed thirty days;

b. In the case of emergencies certified by the Commissioner of Correction, for a period not to exceed ten days; and it is further

ORDERED, ADJUDGED and DECREED that defendants, their agents, servants and employees are enjoined from imposing any burdens upon detainees who choose to occupy a single cell under this Partial Final Judgment such as retaliatory transfers or relinquishment of any previously enjoyed right or privilege; and it is further

ORDERED, ADJUDGED and DECREED that defendants, their agents, servants and employees are enjoined from transferring any plaintiff entitled to single cell occupancy under the terms of this order to double cell status in another New York City detention institution; and it is further

ORDERED, ADJUDGED and DECREED that if compliance with this order requires a reduction in detainee population of either institution, the Commissioner of Correction and the respective Wardens are directed to release on their own recognizance the persons held in default of the lowest amount of bail and among persons held in the same amount of bail the ones who have been confined for the longest time; provided that any New York court of competent jurisdiction may specify a different method of selecting the persons to be released; and it is further

ORDERED, ADJUDGED and DECREED that defendants shall maintain a written record of all instances wherein more than one person is confined to a cell; the record shall disclose the name and cell location of the person so confined, the date of confinement, the reason for confinement and the date when such confinement ceased; and the record shall be made available monthly for inspection and copying by plaintiffs' attorneys; and it is further

ORDERED that this court retains jurisdiction to ensure defendants' compliance with this Partial Final Judgment, provided that plaintiffs' attorneys shall bring any matter to the attention of the defendants before instituting formal enforcement proceedings.

Dated: Brooklyn, New York  
January 8, 1976

/s/ ORRIN G. JUDD  
ORRIN G. JUDD  
United States District Judge