

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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GUY ZEPH AMBROSE, et al., : 76 Civ. 190 (MEL)
Plaintiffs, : STIPULATION OF A PARTIAL
-against- : SETTLEMENT FOR A PRELIM-
BENJAMIN J. MALCOLM, et al., : INARY INJUNCTION ON
Defendants. : RECREATION AND DAYROOMS
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Plaintiffs have moved this Court for a preliminary injunction, pursuant to Rule 65, Federal Rules of Civil Procedure, ordering defendants to (1) provide members of the plaintiff class, which consists of all detainees at the Bronx House of Detention (BxHD), with an opportunity for one hour of exercise and recreation every day and (2) provide plaintiffs housed in cells at BxHD with additional living space by affording them use of the dayrooms adjacent to their cell-blocks. The parties are agreed to the entry of a preliminary injunction incorporating the provisions set forth below in Sections I. A. and II. A. On other aspects of the relief to be granted (as set forth below in Sections I.B. and II.B. and C.), the parties are not agreed. As to these matters, the parties are agreed to seek judicial determination and to request the Court's permission to file supplementary submissions. The parties are further agreed that defendants shall file their supplementary submission within two weeks of the date of the Court's order granting them permission to file and the plaintiffs will respond within two weeks thereafter.

I. Recreation

A. Areas of agreement

1. Plaintiffs shall be afforded the opportunity to have at least one hour of recreation every day, seven days per week.

2. Until such time as a permanent law library and a permanent general library are constructed, the area presently used as an auditorium and which is next to the present indoor gymnasium shall be converted for use in part as a second indoor gymnasium and in part as an interim law library and an interim general library. The two interim library facilities shall occupy no more than one-half of the area presently designated as the auditorium.

3. Defendants shall soundproof and provide for adequate light and ventilation in the two interim library facilities.

4. Sufficient equipment shall be provided to enable basketball and other activities, such as weightlifting, to take place in the second indoor gymnasium.

5. The number of persons scheduled to use each of the recreation facilities during each recreation period shall not be greater than is consistent with providing all scheduled persons with sufficient space and opportunity for actual physical activity throughout each entire recreation period.

6. The two gymnasiums and the two outdoor roof areas shall be operated daily, seven days a week, throughout the year, except that in inclement weather recreation shall only take place in the two gymnasiums and not on the roof areas. Inclement weather is defined, for the purpose of this stipulation, as driving rain or snow, or a large accumulation of ice on the roof areas. Cold or damp weather, or snow on the ground shall not, by themselves or in combination, constitute inclement weather. The determination that inclement weather prevents roof use on a particular day shall be made by an officer of the rank of captain or higher.

7. When his housing area is scheduled for a recreation period, each detainee shall be afforded the choice of remaining in his cell or in the lock-out area while others use the recrea-

tion facilities. Each detainee who chooses to avail himself of the recreation facilities shall have the daily opportunity to use both the indoor gymnasium facilities and, except in inclement weather, the outdoor roof facilities, during the scheduled recreation hour. Detainees shall be permitted to move freely between the indoor and the outdoor facilities throughout the entire recreation period.

8. Defendants shall provide warm, clean clothing, including jackets, sweaters and/or sweatshirts, hats and gloves, to all detainees who wish to use the outdoor recreation areas. This provision shall not be construed to prohibit detainees from possessing and wearing their own clothing items outdoors.

9. After construction of a permanent visiting facility, the area presently used as an interim visiting facility on the second floor of the institution shall be converted for use as a permanent law library and a permanent general library. The present auditorium shall then be converted for use entirely as a second indoor gymnasium. Defendants shall submit to plaintiffs' counsel for comment a copy of their plans for the permanent library facilities and for the second full indoor gymnasium, as soon as these plans are drafted.

10. Issues not raised in the motion for preliminary injunction concerning the amount, schedule and conditions of recreation which must ultimately be provided as a matter of final relief to BxHD detainees remain to be determined by the Court or resolved by agreement of the parties.

11. Issues not raised in the motion for preliminary injunction concerning access to and conditions in the permanent law library and the permanent general library remain to be determined as a matter of final relief by the Court or resolved by agreement of the parties. This agreement does not resolve issues concerning access to and conditions in the interim library facilities.

B. Areas not resolved

1. The parties are not able to resolve the dates by which:

a. the plaintiffs shall be permitted to have at least one hour of recreation every day, seven days per week in accordance with ¶A.1.

b. the auditorium shall be converted for use in part as a second indoor gymnasium and in part as an interim law library and an interim general library in accordance with ¶A.2;

c. the auditorium shall be converted for use entirely as a second indoor gymnasium and the interim visiting facility shall be converted for use as a permanent law library and a permanent general library in accordance with ¶A.9.

II. Dayrooms

A. Areas of agreement

1. Plaintiffs shall be able to use the spaces adjacent to each cellblock at BxHD as dayrooms and shall be able to have access to these dayrooms daily, seven days a week.

2. Plaintiffs shall be permitted to have at least the following hours of access to the dayrooms per day: 6:00 A.M. to 7:20 A.M., 8:30 A.M. to 3:25 P.M., and 4:30 P.M. to 10:00 P.M. The total number of dayroom hours afforded under this schedule shall not be reduced, although the particular times of dayroom access may be altered in the discretion of the Commissioner.

3. Plaintiffs shall have the individual option of leaving and returning to their cells, the lock-out corridor and/or the dayroom whenever they wish during all lock-out periods, except for the 5:30-6:00 A.M. lock-out period, when they shall not be permitted to have access to the dayrooms.

4. Tables and chairs or benches shall be placed in the dayrooms for the plaintiffs' use.

5. Meals shall be served in the lock-out corridor. Each plaintiff shall have the option at every meal of eating in the dayroom, in the lock-out corridor or in his cell.

6. The visiting booths, wherever present in the dayroom areas, shall be removed to provide additional dayroom space.

7. Issues not raised in the motion for preliminary injunction concerning the amount and schedule of lock-out time which must ultimately be provided as a matter of final relief to BxHD detainees remain to be determined by the Court or resolved by agreement of the parties.

8. Issues not raised in the motion for preliminary injunction concerning the amount of access to and conditions in the dayrooms which must ultimately be provided as a matter of final relief to BxHD detainees remain to be determined by the Court or resolved by agreement of the parties.

B. Areas not resolved

1. The parties are not able to resolve a date by which plaintiffs will be afforded dayroom access as set forth in ¶A(1)-(6).

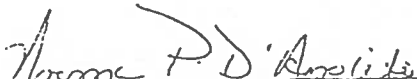
C. Areas of disagreement

1. The parties are not able to agree as to whether an officers' catwalk shall be constructed in each dayroom.

Dated: New York, New York

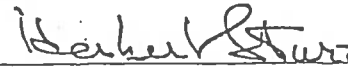
~~August~~, 1978

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