

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

(5)

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:
GUY ZEPH AMBROSE, LUIS GILCES, FARUK ABDUL
GHANI, and JOHNNY JOHNSON, detainees of the
Bronx 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; ROBERT KIRTON, Deputy
Warden-in-Command, Bronx House of Detention for
Men; and ABRAHAM D. BEAME, Mayor of the City of
New York, individually and in their official
capacities, :

Defendants. :

ORDER

76 Civ. 190

(M.A.L.)

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PM

4:35

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Plaintiffs having moved this Court for a preliminary
injunction enjoining defendants from confining any detainee of
the Bronx House of Detention in a cell with another detainee for
a period longer than thirty (30) days unless on the voluntary
written consent of both persons, under the terms of the prelim-
inary injunction entered by this Court in Benjamin v. Malcolm
and of the partial final judgment entered in the Eastern District
in Detainees of the Brooklyn House of Detention v. Malcolm and
Valvano v. Malcolm upon remand by the Court of Appeals, and the
Court having considered the affidavits submitted by both sides
and exhibits annexed thereto, and having heard oral presentation
by counsel for both sides, and having found that a substantial
number of detainees at the Bronx House of Detention are presently
confined two to a cell in single occupancy cells, and having
determined that said detainees are constitutionally entitled
to the same relief against involuntary double celling accorded
to the plaintiffs in Benjamin v. Malcolm, Detainees of the
Brooklyn House of Detention v. Malcolm and Valvano v. Malcolm,

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it is hereby

Feb 10
ORDERED, that commencing ~~January 26~~, 1976, defendants, their agents, servants and employees are enjoined from confining any detainee at the Bronx 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

Feb 10
ORDERED, that commencing ~~January 26~~, 1976, defendants, their agents, servants and employees are enjoined from involuntarily confining in a cell with another person any detainee at the Bronx House of Detention who has previously been double celled for thirty (30) days or longer at the Bronx House of Detention; and any detainee double celled for less than thirty (30) days at the Bronx House of Detention may be so confined for only such number of days as will bring the total number of days double celled to thirty (30); and it is further

Jan 26
ORDERED, that commencing ~~January 26~~, 1976, defendants, their agents, servants and employees are enjoined from involuntarily confining in a cell with another person any detainee at the Bronx House of Detention who has previously been double celled for thirty (30) days or longer at any other New York City correctional institution upon the same charges for which he is being held at the Bronx House of Detention; and any detainee double celled for less than thirty (30) days at any other New York City correctional institution may be so confined at the Bronx House of Detention for only such number of days as will bring the total number of days double celled to thirty (30); and it is further

ORDERED, that should defendants be unable to ascertain the precise length of prior double celling of any detainee on the charges for which he is being held at the Bronx House of

Detention, defendants, their agents, servants and employees are enjoined commencing January 26, 1976 from involuntarily confining said detainee in a cell with another person; and it is further

ORDERED, that involuntary confinement in a cell with another detainee at the Bronx House of Detention shall be permitted in the following other instances:

(a) In the case of a person in need of mental observation due to depression and/or potential suicidal tendencies 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, that defendants, their agents, servants and employees are enjoined from imposing any burdens upon detainees who choose to occupy a single cell under this Order such as retaliatory transfers or relinquishment of any previously enjoyed right or privilege; and it is further

ORDERED, 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 correctional institution; and it is further

ORDERED, 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; the record shall further disclose whether the person so confined has been transferred to the Bronx House of Detention from any other New York City correctional institution, whether he was confined in a

all with another person at any other New York City correctional institution, the date of such confinement, the reason for such 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 if compliance with this Order requires a reduction in detainee population of the Bronx House of Detention, the Commissioner of Correction and the Warden 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.

Dated: New York, New York
January 28th, 1976



MORRIS E. LASKER
United States District Judge