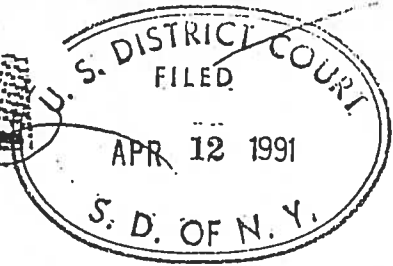


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DOC #

168



-----x
CHARLES FISHER, et al., :
Plaintiffs, :
-against- :
ALLYN SIELAFF, et al., :
Defendants. :
-----x

83 Civ. 2128 (MEL)

SUPPLEMENTAL ORDER
REGARDING CIFM POPULATION

After trial in this action, limited to issues of violence among inmates and between staff and inmates, the court found that the extent of violence at the Correctional Institution for Men (CIFM) was sufficient to violate the Eighth Amendment's Cruel and Unusual Punishments Clause. The court further found that overcrowding was a significant cause of that unconstitutional level of violence. 692 F.Supp. 1592 (S.D.N.Y. 1988), injunction entered, 718 F.Supp. 1111 (S.D.N.Y. 1989), aff'd, 902 F.2d 2 (2d Cir. 1990).

The defendants argued that they should be given an opportunity to show that they could eliminate the constitutional violation without a significant court-ordered reduction in CIFM's population. 718 F.Supp. at 1115. Accepting defendants' argument, the court fashioned injunctive relief regarding dormitory overcrowding but partially suspended its

effect pending a review of the efficacy of the judgment six months after its entry. The judgment provided in pertinent part:

10. All inmates housed in dormitories at CIFM shall be afforded a minimum of 60 square feet of floor space in the sleeping area, provided that until completion of the contemplated review commencing six months after the effective date of this decree, the defendants may continue to house inmates at the square footage at which they are presently housed, but in no event shall the population of CIFM exceed 2600.

718 F.2d at 1123.

By subsequent agreement of the parties, the six-month review period was extended to one year.

On July 27, 1990, plaintiffs commenced the said review of the efficacy of the judgment by filing a motion requesting that the suspended portion of the crowding relief be implemented. Defendants filed responsive papers opposing that relief. Plaintiffs filed reply papers seeking additional relief barring pre-trial detainees and adolescent inmates from dormitory housing at CIFM. Defendants filed a further response opposing such relief and requesting a hearing as to the additional relief newly sought by the plaintiffs. Neither party requested a hearing concerning the implementation of the suspended portion of the crowding relief. Both parties submitted extensive evidence in the form of affidavits and documentation. These factual presentations were substantially undisputed, although the parties disputed the legal significance of the facts adduced.

Based on this evidence the court finds that the defendants have failed to reduce the level of violence at CIFM to a constitutionally acceptable level and concludes that the suspended portion of the crowding relief should therefore be implemented.

The defendants have presented a plan for compliance with the crowding relief under which all inmates at CIFM will be housed in conformity with the judgment's requirements by the close of business on May 31, 1991. The plaintiffs have assented to this plan.

Accordingly, it is ORDERED, ADJUDGED, AND DECREED that:

1. Commencing no later than the close of business on May 31, 1991, all inmates housed in dormitories at CIFM shall be afforded a minimum of 60 square feet of floor space in the sleeping area, except for pre-trial detainees, whose rights shall continue to be governed by ¶ 11 of the judgment in this case and the referenced order in Benjamin v. Malcolm, 75 Civ. 3073 (S.D.N.Y., June 23, 1981).

2. Defendants shall report to the court and to plaintiffs' counsel concerning their progress toward compliance with ¶ 1, above, on April 12, April 26, May 10 and May 24, 1991.

3. Defendants shall immediately report to the court and to plaintiffs' counsel any occurrence or circumstance that appears to threaten their ability to comply with ¶ 1, above.

4. In all other respects the parties' rights shall continue to be governed by the requirements of the judgment.

5. That portion of plaintiffs' motion requesting that pre-trial detainees and adolescent inmates be barred from dormitory housing at CIFM is held in abeyance pending further direction of the court.

Dated: New York, New York
April 12, 1991



U.S.D.J.