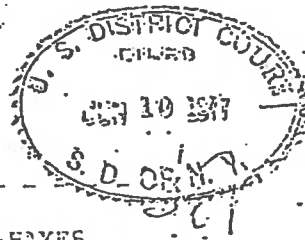


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



JAMES BENJAMIN, MIGUEL GALINDEZ, BRUCE HAYES,
JOSE SALDANA and ROBERT ESCHERT, detainees of
the New York City House of Detention for Men,
individually and on behalf of all other persons
similarly situated,

Plaintiffs,

-against-

BENJAMIN J. MALCOLM, Commissioner of Correction
of the City of New York; ARTHUR RUBIN, Warden,
New York City House of Detention for Men;
GERARD BROWN, Deputy Warden, New York City
House of Detention for Men; and ABRAHAM D.
BEAME, Mayor of the City of New York,
individually and in their official capacities,

Defendants.

:
: 75 Civ. 3073
: (MEL).

: JUDGMENT

-----X

The plaintiff class, consisting of all pre-trial detainees
who are or will be incarcerated at the New York City House
of Detention for Men on Rikers Island (HDM), having moved this
Court for summary judgment on the issues of double-calling,
contact visits, optional lock-in, opening of mail outside
plaintiffs' presence, enforcing the "publisher only" rule,
denying visits, mail and daily outdoor recreation to detainees
in punitive segregation, preventing detainees from viewing
searches of their cells, and unnecessarily restricting the
possession of personal property, and the Court having determine
that on those issues on which it previously granted preliminary
injunctive relief (double-calling, contact visits, optional
lock-in, correspondence, visiting and correspondence rights
of disciplined detainees and the "publisher only" rule) there
are no material disputes of fact and that plaintiffs are
entitled to judgment as a matter of law, and having issued an
oral opinion constituting its findings of fact and conclusions

MICROFILM

JUN 13 1977

AB

of law, and there being no just reason for delay, final judgment is hereby entered and it is

ORDERED that defendants, their agents and employees and all persons acting in concert with them be and hereby are enjoined from incarcerating any member of the plaintiff class at HDM except under the following conditions:

1. Contact Visits

(a) Defendants shall forthwith take all practical steps necessary to provide facilities for contact visits to plaintiffs, and all personal visits to class members shall be contact visits as soon as such facilities have been provided, but in no event later than May 15, 1977;

(b) Pending the Court's final determination of the hourly amount of visiting constitutionally required, defendants shall accord each plaintiff at least three (3) hours of contact visiting per week, with at least one (1) visit on either an evening or weekend;

(c) Defendants, upon establishing a classification system, may deny contact visits to selected detainees in instances where defendants can establish, based upon said classification system, that contact visits to those detainees would jeopardize institutional security.

2. Optional Lock-In

All class members who choose to remain locked in their cells shall have the option to do so.

3. Correspondence

(a) Defendants shall not read any incoming mail addressed to plaintiffs from any court, attorney or public official or any employee thereof acting in an official capacity;

(b) Defendants shall not open any incoming mail addressed to plaintiffs from any court, attorney or public official or any employee thereof acting in an official capacity except in the presence of the addressee.

4. "Publisher-Only" Rule

Defendants shall not refuse to deliver to plaintiffs any book, periodical or other reading matter on the ground that it has not been sent directly from a publisher; provided, however, that nothing contained in this paragraph shall prohibit defendants from inspecting for contraband said book, periodical or other reading material in order to protect the security of the institution.

5. Double-Celling

(a) Defendants shall not confine any member of the class in a cell with another person unless on the voluntary written consent of both persons except that involuntary confinement with another detainee at HDM shall be permitted in the following instances:

(i) 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;

(ii) In the case of emergencies certified by the Commissioner of Correction for a period not to exceed ten days;

(b) Defendants are enjoined from imposing any burdens upon detainees who choose to occupy a single cell under this order, including, but not limited to, retaliatory transfers or relinquishment of any previously enjoyed right or privilege;

(c) 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.

(d) Defendants shall not transfer any plaintiff entitled to single cell occupancy under the terms of this order to double cell status in another detention institution.

(e) If compliance with this order requires a reduction in the detainee population of HDM, the Commissioner of Correction and Warden of HDM 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.

6. Denial of Mail and Visits as Punishment

Defendants shall not deprive or limit the right of plaintiffs found guilty of institutional infractions to receive visitors and send and receive mail; and it is further

ORDERED that the plaintiffs' motion for summary judgment on the issues of opening of personal mail outside plaintiffs' presence; denying outdoor recreation to detainees in punitive segregation, preventing detainees from viewing searches of their cells, and restricting the possession of personal property be and hereby is denied on the grounds that it has not been established that there are no material disputes of fact.

Dated: New York, New York
April 1, 1977

June 8

William E. Ober

United States District Judge

JUDGMENT ENTERED - 6/13/77

Richard J. Surfer
CLERK